

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:11cv178

DEERBORNE COTTAGES, LLC,)	
a North Carolina Limited Liability)	
Corporation, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	<u>ORDER</u>
)	
FIRST BANK, Successor to THE)	
BANK OF ASHEVILLE, et al.,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Defendant Federal Deposit Insurance Corporation’s Motion to Dismiss [Doc. 13]; Defendant G. Gordon Greenwood’s Motion to Dismiss [Doc. 19]; Defendant First Bank’s Motion to Dismiss [Doc. 21]; Defendant Raynia J. White’s Motion to Dismiss [Doc. 28]; and the Magistrate Judge’s Memorandum and Recommendation [Doc. 36] regarding the disposition of these motions.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the Defendants’ Motions to Dismiss and to submit recommendations for their disposition.

On April 9, 2012, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 36] containing proposed conclusions of law in support of a recommendation regarding the Defendants' Motions. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 36], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation: (1) that the Motion to Dismiss filed by the Federal Deposit Insurance Corporation be granted as to Counts One and Five, as well as the claims for treble damages, and denied as to the remaining claims; (2) that the Motions to Dismiss filed by G. Gordon Greenwood and Raynia J. White be granted as to Count One and denied as to the remaining claims; and (3) that the Motion to Dismiss filed by First Bank be granted and all the claims asserted against First Bank dismissed.

IT IS, THEREFORE, ORDERED that

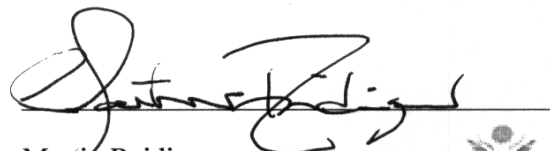
- (1) the Magistrate Judge's Memorandum and Recommendation [Doc. 36] is **ACCEPTED**;

- (2) the Motion to Dismiss filed by the Federal Deposit Insurance Corporation [Doc. 13] is **GRANTED** as to Counts One and Five, as well as the claims for treble damages, and **DENIED** as to the remaining claims;
- (3) the Motions to Dismiss filed by G. Gordon Greenwood [Doc. 19] and Raynia J. White [Doc. 28] are **GRANTED** as to Count One and **DENIED** as to the remaining claims; and
- (4) the Motion to Dismiss filed by First Bank [Doc. 21] is **GRANTED** and all the claims asserted in the Complaint against First Bank are hereby **DISMISSED**.

IT IS FURTHER ORDERED that the parties shall conduct an Initial Attorneys' Conference within fourteen (14) days of the entry of this Order and submit a Certificate of Initial Attorneys' Conference within seven (7) days thereafter.

IT IS SO ORDERED.

Signed: May 18, 2012


Martin Reidinger
United States District Judge

