


1 by Mr. Cotto; the sole asset of NPT was the deed of trust on the Foreclosed Property; Mr. Cotto did
2 not possess a promissory note; Mr. Cotto received no payments on the promissory note; and Mr. Cotto
3 had never made any attempt to collect on the note or to foreclose on the property.

4 After the close of discovery, the United States learned of a witness who casts doubt on the
5 validity of NPT's trust deed. The United States received a telephone call from an attorney who
6 represented a third party witness. The attorney did not reveal the client's identity but represented that
7 the NPT deed of trust was fraudulent. According to the witness, no money was exchanged for the
8 deed of trust and that the purpose of the deed of trust was to defraud and protect against future
9 creditors. According to the attorney, the client possessed a copy of the promissory note, the deed of
10 trust, and a deed of reconveyance. The attorney represented that he believed his client would agree
11 to provide the documents to the United States. When counsel for the United States contacted the
12 counsel again, the attorney informed the United States that he no longer represented the client. Based
13 upon these recent developments, the United States seeks to reopen discovery because the validity of
14 the trust deed is indispensable in determining priorities to the funds held in the Court's registry.

15 For good cause shown, the court grants the motion to reopen discovery for a period of 90 days.
16 See Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294 (9th Cir. 2000). The Government has
17 demonstrated reasonable grounds to believe that the NPT trust deed may be the product of fraud and
18 therefore not entitled to any priority with respect to the funds held in the Court's registry. As noted
19 by NPT, there is no admissible evidence to support the Government's argument. However, that is not
20 fatal to the Government's motion to reopen. Upon conducting the depositions of Mr. Cotto and Mr.
21 Lang, such admissible evidence will be available to all interested parties.

22 **IT IS SO ORDERED.**

23 DATED: May 10, 2010

24 
25 Hon. Jeffrey T. Miller
United States District Judge

26 cc: All parties
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