

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re

JACALYN S. NOSEK
Debtor

CHAPTER 13
Case No. 02-46025-JBR

DECLARATION BY AMERIQUEST MORTGAGE COMPANY

USE OF SUSPENSE ACCOUNTS

I, Ben Vittali, Bankruptcy Manager of Ameriquest Mortgage Company do under oath depose and say that:

1. Ameriquest Mortgage Company's (AMC) use of Suspense Accounts is a generally accepted practice throughout the servicing industry.
2. All payments received by Ameriquest Mortgage Company in the instant case have been applied to the Debtor's account.
3. A "Suspense Account" is not a separate account, rather it is a term given to those funds credited to a debtors account not sufficient to make a full mortgage payment.
4. "Suspense Accounts" are a functionality of loan servicing computer systems¹ used by the lending industry to distinguish partial or over-payments on a loan as they relate to contractual and post-petition due dates.
5. When funds are applied to the "Suspense Account", AMC computes accrued interest as if the payment amount had been applied when received.
6. Paragraph 1 of the mortgage given by Jacalyn Nosek to Ameriquest Mortgage Company requires the mortgagor to pay the full amount due under the note.
7. Paragraph 3 of said mortgage states the mortgagee shall apply mortgage payments.
8. Funds that reside in the "Suspense Accounts" are applied to the Debtor's account as required by Paragraph 3 on the mortgage.
9. The "Suspense Account" allows lenders to accept short payments that would otherwise be returned to the Debtor for failing to fully comply with the terms and conditions of the mortgage.
10. In the instant case, the "Suspense Account" allowed AMC to accept the August 18, 2004 post-petition payment of \$700.11 from Jacalyn Nosek. The \$700.11 payment was \$0.66 short of her required \$700.77 mortgage payment.

¹ Mortgage Servicing Platform ("MSP") also known as Fidelity National Information System, used by most of the national servicers.

11. The August 18, 2004 payment was applied to Ms. Nosek's account according to the mortgage covenants.

Dated: 11-09-04

/s/ Ben Vittali
Ben Vittali
Bankruptcy Manager

STATE OF CALIFORNIA

Orange , ss

November 9, 2004,

Then personally appeared before me the above-named, BEN VITTALI, Bankruptcy Manager of Ameriquest Mortgage Company and made oath that the foregoing instrument is true and correct to the best of his knowledge. Said BEN VITTALI, Bankruptcy Manager of Ameriquest Mortgage Company further acknowledged the foregoing to be his free act and deed.

/s/ Rudolph A. Orozco
Notary Public
My Commission Expires: 12-20-06
Orange County Commission # 7386471