

JANUARY 3, 2010

The TOUSA, Inc. Bankruptcy Decision: Anatomy and Implications of a Landmark Creditors' Rights Case

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A landmark Bankruptcy Court case involving TOUSA, Inc., a Florida-based homebuilder, and several well-known banks, including, among many others, Citicorp North America, Inc., and Wells Fargo Bank, was recently decided in Florida's Southern District. The case's final outcome is still uncertain since an appeal is pending, but the implications of the Bankruptcy Court's unprecedented ruling setting aside the lenders' security for over \$600 million in loans and ordering disgorgement of over \$400 million from a prior lender may prove widespread. If upheld, the Court's ruling will profoundly impact underwriting and risk assessment practices of lenders, title insurers, and financial advisory firms alike. This article explores the key facts of the relevant transactions as found by the Bankruptcy Court, and highlights the most significant parts of the Court's opinion and their potential implications for the title and financial industries.