

# A local bank sues ... itself

By Gil Smart, Staff Writer

At first glance, it appears to be a normal foreclosure case.

An Ephrata business pledged a mortgage on some real estate as security for debt owed. The borrower defaulted on the debt, and so the lender, Susquehanna Bank, filed a mortgage lawsuit.

Against itself.

In an odd and complicated case, Susquehanna Bank sued Susquehanna Bank in Lancaster County Court on Nov. 2, with the plaintiff -- the bank -- demanding \$1.7 million, plus continuing interest, late charges, attorney's fees and costs from the defendant -- also the bank.

The case was settled Nov. 7. Bank spokesman Stephen Trapnell said no money actually changed hands, so the bank did not write a check to itself.

Trapnell said the case was not as unusual as it appeared. "It is really just a necessary procedural step to obtain clean title on this property."

It is, however, rare for banks to sue themselves. Bank of America made headlines in April after the Huffington Post reported that the bank had sued itself 11 times in Florida's Palm Beach County alone.

Susquehanna Bank, headquartered in Lititz, is the largest bank in Lancaster County.

Scott Landis, of the Lancaster law firm Barley Snyder, who filed the action on behalf of the bank, did not return voice mail and email messages seeking comment.

The Susquehanna Bank vs. Susquehanna Bank case involves property at 515 N. Reading Road,

Ephrata, formerly owned by Autohaus Acquisition Inc., one of several businesses owned by Nicholas Reinhart, a former Ephrata luxury auto dealer. In October, Reinhart pleaded guilty in Lancaster County Court to two counts of "theft by failure to make required disposition of funds," for taking more than \$151,000 from a Russian car dealer from the Bucks County area, but never delivering the vehicles.

In April 2008, another Reinhart-owned business, DB and E Enterprises LLC, signed an agreement with Susquehanna Bank, pledging a mortgage on the 515 N. Reading Road property as security for debt owed to the bank by Reinhart's Autohaus Acquisition Inc.

Autohaus Acquisition is not the same business as Autohaus Lancaster Inc., the Volkswagen/Audi/Porsche car dealership on Manheim Pike.

Autohaus Acquisition subsequently defaulted on its debt; in September 2009, Susquehanna Bank filed a complaint against the company seeking more than \$3 million in unpaid loans, plus at least 20 vehicles.

And in August of this year, DB and E Enterprises conveyed title to the 515 N. Reading Road property to the bank by a "deed in lieu of foreclosure" -- essentially, a way for the firm to convey its interest in the property to the bank and avoid foreclosure proceedings. The bank now owned the property.

Attorney Matthew J. Creme Jr., of the Lancaster firm Nikolaus & Hohenadel, who is not involved in the case but has experience in real estate law, said he is unsure why the case didn't simply end there.

"I'm guessing that a title company looked at this" and wanted an order of the court to confirm that the title was clear so the property could be sold, Creme said.

Trapnell, the bank spokesman, confirmed that Susquehanna Bank "ultimately expects to offer [the property] for sale as we do with other foreclosed properties." And the complaint asserts that the bank wanted to foreclose "to address certain potential title issues."

To foreclose -- it had to sue itself.

"As policy, [Pennsylvania] believes the title should not be encumbered and should be able to be transferred," Creme said. "To be transferred, it has to be rid of all these things," potential conflicts that could ultimately call into question who really owns the property.

He likened the title for real estate to a bundle of twigs: "When you give a mortgage to a bank because you've borrowed money, you've peeled off a couple of those twigs and handed them to the bank," he said. "And in order to clear the title of that mortgage, those twigs have to be handed back to the bank ... here, it's as if Susquehanna Bank has some twigs in one hand, the rest in the other hand, and had to go to court to put all of them in one hand."

As of Oct. 29, the complaint asserted, the bank owed the bank a total of \$1.7 million, including \$1.52 million in principal, \$85 in miscellaneous fees -- and \$185,437 in attorney fees.

The complaint also sought "continuing interest" after Oct. 23 at a rate of \$148 per diem, or per day, "plus continuing late charges, attorneys' fees and costs."

The bank entered into a settlement with itself Nov. 7, which may indicate that -- at a rate of \$148 per day -- the bank owed itself an additional \$2,230. Bank spokesman Trapnell, however, said "money wouldn't need to change hands."

Other banks have hired lawyers both to bring the lawsuit and defend themselves. Wells Fargo Bank did so in Sarasota, Fla., in 2009, according to Wall Street Journal columnist Al Lewis. One Tampa foreclosure attorney said similar cases have all been prompted by a spike in foreclosures.

"Four or five years ago," Tampa lawyer Kristofer Fernandez told Lewis, "you never would have seen this. Now, it's very common."