

The Honorable Robert S. Lasnik

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JESSICA SAEPOFF,

Plaintiff,

v.

NORTH CASCADE TRUSTEE SERVICES,  
INC.; HSBC BANK USA, N.A. AS TRUSTEE  
FOR ACE SECURITIES CORP. HOME  
EQUITY LOAN TRUST 2007-WM2;  
OCWEN MORTGAGE SERVICING, LLC;  
MERSCORP HOLDINGS, INC.;  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.; and  
JOHN DOES 1-20,

Defendants,

HSBC BANK USA, N.A. AS TRUSTEE ON  
BEHALF OF ACE SECURITIES CORP.  
HOME EQUITY LOAN TRUST AND FOR  
THE REGISTERED HOLDERS OF ACE  
SECURITIES CORP. HOME EQUITY LOAN  
TRUST, SERIES 2007-WM2, ASSET  
BACKED PASS-THROUGH CERTIFICATES;  
Counterclaimant/Crossclaimant,

Case No. 2:17-cv-000957-RSL

**STIPULATION REGARDING  
PRIORITY BETWEEN HSBC BANK USA,  
N.A. AND THE UNITED STATES OF  
AMERICA**

1 v.

2 JESSICA SAEPOFF; UNKNOWN BENEFICIARY  
3 OF THE 4003 92ND  
4 AVENUE SE LAND TRUST; MARTIN  
5 VICTOR BRENT, TRUSTEE OF THE 4003  
6 92ND AVENUE SE LAND TRUST; RANDY  
7 STYER, TRUSTEE OF THE 4003 92ND  
8 AVENUE SE LAND TRUST; MORTGAGE  
9 ELECTRONIC REGISTRATION SYSTEMS,  
10 INC.; STATE OF WASHINGTON; UNITED  
11 STATES OF AMERICA; OCCUPANTS OF  
12 THE PREMISES,

13 Counterdefendants/Crossdefendants,

14 Counterclaimant HSBC Bank USA, N.A. as trustee on behalf of Ace Securities Corp.  
15 Home Equity Loan Trust and for the Registered Holders of Ace Securities Corp. Home Equity  
16 Loan Trust, Series 2007-WN2, Asset Backed Pass-Through Certificates (“HSBC Bank”), and  
17 Counterdefendant the United States of America (“United States”), by and through their  
18 undersigned counsel, hereby stipulate and agree as follows:

19 On April 11, 2017, HSBC Bank filed a Counterclaim in Case No. 16-2-09757-0-SEA in  
20 the Superior Court of Washington in and for the County of King, seeking judicial foreclosure of  
21 a Deed of Trust, naming the United States as a Counterdefendant. On June 22, 2017, the United  
22 States removed this action to this Court. Dkt. No. 1. On July 21, 2017, the United States filed its  
23 Answer and Claim, asserting an interest in the Subject Property pursuant to its Federal tax liens.  
Dkt. No. 19.

The Subject Property of this action is commonly known as 4003 92<sup>nd</sup> Avenue Southeast,  
Mercer Island, WA 98040, and legally described as:

1 LOT 1 of PATRICK HEIGHTS, AS PER PLAT RECORDED IN VOLUME 49  
2 OF PLATS, ON PAGE 37, RECORDS OF KING COUNTY; SITUATE IN THE  
3 CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF  
4 WASHINGTON.

5 Parcel No. 673570-0005-09

6 On November 6, 2006, WMC Mortgage Corp. recorded a Deed of Trust in the County  
7 Recorder's Office in King County, Washington, serial number 20061106002692, encumbering  
8 the Subject Property. The loan secured by the Deed of Trust was obtained by Jessica Saepoff,  
9 the borrower, on or about November 2, 2006, from WMC Mortgage Corp., the lender, in the  
10 principal amount of \$490,000.00. The beneficiary under the Deed of Trust was MERS (solely as  
11 nominee for Lender and Lender's successors and assigns) and the successors and assigns of  
12 MERS.

13 On or about April 7, 2011, MERS, as beneficiary of WMC Mortgage Corp., assigned its  
14 interest in the Subject Property to HSBC Bank through an Assignment of Deed of Trust. The  
15 Assignment of Deed of Trust was recorded with the County Recorder's Office in King County,  
16 Washington, on August 5, 2011, serial number 2011805000962.

17 On January 26, 2011, the United States recorded a Notice of Federal Tax Lien with the  
18 County Recorder's Office in King County, Washington against Jessica Saepoff, encumbering the  
19 Subject Property with regard to unpaid federal income tax assessments for the taxable year 2008,  
20 serial number 20110126000562<sup>1</sup>.

21 <sup>1</sup> The United States' Answer and Claim mistakenly stated that the Notice of Federal Tax Lien was recorded on  
22 November 26, 2011, rather than January 26, 2011 (Dkt. No. 19, at 13). However, the correct recording date is  
23 January 26, 2011.

1 On October 13, 2014, the United States recorded a Notice of Federal Tax Lien with the  
2 County Recorder's Office in King County, Washington against Jessica Saepoff, encumbering the  
3 Subject Property with regard to unpaid federal income tax assessments for the taxable years 2009  
4 through 2012, serial number 20141013001323<sup>2</sup>.

5 HSBC Bank and the United States agree and stipulate that HSBC Bank's interest in the  
6 Subject Property, by virtue of its Deed of Trust recorded on November 6, 2006, in the County  
7 Recorder's Office in King County, Washington, serial number 20061106002692, is senior to,  
8 and has priority over, the interests of the United States, by virtue of the Notices of Federal Tax  
9 Liens, recorded on January 26, 2011 and October 13, 2014, with serial numbers  
10 20110126000562 and 20141013001323, respectively. Therefore, and by virtue of 26 U.S.C. §  
11 6323(a), HSBC Bank is entitled to priority over the federal tax liens at issue in this lawsuit.

12 HSBC and the United States agree and stipulate that in the event the Court permits the  
13 sale of the Subject Property, after completion of the sheriff's sale, the parties will provide  
14 accountings of their interests in the Subject Property, including interest, setting forth the  
15 disposition of the Subject Property's sale proceeds pursuant to RCW 6.21.110. HSBC Bank will  
16 then submit a proposed order of disbursement providing that the proceeds from that sale should  
17 be applied as follows: First, towards any costs of sale. Second, to satisfy the outstanding loan  
18 secured by the Deed of Trust held by HSBC Bank, including attorney's fees and costs. Third, to  
19 any other party, including the United States, according to the order of priority, as determined by  
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21 <sup>2</sup> The United States' Answer and Claim mistakenly stated that the Notice of Federal Tax Lien was recorded on  
22 October 14, 2013, rather than October 13, 2014 (Dkt. No. 19, at 13). However, the correct recording date is October  
23 13, 2014.

1 the Court. If the affected parties cannot stipulate to the amounts of their liens, the parties shall  
2 file written briefs setting forth their positions and the Court shall determine the disbursement of  
3 funds.

4 HSBC Bank and the United States shall bear their own costs and fees related to this  
5 litigation.

6 DATE: September 27, 2017

/s/ Laura Coughlin  
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11 *Attorneys for HSBC Bank USA, N.A.; Ocwen*  
12 *Mortgage Servicing, LLC; Mercorp Holdings, Inc.;*  
*and Mortgage Electronic Registration Systems, Inc.*

13 DATE: October 2, 2017

14 DAVID A. HUBBERT  
Acting Assistant Attorney General

15 /s/ Rika Valdman  
16 RIKA VALDMAN  
17 Trial Attorney, Tax Division  
18 U.S. Department of Justice  
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22 United States Attorney  
Western District of Washington

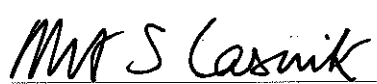
23 *Attorneys for the United States of America*

**ORDER**

The foregoing Stipulation between the HSBC Bank USA, N.A., and the United States is

APPROVED. SO ORDERED.

DATED this 5<sup>th</sup> day of October, 2017.



Robert S. Lasnik  
United States District Judge

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