

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SECURITIES AND EXCHANGE COMMISSION, §
§
Plaintiff, §

vs. §

Civil Action No.
3:07-CV-1188-D

AMERIFIRST FUNDING, INC. aka AMERI-FIRST §
FUNDING, INC. aka AMERI FIRST FUNDING, §
INC., AMERIFIRST ACCEPTANCE CORP., §
JEFFREY C. BRUTEYN, DENNIS W. BOWDEN, §
§
Defendants, §

and, §

AMERICAN EAGLE ACCEPTANCE CORP., §
HESS FINANCIAL CORP., §
§
Relief Defendants. §

Receiver’s Status Report

Receiver William D. Brown (“Receiver”) hereby files a Status Report, as follows:

1. Since July 2, 2007, the Receiver has continued marshaling assets of the Receivership Estate (the “Estate”), including collecting car note payments, selling collateral on defaulted notes, pursuing the sale of real property, and prosecuting legal claims belonging to the Estate.

Estate Assets

2. As of March 31, 2008, the Estate had total assets of \$13,303,452, which includes liquid assets of \$6,675,816, real estate of \$4,094,077, and car notes receivable (net) of \$2,531,718. Presently, the Net Verified Balance owed Investors is \$31,526,593, creating a shortfall of \$18,223,141. See Exhibit A attached hereto. These balances reflect the March 28, 2008 disbursement of \$25,000,000 pursuant to the Court’s authorization of the First Interim Partial Distribution to Investors. The real estate is carried at tax appraisal values which the Receiver believes are lower than market value; it does not include the Roatan, Honduras property. The

Receiver initially seized approximately \$27,946,483 and has added more than \$3,700,000 in cash, after all expenses were paid.

Compliance with the Contempt Order

3. On September 24, 2007, the Receiver filed a motion to show cause why Jeffrey Bruteyn, Lois Whitcraft, Ronald Whitcraft and Philip Offill should not be held in civil contempt for violating the Court's July 2, 2007 Freeze Order (the "Show Cause Motion"). The Show Cause Motion alleged that the above individuals diverted \$431,000 belonging to the Estate through the sale of a Picasso print worth about \$125. By its motion, the Receiver also sought to recover a BMW driven by Bruteyn and the house that Bruteyn occupied at 6717 Lakewood Boulevard, Dallas, Texas (the "Lakewood House") A hearing was held on January 8-9, 2008, and testimony was provided the Receiver's staff.

4. On February 1, 2008, the Court found Bruteyn, Lois Whitcraft and Offill in contempt and ordered the return of the \$431,000 within thirty days of the date of the order (the "February 1 Order"). Bruteyn, Whitcraft and Offill were ordered to return \$7,000, \$224,000 and \$50,000, respectively, to the Receiver and the Court also ordered Bruteyn to turn over his BMW to the Receiver. In addition, Martin LeNoir, a criminal defense attorney, was ordered to return \$150,000 he received as a retainer for representing Bruteyn. The Court also awarded the Receiver his reasonable and necessary attorneys' fees and costs incurred in connection with the prosecution of the Show Cause Motion. The Court declined to order the turnover of the Lakewood House in the context of the contempt proceeding. Offill and Lois Whitcraft have appealed the Court's February 1 Order.

5. On February 4, 2008, Martin LeNoir turned over the \$150,000 ordered returned by the Court. On March 3, 2008, Offill turned over the \$50,000 ordered returned by the Court. On March 12, 2008, Lois Whitcraft paid the Receiver \$235,000 which included the amounts owed by Bruteyn and Whitcraft as well as \$4,000 in penalties.

6. Pursuant to the Court's award of attorneys' fees and costs related to the Show Cause proceeding, the Receiver filed a motion on February 29, 2008 to recover approximately \$170,000 in fees and costs from Bruteyn, Lois Whitcraft and Offill. This motion is pending before the Court.

Lawsuit Against the Whitcrafts

7. Immediately upon receiving the Court's February 1 Order, Receiver's counsel began drafting a separate action to recover the Lakewood House from Ronald Whitcraft (the "Whitcraft Action"), which action was filed on February 4, 2008. Originally assigned to Judge Boyle, the Whitcraft Action was transferred to Judge Fitzwater's docket on March 10, 2008.

First Partial Interim Distribution

8. On January 24, 2008, the Receiver filed a Second Amended Plan of Distribution which included two calculation methodologies (Plan A and Plan B) for the Court to consider. Both Plans called for a First Interim Partial Distribution to investors in the amount of \$25,000,000. On March 13, 2008, the Court approved Plan A which treated all prior payments as a return of principal (and not interest) and those payments were deducted from the amount owed the particular investor (the "March 13 Order").

9. On March 28, 2008, after complying with the Court's fourteen-day waiting period as set forth in the March 13 Order, the Receiver issued five hundred and eighty-nine checks, totaling nearly \$25,000,000, to investors. Approximately seventeen investors were not included in this distribution because their investments could not be verified. The Receiver continues to work to verify the investments of the excluded investors and will review any possible errors raised by investors.

10. Any corrections and subsequent inclusions of the originally-excluded investors will be included in a Second Interim Partial Distribution Plan, which the Receiver intends to recommend to the Court as soon as practicable.

The Used Car Business

11. The Receiver's staff is continuing to collect car payments and repossess cars serving as collateral for defaulted notes. These operations have been consolidated at the Garland Road facility. The Receiver also maintains the Receivership Records at this location.

12. As of March 31, 2008, the Estate held 486 car notes valued at approximately \$4,730,000. 202 of those notes -- valued at approximately \$735,000 -- were current. Cash collected on these notes totaled \$180,528 in March 2008. Also as of March 31, 2008, there were 94 notes -- valued at \$858,026 -- that were less than 30 days past due. The Receivership staff is actively pursuing collections on this latter group.

13. As noted above, a good number of the car notes are current and are generating significant cash flow for the Estate. However, many of these notes do not mature until 2011, and a collection process necessarily must remain in place until the notes have been paid off. The Receiver continues to look for ways to make this collection process as cost effective as possible.

14. The remaining non-performing car notes -- approximately 190 -- are the subject of repossession efforts, legal proceedings, or insurance claims.

15. As of March 28, 2008, the Receiver has sold approximately 800 cars, most of which were repossessed, for a net gain to the Estate of \$3,668,787. The Receiver also has filed a claim with Lloyd's of London on the Single Interest Insurance Policy which was referenced prominently in the promotional materials given to the investors. Lloyds had denied the claims, and the Receiver is challenging the denial.

Real Property Transactions

16. The Receiver has six properties under contract for sale for a total purchase price of \$2,550,000. The appraised value on these properties collectively is \$1,440,000. On March 11, 2008, the Court granted conditional approval for these sales, requiring the solicitation of competing bids to be published in *The Daily Commercial Record* for a period of fourteen days. No competing bids

were received and the Receiver has notified the Court of his compliance with the solicitation-of-bids directive and is awaiting the Court's final approval for the sales.

17. The Shelby Avenue condominium has been on the market for several months at a price of \$139,000. There have been over 60 showings with no offers. As a result, the Receiver has reduced the listing price to \$129,000.

18. The 34-acre ranch property outside of Tyler, Texas (cost of about \$163,000) is being appraised and will be placed on the market once the appraisal is complete.

19. The Joint Venture that owns the two Chantilly Lake lots in Lakewood is being dissolved in order to transfer ownership of one of the lots to the Estate. The interest in the Joint Venture cost Hess Financial \$260,000. Once the joint venture is dissolved and one of the lots placed solely in Hess Financial's name, the lot will be placed on the market.

20. The 58-acre property in Roatan, Honduras has been listed for sale with a broker in Roatan for \$3,300,000. On or about January 28, 2008, the Receiver learned the property had been listed for sale by Thomas Leath, a business associate of Bruteyn, without the Receiver's authorization or knowledge. The Receiver immediately obtained a Temporary Restraining Order against Leath and the local brokers to stop any sale of the property.

21. The Receiver has listed for sale the business unit in a Northwest Highway high rise formerly occupied by United Financial Markets, and is accepting offers.

Litigation Against Randy Bacon

22. On April 11, 2008, the Receiver filed a Motion for Summary Judgment against Randy Bacon in Cause No. DC-07-01327, *AmeriFirst Funding, Inc. v. Randy C. Bacon*, in the 101st District Court, Dallas County, Texas. Ameri-First brought claims against Bacon on February 14, 2007 for breach of contract, fraud, and breach of fiduciary duty in connection with Ameri-First's investment of \$300,000 in a purported real estate transaction touted by Bacon that never

materialized. The Receiver is seeking actual damages of \$300,000, exemplary damages of no less than \$900,000, and recovery of attorneys' fees, costs, and applicable interest. A hearing on the Receiver's motion will take place on May 7, 2008. The current trial setting for the case is June 23, 2008.

Respectfully submitted:

/s/ Spencer C. Barasch

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CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2008, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case files system of the court. The electronic case files system sent a "Notice of Electronic Filing" to the following individuals who have consented in writing to accept this Notice as service of this document by electronic means:

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