IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2773
(Summary Calendar)

Consolidated with

No. 94-20435
(Summary Calendar)

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for
Western Bank-Westheimer,

Plaintiff-Appellee,

versus

A. J. HOWETH, ET AL.,

Defendants,

A. J. HOWETH, JACK W. HOWETH,
Etc., SPRING-HARDY MINIWAREHOUSES,
A TEXAS JOINT VENTURE, and
WILLIAM R. MURPHY,

Defendants-Appellants.

Appeals from the United States District Court
For the Southern District of Texas

(CA-H-91-2053 c/w 91-2054; 91-2056; 91-2146 & 91-2795)

(February 20, 1995)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:[*]

This appeal is concerned with manySQbut not allSQof the lawsuits filed by Plaintiff-Appellee Federal Deposit Insurance Corporation (FDIC) seeking to collect amounts due and owing on various promissory notes of Defendants, previously held or owned by failed banks for which the FDIC is Receiver. Defendants in the suits in question here are Jack W. Howeth, A. J. Howeth, William R. Murphy, Terrence J. Casey, and Spring-Hardy Miniwarehouses (Spring-Hardy) or various combinations of those parties and others. The instant consolidated appeal comprises four separate lawsuits against the makers of six promissory notes.

During the consolidated bench trial, the FDIC sought to introduce six exhibits through and in conjunction with the testimony of one of its liquidation assistants, John Zatopek. In each instance the Defendants objected on the grounds that the exhibitsSQcomputer printouts detailing the terms and amounts presently due on each of the six promissory notesSQwere inadmissible hearsay.[1] The district court overruled the objections

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[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

[1]Defendants failed to object timely to the exhibits before trial as required by the local rules. The court nevertheless decided to hear the objection

and admitted the exhibits into evidence, ultimately rendering a judgment in favor of the FDIC, and Defendants timely appealed.

JURISDICTION

Defendants A. J. Howeth, Jack Howeth, Murphy, and Spring-Hardy filed a notice of appeal before the disposition of the FDIC's pending motion to amend the judgment pursuant to Fed. R. Civ. P. 59. But even though Defendants thereafter failed to file the timely amended notice of appeal as required by Fed. R. App. P. 4(a)(4), the district court granted a timely motion for extension of time in which to file the amended notice. Thereafter, the Defendants filed the amended notice within 10 days, in compliance with the court's order. See Fed. R. App. P. 4(a)(5). Accordingly, we have jurisdiction to consider the instant appeal.

MERITS

Defendants contend that the subject exhibits were not admissible as qualifying business records under Federal Rule of Evidence 803(6). They argue that, as Zatopek had no personal knowledge of how the business records were kept by the original holder of the notes, Western Bank, he could not attest that the bank's records complied with the requirements of Rule 803(6). The records in question were the only evidence of the indebtednesses

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y as a matter of fairness. The FDIC argues that the district court could have denied the objection on the ground of timeliness. The court's decision to hear the Defendants' objection could be construed as overruling the FDIC's timeliness objection. Even if the court did not so rule, however, it is immaterial becauseSQas will be noted shortlySQwe today affirm the district court's overruling of the Defendants' evidentiary objection on substantive grounds.

here sued upon.

On January 11, 1995, another summary calendar panel of this court filed an unpublished opinion in No. 94-20368, FDIC as Assignee of Assets of City National Bank v. A. J. Howeth, consolidated with FDIC as Assignee of Assets of City National Bank v. Jack W. Howeth, et al., Jack W. Howeth, and Lloyd Poe, a copy of which opinion is attached hereto. In the cases covered by that appeal, many of the same natural and juridical persons who are parties here were parties plaintiff and defendant; moreover, despite the facts that the failed banks were different and the FDIC's liquidation assistants were different than those in the instant appealsQbeing differences without distinctionssQprecisely the same legal issues before us today were presented to that panel. In the interest of preserving judicial resources, we adopt the reasoning and conclusions set forth in the opinion in No. 94-20368 and, for those reasons, uphold the evidentiary rulings of the district court in the cases comprising this appeal.

AFFIRMED.