

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (Manhattan)**

In re

GMAC Mortgage, LLC

Debtor.

Debtors Address:
1100 Virginia Drive
Fort Washington, PA. 19034

Debtor's Tax Id. No. 23-1694840

CONRAD P BURNETT

Plaintiff

v.

GMAC Mortgage, LLC

Defendant.

Chapter 11

Case No. 12-12032 (MG)

Adversary No.:

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT FOR:**

**1. FALSE PRETENSES, FALSE
REPRESENTATION; AND
ACTUAL FRAUD; AND**

**2. FALSE STATEMENT RESPECTING
FINANCIAL CONDITION**

CONRAD P BURNETT, plaintiff herein, alleges:

1. This is an adversary proceeding to determine dischargeability of a debt.
2. This adversary proceeding is brought in connection with Defendant's Case No. 12-12032 under Chapter 11 of Title 11 of the United States Code now pending in this court. This court has jurisdiction over this proceeding under Title 11 of the United States Code, Section 523(c) and Title 28 of the United States Code, Sections 157(b). This adversary proceeding is a "core proceeding" as provided in Title 11 of the United States Code, Section 157(b) (2) (I).
3. Defendant is a Corporation and seeks discharge herein under Title 11 of the United States Code, Section 1141.
4. Debtor/Defendant alleges to control a certain trust which operated under RALI 2006QS5 and managed by trustee Deutsche Bank Trust Company as Trustee and in concert with Susan Turner an employee of Debtor/Defendant GMAC Mortgage, LLC. At



1212020121130000000000048

all material times from and after August 25, 2009, Defendant held in its possession 100% ownership of these shares of Residential Funding Company, LLC common stock, evidenced by certificate as a "Deed of Trust" MIN number 100317200060012004 in the name of Plaintiff. Plaintiff had endorsed the certificate to debtor/defendant as security for a loan from Defendant to Plaintiff with a final maturity date of 1/10/2036. Plaintiff's loan should have been paid in full on 8/25/2009, and thereafter discovered that Debtor/Defendant had sold the above-described shares, collected the proceeds, and willfully and maliciously converted those proceeds to its own use.

5. The debt of Defendant to Plaintiff for this conversion is nondischargeable under Section 523(a) (2) (A) of Title 11 of the United States Code.

6. Plaintiff is entitled to reasonable attorney's fees pursuant to the provisions of the note found upon Paragraph 11 of the "Deed of Trust" which states "in the event of the loss in the value of the property, the miscellaneous Proceeds shall be applied to the sums secured by this Security Agreement, whether or not then due, with the excess, if any, paid to borrower and therefore has incurred reasonable attorney's fees of \$30,000.00 in prosecuting this claim and other previous claims.

WHEREFORE, plaintiff prays:

1. That this court makes a determination that the indebtedness of Defendant to Plaintiff is nondischargeable;
2. That this court determines the remaining issues and render a judgment for Plaintiff for the amount of its debt;
3. For interest, attorney's fees, and costs; and
4. For such other and further relief as to the court seems proper.

Dated: November 6, 2012

Respectfully Submitted,



Conrad P Burnett
612 McIntosh Drive
Linden, VA. 22642

VERIFICATION

I Conrad P Burnett am the Plaintiff in the above entitled action. I have read the foregoing complaint. The facts stated therein are within my knowledge and are true and correct, except those matters stated on information and belief, and, as to those, I believe them to be true and correct.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 27th day of November, 2012, at Linden, Virginia.


Conrad P Burnett

11/20/42 Doc 1-1 Filed 11/20/42 Entered 11/20/42 13:52:33 Adversary Proceeding Cover Sheet (Instructions on Reverse)		11/20/42 13:52:33 Adversary Proceeding Number (Court Use Only)	
PLAINTIFFS CONRAO P. BURNETT 612 MCINTOSH DRIVE LINDEN, VA 22642		DEFENDANTS GMAC MORTGAGE 1100 VIRGINIA DRIVE FORT WASHINGTON, PA 19034	
ATTORNEYS (Firm Name, Address, and Telephone No.) Pro Se		ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) The debt of defendant to plaintiff is non dischargeable under SECTION 523(A)(2)(A) of Title 11 of the United States Code.			
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)			
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 1.4 million US	
Other Relief Sought			

12-02049-mg-11-20-12-1252-23 Adversary BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Emal M. L. L. L.</i>		BANKRUPTCY CASE NO. <i>H 12 - 12032 (MG)</i>
DISTRICT IN WHICH CASE IS PENDING <i>Southern District of New York</i>	DIVISION OFFICE <i>Manhattan</i>	NAME OF JUDGE <i>MARTIN GLINN</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>C. P. Burnett, Jr.</i>		
DATE <i>Nov 27, 2012</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Conrad P. Burnett, Jr.</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.