

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11
Case No. 12-12020 (MG)

RESIDENTIAL CAPITAL, LLC a/k/a
RESIDENTIAL CAPITAL CORPORATION, et al.

(Jointly Administered)

Debtors.
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CONRAD P. BURNETT

Plaintiff,

Adv. Pro. No. 12-02049 (MG)

-against-

**FINAL DOCUMENT CLOSING
ADVERSARY PROCEEDING**

GMAC MORTGAGE, LLC,

Defendant.
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**STIPULATION AND ORDER (A) DISMISSING ADVERSARY
PROCEEDING WITHOUT PREJUDICE, AND (B) GRANTING RELATED RELIEF**

Subject to the approval of this Court, this stipulation and order (this “Stipulation and Order”) is made pursuant to Federal Rule of Civil Procedure 41(a)(1), incorporated by reference in Federal Rule of Bankruptcy Procedure 7041, and entered into by and between GMAC Mortgage, LLC (“GMAC Mortgage”), one of the debtors and debtors in possession in the above-captioned bankruptcy case (collectively, the “Debtors”) and the defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”), on the one hand, and Conrad P. Burnett, the plaintiff in the Adversary proceeding (“Plaintiff”), on the other hand (Plaintiff and the Debtors are referred to together as the “Parties”, and each a “Party”).

WHEREAS, on May 14, 2012, the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in this Court; and



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WHEREAS, on May 14, 2012, this Court entered an order authorizing the joint administration of the Debtors' cases (Docket No. 59); and

WHEREAS, on July 27, 2012, Plaintiff timely filed a proof of claim against GMAC Mortgage, LLC, one of the Debtors, which is designated as claim no. 345 on the Debtors' claims register ("Claim 345"); and

WHEREAS, on August 29, 2012, the Court entered an order establishing November 9, 2012 (the "General Bar Date"), as the deadline for filing proofs of claim in the Debtors' cases (Docket No. 1309); and

WHEREAS, on November 7, 2012, this Court entered an order extending the General Bar Date to November 16, 2012 (Docket No. 1309); and

WHEREAS, on November 8, 2012, Plaintiff timely filed another proof of claim against GMAC Mortgage, LLC, which is designated as claim no. 3743 on the Debtors' claims register ("Claim 3743", together with Claim 345, the "Burnett Claims"); and

WHEREAS, Plaintiff attached to Claim 3743 a motion for relief from the automatic stay (the "Stay Relief Motion"), seeking, among other things, relief from the automatic stay to file an adversary proceeding against the Debtors; and

WHEREAS, although the Stay Relief Motion was attached to Claim 3743, it was not served by Burnett or docketed by the Clerk of this Court. As a result, this Court did not schedule a hearing to consider the Stay Relief Motion; and

WHEREAS, on November 30, 2012, Plaintiff commenced the Adversary Proceeding; and

WHEREAS, on December 26, 2012, the Court entered an order extended the deadline for the Defendant to answer or otherwise respond to the adversary complaint to February 4, 2013;

WHEREAS, consistent with the Parties' representations at the pre-trial conference held before the Court on January 29, 2013, Plaintiff has agreed to dismissal of the Adversary Proceeding, without prejudice, pursuant to the terms, and subject to the conditions set forth in this Stipulation and Order;

NOW, THEREFORE, the Parties stipulate and agree upon the terms and conditions set forth herein:

1. The Adversary Proceeding is hereby dismissed without prejudice and without costs or fees to any Party.

2. The Stay Relief Motion is deemed moot and is hereby withdrawn.

3. This Stipulation and Order shall not be deemed or interpreted to be an admission by any Party hereto of any of the matters set forth in this Stipulation and Order or otherwise, including, without limitation, the extent, nature, validity, and priority of the Burnett Claims, and the Parties reserve all rights with respect thereto.

4. Dismissal of the Adversary Proceeding shall be without prejudice to Plaintiff's right (i) to pursue his claims, if any, against GMAC Mortgage, through resolution of any timely filed proof of claim filed in GMAC Mortgage's chapter 11 case and (ii) to seek at a later date a determination regarding the dischargeability of any resulting allowed claim.

5. This Stipulation and Order is subject to the approval of this Court. In the event that this Court fails to authorize and approve the terms and conditions of this Stipulation and Order in its entirety, then this Stipulation and Order shall be null and void, have no further force

and effect and nothing contained herein shall be construed or deemed to be a waiver of the rights to any Party hereto, which rights are expressly reserved.

6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Order.

7. The Stipulation and Order may not be altered, modified or changed unless in writing and subject to the appropriate order of this Court.

8. This Stipulation and Order may be executed in multiple counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.

9. Facsimile signatures and signatures in portable document format (.pdf) of each of the Parties hereto shall be deemed originals for purposes of this Stipulation and Order.

10. This Stipulation and Order shall bind and inure to the benefit of the heirs, beneficiaries, personal representatives, agents, employees, successors and assigns of the Parties hereto.

Dated: February 15, 2013
New York, New York

By: /s/ Norman S. Rosenbaum
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*Counsel to the Debtors and
Debtors in Possession*

Dated: February 11, 2013
Linden, Virginia

By: /s/ Conrad P. Burnett
Conrad P. Burnett
612 McIntosh Drive
Linden, Virginia 22642

Plaintiff, pro se

IT IS SO ORDERED. The clerk is directed to close the adversary proceeding.

Dated: February 15, 2013
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge