

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

FIRST GUARANTY MORTGAGE
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10584 (CTG)

(Jointly Administered)

Re: DI 298

**MOTION TO SHORTEN NOTICE PERIOD
WITH RESPECT TO FLAGSTAR BANK, FSB'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)**

Flagstar Bank, FSB ("Flagstar"), in its capacity as lender under the Mortgage Warehousing Loan and Security Agreement, dated as of June 30, 2017 (as amended, restated or otherwise modified, the "Flagstar Loan Agreement"), by and between Flagstar and Debtor First Guaranty Mortgage Corporation ("FGMC"), hereby submits this motion (the "Motion to Shorten") and respectfully states as follows:²

RELIEF REQUESTED

1. By this Motion to Shorten, Flagstar seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), (i) shortening the notice period, pursuant to Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 9006-1(c) and 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), with respect to *Flagstar Bank, FSB's Motion for Relief From the Automatic Stay Pursuant to 11*

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors' mailing address is 5400 Tennyson Parkway, Suite 450, Plano, TX 75024.

² Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Stay Relief Motion (as defined below).



U.S.C. § 362(d) (the “Stay Relief Motion”) filed contemporaneously herewith; (ii) scheduling the hearing to consider the relief requested in the Stay Relief Motion on August 11, 2022 at 2:00 p.m. (ET) (the “Hearing”); and (iii) waiving the requirements of Local Rule 9006-1(c)(ii) and establishing an objection deadline for the Stay Relief Motion on August 9, 2022 at 12:00 p.m. (ET) (the “Objection Deadline”).

JURISDICTION

2. This Court has jurisdiction to consider this Motion to Shorten under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and, under Bankruptcy Rules 2002 and 7008, Flagstar consents to the entry of a final order by the Court in connection with this Motion to Shorten to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue of these cases and this Motion to Shorten in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(c) and (e).

BACKGROUND

3. Prior to the Petition Date, the Debtors operated as a mortgage lender offering residential mortgage loans to borrowers. *See Declaration of Aaron Samples in Support of Chapter 11 Petitions and First Day Pleadings* ¶ 6 [D.I. 19] (the “First Day Declaration”). In the ordinary course of its business, the Debtors would (i) borrow money under short-term “warehouse” facilities to originate and fund the mortgage loans to borrowers, and (ii) within a short period of time after origination (*e.g.*, 15 days), sell those mortgage loans to Fannie Mae, Freddie Mac, Ginnie Mae, or

other secondary market participants, with the sale proceeds being applied to pay off the warehouse advances. *Id.* ¶¶ 9, 16.

4. Flagstar is one of FGMC’s four non-insider “Warehouse Lenders,” along with Customers Bank, Texas Capital Bank, National Association; and J.V.B. Financial Group LLC, as successor by merger to C&C/PrinceRidge LLC, that advanced funds to the Debtors to finance the origination of residential mortgage loans prepetition. *Id.* ¶ 15. The advances by Flagstar and the other Warehouse Lenders are secured by the mortgage loans funded by those advances (*e.g.*, the Pledged Mortgage Loans funded under the Flagstar Loan Agreement), the related hedges and certain of the Debtors’ other assets. *Id.* ¶ 17.

5. On June 30, 2022 (the “Petition Date”), each of Debtors, FGMC and Maverick II Holdings, LLC, filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. On July 14, 2022, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed, pursuant to section 1102 of the Bankruptcy Code, an official committee of unsecured creditors [D.I. 132] (the “Committee”).

7. On July 21, 2022, Customers Bank filed the *Customers Bank’s Motion Seeking Confirmation of Applicability of 11 U.S.C § 559 or, in the Alternative, Granting Relief from the Automatic Stay and Related Relief* [D.I. 184] (the “Customers Motion”) and the *Motion of Customers bank for Entry of an Order Shortening Notice Periods with Respect to Customers Bank’s Motion Seeking Confirmation of Applicability of 11 U.S.C § 559 or, in the Alternative, Granting Relief from the Automatic Stay and Related Relief* [D.I. 186]. The Court granted Customers Bank’s request for shortened notice and entered the *Order Shortening Notice Periods*

with Respect to Customers Bank Motion Seeking Confirmation of Applicability of 11 U.S.C. § 559 or, in the Alternative, Granting Relief from the Automatic Stay and Related Relief [D.I. 188] scheduling the hearing on the Customers Motion for August 2, 2022 at 10:00 a.m. (prevailing Eastern Time).

8. On August 2, 2022, after holding a hearing, the Court granted the Customers Motion and entered the *Order Confirming Applicability of 11 U.S.C. § 559 and, In the Alternative, Granting Relief from the Automatic Stay and Related Relief* [D.I. 271].

BASIS FOR RELIEF

9. Local Rule 9006-1(c)(i) requires that, unless the Bankruptcy Rules or Local Rules provide otherwise, all motion papers be filed and served at least fourteen (14) days prior to the hearing date. Local Rule 9006-1(c)(ii) further provides that objections, if any, to a motion shall be no later than seven (7) days before the hearing date. *See* Del. Bankr. L.R. 9006-1(c)(i)–(ii).

10. Notwithstanding the foregoing, pursuant to Bankruptcy Rule 9006(c)(1), the Court may, for cause shown, shorten the otherwise applicable notice period. *See* Fed. R. Bankr. P. 9006(c)(1). This authorization is also expressed in Local Rule 9006-1(e), which provides that the Court may shorten the notice period “on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” Del. Bankr. L.R. 9006-1(e).

11. Sufficient cause exists to shorten the notice period for the Stay Relief Motion so that it will be heard at the Hearing. As set forth in more detail in the Stay Relief Motion, despite the Debtors’ best efforts, sales of the Pledged Mortgage Loans have been constrained by the limited authorizations the Debtors currently possess to sell the Pledged Mortgage Loans and the reluctance of market participants to transact with a party in bankruptcy, and the value of the collateral has declined since the Petition Date and continues to decline every day. If the Motion to Shorten is

not granted, Flagstar risks losing even more value that it may not be able to recoup. By this Motion to Shorten, Flagstar attempts to mitigate this growing loss. Furthermore, the dire situation that Flagstar is facing is no different from Customers Bank, whose motion was heard on shortened notice and granted by the Court. Accordingly, given the materially similar reliefs sought by Customers Bank and Flagstar, and Flagstar's continued loss of value in its collateral, sufficient cause exists for the Court to grant the Motion to Shorten.

COMPLIANCE WITH LOCAL RULE 9006-1(e)

12. Before filing this Motion to Shorten, counsel to Flagstar notified the U.S. Trustee, counsel to the Debtors, and counsel to the Committee. As of the filing of the Motion to Shorten, the Debtors and the Committee have indicated that they do not oppose the relief requested herein and the U.S. Trustee has indicated that it takes no position.

NOTICE

13. Notice of this Motion to Shorten will be provided to: (i) the U.S. Trustee, (ii) counsel to the Debtors, (iii) proposed counsel for the Committee, and (iv) all parties entitled to notice pursuant Bankruptcy Rule 2002. Flagstar submits that no other or further notice is necessary under the circumstances.

NO PRIOR MOTION

14. Flagstar has not made any prior motion for the relief sought in this Motion to Shorten to this Court or any other court.

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WHEREFORE, Flagstar respectfully requests that the Court enter the Proposed Order, granting the relief requested in this Motion to Shorten and such other and further relief as may be just and proper.

Dated: August 5, 2022
Wilmington, Delaware

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EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FIRST GUARANTY MORTGAGE
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10584 (CTG)

(Jointly Administered)

Re: D.I.

**ORDER SHORTENING THE NOTICE AND OBJECTION
PERIODS WITH RESPECT TO FLAGSTAR BANK, FSB'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)
TO FORECLOSE ON MORTGAGE LOANS AND RELATED CASH COLLATERAL**

Upon Flagstar's motion (the "Motion to Shorten")² for entry of an order (this "Order") shortening notice of the Stay Relief Motion; and the Court having reviewed the Motion to Shorten and the Stay Relief Motion; and the Court having determined that the relief requested in the Motion to Shorten is justified under the circumstances; and the district court having jurisdiction under 28 U.S.C. § 1334, which was referred to this Court under 28 U.S.C. § 157; and it appearing that proper and adequate notice of the Motion to Shorten has been given and that no other or further notice is necessary; and good and sufficient cause appearing therefor, it is hereby,

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion to Shorten is granted to the extent set forth herein.
2. The Hearing to consider the relief requested in the Stay Relief Motion will be held on **August 11, 2022 at 2:00 p.m. (ET)**.

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors' mailing address is 5400 Tennyson Parkway, Suite 450, Plano, TX 75024.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion to Shorten.

3. Objections, if any, to the relief requested in the Stay Relief Motion shall be filed on or before **August 9, 2022 at 12:00 p.m. (ET)**.

4. Flagstar is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion to Shorten.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

CERTIFICATE OF SERVICE

I, Tori L. Remington, certify that I am not less than 18 years of age, and that service of the foregoing was caused to be made on August 5, 2022, in the manner indicated upon the parties identified below.

Date: August 5, 2022

/s/ Tori L. Remington
Tori L. Remington (No. 6901)

BY ELECTRONIC MAIL

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