

BY: BRIAN K. KORTE, ESQ.

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT IN AND FOR

PALM BEACH COUNTY, FLORIDA

CASE NO. 50-2009-CA-039650(AW)

BANKUNITED, ASSIGNEE OF THE)

FDIC, AS RECEIVER FOR)

BANKUNITED, FSB,)

)

Plaintiff,)

)

vs.)

)

SUCCESS INNOCENT; IRLANDE INNOCENT,)

A/K/A IRLANDE OVILMAR, et al.,)

)

Defendants.)

)

DEPOSITION OF VANESSA CORTEZ, THE PLAINTIFF, TAKEN
AT THE INSTANCE OF THE DEFENDANTS

West Palm Beach, Florida

Thursday, March 31, 2011

3:03 p.m. - 3:40 p.m.

2

1 APPEARANCES:

2

KAHANE & ASSOCIATES, P.A.

3 Suite 300

8201 Peters Road

4 Plantation, Florida 33324

Attorneys for the Plaintiff

5 BY: SERENA TIBBITT, ESQ.

6

KORTE & WORTMAN, P.A.

7 Suite 102
2041 Vista Parkway
8 West Palm Beach, Florida 33411
Attorneys for the Defendants
9 BY: BRIAN K. KORTE, ESQ.

1 I N D E X

2

WITNESS: PAGE

3

4 VANESSA CORTEZ:

5 Direct Examination by Mr. Korte 4

6

7

8

9

EXHIBITS

10

11 Defendant's Exhibit 1 for i.d. 9

12 Defendant's Exhibit 2 for i.d. 13

13 Defendant's Exhibit 3 for i.d. 25

14

15

16

17

18

19

20

21

22

23

24

25

1 The deposition of VANESSA CORTEZ, The Plaintiff,
2 was taken before me, Phillip W. Loter, RMR, Notary
3 Public, State of Florida at Large, at Suite 102, 2041
4 Vista Parkway, in the City of West Palm Beach, County
5 of Palm Beach, State of Florida, beginning at the hour
6 of 3:03 p.m., on Thursday, March 31, 2011, pursuant to
7 the Notice filed herein, at the instance of the
8 Defendants in the above-entitled cause pending before
9 the above-named Court.

10 ---

11 THEREUPON,

12 VANESSA CORTEZ,

13 being by me first duly sworn to testify the whole

14 truth, as hereinafter certified, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KORTE:

17 Q. Ma'am, will you do me a favor and state

18 your name for the record, spelling your last.

19 A. Sure. It's Vanessa, V-a-n-e-s-s-a, Cortez,

20 C-o-r-t-e-z.

21 Q. Ma'am, would you also give me the benefit

22 of your educational background from the time you left

23 high school going forward.

24 A. I attended a two-year college as a

25 paralegal, Nassau Community College in New York. And I

1 am presently in FIU International for my Bachelor's

2 Degree.

3 Q. And give me the benefit of your work

4 history for the past 10 years. If you would work

5 backwards it might be easier.

6 A. Okay. Presently I work with BankUnited. I

7 am a default legal liaison with them. I have been

8 there for the last year and a half.

9 Prior to them I worked with Firefly Legal.

10 They were a process serving company in Miami, Florida.

11 I worked previously to that in New York at

12 David's Vision as a credentialer for all medical

13 physicians in the David's Vision network.

14 Previous to that I was also in insurance

15 for -- the name of the company is not coming to me at

16 the moment.

17 Q. That's okay.

18 A. It was also an insurance company for home

19 infusion with a company in Plainview, Long Island in

20 New York.

21 And previous to that I worked for a

22 restoration company in Manhattan, New York. Max Long's

23 Restorations. I think that's all.

24 Q. When did you join BankUnited?

25 A. October of 2009.

1 Q. And what was your title when you joined

2 Bankunited?

3 A. Foreclosure specialist.

4 Q. Did you get a promotion or a new job at

5 some point in time while employed there?

6 A. Yes. Which is where I am presently at now.

7 Q. When did you get your promotion?

8 A. January of 2011.

9 Q. And what is your current title?

10 A. Default legal liaison.

11 Q. What does a default legal liaison do?

12 A. I presently work all of the contested and

13 litigated cases with Bankunited. I attend hearings,

14 depositions, nonjury trials.

15 Q. Anything else?

16 A. Review cases for those items. No.

17 Q. Would it be fair to say that the vast

18 majority of your work done for Bankunited is in the

19 form of support for litigation?

20 A. Yes. And in foreclosure. Because previous

21 to my promotion I was a specialist, an analyst in

22 foreclosure.

23 Q. Do you do any servicing of the loans?

24 A. Servicing as in what?

25 Q. Do you post payments for these loans?

1 A. No. I do not post payments.

2 Q. Do you make escrow disbursements?

3 A. Personally, no.

4 Q. Okay. Do you handle inquiries from the

5 debtor?

6 A. Yes.

7 Q. Okay. And what inquiries do you handle

8 from the debtors?

9 A. The debtors may call to ask why they are in

10 foreclosure. To review when they might have been in

11 default. State that they maybe haven't received any

12 kind of information leading up to why they are in

13 default. What information I could provide to them.

14 Q. When did you first become involved in this

15 case?

16 A. Prior to -- about a week ago, so I met with

17 Serena about the case. And chose to be the witness for

18 the case.

19 Q. Would it be fair to say that your entire

20 involvement in this case is merely to support the

21 litigation?

22 A. Yes.

23 Q. Ma'am, you were asked to come here today as

24 the plaintiff; is that accurate?

25 A. Yes, that's correct.

1 Q. Okay. Before coming here today did you

2 speak to anybody besides your lawyer about this case?

3 A. No, I have not.

4 Q. Before coming here today did you review any

5 documents?

6 A. Yes, I have.

7 Q. What documents did you review?

8 A. I reviewed the complaint, note and

9 mortgage, payment history, interrogatories and our

10 general screens that we look at, principal balance, the

11 date of the origination of the loan. Pretty much it.

12 Q. Fair enough. Have you had your deposition

13 taken before?

14 A. Yes.

15 Q. Okay. What I want to talk to you right now

16 about is a little bit about the history of this loan.

17 And explain to me exactly when it was

18 originated, by whom and how BankUnited came to possess

19 servicing and ownership of this loan.

20 A. Okay.

21 Q. Can you tell me the date this loan was

22 originated?

23 A. If you can show me the mortgage.

24 Q. Okay. I am just asking you if you have any

25 personal knowledge relative to it.

1 A. I do remember looking at it. I just

2 wouldn't want to give a specific without actually

3 looking at it.

4 Q. Okay. I am going to mark this as

5 Defendant's One.

6 (Thereupon, the proffered document

7 was marked Defendant's Exhibit

8 No. 1 for identification only.)

9 BY MR. KORTE:

10 Q. I am going to hand you what's been marked

11 as Defendant's No. 1.

12 A. Okay.

13 Q. If you can review that and tell me if you

14 have all the documents you need to tell me when this

15 loan was originated.

16 A. Sure. I am looking in your little thing

17 for my plastic thumb.

18 Q. Were you able to locate the note and

19 mortgage contained in Defendant's Composite Exhibit No.

20 1?

21 A. I didn't see the note. I can take these

22 out of order, right?

23 Q. No, actually. You can refer to them out of

24 order, but please don't take them out of order. I

25 don't mean this to be an obscure question. If you

1 can't find the answer that's fine.

2 MS. TIBBITT: I see you have the note

3 and mortgage attached. You want to hand her that one?

4 BY MR. KORTE:

5 Q. I will.

6 A. I just want to make sure before I respond

7 to something and be unsure.

8 Q. Okay.

9 A. I do not see them included in these

10 documents.

11 Q. Ma'am, my question earlier was --

12 A. If I had the information in here.

13 Q. To tell me the date the loan was

14 originated.

15 A. Okay. February 3rd, 2006.

16 Q. And how do you know the loan was originated

17 on February 3rd, 2006?

18 A. Truth in lending was signed February 6,

19 2006. February 3rd, 2006. Excuse me. They signed

20 their right to cancel on February 3rd, 2006.

21 All of the origination docs that would have

22 been required are signed February 3rd, 2006. Uniform

23 application, disclosure statement, taxpayer

24 information, compliance agreements, borrowers'

25 certification and authorization. These are the closing

1 docs.

2 Q. So in order to determine the day of

3 origination you would refer to the closing documents,

4 not the note, correct?

5 A. Well, I would review the system, and that's

6 where our board up happens, and our loan date is there.

7 So I can review when I do a verification of complaint

8 from off of the note and mortgage. But if I needed

9 to --

10 Q. I didn't mean to interrupt you.

11 A. If I needed to I can look through the

12 origination file and see when the file was originated.

13 Q. Okay. But I am asking in Defendant's One

14 you had to look at the origination file to determine

15 the date the documents were signed, not the date the

16 note was signed, right?

17 A. Right.

18 MS. TIBBITT: Objection to form. I

19 think it's a confusing question since the note is not

20 contained in One.

21 You asked her what date is it signed based

22 on the documents that you provided her. I am just not

23 understanding where you are going or how that's a

24 question.

25 MR. KORTE: Is that an objection?

1 MS. TIBBITT: I mean it sounds like a

2 trick question.

3 MR. KORTE: Is that an objection?

4 MS. TIBBITT: Yes. I am objecting to

5 the form.

6 BY MR. KORTE:

7 Q. That's great. Do you understand my

8 question?

9 A. You asked me if I needed to look through

10 your Exhibit One if I were able to determine the date

11 of the loan origination.

12 Q. Correct.

13 A. I would have had to look through the

14 origination documents which are located here.

15 Q. Okay. And contained in Defendant's One

16 there isn't a note or mortgage, is there?

17 A. No, there is not, sir.

18 Q. What would be the best determination of the

19 date the note was signed or originated?

20 A. On a normal basis it would be the note and

21 mortgage.

22 Q. Do you know why the original note wasn't

23 produced in discovery?

24 MS. TIBBITT: Objection to form.

25 THE WITNESS: No, I do not, sir.

1 (Thereupon, the proffered document

2 was marked Defendant's Exhibit

3 No. 2 for identification only.)

4 BY MR. KORTE:

5 Q. Let me hand you Defendants No. 2.

6 A. Okay.

7 Q. Ma'am, I am going to ask you to turn to the

8 part of this complaint that contains the mortgage and

9 the note, if you would.

10 And let me know when you have had an

11 opportunity to review it.

12 A. Okay, sir.

13 Q. Ma'am, have you ever seen these documents

14 before coming here today?

15 A. Yes, I did.

16 Q. Did you ever see the original note before

17 coming here today?

18 A. No, I did not pull our collateral file to

19 see the original note.

20 Q. Do you know if the original note has been

21 sent to the court yet?

22 A. No, I do not, sir.

23 Q. Ma'am, turning to the note specifically

24 what I want to ask you, who was the entity who

25 originated the note?

1 A. Bankunited, FSB.

2 Q. Okay. Do you know if this note was ever

3 transferred to any parties after that?

4 A. In our takeover of the F.D.I.C. and our

5 purchase and assumption agreement where the bank was

6 seized and all of the assets from FSB were acquired to

7 Bankunited, May 21, 2009.

8 Q. Okay. So bank Bankunited, FSB was taken

9 over by the F.D.I.C. at some point in time?

10 A. Yes, sir.

11 Q. Do you know the date of that takeover?

12 A. February 21st.

13 Q. And between February 21, 2009 and the time

14 that Bankunited, the plaintiff in this case, took over

15 the loan who serviced the loan?

16 A. The takeover was on the 21st. Bankunited

17 acquired its assets on the 22nd, so it was a day

18 turnaround or so.

19 Q. Okay. At all times thereto were the

20 documents contained at Bankunited, FSB?

21 A. At the same location, yes, sir.

22 Q. Okay. So just so that I am clear,

23 Bankunited, FSB was taken over by the F.D.I.C.,

24 correct?

25 A. Yes.

1 Q. In February 2009?

2 A. Yes.

3 Q. And then -- I am sorry, what's the name of

4 the new bank?

5 A. Bankunited.

6 Q. And Bankunited, the second bank, was formed

7 when?

8 A. The 22nd.

9 Q. Is that the same day that Bankunited took

10 over the assets of Bankunited, FSB?

11 A. Yes.

12 Q. During the takeover of Bankunited were the
13 employees of Bankunited, FSB directly rehired into
14 Bankunited, the new entity?

15 MS. TIBBITT: Object to the form.

16 THE WITNESS: I am unaware of that.

17 BY MR. KORTE:

18 Q. Okay. Well, then let's discuss in this
19 case who held the original note upon the takeover of
20 Bankunited, FSB.

21 A. Well, the bank was seized, so they stayed
22 in the same location that they have been since the time
23 of origination.

24 Bankunited, FSB and Bankunited have all

25 stayed and remained in the same address where the same

1 vault is kept.

2 Q. Okay. Do you have a list of the assets

3 that were seized?

4 A. I do not, sir.

5 Q. Does Bankunited, the new entity, have a

6 list of assets that were acquired?

7 A. I do not know.

8 Q. Although you're here as the plaintiff today

9 do you have any knowledge about the workings of

10 Bankunited, FSB before the takeover?

11 MS. TIBBITT: Objection to form. Go

12 ahead.

13 THE WITNESS: No, sir.

14 BY MR. KORTE:

15 Q. Do you know how the records were kept at

16 Bankunited, FSB?

17 MS. TIBBITT: Object to the form. Go

18 ahead.

19 THE WITNESS: No, I do not, sir.

20 BY MR. KORTE:

21 Q. Do you know how this note was maintained at

22 Bankunited, FSB?

23 A. No, I do not.

24 Q. Do you know how the F.D.I.C. takeover team

25 maintained the documents?

1 A. No, I do not, sir.

2 Q. Do you know who within the F.D.I.C.

3 takeover team?

4 A. No, I do not, sir.

5 Q. Before Bankunited came into existence is

6 there any way to verify that Bankunited, FSB actually

7 had the collateral file in its office building?

8 MS. TIBBITT: Objection to form.

9 THE WITNESS: I don't know. I don't

10 know, sir.

11 BY MR. KORTE:

12 Q. So how did BankUnited come to possess this

13 note?

14 A. From the F.D.I.C. purchase and assumption

15 agreement.

16 Q. And under the F.D.I.C. purchase and

17 assumption agreement is this loan that's the subject of

18 this litigation specifically listed?

19 A. No. I am not sure.

20 Q. Have you ever seen the purchase and

21 assumption agreement?

22 A. Yes, I have.

23 Q. Does it say something like all assets?

24 A. Yes. All assets. Not this specific loan

25 in this litigation.

1 Q. It says all assets of Bankunited?

2 A. FSB, yes, that's correct.

3 Q. So how would one determine whether or not

4 this loan had been sold before the takeover by

5 Bankunited, FSB?

6 A. I am not sure, sir.

7 Q. Do you know why Bankunited, FSB was taken

8 over?

9 MS. TIBBITT: Objection to form.

10 THE WITNESS: No, I do not, sir.

11 BY MR. KORTE:

12 Q. Well, then let's talk about the note

13 itself, the note attached to the complaint.

14 Before coming here today you said you had

15 an opportunity to see this document but not in its

16 original form, correct?

17 A. Yes, that's correct, sir.

18 Q. Well, did you see a copy of it or did you

19 see a scanned copy of it or a physical copy of it?

20 A. I saw our records in the system.

21 Q. What does that mean, records in the system?

22 A. We upload our documents that are requested

23 into a system on our desktop system, and so we are able

24 to review any kind of history besides or around the

25 loan in that particular record. And we keep our

1 mortgage and our notes there.

2 Q. So --

3 A. A scanned copy of it.

4 Q. Scanned copy?

5 A. Uh-huh.

6 Q. Okay. Unfortunately, it's a rule of

7 depositions you have to say yes or no or he can't get

8 it down.

9 A. Okay. Yes, a scanned copy.

10 Q. So let's discuss this note itself. Does

11 this note substantially look like the note you looked

12 at before you came here today?

13 A. Yes, that's correct.

14 Q. Do you know if this document was ever

15 endorsed to any party?

16 A. No, I do not.

17 Q. Do you know why this document was never

18 specifically endorsed over to BankUnited from

19 BankUnited, FSB?

20 A. No.

21 MS. TIBBITT: Objection to form.

22 THE WITNESS: No, I do not, sir.

23 BY MR. KORTE:

24 Q. Okay. Well, let's discuss then the records

25 that BankUnited has in regards to this file.

1 Where did Bankunited get its pay history

2 for its system for all the payments that were made

3 before the F.D.I.C. takeover?

4 A. Being that they were all kept at the same

5 location we have the history, the loan history for the

6 life of the loan with us in the -- under Bankunited,

7 even though we are under the -- still at the same

8 location.

9 Q. But what I am asking is where did you get

10 it from?

11 MS. TIBBITT: Objection to form.

12 THE WITNESS: It's been in the same
13 system. When the person -- when the borrowers dealt
14 with prior Bankunited, FSB to Bankunited, it has
15 remained the same system.

16 BY MR. KORTE:

17 Q. So it was a general takeover of the exact
18 computer systems?

19 A. Yes. Exactly.

20 Q. Were those entries made in that computer
21 system by employees of Bankunited, FSB?

22 MS. TIBBITT: Objection to form.

23 THE WITNESS: I am not sure.

24 BY MR. KORTE:

25 Q. Do you know if the entries in the computer

1 system that Bankunited is currently using were made by

2 Bankunited, FSB employees at or near the time of the

3 making of those entries?

4 MS. TIBBITT: Objection to form.

5 THE WITNESS: I do not know, sir.

6 BY MR. KORTE:

7 Q. Would it be fair to say you don't have any

8 knowledge as to what the Bankunited, FSB employees did?

9 MS. TIBBITT: Objection to form.

10 THE WITNESS: Exactly, yes.

11 BY MR. KORTE:

12 Q. Who would be the person to discuss the

13 calculation of interest as regards this loan?

14 A. I am not sure.

15 Q. Okay. Do you do those calculations?

16 A. With the entries into the system, yes.

17 Q. Okay. But do you have any understanding of

18 how the interest rate is calculated?

19 MS. TIBBITT: Objection to form.

20 THE WITNESS: Well, we can pull up a

21 record in the system that will provide us. But as far

22 as my knowledge of how to break into the interest, no.

23 BY MR. KORTE:

24 Q. Well, going back to this note, if you

25 would, tell me is this what we would consider to be a

1 pay option ARM or an MTA loan?

2 A. Yes.

3 Q. Okay. How does that loan work?

4 MS. TIBBITT: Objection to form. Go

5 ahead.

6 THE WITNESS: The borrowers are provided

7 a amount of -- interest amount that they can pay and

8 then they -- an upful amortized payment is what we call

9 it.

10 And they are given the option of paying

11 either one or the other. If they do not make a full

12 amortized payment then they are only paying towards the

13 interest and not the principal balance.

14 And so in essence their principal balance

15 can increase when they are not making the full

16 amortized payment.

17 BY MR. KORTE:

18 Q. In this case do you know if the defendant

19 made the full amortized payment or made just a partial

20 payment?

21 MS. TIBBITT: Objection to form.

22 THE WITNESS: I would have to be looking

23 at the full life of the loan payment history.

24 BY MR. KORTE:

25 Q. Have there been any payments made on this

1 loan since the F.D.I.C. takeover?

2 A. I would have to review the payment history.

3 Q. Are you aware of how the truth in lending

4 disclosures were generated?

5 A. No, I do not, sir.

6 Q. Have you done any investigation whatsoever

7 to look at truth in lending disclosures as it relates

8 to this loan?

9 MS. TIBBITT: Objection to form.

10 THE WITNESS: As far as if there was a

11 truth in lending disclosure statement in this file,

12 yes.

13 BY MR. KORTE:

14 Q. Yes, there was one, or yes, you looked?

15 A. I looked.

16 Q. Was there one?

17 A. Yes.

18 Q. As you sit here today do you have any

19 reason to believe that that truth in lending statement

20 may be inaccurate?

21 MS. TIBBITT: Objection to form.

22 THE WITNESS: I do not know, sir.

23 BY MR. KORTE:

24 Q. Has anybody ever told you that those

25 statements may be inaccurate?

1 A. No, I do not, sir.

2 Q. Who holds and is the custodian of the note

3 at this time?

4 A. Bankunited.

5 Q. Where is the vault located?

6 A. 7815 Northwest 148th Street, Miami Lakes,

7 Florida.

8 Q. Are you aware of any checkout procedures at

9 the vault for notes?

10 A. Yes.

11 Q. What are the checkout procedures?

12 A. When we are in request of submitting

13 original documents for the purpose of filing we request

14 to the file room the files that we are requesting.

15 They then use a barcode that each of our

16 files has to scan and check out to the name of the

17 person that's requesting the file.

18 Q. If I wanted to get a list of all of the

19 people who have checked out the file how do I go about

20 doing that?

21 A. I do not know, sir.

22 Q. Is there a custodian department at

23 Bankunited?

24 A. There is a file room department, yes.

25 MR. KORTE: Mark this as Three.

1 (Thereupon, the proffered document

2 was marked Defendant's Exhibit

3 No. 3 for identification only.)

4 BY MR. KORTE:

5 Q. I am going to ask you to look at

6 Defendant's Three. Question number two, interrogatory

7 number two. Let me know when you have had a chance to

8 review it.

9 A. Okay.

10 Q. Ma'am, can you tell me what the plaintiff

11 meant when it wrote that the plaintiff possesses a

12 legal and beneficial interest in the note and mortgage;

13 plaintiff is in possession of the original note, and

14 possession of the original note, a negotiable

15 instrument, entitles plaintiff to enforce the terms?

16 MS. TIBBITT: Objection to form. Go

17 ahead.

18 THE WITNESS: To state that we have the

19 original note in the office. In office, which gives us

20 the standing right to be able to foresee the litigation

21 on this file.

22 BY MR. KORTE:

23 Q. I am more concerned about the words

24 negotiable instrument. Do you know what makes this

25 note a negotiable instrument?

1 MS. TIBBITT: Objection to form.

2 THE WITNESS: No, I do not, sir.

3 BY MR. KORTE:

4 Q. Okay. Well, I think we already agreed

5 there is no endorsement in blank on the note, right?

6 A. Right.

7 MS. TIBBITT: Objection to form.

8 BY MR. KORTE:

9 Q. And it's made out to a specific party,

10 correct?

11 A. To Bankunited, FSB.

12 Q. Are you aware of any other assignments or
13 allonges that may be attached to this document in its
14 original form?

15 MS. TIBBITT: Objection to form.

16 THE WITNESS: No, I do not, sir.

17 BY MR. KORTE:

18 Q. Do you know if there is an assignment of
19 mortgage as it relates to this particular loan?

20 A. Not to my knowledge.

21 Q. Do you know who the mortgage is in the name
22 of?

23 A. Success Innocent. And --

24 Q. I am sorry. I didn't mean to interrupt you

25 again.

1 A. Success Innocent and Irlande Innocent as

2 husband and wife.

3 Q. And who is it for the benefit of?

4 A. The lender is Bankunited, FSB.

5 Q. Do you know if the purchase and assumption

6 agreement also related to the mortgage documents

7 themselves specifically?

8 A. Can you rephrase the question? I am sorry.

9 Q. Sure. I am probably jumping ahead. I

10 think you testified earlier there is a purchase and

11 assumption agreement between the F.D.I.C. and

12 Bankunited, correct?

13 A. Yes, that's correct.

14 Q. And we know this Bankunited purchase and

15 assumption agreement that was entered into was not

16 specific as to this particular note, correct?

17 A. Yes, that's correct.

18 Q. It just said all assets?

19 A. That's correct.

20 Q. Do you know if there is any language

21 contained in the assumption agreement to deal with the

22 mortgage?

23 MS. TIBBITT: Objection to form.

24 THE WITNESS: No, I do not, sir.

25 BY MR. KORTE:

1 Q. Would it be fair to say that BankUnited is

2 solely relying upon the purchase and assumption

3 agreement between F.D.I.C. and BankUnited to convey

4 ownership of the note and mortgage?

5 MS. TIBBITT: Objection to form.

6 THE WITNESS: Yes.

7 BY MR. KORTE:

8 Q. What happens to this loan if it's

9 ultimately not paid?

10 MS. TIBBITT: Objection to form.

11 THE WITNESS: Can you -- I am sorry.

12 BY MR. KORTE:

13 Q. Sure. Let me back up a minute. Bankunited

14 was formed and it acquired all the assets of

15 Bankunited, FSB at some point in time, correct?

16 A. Yes, that's correct.

17 Q. Through the F.D.I.C., correct?

18 A. That's correct.

19 Q. And the F.D.I.C. created Bankunited?

20 A. Correct.

21 MS. TIBBITT: Object to the form.

22 BY MR. KORTE:

23 Q. What happens if the loan isn't collectible?

24 A. I do not know, sir.

25 MS. TIBBITT: Object to form.

1 BY MR. KORTE:

2 Q. Do you know if the government through the

3 F.D.I.C. is backing this particular loan?

4 MS. TIBBITT: Objection to form.

5 THE WITNESS: I do not know.

6 BY MR. KORTE:

7 Q. Do you know of any insurance policies

8 relative to this particular loan?

9 A. No, I do not, sir.

10 MS. TIBBITT: Objection to form.

11 MR. KORTE: What's wrong with the form?

12 MS. TIBBITT: Relevance.

13 MR. KORTE: Is it a relevance objection

14 or form objection?

15 MS. TIBBITT: Both.

16 BY MR. KORTE:

17 Q. As far as calculating damages in principal

18 balance owed how much is Bankunited claiming in this

19 case?

20 MS. TIBBITT: Objection to form.

21 THE WITNESS: I would need to see our

22 system to review a payoff to see what exactly it is

23 that Bankunited would be claiming as full payoff for

24 the loan.

25 BY MR. KORTE:

1 Q. Well, what did Bankunited pay for this

2 loan?

3 MS. TIBBITT: Objection to form.

4 THE WITNESS: I am not sure.

5 BY MR. KORTE:

6 Q. Do you know if it paid anything for this

7 loan?

8 A. If Bankunited paid anything for the loan?

9 Q. Yes.

10 A. No. We would have acquired all of the

11 assets. I am sorry, I didn't understand your question.

12 I thought you meant what we were owed for the loan.

13 Q. Right. I am asking what Bankunited paid

14 for this loan.

15 A. I do not know.

16 MS. TIBBITT: Form objection.

17 MR. KORTE: Ma'am, I have nothing

18 further for you. Thanks.

19 THE WITNESS: Okay.

20 MR. KORTE: Do you waive?

21 MS. TIBBITT: We will read.

22 MR. KORTE: Fantastic. I will take it.

23 (Thereupon, at 3:40 p.m. the foregoing

24 proceedings were concluded.)

25

1 CERTIFICATE OF OATH

2

3 THE STATE OF FLORIDA

4 COUNTY OF PALM BEACH

5

6 I, Phillip W. Loter, the undersigned authority,

7 certify that MELISSA CORTEZ personally appeared before

8 me and was duly sworn.

9

10 WITNESS my hand and official seal this 8th day of

11 April 2011.

12

13

14

15

Phillip W. Loter

16

Notary Public, State of Florida

My Commission #DD0858406

17

Expires: April 8, 2013

18

19

20

21

22

23

24

25

1 C E R T I F I C A T E

2

THE STATE OF FLORIDA,)

3)

COUNTY OF PALM BEACH.)

4

5

6 I, Phillip W. Loter, Registered Merit

7 Reporter, do hereby certify that I was authorized to

8 and did stenographically report the foregoing

9 deposition; and that the transcript is a true and

10 correct transcription of the testimony given by the

11 witness.

12 I further certify that I am not a relative,
13 employee, attorney or counsel of any of the parties,
14 nor am I a relative or employee of any of the parties'
15 attorney or counsel connected with the action, nor am I
16 financially interested in the action.

17 Dated this 8th day of April 2011.

18

19

20

21

Phillip W. Loter, RMR

22

23

24

25