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**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
Charles C. Heyward,	:	
	:	Adv. Proc. 14-01778 (MG)
Plaintiff,	:	
	:	
v.	:	
	:	
GMAC Mortgage LLC, et al.	:	
	:	
Defendants.	:	
-----X	:	
In re	:	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	:	
	:	Chapter 11
	:	
Debtors	:	Jointly Administered
-----X	:	

**RESPONSE OF DEBTORS TO PLAINTIFF'S EMERGENCY MOTION FOR A  
TEMPORARY RESTRAINING ORDER**

GMAC Mortgage LLC and Residential Funding Company LLC and their affiliated post-effective date debtors in the above-captioned Chapter 11 cases (collectively, the "**Debtors**") hereby submit this response to Charles C. Heyward's Emergency Motion for a Restraining Order



[Docket No. 3] (“**Motion for TRO**”), filed on January 28, 2014 by *pro se* movant Charles C. Heyward (“**Mr. Heyward**”).

### **GMAC MORTGAGE, LLC’S RESPONSE**

1. Mr. Heyward’s Motion for TRO requests that the Court enjoin “GMAC Mortgage LLC, Residential Funding LLC, Ocwen Loan Servicing LLC and Samuel I. White, P.C. from foreclosing on [Mr. Heyward’s] home[.]” See Motion for TRO at 3. According to Mr. Heyward’s Motion for TRO, a foreclosure sale is scheduled for January 30, 2014 at 10:00 a.m. Id. at 4. Mr. Heyward’s Motion for TRO also asks for a “Loan Modification, that was requested by him from GMAC Mortgage but was never received[.]” Id. at 3.

2. The Debtors no longer service Mr. Heyward’s mortgage, and as such Mr. Heyward’s Motion for TRO is improperly directed toward “GMAC Mortgage LLC,” “Residential Funding LLC,” or other Debtor entity. Moreover, the Debtors’ counsel are informed that Ocwen Loan Servicing LLC (“Ocwen”) intends to adjourn the foreclosure sale of Mr. Heyward’s property.

3. On May 14, 2012 (the “**Petition Date**”), each of the Debtors filed a voluntary petition in this Court for relief under Chapter 11 of the Bankruptcy Code. These cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure. On September 14, 2012, the Debtors filed a notice of public auction and sale hearing in connection with the proposed sale of their servicing and origination platform (the “**Platform Assets**”). On October 23, 2012 and October 24, 2012, the Debtors successfully conducted an auction for the sale of the Platform Assets.

4. At a hearing held on November 19, 2012, the Court approved the Debtors' motion to sell the Platform Assets to Ocwen<sup>1</sup> on the record. On November 21, 2012, the Court entered an order approving the sale to Ocwen (the "**Ocwen Sale**") [Docket No. 2246] (the "**Ocwen Sale Order**"). The Ocwen Sale closed on February 15, 2013.

5. As of the Petition Date, Mr. Heyward was a borrower under a mortgage loan serviced by Debtor GMAC Mortgage, LLC ("**GMAC Mortgage**"). However, following the closing of the Ocwen Sale on February 15, 2013, servicing of Mr. Heyward's loan was transferred to Ocwen.

6. To the extent Mr. Heyward seeks relief pertaining to any allegations regarding the current servicing of his loan, the current foreclosure proceedings related to the property at issue in his Motion for TRO, or any request for a loan modification, those concerns are properly addressed to Ocwen as the current servicer of his loan.

7. GMAC Mortgage has advised Ocwen of Mr. Heyward's Motion and has been advised that Ocwen will be the adjourning the foreclosure sale which should obviate the need for this Court to consider the Motion for a TRO.

8. Accordingly, as set forth above, Mr. Heyward has failed to adequately articulate any relief that he might seek from the Debtors.

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<sup>1</sup> *Debtors' Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f) and (m), 365 and 1123 and Fed R. Bankr. P. 2002, 6004, 6006 and 9014 for Order: (A)(I) Authorizing and Approving Sale Procedures, Including Break-Up Fee and Expense Reimbursement; (II) Scheduling Bid Hearing and Sale Deadline; (III) Approving Form and Manner of Notice Thereof and (IV) Granting Related Relief and (B)(I) Authorizing the Sale of Certain Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Authorizing and Approving Asset Purchase Agreements Thereto; (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; and (IV) Granting Related Relief (the "**Sale Motion**")* [Docket No. 61].

**CONCLUSION**

WHEREFORE, for the foregoing reasons, the Debtors request that the Court enter an Order (i) denying the relief requested in the Motion for TRO as to the Debtors, and (ii) granting such other relief as the Court deems proper.

New York, New York  
Dated: January 29, 2014

/s/ Norman S. Rosenbaum  
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