

Bond Case Briefs

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Ross Sinclair and Associates, LLC v. Huntington National Bank

Court of Appeals of Ohio, Tenth District, Franklin County - February 22, 2018 - N.E.3d - 2018 WL 1023198 - 2018 -Ohio- 661

Buyer of multifamily housing mortgage revenue bonds brought action against indenture trustee for common-law breach of fiduciary duty and breach of trust for failing to timely file a foreclosure action on residential complex that was the collateral for the bonds, for failing to provide bondholders with relevant information regarding residential complex's financial difficulty and deteriorating condition, and for providing buyer with false and misleading information that prevented buyer from discovering the breach of trust.

The Court of Common Pleas dismissed. Buyer appealed.

The Court of Appeals held that:

- Buyer's claims accrued, and four-year statute of limitations began to run, when buyer either knew or should have known of the alleged breach of trust, and
- Buyer knew or should have known of indenture trustee's alleged breach of trust no later than when trustee filed foreclosure action.

Claims for common-law breach of fiduciary duty and breach of trust against indenture trustee by buyer of multifamily housing mortgage revenue bonds accrued, and four-year statute of limitations began to run, when buyer either knew or should have known of the alleged breach of trust, not when indenture trustee's role ended by the selling in foreclosure of the trust res and the distribution of the proceeds to the trust beneficiaries.

Buyer of multifamily housing mortgage revenue bonds knew or should have known of indenture trustee's alleged breach of trust no later than when trustee filed foreclosure action against residential complex that was the collateral for the bonds and requested the appointment of a receiver, and thus the four-year statute of limitations for buyer's claims against indenture trustee for common-law breach of fiduciary duty and breach of trust began to run no later than that time, despite argument that trustee misled bondholders approximately five years before the foreclosure action into believing that alternative financing options existed, there was no question that buyer's representative harbored no misconceptions about the refinancing options one year before the foreclosure action.