

Robert Forouzandeh

From: Robert Forouzandeh
Sent: Monday, April 02, 2012 5:41 PM
To: 'Chris Gautschi'
Cc: 'Karen Grant'; Mary Jo Barbeau
Subject: RE: 4232012
Attachments: BookoutRobertLT422012Rocks.pdf

Chris,

Your letter is filled with blatant misrepresentations of the law and is not supported by any legal authority.

The undisputed facts are as follows:

1. SBBT did not foreclose upon the landscape rocks. SBBT simply foreclosed upon the Oceano property. As a result, title to the rocks never transferred to SBBT. Thus, SBBT cannot and will not sell the rocks. Simply because SBBT held a security interest in the rocks does not mean that it foreclosed upon the rocks. Since the rocks are personal property and not part of the real property that was sold at the trustee sale, there was no need to include the rocks in the valuation of the Oceano property or credit Mr. Bookout with the value of the rocks or disclose the rocks to the Bankruptcy Court. The duty of disclosure was solely Mr. Bookout's, which he has failed to do.
2. The rocks are the personal property of Mr. Bookout which he left on the property after the trustee sale was completed. SBBT does not want the rocks and will not sell them on behalf of Mr. Bookout. If Mr. Bookout wants to sell his rocks, he can sell them himself. Since February 21, 2012, I have stated to you **on multiple occasions**, that Mr. Bookout is free to enter the Oceano property and remove the rocks and/or any other personal property from the site. Mr. Bookout has failed to do so. The bank wants the rocks removed so that it can sell the property. If Mr. Bookout fails to remove the rocks, SBBT is going to hire someone to come and haul the rocks away. SBBT will not get paid for the rocks and will have to incur costs for this removal.
3. Your contention that Mr. Bookout should be credited with the full value of the rocks is preposterous. First, SBBT does not own the rocks, nor does it want to. Second, even if SBBT did hold title to the rocks, which it does not, as I have stated to you on numerous occasions, SBBT is not in the landscape business and does not deal with the sale of landscape rocks. To assume that SBBT could somehow obtain the wholesale, let alone, retail value for the rocks defies all logic. Why would SBBT go through the effort of selling landscape rocks which do not belong to it and which it did not foreclose upon. Your additional contention that SBBT should just let the rocks sit there for an indefinite period of time so that Mr. Bookout can come and sell the rocks from SBBT's property is equally ridiculous. The bank is currently attempting to sell the Oceano property. The presence of the rocks is interfering with that process and SBBT wants this issue taken care of as soon as possible.

I am going to summarize SBBT's position as follows:

- A. SBBT will not sell any of the personal property, including the rocks, left on the Oceano property by Mr. Bookout.
- B. SBBT will not give any credit to Mr. Bookout for any of the personal property, including the rocks, left on the Oceano property by Mr. Bookout.
- C. SBBT is in the process of getting bids for the removal of the rocks from the Oceano property so that it can sell the Oceano property. The removal bids are simply for hauling away the rock and nothing else. SBBT will be paying for this removal out of its own pocket and will not be getting paid in any way.
- D. Even though Mr. Bookout has already abandoned the personal property and SBBT can dispose of it as it wishes, as a gesture of good faith, if Mr. Bookout wants to sell the rocks or any other personal property that he left behind on the Oceano property, he is free to enter the site after providing me with 24 hours notice prior to his visit to remove any such personal property and do whatever he wishes with the personal property that he left behind.
- E. Once the bid for removal of the rocks is obtained and a date for removal is set, I will contact you and advise you when the rocks will be removed and give Mr. Bookout one final chance to go and remove the rocks himself before they are disposed of. Again, this is simply being done as a gesture of good faith as SBBT is under no duty or obligation to provide notice prior to disposal of personal property left behind on the Oceano property by Mr. Bookout.

If you have any questions or dispute any of the facts that I have set forth above, I suggest you call me to talk through them as opposed to sending me letters filled with unsupported facts and theories of law.

Robert

From: Chris Gautschi [<mailto:sanschromo@yahoo.com>]

Sent: Monday, April 02, 2012 5:10 PM

To: Robert Forouzandeh

Cc: Chris Gautschi

Subject: 4232012

Yes, this is what I have been asking for, SBBT's complete list of dates and amounts paid.

The position on the rocks, etc. is in the attached letter. Sorry about spelling mistakes, this is my last task for today and I have to leave and won't be in the office until Wednesday morning.