

CASE TYPE: Breach of Contract/Foreclosure Receivership

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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In re Mortgage Foreclosure Litigation  
Involving Lakeland Construction Finance,  
LLC, and LCF Funding I, LLC.

Master File No.: 27-CV-09-6984

Judge Ann L. Alton

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Bank of Scotland plc,  
  
Plaintiff,

Case Type: Civil/Breach of Contract  
Court File No. 27-CV-08-22657  
Judge Ann L. Alton

vs.

Lakeland Construction Finance, LLC,

Defendant,

vs.

Bank of Montreal Capital Markets Corp.;  
LCF Funding I, LLC,

Third-Party Plaintiffs.

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**ORDER STAYING WISCONSIN ACTIONS**

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1. On October 22, 2008, the Bank of Scotland plc (“BOS”), as a secured creditor of Lakeland Construction Finance, LLC’s (“Lakeland”) assets, moved for a receiver to be appointed over Lakeland’s management, operations, and assets.

2. On October 31, 2008, this Court appointed James A. Bartholomew and Lighthouse Management Group, Inc. as receiver (“Receiver”) over the management, operations, and assets of Lakeland.

3. On November 6, 2008, this Court entered an order staying all collection actions, proceedings and other collection efforts by any and all creditors of Lakeland (“Stay Order”).

4. On February, 11, 2009, LCF Funding I, LLC (“LCF Funding”) appeared in this action in defense of the Receiver’s motion for contempt against LCF Funding for its commencement of litigation to foreclose certain real property and Lakeland’s mortgage interests in that same real property located in Sherburne County, Minnesota (*LCF Funding I, LLC v. Novak Construction, Inc., et al.*; Sherburne County District Court File No. 71-CV-09-65).

5. On February 12, 2009, this Court entered an order confirming the Stay Order (“Confirming Order”) that provided “all actions, proceedings, and other collection efforts by any and all creditors or parties, involving any interest of Lakeland Construction Finance, LLC, including security of any kind derived from Lakeland mortgages” are stayed.

6. On February 24, 2009, the Court issued a second amended order confirming the Stay Order and specifically reiterating the stay of all actions against Lakeland (“Amended Order”).

7. On March 19, 2009, LCF Funding filed a motion to intervene in the above-referenced action, and this Court granted LCF Funding’s request at a hearing on April 20, 2009.

8. On April 23, 2009, LCF Funding filed two actions in St. Croix County, Wisconsin to foreclose certain real property and Lakeland’s mortgage interests held against that same real property: (i) *LCF Funding I, LLC v Fox Run, LLC, et al.*, St. Croix County Circuit Court File No. 2009CV000540; and (ii) *LCF Funding I, LLC v. Whispering Prairie, LLC, et al.*, St. Croix County Circuit Court File No. 2009CV000539, (collectively, “Wisconsin Actions”).

9. At the hearing on May 4, 2009, LCF Funding represented to this Court that it will not proceed with prosecuting the Wisconsin Actions.

10. An analysis of Wisconsin law indicates that Wisconsin courts will recognize a receiver appointed in another state. *See Good v. Starker*, 207 Wis. 567 (1932); *Good v. Derr*, 46 F.2d 411 (7th Cir. 1931). Additionally, as a matter of judicial comity, Wisconsin courts will give effect to judgments and will respect proceedings in other states. *See In re Guardianship of Jane E.P.*, 283 Wis.2d 258, 271, 700 N.W.2d 863, 870 (Wis. 2005) (“[I]nterstate cooperation between courts is vital. Such cooperation promotes confidence in the judicial system, and enhances the efficient use of judicial resources.”); *Mills v. Vilas County Board of Adjustments*, 261 Wis.2d 598, 609, 660 N.W.2d 705, 711 (Wis. Ct. App. 2003).

**ORDER**

1. The continued prosecution of the Wisconsin Actions violates the stay imposed by the Stay Order, Confirming Order and Amended Order; and
2. The Wisconsin Actions are hereby stayed until this Court lifts the stay or the Receiver stipulates to LCF Funding’s relief from the stay.

**IT IS SO ORDERED.**

Dated:

May 19, 2009

BY THE COURT:



The Honorable Ann L. Alton  
Judge of District Court

CASE TYPE: Breach of Contract/Foreclosure Receivership

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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In re Mortgage Foreclosure Litigation  
Involving Lakeland Construction Finance,  
LLC, and LCF Funding I, LLC.

Master File No.: 27-CV-09-6984

Judge Ann L. Alton

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Bank of Scotland plc,

Case Type: Civil/Breach of Contract

Plaintiff,

Court File No. 27-CV-08-22657

Judge Ann L. Alton

vs.

Lakeland Construction Finance, LLC,

Defendant,

vs.

Bank of Montreal Capital Markets Corp.;  
LCF Funding I, LLC,

Third-Party Plaintiffs.

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**ORDER STAYING SOUTH CAROLINA ACTIONS**

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1. On October 22, 2008, the Bank of Scotland plc ("BOS"), a secured creditor of Lakeland Construction Finance's ("Lakeland"), moved for a receiver to be appointed over Lakeland's management, operations, and assets.

2. On October 31, 2008, this Court appointed James A. Bartholomew and Lighthouse Management Group, Inc. as receiver ("Receiver") over the management, operations, and assets of Lakeland.

3. On November 6, 2008, this Court ordered that all collection actions, proceedings and other collection efforts by any and all creditors of Lakeland (“Stay Order”).

4. On February, 11, 2009, LCF Funding I, LLC (“LCF Funding”) appeared in this action in defense of the Receiver’s motion for contempt against LCF Funding for its commencement of litigation to foreclose certain real property and Lakeland’s mortgage interests in that same real property located in Sherburne County, Minnesota (*LCF Funding I, LLC v. Novak Construction, Inc.*, et al.; Sherburne County District Court File No. 71-CV-09-65).

5. On February 12, 2009, this Court entered an order confirming the Stay Order (“Confirming Order”) that provided “all actions, proceedings, and other collection efforts by any and all creditors or parties, involving any interest of Lakeland Construction Finance, LLC, including security of any kind derived from Lakeland mortgages” are stayed.

6. On February 24, 2009, the Court issued a second amended order confirming the Stay Order and specifically reiterating the stay of all actions against Lakeland (“Amended Order”).

7. On or about March 13, 2009, LCF Funding brought two actions in Sumter County, South Carolina to foreclose certain real property and Lakeland’s mortgage interests held against that same real property: (i) *LCF Funding I, LLC v Leviner Construction & Pressure Washing, LLC* et al., Sumter County Court of Common Pleas, Case No. 2009-CP-43-557; and (ii) *LCF Funding I, LLC v. Tracy O. Leviner*, et al., Sumter County Court of Common Pleas, Case No. 2009-CP-43-559, (collectively, “South Carolina Actions”).

8. On March 19, 2009, LCF Funding filed a motion to intervene in the above-referenced action, and this Court granted LCF Funding’s request at a hearing on April 20, 2009.

9. LCF Funding has represented to this Court that it will not proceed with prosecuting the South Carolina Actions.

10. An analysis of South Carolina law indicates that a foreign statutory receiver's title in property must be given full faith and credit, subject to creditors in the state where the property is located. *Clark v. Preferred Accident Ins. Co. of N.Y.*, 231 S.C. 167, 97 S.E.2d 498, 502 (1957); *Wilson v. Keels*, 54 S.C. 545, 32 S.E. 702, 705 (1899). South Carolina courts can exercise judicial comity in recognizing the claim of a foreign receiver to collect assets located in South Carolina for equal distribution for all creditors of Lakeland. *See generally Wilson*, 32 S.E. at 705-06. Additionally, Courts have broad discretion to manage their dockets and stay proceedings. *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997) (citation omitted).

**ORDER**

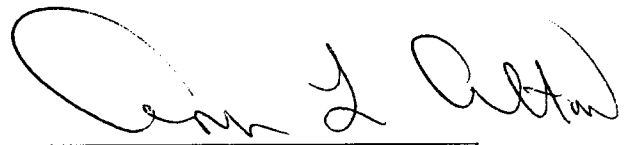
1. The continued prosecution of the South Carolina Actions violates the stay imposed by the Stay Order, Confirming Order and Amended Order; and
2. The South Carolina Actions are hereby stayed until this Court lifts the stay or the Receiver stipulates to LCF Funding's relief from the stay.

**IT IS SO ORDERED.**

BY THE COURT:

Dated: \_\_\_\_\_

May 21, 2009



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The Honorable Ann L. Alton  
Judge of District Court