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**FILED**  
MAY 15 2017  
UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re:	)	Case No.15-20800-B-7
	)	
TRINA GOLD,	)	DC No. GJH-3
	)	
	)	
Debtor(s).	)	

**MEMORANDUM AND ORDER**

**I. INTRODUCTION**

This memorandum and order is entered following an evidentiary hearing held on April 17, 2017. Appearances on behalf of debtor Trina Gold ("Debtor"), the chapter 7 trustee ("Trustee"), the debtor's non-filing spouse and only objecting party Damon Gold ("Mr. Gold"), Wells Fargo Bank, National Association, as Trustee for Banc of America Funding Corporation, Mortgage Pass-Through Certificates, Series 2007-E, its assignees and/or successors ("WFB"), by and through its servicing agent Nationstar Mortgage, LLC ("Nationstar"), were stated on the record.

The evidentiary hearing was set on a motion initially filed by the Trustee for authorization to make a final distribution of proceeds from the sale of real property located at 3149 W. Lake Blvd., Tahoe City, California ("Tahoe Property") to the secured

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1 creditors with senior and junior liens on the property.<sup>1</sup> The  
2 purpose of the evidentiary hearing was to confirm the identity of  
3 the payee and secured creditor who held the senior lien on the  
4 Tahoe Property and, thus, the identity of the proper party to  
5 whom the Trustee could distribute up to \$1,117,424.00 of the  
6 Tahoe Property sale proceeds in full satisfaction of the  
7 lienholder's secured claim.<sup>2</sup>

8 The court continued the evidentiary hearing to May 16, 2017,  
9 to announce its decision. However, upon further consideration  
10 the court has elected to enter a written decision in this  
11 memorandum and order in lieu of an oral decision placed on the  
12 record. This memorandum and order constitutes the court's  
13 findings of fact and conclusions of law pursuant to Federal Rule  
14 of Civil Procedure 52(a) applicable by Federal Rules of  
15 Bankruptcy Procedure 7052 and 9014(c).<sup>3</sup>

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17 <sup>1</sup>The Debtor and Mr. Gold owned the Tahoe Property. After  
18 the Debtor filed a chapter 7 petition on February 2, 2015, the  
19 court authorized the Trustee to sell the Tahoe Property free and  
20 clear of liens with all liens to attach to the sale proceeds in  
the same order as they existed pre-petition and subject to all  
defenses and any defects. The Debtor and Mr. Gold consented to  
the sale of the Tahoe Property.

21 <sup>2</sup>Nationstar initially objected to this payoff amount  
22 asserting that the amount owed was more than \$1,117,424.00.  
23 However, during the evidentiary hearing Nationstar's attorney  
24 stated that a \$1,117,424.00 payoff was no longer disputed and  
that amount would satisfy the secured claim in this case and the  
lien on the Tahoe Property.

25 <sup>3</sup>The court takes judicial notice of the docket in this  
26 chapter 7 case and in the related chapter 13 case the Debtor and  
27 Mr. Gold filed in this court on October 24, 2011, as case no. 11-  
45279. Mr. Gold was dismissed from that case on April 30, 2012,  
and the case was dismissed on June 26, 2012.

1 **II. BACKGROUND**

2 On or about July 25, 2007, the Debtor and Mr. Gold signed a  
3 promissory note in the original principal amount of \$850,000.00  
4 payable to Bank of America N.A. ("BofA"). The note provided for  
5 interest only from 2007 through 2017 with an initial fixed-  
6 interest rate of 6.875% through August 1, 2012, at which time the  
7 interest rate would change to the average 1-year LIBOR rate plus  
8 2.250% with similar annual interest rate adjustments through  
9 2017. So, from loan origination in 2007 through July 1, 2012,  
10 monthly interest-only payments were fixed at \$4,869.79.

11 The note was secured by a deed of trust on the Tahoe  
12 Property which also named BofA as the beneficiary. The deed of  
13 trust was recorded with the Placer County Recorder on July 30,  
14 2007. A copy of the deed of trust is attached as Nationstar's  
15 Exhibit 2 to dkt. 140 and is admitted into evidence without  
16 objection.<sup>4</sup>

17 An assignment of the beneficial interest of the deed of  
18 trust from BofA to WFB dated January 25, 2012, was recorded with  
19 the Placer County Recorder on or about February 9, 2012. A copy  
20 of the assignment is attached as Nationstar's Exhibit 3 to dkt.  
21 140 and is admitted into evidence without objection.

22 When the Trustee sold the Tahoe Property, it appeared from  
23 recorded documents and a title report that the property was

24 \_\_\_\_\_  
25 <sup>4</sup>Nationstar filed exhibits not less than three times. See  
26 dkt. nos. 140, 143, and 146. Without reviewing and comparing  
27 every single page of each exhibit, the documents appear to be  
28 identical. Docket 140 is used for purposes of this memorandum  
and order.

1 encumbered by a senior and a junior lien.<sup>5</sup> WFB filed a motion  
2 for relief from the automatic stay earlier in the bankruptcy case  
3 in which it asserted that it is the senior lienholder.  
4 Nationstar subsequently appeared in the bankruptcy case on WFB's  
5 behalf. Nationstar now asserts that it is WFB's loan servicer  
6 for the loan secured by the Tahoe Property and, in that capacity,  
7 is the proper payee and recipient of the Tahoe Property sale  
8 proceeds.

9 Mr. Gold asserts that neither WFB nor Nationstar are the  
10 proper payee(s) or recipient(s) of the Tahoe Property sale  
11 proceeds because neither hold a claim secured by that property.  
12 He concedes that the principal balance owed on the note is  
13 \$823,000.00.<sup>6</sup> However, he asserts that amount is not owed as a  
14 secured claim because the note and deed of trust on the Tahoe  
15 Property are split which renders the obligation unsecured and not  
16 payable from the Tahoe Property sale proceeds in the absence of a  
17 timely proof of claim which neither WFB nor Nationstar filed in  
18 this chapter 7 case.

19 \_\_\_\_\_  
20 <sup>5</sup>The junior lien was held by Michael Gold. It has been paid  
21 in full and is no longer at issue. The present dispute concerns  
22 only the identity of the senior lienholder and the proper payee  
of the Tahoe Property sale proceeds in satisfaction of the  
lienholder's secured claim.

23 <sup>6</sup>That concession is based on Mr. Gold's Exhibit A which is  
24 the final report that the chapter 13 trustee filed in case no.  
25 11-45279 on August 16, 2012. Mr. Gold maintains that final  
26 report reflects a lump-sum distribution by the chapter 13 trustee  
27 towards the principal balance owed on the note when the chapter  
13 trustee closed the case in August 2012 following its dismissal  
in June 2012. The court admitted Exhibit A. Its implications  
are discussed below.

## 1 III. DISCUSSION

2 A. The Evidentiary Hearing and the Production of the  
3 Original Promissory Note Endorsed Payable to WFB

4 Asserting that it is the proper payee and recipient of Tahoe  
5 Property sale proceeds for the benefit of WFB, Nationstar brought  
6 with it to court what its witness, Gene Mays ("Mr. Mays"),  
7 described as Nationstar's "collateral file." The documents in  
8 the collateral file consisted of original loan documents for  
9 BofA's 2007 loan to the Debtor and Mr. Gold. Those documents  
10 included an original promissory note endorsed by BofA payable to  
11 WFB (the "Original Endorsed Note"). The court inspected all  
12 documents in the collateral file as did Mr. Gold and his  
13 attorney, the Debtor and her attorney, and the Trustee and his  
14 attorney.

15 Nationstar moved to admit the Original Endorsed Note into  
16 evidence and Mr. Gold objected on the basis that the Original  
17 Endorsed Note is not a business record and it was not properly  
18 authenticated. The court reserved its ruling on Mr. Gold's  
19 objection. For reasons explained below, the court now overrules  
20 Mr. Gold's objection and admits the Original Endorsed Note into  
21 evidence for its full probative value.

22 Mr. Gold cites and relies primarily on In re Vargas, 396  
23 B.R. 511 (Bankr. C.D. Cal. 2008), as the basis for his objection  
24 to the admission of the Original Endorsed Note. Mr. Gold's  
25 reliance on Vargas is misplaced.

26 In Vargas, the court stated that a promissory note need not  
27 qualify under the business records exception for admission into  
28

1 evidence because the note itself is not hearsay. Id. at 519.  
2 Rather, the court explained that a promissory note only needs to  
3 be authenticated in order for it to be admitted into evidence.  
4 Id. at 519-20. This court does not disagree with that general  
5 proposition.

6 The promissory note in Vargas was not admitted into evidence  
7 because it was not authenticated. And it was not authenticated  
8 because the witness testifying about the note gave no testimony  
9 as to its authenticity and there was no other evidence on the  
10 subject. Id. at 520. In that regard, Vargas seems to suggest  
11 that the only way a promissory note may be authenticated is by  
12 witness testimony. This court disagrees with that proposition.

13 Commercial paper is self-authenticating under Federal Rule  
14 of Evidence 902(9).<sup>7</sup> U.S. V. Pang, 362 F.3d 1187, 1192 (9th Cir.  
15 2004). Promissory notes are a species of commercial paper that  
16 are self-authenticating under Federal Rule of Evidence 902(9).  
17 Rogan v. Bank One (In re Cook), 457 F.3d 561, 566 (6th Cir. 2006)  
18 ("[T]he promissory note is self-authenticating evidence pursuant  
19 to Rule 902 of the Federal Rules of Evidence"); Hummel v.  
20 Northwest Trustee Services, Inc., 180 F. Supp. 3d 798, 803 n.3  
21 (W.D. Wa. 2016) ("Promissory notes are, of course,

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23 <sup>7</sup>Federal Rule of Evidence 902(9) states as follows:  
24 The following items of evidence are  
25 self-authenticating; they require no extrinsic evidence  
of authenticity in order to be admitted:  
[. . .]  
26 (9) Commercial Paper and Related Documents. Commercial  
27 paper, a signature on it, and related documents, to the  
extent allowed by general commercial law.

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1 self-authenticating."); Theros v. First American Title Ins. Co.,  
2 2011 WL 462564, \*2 (W.D. Wa. 2011) ("Promissory notes are  
3 self-authenticating under Federal Rule of Evidence 902(9).");  
4 Pradhan v. Citibank, N.A., 2011 WL 90235, \*5 n.4 (N.D. Cal. 2011)  
5 ("Furthermore, under Federal Rule of Evidence 902(9), promissory  
6 notes are self-authenticating."). As a self-authenticating  
7 document, an original promissory note requires no extrinsic  
8 evidence of authenticity in order to be admitted into evidence.  
9 U.S. v. Varner, 13 F.3d 1503, 1509 (11th Cir. 1994) ("Mere  
10 production of a note establishes prima facie authenticity and is  
11 sufficient to make a promissory note admissible."); U.S. v.  
12 Carriger, 592 F.2d 312, 316 (6th Cir. 1979) (finding that  
13 district court erred in requiring extrinsic evidence to  
14 authenticate promissory note); Hooper v. Anderson (In re Hooper),  
15 2012 WL 603766, \*7-8 (9th Cir. BAP 2012) (recognizing that under  
16 California law there is a presumption that commercial paper  
17 offered in evidence is authentic without the need for extrinsic  
18 evidence for admissibility); 31 Charles Alan Wright & Victor  
19 James Gold, FEDERAL PRACTICE AND PROCEDURE EVID. § 7134 (1st ed.  
20 2004) ("If an item is self-authenticating under Rule 902, the  
21 authenticity of that item is established for purposes of deciding  
22 admissibility even though the opponent has evidence disputing  
23 authenticity.").

24       Regarding the self-authentication and admissibility of an  
25 original promissory note, the court considers In re Miller, 2012  
26 WL 6041639 (Bankr. D. Colo. 2012), aff'd, 2013 WL 4776054 (D.

1 Colo. 2013), aff'd, 577 Fed. Appx. 849 (10th Cir. 2014), cert.  
2 denied, 135 S. Ct. 1432 (2015), highly persuasive. In Miller,  
3 Judge Romero wrote as follows:

4 The Court inspected the original Note. Pursuant to FED.  
5 R. EVID. 902(9), promissory notes are considered  
6 self-authenticating commercial paper, and do not  
7 require a witness or extrinsic evidence of  
8 authenticity. 'Mere production of a note establishes  
9 prima facie authenticity and is sufficient to make a  
10 promissory note admissible.' Based on its review of  
11 the original Note produced at the evidentiary hearing,  
12 the Court finds [the bank] has established prima facie  
13 evidence as to the authenticity of the Note.

14 Id., 2012 WL 6041639 at \*9-10 (internal citations in footnotes  
15 omitted).

16 Attempting to rebut Nationstar's prima facie showing of  
17 authenticity by the production of the Original Endorsed Note, Mr.  
18 Gold maintains that the Original Endorsed Note differs from the  
19 copy of the note that Nationstar produced as its Exhibit 1 at  
20 dkt. 140. The purported difference is that the former is  
21 endorsed by BofA payable to WFB whereas the latter is endorsed in  
22 blank. Mr. Mays testified that except for the endorsements, the  
23 two notes are the same. The court finds Mr. Mays' testimony  
24 credible and believes Mr. Mays over the unsupported and  
25 unsubstantiated claim of Mr. Gold's attorney.<sup>8</sup> The court also

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26 <sup>8</sup>Mr. Mays testified extensively about his knowledge and  
27 experience with original loan documents in general and the  
28 original loan documents in this case in particular. He explained  
the process by which Nationstar acquired the original promissory  
note from BofA, that Nationstar initially acquired that original  
note endorsed in blank, and that the original note was  
subsequently endorsed by BofA payable to WFB. Mr. Gold did not  
object to Mr. Mays' initial testimony on these matters nor did he  
offer any other evidence to contradict Mr. Mays' testimony.

1 independently inspected both notes and concurs that except for  
2 the endorsements both notes are the same. Any difference in the  
3 endorsement is immaterial for purposes of authenticity and  
4 admission of the Original Endorsed Note. See e.g., Hummel, 180  
5 F. Supp. 3d at 803 n.3.

6 Mr. Gold's attorney also stated that Mr. Gold did not sign  
7 the Original Endorsed Note. Nationstar's attorney objected to  
8 counsel testifying on Mr. Gold's behalf and the court sustained  
9 that objection. Mr. Gold was present in the courtroom throughout  
10 the evidentiary hearing and his attorney could have easily called  
11 him as a witness to testify about his signature on the Original  
12 Endorsed Note. Mr. Gold's attorney neglected to call Mr. Gold as  
13 a witness. As a result, Mr. Gold did not testify and there is no  
14 other evidence that Mr. Gold's signature and the Original  
15 Endorsed Note are other than authentic.<sup>9</sup>

16 In short, Mr. Gold has produced no evidence to rebut  
17 Nationstar's authentication of the Original Endorsed Note based

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19 <sup>9</sup>The also court expressed some concern about timely  
20 production of the Original Endorsed Note as required by the local  
21 rules. See LBR 9017-1. However, the court also explained that  
22 automatically resorting to an exclusionary sanction for  
23 noncompliance with production deadlines established by the local  
24 rule is strongly disfavored. See Bank of Stockton v. Dugo (In re  
25 Dugo), 2016 WL 4126757 (E.D. Cal. 2016); Taylor v. Singh (In re  
26 Singh), 2016 WL 770195 (9th Cir. BAP 2016); Kostecki v. Sutton  
27 (In re Sutton), 2015 WL 7776658 (9th Cir. BAP 2015). Moreover,  
28 as noted, Mr. Gold was present in the courtroom throughout the  
evidentiary hearing, he inspected the Original Endorsed Note, his  
attorney could have called him to testify about his signature on  
or other matters related to that original note, and his attorney  
neglected to have him so testify. Under those circumstances, any  
concerns the court expressed about the timing of the production  
of the Original Endorsed Note are alleviated.

1 upon its in-court production during the evidentiary hearing.  
2 Therefore, to re-iterate what the court stated above, Mr. Gold's  
3 objection to the admission of the Original Endorsed Note on the  
4 basis of authentication is overruled and his objection to the  
5 admission of that original note on the basis it is not a business  
6 record is overruled as moot. The Original Endorsed Note is  
7 admitted into evidence for its full probative value.

8 B. The Note and Deed of Trust are not Split

9 The Original Endorsed Note is endorsed by BofA payable to  
10 WFB making WFB the payee. Based on the February 2012 recorded  
11 assignment, WFB is also the beneficiary of the deed of trust on  
12 the Tahoe Property.

13 How or when WFB acquired both interests under the Original  
14 Endorsed Note and the deed of trust is immaterial. The Ninth  
15 Circuit bankruptcy appellate panel explained in Hooper, supra,  
16 that when a note is transferred is legally irrelevant, stating:

17 In both the bankruptcy court and this appeal, the  
18 Hoopers object that there is no evidence of the date of  
the transfer of the Note from Greenpoint to GMAC.  
19 After noting that under the facts of this case it would  
be very difficult to determine the date of transfer,  
the bankruptcy court ruled that, 'I don't think when  
20 [the Note] was transferred is important.' Hr'g Tr.  
5:2-3, March 29, 2011. This ruling was correct. There  
21 is nothing in the California Commercial Code that  
requires proof of the date of transfer as a condition  
22 to enforcing a note.

23 Hooper, 2012 WL 603766 at \*8; see also Adler v. Sargent, 109 Cal.  
24 42, 49-50 (Cal. 1895).

25 The critical point here is that one entity, *i.e.*, WFB, holds  
26 both interests under the original promissory note and the deed of

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1 trust on the Tahoe Property. Not only are those interests  
2 unified, but, the unity of those interests makes the obligation  
3 on the note a secured claim in this bankruptcy case. Therefore,  
4 Mr. Gold's objection that the obligation on the note is not a  
5 secured claim and that there is no creditor to whom proceeds from  
6 the sale of the Tahoe Property may be distributed in satisfaction  
7 of a claim secured by a lien on the Tahoe Property that  
8 transferred to the proceeds from the sale of that property are  
9 overruled.

10 C. Then Who Gets the Tahoe Property Sale Proceeds?

11 With the Original Endorsed Note now admitted into evidence  
12 and the obligation on that note a secured claim in this  
13 bankruptcy case, the question becomes whether Nationstar is a  
14 proper payee and recipient of the Tahoe Property sale proceeds as  
15 it asserts that it is. The answer to that question depends on  
16 whether Nationstar is "a person entitled to enforce the note"  
17 under California Commercial Code § 3-301 and that answer is found  
18 in Veal v. American Home Mortgage Servicing, Inc. (In re Veal),  
19 450 B.R. 897 (9th Cir. 2011).

20 In Veal, the Ninth Circuit bankruptcy appellate panel  
21 explained that there are at least two ways a person can acquire  
22 "person entitled to enforce" status under § 301 of the Uniform  
23 Commercial Code.<sup>10</sup> Id. at 910. Under U.C.C. § 1-201(5) a "person  
24 entitled to enforce" a note may be a "holder" which means the

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26 <sup>10</sup>The applicable provisions of the California Commercial  
27 Code are virtually identical to the U.C.C. code sections  
discussed in Veal.

1 person possesses the note and either (i) the note is made payable  
2 to the person who has possession or (ii) the note is payable to  
3 the bearer (which includes an endorsement in blank). Id. at 911;  
4 accord Cal. Comm. Code § 1201(5). Alternatively, a person may be  
5 a "nonholder in possession of the [note] who has the rights of a  
6 holder." Veal, 450 B.R. at 911 (citing U.C.C. § 3-301); accord  
7 Cal. Comm. Code § 3-301(ii).

8 The appellate panel in Veal also explained that a negotiable  
9 instrument, such as a promissory note, may be transferred by a  
10 person other than the issuer without being negotiated and the  
11 transfer of the note vests in the transferee the rights of  
12 enforcement held by the transferor. Veal, 450 B.R. 911 (citing  
13 U.C.C. § 3-203(a), (b)); accord Cal. Comm. Code § 3203(a), (b).  
14 Put in context, a holder such as WFB (who is not the issuer) may  
15 transfer by physical delivery (and thus without negotiating) an  
16 original promissory note (such as the Original Endorsed Note) to  
17 a transferee (such as Nationstar) and by that transfer vest in  
18 the transferee (Nationstar) its holder rights which includes the  
19 right to enforce the note. However, in order to acquire this  
20 "nonholder in possession who has the rights of a holder" status,  
21 and thus a "person entitled to enforce the note" status, the  
22 transferee (Nationstar) must demonstrate both the fact of  
23 delivery and the purpose of delivery of the note. Id. at 912.  
24 Nationstar has established both.

25 Nationstar has actual physical possession of the Original  
26 Endorsed Note. It produced that original note in court.

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1 Nationstar has thus established the fact of delivery of the  
2 original note.

3 Nationstar has also established the purpose of delivery or,  
4 in other words, the reason it has possession of the Original  
5 Endorsed Note. Mr. Mays testified that Nationstar has possession  
6 of that original note in order to service it for and on behalf of  
7 WFB. When asked about Nationstar's specific obligations as they  
8 pertain to its role as WFB's loan servicer, Mr. Mays testified  
9 that Nationstar is authorized to: (1) receive and post the Tahoe  
10 Property sale proceeds on behalf and for the benefit of WFB; (2)  
11 disburse those sale proceeds to WFB upon receipt; and (3) as  
12 servicer in fact, execute and record with the county recorder a  
13 release of the lien created by the deed of trust on the Tahoe  
14 Property. Mr. Gold did not offer any testimony or other evidence  
15 to the contrary. Again, the court finds Mr. Mays' testimony  
16 credible.

17 In short, Nationstar has established both a transfer of the  
18 Original Endorsed Note and the purpose of that transfer.  
19 Accordingly, Nationstar has established that it is a nonholder in  
20 possession with rights of a holder and, as such, it is a person  
21 entitled to enforce the Original Endorsed Note. See Valencia v.  
22 Carrington Mortgage Services, LLC, 2012 WL 12883833, \*16 (D.  
23 Hawaii 2012) (stating that under Hawaii § 490:3-301, which is  
24 virtually identical to Cal. Comm. Code § 3-301, "CMS is the  
25 servicer of the Note on behalf of the Note holder and qualifies  
26 as a 'nonholder in possession of the instrument who has the

1 rights of the holder.'"). As a person entitled to enforce the  
2 Original Endorsed Note, Nationstar may receive payments in  
3 satisfaction of the obligation created by the note. See Veal,  
4 450 B.R. at 910. Therefore, for the foregoing reasons, the court  
5 concludes that Nationstar is a proper payee and recipient of  
6 Tahoe Property sale proceeds and the Trustee will be authorized  
7 to distribute the sale proceeds to Nationstar for the benefit of  
8 WFB and in full and final satisfaction of the claim secured by  
9 the deed of trust on the Tahoe Property.

10 D. Then How Much is Payable to Nationstar?

11 WFB and Nationstar were largely uncooperative with the  
12 Trustee's numerous requests over an extended period of time for  
13 information regarding loan payment history and loan payoff  
14 amount. Nevertheless, using information available in documents  
15 filed in this bankruptcy case, the Trustee was able to construct  
16 a payoff figure to satisfy the senior lien on the Tahoe Property  
17 of up to \$1,117,424.00.

18 As noted above, Nationstar does not dispute the  
19 \$1,117,424.00 cap and Mr. Gold concedes that \$823,000.00 of the  
20 principal balance remains owing. Mr. Gold's concession is based  
21 on his Exhibit A which is the final report the chapter 13 trustee  
22 filed in case no. 11-45279 on August 16, 2012. According to Mr.  
23 Gold, that report reflects that on or about August 16, 2012, and  
24 as part of the closing of the chapter 13 case, the chapter 13  
25 trustee made a lump-sum payment of \$27,000.00 towards the  
26 \$850,000.00 principal balance owed on the note. Even assuming  
27  
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1 Mr. Gold is correct, the court can ascertain that the balance  
2 owed on the note would nevertheless exceed \$1,117,424.00.

3 Mr. Mays testified that the loan went into default in  
4 October 2009. Accepting Mr. Gold's argument that the \$27,000.00  
5 stated in the trustee's final report was a distribution in the  
6 form of a lump-sum, principal-reducing payment by the chapter 13  
7 trustee on or about August 16, 2012, that does not affect unpaid  
8 interest that accrued on the \$850,000.00 principal balance up to  
9 that point. At 6.875% - or \$4,869.79 monthly - from the October  
10 2009 default through the last month before the LIBOR interest  
11 rate adjustment, i.e., July of 2012, there would have been an  
12 additional \$165,572.86 in interest owed in addition to the  
13 \$823,000.00 principal. So based on Mr. Gold's argument, the  
14 balance due on the note after the chapter 13 trustee purportedly  
15 made a principal reducing payment in August of 2012 would have  
16 been \$998,572.86 (\$823,000.00 + \$165,572.86).

17 Additionally, that \$998,572.86 loan balance would also have  
18 to take into account subsequent required LIBOR interest rate  
19 adjustments which were to begin on August 1, 2012. That  
20 additional interest also went unpaid from August 2012 through the  
21 date the petition in this chapter 7 case was filed on February 2,  
22 2015. The amount of interest on an \$823,000.00 principal that  
23 accrued and went unpaid during that period would have been  
24 sufficient to push the loan payoff balance over the \$1,117,424.00  
25 threshold. How much over that threshold is immaterial because,  
26 as a person entitled to enforce the Original Endorsed Note,

1 Nationstar has consented to accept no more than \$1,117,424.00 in  
2 full satisfaction of the obligation on that note.

3

4 **IV. CONCLUSION**

5 Therefore, based on all the foregoing:

6 IT IS ORDERED that the Trustee is authorized to distribute  
7 \$1,117,424.00 of the Tahoe Property sale proceeds to Nationstar,  
8 as WFB's loan servicer, in full satisfaction of a secured claim  
9 based on WFB's senior lien on the Tahoe Property which  
10 transferred to the Tahoe Property sale proceeds upon the sale of  
11 that property.

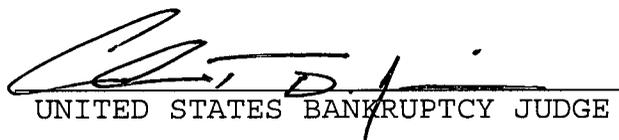
12 IT IS FURTHER ORDERED that upon receipt of a \$1,117,424.00  
13 from the Trustee and the posting of those funds, Nationstar shall  
14 cause to be recorded with the Placer County Recorder a full,  
15 complete, and unconditional lien release that releases the senior  
16 lien on the Tahoe Property and the proceeds from the sale of the  
17 Tahoe Property.

18 IT IS FURTHER ORDERED that the continued hearing set for May  
19 16, 2017, at 9:30 a.m. is VACATED.

20 Dated: May 15, 2017.

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UNITED STATES BANKRUPTCY JUDGE

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1                                    INSTRUCTIONS TO CLERK OF COURT  
2                                    SERVICE LIST

3            The Clerk of Court is instructed to send the attached  
4 document, via the BNC, to the following parties:

5 Gregory J. Hughes  
6 3017 Douglas Blvd #300  
7 Roseville CA 95661

8 Susan S. Montgomery  
9 1925 Century Park E #2000  
10 Los Angeles CA 90067

11 Melissa A. Vermillion  
12 20750 Ventura Blvd #100  
13 Los Angeles CA 91364

14 Mehrdaud Jafarnia  
15 1770 Fourth Ave  
16 San Diego CA 92101

17 John S. Mohun  
18 10833 Donner Pass Rd #205  
19 Truckee CA 96161

20 Douglas M. Whatley  
21 PO Box 538  
22 Folsom CA 95763-0538  
23  
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