

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL CASE NO. 2:11cv14

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
vs.)
)
7 BLUE SPRUCE DRIVE, WHITTIER,)
NORTH CAROLINA, as described in)
a Deed at Book 1214, Page 193,)
Jackson County Registry, being)
real property, together with the)
residence, and all appurtenances,)
improvements, and attachments)
thereon,)
)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court on the Government’s Motion for Entry of Judgment and Final Order of Forfeiture [Doc. 20]; the Government’s Second Motion for Entry of Judgment and Final Order of Forfeiture [Doc. 21]; and the Magistrate Judge’s Memorandum and Recommendation [Doc. 22] regarding the disposition of these Motions.

On May 9, 2012, the Honorable Dennis L. Howell, United States Magistrate Judge, filed a Memorandum and Recommendation [Doc. 22]

containing proposed conclusions of law in support of a recommendation regarding the Government's Motions [Docs. 20, 21]. Specifically, the Magistrate Judge recommended that the Motions be denied because the Government had failed to seek an entry of default and default judgment against the actual holder of a deed of trust pertaining to the defendant property. [Doc. 22 at 3-4]. 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. [Id. at 5]. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.¹

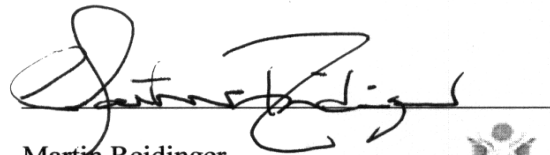
After a careful review of the Magistrate Judge's Recommendation [Doc. 22], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Government's Motions for Entry of Judgment and Final Order of Forfeiture [Docs. 20, 21] be denied without prejudice.

¹Since the filing of the Memorandum and Recommendation, the Government has filed a motion for entry of default against the holder of the deed of trust, Federal Home Loan Mortgage Corporation (Freddie Mac). [Doc. 23]. The Clerk of Court made an entry of default against Freddie Mac on May 30, 2012. [Doc. 24]. The Government is free to renew its motion for a final order of forfeiture when it seeks entry of a default judgment against Freddie Mac.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum and Recommendation [Doc. 22] is **ACCEPTED**, and the Government's Motion for Entry of Judgment and Final Order of Forfeiture [Doc. 20] and Second Motion for Entry of Judgment and Final Order of Forfeiture [Doc. 21] are **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Signed: June 1, 2012


Martin Reidinger
United States District Judge

