

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHLEEN MCLAIN,

Appellant,

vs.

PNC MORTGAGE, A DIVISION OF PNC
BANK, N.A.; SBM TO NATIONAL CITY
MORTGAGE, A DIVISION OF
NATIONAL CITY BANK, A NATIONAL
BANKING ASSOCIATION; AND CAL-
WESTERN RECONVEYANCE
CORPORATION, AS ATTORNEY IN
FACT,
Respondents.

No. 59801

FILED

OCT 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for judicial review in a foreclosure mediation program (FMP) matter. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

This court reviews a district court's factual determinations deferentially, Ogawa v. Ogawa, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (stating that a "district court's factual findings... are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence"), and its legal determinations de novo. Clark County v. Sun State Properties, 119 Nev. 329, 334, 72 P.3d 954, 957 (2003). Absent factual or legal error, the choice of sanction in an FMP judicial review proceeding is committed to the sound discretion of the district court. Pasillas v. HSBC Bank USA, 127 Nev. ___, ___, 255 P.3d 1281, 1287 (2011).

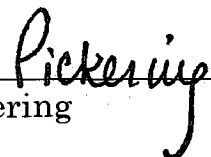
To obtain a foreclosure certificate, a deed of trust beneficiary must strictly comply with four requirements: (1) attend the mediation; (2)

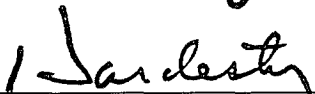
participate in good faith; (3) bring the required documents; and (4) if attending through a representative, have a person present with authority to modify the loan or access to such a person. NRS 107.086(4) and (5); Leyva v. National Default Servicing Corp., 127 Nev. ___, ___, 255 P.3d 1275, 1279 (2011) (concluding that strict compliance with these requirements is necessary).

Having reviewed the briefs and appendix, we conclude that the district court did not abuse its discretion in ordering a foreclosure certificate to be issued. Appellant argues that respondent PNC Mortgage acted in bad faith by refusing to disclose "the amount paid to acquire the beneficial interest" in the loan. As nothing within NRS 107.086 or the FMP rules required this disclosure, the district court did not abuse its discretion in determining that respondent did not act in bad faith. NRS 107.086(4) and (5); Pasillas, 127 Nev. at ___, 255 P.3d at 1287. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. Patrick Flanagan, District Judge
Mark L. Mausert
Ballard Spahr Andrews & Ingersoll, LLP
Washoe District Court Clerk