

Facts

3. Claimant, as authorized representative for JOHN H. SMITH, did on the date of January 2, 2005, enter into a mortgage agreement with ABC CORP wherein a promissory note was tendered in discharge of said mortgage contract (see Exhibit A).
4. Claimant did on April 2, 2008, sue a habeas corpus against ABC CORP wherein Respondent, ABC CORP, failed to return the writ (see Exhibit B).
5. ABC CORP has demonstrated that it does not possess the note tendered at the closing on the mortgage agreement.
6. ABC CORP has been receiving payments on that mortgage contract as if they were in fact entitled to execute the note.
7. ABC CORP is in fraud in this instant matter, as by their failure to return the writ (see Exhibit B), they have demonstrated that they have no right to collect on a note that they do not possess.

Fact Tax Settlement

8. Claimant having Accepted for Value and Returned for Value Respondents statement of account, and supplied his Exemption ID# for the pass through Treasury Direct, has 'paid' the tax on this account.

Recoupment

9. Claimant is entitled to recoupment in this instant matter (UCA 70A-3-305).

Claim

10. Claimant has stated a claim (UCA 70A-3-306) upon which relief can be granted.

Relief Sought

11. Claimant is entitled to the following, either:
 - A. Return of the original note tendered at closing of escrow in this mortgage transaction, Claimant being the Maker of said note, or
 - B. Transfer of any and all proceeds of the promissory note tendered at the closing of escrow, or
 - C. Set off of the mortgage agreement.
12. Claimant requests:
 - A. Set off of mortgage agreement,
 - B. Release of lien on subject property, and

C. Reconveyance of deed.

I, John H. Smith, on my own unlimited liability, say that I have read the above affidavit and do know the contents to be true, correct, complete, and not misleading, the truth, the whole truth, and nothing but the truth.

John H. Smith

date

JURAT

I, _____, a notary public residing in Washington county, Utah state, do say that on the ____ day of _____ month, 2008, that John H. Smith, a man appearing in his true character before me did subscribe, swear under his full commercial liability, and did affix his autograph upon the above affidavit.

NOTARY

date

seal

Proof of Mailing and Contents Mailed

Etc.