

A



1 deed, was she?

2 A. No.

3 Q. In fact, it was another Williams, was it  
4 not, her mother?

5 A. Yes.

6 Q. All right. And did you take any other  
7 steps to determine whether there were any other  
8 outstanding indebtedness at the time?

9 A. I personally called Chase myself.

10 Q. All right. And when did you call Chase?

11 A. I don't recall the exact date, but it was  
12 prior to my closing.

13 Q. And how did you get the phone number for  
14 Chase?

15 A. It was given to me by the person in my  
16 office that had called Chase prior to.

17 Q. All right. And who did you speak to at  
18 Chase?

19 A. I think it was either Deborah or Janet. I  
20 don't remember the exact name, but I --

21 Q. Do you remember --

22 A. Yeah, go ahead.

23 Q. Do you have any other memory of any kind  
24 of identifying factor?

25 A. Of who the person was?

1 Q. Yes.

2 A. No. It was a woman, but --

3 Q. Did the person identify what her position  
4 was at Chase?

5 A. No.

6 Q. What did you ask her?

7 A. I asked her if she was looking at the  
8 account history on the computer. She indicated that  
9 she was. I asked her if she had any indication that  
10 the -- she stated to me actually that the loan was  
11 paid in full on April 15th, 2004.

12 And I said what makes you believe that the  
13 loan was paid in full and not assigned to another  
14 company? She said because I'm looking at the account  
15 history. I said are you telling me that you're  
16 looking at the account history and you see payments  
17 made on a regularly scheduled payment schedule and  
18 that is brought to a zero balance? And she said yes.

19 Q. All right. So you specifically asked her  
20 whether the loan had been assigned or not; is that  
21 correct?

22 A. I did. Yes, sir, I did.

23 Q. And what indicated to you that that needed  
24 to be asked?

25 A. Because it happens all the time. Even if



1 All right. Let's identify that as Exhibit

2 6.

3 (Chase Exhibit 6 was marked for  
4 identification.)

5 Q. (By Mr. Porter) All right. Let me show  
6 you DM/MLPC 00055 through 0058 and ask you if this is  
7 a fax from -- if you recall receiving this  
8 document?

9 A. I don't recall receiving this document.

10 Q. All right. Now, that has a Bates number  
11 that's from your attorney. You don't know whether  
12 that was in your records or not?

13 A. That fax cover sheet is mine. That's from  
14 our firm. I don't recall receiving something that I  
15 sent to somebody else.

16 Q. All right. Do you recall sending it?

17 A. Yes.

18 Q. So is this your --

19 A. Well, let me -- I have to -- because I  
20 only sent this page (indicating). I did not send any  
21 of the following documentation.

22 (Chase Exhibit 7 was marked for  
23 identification.)

24 Q. (By Mr. Porter) All right. But the first  
25 page of this document, which we'll identify as

1 Exhibit 7 --

2 MR. PAUL: That's Page 0055?

3 Q. (By Mr. Porter) 0055 is your handwriting;  
4 is that correct?

5 A. That's correct.

6 Q. All right. And this is to Charles Burditt  
7 from Donald Moreland; is that correct?

8 A. Correct.

9 Q. And you're sending it to fax number  
10 (770) 392-0367; is that correct?

11 A. Yes.

12 Q. All right. And on that, it says please  
13 see letter of administration with security deed. Can  
14 I have that back?

15 (Off the record.)

16 Q. (By Mr. Porter) All right. This says  
17 that SD in favor of Advanta Bank. 45,000 is paid  
18 off. Do you recall what it is you were responding to  
19 that made you feel compelled to send this fax and  
20 make that statement?

21 A. Charles Burditt made a -- I think it was  
22 by telephone a request to me because the buyer in my  
23 transaction was the seller in their transaction and  
24 was requesting for me to send them information on our  
25 interpretation of the title.

1 Q. All right. And attached to this and  
2 produced as part of your attorney's production of  
3 your documents is a copy of another fax, and it's  
4 from Moreland & Lerman; is that correct?

5 A. I don't know why it's attached, but yes.  
6 It's not the same document, probably not sent at the  
7 same time.

8 Q. All right. Well --

9 A. As a matter of fact, it looks like the  
10 exact same document.

11 Q. It looks like it is the exact same  
12 document. All right. So 56 and 55 are the same  
13 e-mail; is that correct?

14 A. Fax.

15 MR. PAUL: Fax.

16 Q. (By Mr. Porter) I'm sorry. Fax. And  
17 DM/MLPC 57, also produced by your attorneys, shows a  
18 lost affidavit recorded on the records of Fulton  
19 County Superior Court; is that correct?

20 A. I have to object to this being part of the  
21 same fax. You have it stapled together as if it's  
22 the same document, and that's entirely not the case.

23 Q. It was not the case?

24 A. No.

25 Q. All right. It was produced in serial next



1 to each other.

2       A.     No. No. I didn't find out about the lost  
3 note affidavit or any of the assignments until long  
4 after Stevens & Cooper's closing and well long after  
5 mine. It was brought to our attention when the  
6 purchaser for Stevens & Cooper had actually bought  
7 the property and then they're suddenly getting  
8 foreclosure notices from Heath Williams, or whoever  
9 it was finally assigned to.

10               This was all after both of the closings  
11 occurred, and that's when this document came into  
12 effect. If you're trying to tie my knowledge of this  
13 document into the date of this fax, you're completely  
14 wrong.

15       Q.     All right. Well, the only reason they  
16 were attached is because they were produced next to  
17 each other.

18       A.     Well, they were produced incorrectly.

19       Q.     All right. So you're saying that 00057  
20 has nothing to do with 00055; is that correct?

21       A.     Yes.

22       Q.     All right. Now, you're aware that this  
23 lost note affidavit was recorded in the Superior  
24 Court of Fulton County; is that correct?

25       A.     I am now, yes.

1 Q. All right. And it was recorded -- it says  
2 it was recorded on June 11th, 2004; is that correct?

3 A. May I see it, please?

4 MR. PAUL: Is the lost note part of  
5 Exhibit --

6 THE WITNESS: Yeah.

7 MR. PAUL: -- 7?

8 THE WITNESS: This is Exhibit 7.

9 MR. PORTER: It's Exhibit 7.

10 MR. PAUL: Part of Exhibit 7?

11 MR. PORTER: Right.

12 THE WITNESS: Can we not have it part of  
13 Exhibit 7?

14 Q. (By Mr. Porter) Well, we've already  
15 identified the --

16 A. Oh, I'm sorry.

17 Q. -- Bates number and what your testimony is  
18 concerning it.

19 A. Okay. Yes, that appears to be correct,  
20 the date.

21 Q. All right. And it's your testimony that  
22 if you go down to the Fulton County Superior Court  
23 records that this will not show up on any indexes  
24 that you would check, normally check to determine the  
25 certified title for property; is that correct?



1 page that says transmission verification report.

2 Time: 3/9/2005 at 1:58. Name: DOTTITLE,

3 D-O-T-T-I-T-L-E, as the last page. Can you identify  
4 this document?

5 MR. PAUL: John, your pages are out of  
6 sync. I don't guess it matters. Maybe ours  
7 were. 86, 81. I don't know if it's been put  
8 together in a different way than we produced it.  
9 But it starts with 86, goes to 81, and then the  
10 last page doesn't have a page number on it.

11 MR. PORTER: Well, I mean, this came from  
12 your stuff.

13 MR. PAUL: Yeah. I guess my only concern  
14 is the verification. Well, there is a --  
15 there's a verification report that is our  
16 Document 85, 00085, that looks like it is the  
17 same as -- that's a different --

18 MR. PORTER: Yeah, you have a legal page  
19 that apparently didn't pick up when you made --

20 MR. PAUL: Okay. All right. I just  
21 wanted to -- because this didn't have a number,  
22 I just -- yeah, your unnumbered page is the same  
23 as Page 00085.

24 MR. PORTER: Okay.

25 Q. (By Mr. Porter) Well, let me ask you

1 this: Do you recall sending a fax to Charles Burditt  
2 with a copy of the title commitment?

3 A. Yes.

4 Q. So you did send this fax to Mr. Burditt;  
5 is that correct?

6 A. Yes.

7 MR. PORTER: All right. Let's identify  
8 this as Exhibit 12.

9 (Chase Exhibit 12 was marked for  
10 identification.)

11 Q. (By Mr. Porter) All right. The fax  
12 verification on this shows that there is a -- the  
13 date and time is March 9th and it's at 1:56.

14 MR. PAUL: It's 1:58.

15 MR. PORTER: No. There's two different  
16 ones. 1:58 is up at the top and the one in the  
17 box is 1:56. I don't know which is which.

18 Q. (By Mr. Porter) But in any event, do you  
19 recall sending it early afternoon on the 9th of  
20 March, 2005?

21 A. I recall sending it. If the transmission  
22 report says that's the time that I sent it, then I  
23 suppose it was.

24 Q. All right. And would you have sent it  
25 yourself or would you have had someone in the office

1 send it?

2 A. I would have had someone in the office

3 send it.

4 Q. And on Exhibit 11, there's a letterhead up

5 top, and it says that your facsimile number is

6 (770) 951-2915; is that correct?

7 A. Yes.

8 Q. All right. And so if anyone were trying

9 to send you a fax on March 9th of 2005, that would

10 have been the number they would have sent it to;

11 right?

12 A. Yes.

13 Q. And so in response to inquiries from

14 Mr. Burditt, you have sent Mr. Burditt a copy of your

15 title commitment and a copy of statements related to

16 the water bill; is that correct?

17 A. That's correct.

18 Q. On that date?

19 A. According to those faxes, yes.

20 Q. Well, do you disagree with that?

21 A. I don't disagree with it, no.

22 Q. I mean, do you have any reason to believe

23 you didn't send it?

24 A. Just I don't recall it from immediate

25 memory. I'm recalling it from these documents as far

1 as the dates and what's on them is concerned.

2 Q. All right. But you have a general memory  
3 of doing that sort of --

4 A. Yeah. Sure.

5 Q. Of helping Mr. Burditt with the closing?

6 A. Absolutely.

7 Q. And you don't recall exactly what  
8 triggered, what inquiry triggered your need to  
9 deliver these documents?

10 A. I'm sure I received a request from  
11 Mr. Burditt for me to trigger the responses,  
12 generally speaking, yes.

13 Q. All right. And we've already got the  
14 e-mail, I mean, a fax that you sent to Mr. Burditt  
15 stating that the Advanta security deed had been paid  
16 off. You recall sending that fax, don't you?

17 MR. PAUL: Let's find it.

18 Q. (By Mr. Porter) Exhibit 7?

19 A. I recall sending that, yes.

20 Q. All right. So, but you do not recall  
21 receiving Exhibit 6; is that correct?

22 A. No, I don't. Not offhand, no.

23 Q. All right. But Exhibit 6, if Exhibit 6  
24 had been sent to you, it says, states a fax number of  
25 707-951-2915. That would have been the correct fax

1 number to send it to you?

2 A. That's correct.

3 Q. All right. And in addition, it asks for a  
4 title policy or a marked up commitment; is that  
5 correct.

6 A. Yes.

7 Q. All right. And you, in fact, did send a  
8 marked up commitment report to Mr. Burditt, did you  
9 not?

10 A. Yes.

11 Q. All right. And the other thing that it  
12 refers to is it says forget the second mortgage.

13 It's 20 years past maturity. Do you see that?

14 A. Yes, I do.

15 Q. All right. Now, in your Exhibit 7, one of  
16 the things that you state is we were only showing one  
17 deed to secure debt open. Please provide me with  
18 more information and I will look at my title notes.

19 Doesn't that response correspond, doesn't  
20 that correspond to the inquiry by Mr. -- or the  
21 statement set forth in Exhibit 6?

22 MR. PAUL: Don't guess about it.

23 THE WITNESS: It doesn't correspond to it,

24 no.

25 Q. (By Mr. Porter) It doesn't?





1 make sense that it was before.

2 Q. Were the communications occurring between  
3 Charles Burditt at Stevens & Cooper and yourself  
4 personally with regard to the Advanta outstanding  
5 security deed?

6 A. Yes. Not just me and not just Charles,  
7 but, yes, we had conversations.

8 Q. Do you remember how many conversations you  
9 personally had with Charles before his closing on  
10 3/9?

11 A. No. Two, three maybe.

12 Q. Two or three telephone conversations?

13 A. (Witness nods head affirmatively.)

14 Q. Is there any other written communication  
15 between you and the Stevens & Cooper firm before 3/9  
16 that isn't part of the exhibits today?

17 A. Not that I'm aware of.

18 Q. Is there any other writing that's not part  
19 of the Chase exhibits that you're aware of that  
20 reflect whether or not the Chase deed had been paid  
21 off or had been assigned?

22 MR. PAUL: Read that back.

23 (The record was read by the reporter.)

24 MR. PAUL: Is the question among the  
25 documents that had been produced by the parties?



1 checkers did. And so I don't think he is to be  
2 put to it on who are the witnesses in this case.

3 Q. (By Mr. Reed) But you don't know the name  
4 of anybody we haven't already discussed?

5 A. No.

6 Q. Sitting here at 5:00 o'clock, you can't  
7 think of anybody. You said you had two conversations  
8 with Mr. Burditt?

9 A. I can't say whether it was one or five. I  
10 would say two because that's as much as I can recall.

11 Q. Okay. Do you remember the substance of  
12 those conversations?

13 A. Yes. It was did you do a transaction?  
14 Where are the deeds? How did you handle the lien?

15 Q. Brief?

16 A. Or how did you handle -- yeah, he needed  
17 help based on my knowledge of the situation at the  
18 time as to what I did.

19 Q. You testified about one of these documents  
20 has reference to a water lien on it or a water bill.  
21 Are you familiar with the water lien index, the  
22 Fulton County water lien index or something that's  
23 called a water lien book?

24 A. We don't use it. I am familiar with it,  
25 but we talk to the water authority directly.



1 year after I had already established my firm, he came  
2 down and worked with me.

3 Q. All right. And what is his experience?

4 Does he do the same kind of work you do?

5 A. Yes.

6 Q. All right. And your firm, the firm

7 Moreland & Lerman, is in the practice of -- generally  
8 real estate practice?

9 A. That's correct.

10 Q. And can you describe the types of things  
11 that your practice does?

12 A. Residential real estate. We perform title  
13 examinations, issue title policies. We disburse  
14 money out of escrow, draft and generate deeds and  
15 settlement statements in preparation for a closing.

16 Q. All right. And let's run through  
17 generally what happens when you receive a request to  
18 perform a closing. How do you get the engagement?

19 MR. PAUL: My objection is that it assumes  
20 that they all come in the same way, and so I  
21 don't care. Just so when you give your answer,  
22 if the closings come to you in more than one way  
23 and that results in a difference, just be sure  
24 you talk about that when you're answering.

25 THE WITNESS: The initial work that we get



1 at the settlement statement.

2 MR. PORTER: All right. Let's identify  
3 that as Exhibit 8.

4 (Chase Exhibit 8 was marked for  
5 identification.)

6 Q. (By Mr. Porter) All right. Is this a  
7 copy of the settlement agreement? Strike that.  
8 That's the wrong one.

9 I'm showing you a copy of -- let me just  
10 look at it real quick -- Bates Number DM/MLPC 00092  
11 and 00093. Is that a copy of the closing statement?

12 A. Yes.

13 Q. And are those --

14 A. The closing statement for my transaction  
15 February 28th, 2005.

16 Q. And this is the sale of the property to  
17 New Hope Investments?

18 A. That's correct.

19 Q. And after looking at that, can you confirm  
20 that the transaction took place on February 28th?

21 A. Yes.

22 Q. So all of your title work, or everything  
23 you did to ensure that there was marketable title for  
24 the property, took place before February 28th, 2005?

25 A. Yes. Well, before or on February 28th,



1 2005.

2 Q. So you were still possibly confirming  
3 payoff of liens and such on the date of closing?

4 A. Possibly.

5 Q. Is that a standard practice?

6 A. We don't want it to be, but it happens.

7 I'm trying to be lighthearted, but, you know,  
8 sometimes, yeah, it comes down to the wire.

9 Q. It's your goal to do everything possible  
10 to clear up any title issues prior to the closing so  
11 that the sale can go forward; is that correct?

12 A. That's correct, yes.

13 Q. And if you don't clear up those title  
14 problems, then the sale usually can't go forward; is  
15 that correct?

16 A. Yes.

17 Q. Unless the parties are willing to accept  
18 the known title issue; is that correct?

19 A. Yes.

20 MR. PORTER: All right. And let's  
21 identify that as Exhibit 9.

22 (Chase Exhibit 9 was marked for  
23 identification.)

24 Q. (By Mr. Porter) And Exhibit 9 was also  
25 maintained in your own business records; is that

1 correct?

2 A. That's correct.

3 Q. And you put a copy in contemporaneously  
4 with the signing of the document?

5 A. Yes.

6 Q. And you've kept it there ever since?

7 A. Yes.

8 Q. Let me show you Bates Number DM/MLPC  
9 00011.

10 A. This is part of another exhibit, by the  
11 way.

12 Q. Okay. But this is a copy of the warranty  
13 deed that was signed by Roshanda Deniece Williams to  
14 -- and conveying the property to New Hope Realty  
15 Investments, Inc.; is that correct?

16 A. Yes.

17 Q. And this was also maintained in your  
18 personal records?

19 A. A copy of it, yes.

20 Q. All right. And did you witness the  
21 signature of this document?

22 A. Yes.

23 Q. Are you a witness to the document? Is one  
24 of these witness signatures yours?

25 A. The notary is mine.