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

_____	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
_____	)	

**RESCAP BORROWER CLAIMS TRUST'S  
EIGHTY-SECOND OMNIBUS OBJECTION TO CLAIMS  
(NO LIABILITY BORROWER CLAIMS)**

**THIS OBJECTION SEEKS TO DISALLOW AND EXPUNGE CERTAIN FILED PROOFS OF CLAIM. CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON EXHIBIT A ATTACHED TO THE PROPOSED ORDER.**

**IF YOU HAVE QUESTIONS, PLEASE CONTACT THE RESCAP BORROWER CLAIMS TRUST'S COUNSEL, JORDAN A. WISHNEW, AT (212) 468-8000.**



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TO THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE:

The ResCap Borrower Claims Trust (the “Borrower Trust”), established pursuant to the terms of the Chapter 11 plan confirmed in the above captioned bankruptcy cases (the “Chapter 11 Cases”), as successor in interest to the above-captioned debtors (collectively, the “Debtors”) with respect to Borrower Claim (defined below) matters, by and through its undersigned counsel, respectfully represents:

**RELIEF REQUESTED**

1. The Borrower Trust files this eighty-second omnibus objection to claims (the “Objection”) pursuant to section 502(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 3007(d) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and this Court’s order approving procedures for the filing of omnibus objections to proofs of claim filed in these Chapter 11 Cases (the “Procedures Order”) [Docket No. 3294], and seeks entry of an order (the “Proposed Order”), in a form substantially similar to that attached hereto as Exhibit 1, to disallow and expunge the claims listed on Exhibit A<sup>1</sup> annexed to the Proposed Order. In support of this Objection, the Borrower Trust submits the Declaration of Kathy Priore, Associate Counsel for the ResCap Liquidating Trust (the “Priore Declaration,” attached hereto as Exhibit 2), and the Declaration of Norman S. Rosenbaum of Morrison & Foerster LLP, counsel to the Borrower Trust (the “Rosenbaum Declaration,” attached hereto as Exhibit 3).

2. The Borrower Trust examined the proofs of claim identified on Exhibit A to the Proposed Order and determined that the proofs of claim listed on Exhibit A (collectively, the “No Liability Borrower Claims”) are not liabilities of the Debtors. This determination was

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<sup>1</sup> Claims listed on Exhibit A are reflected in the same manner as they appear on the claims register maintained by KCC (defined herein).

made after the holders of the No Liability Borrower Claims were given an opportunity under the Procedures Order to supply additional documentation to substantiate their respective claims. Accordingly, the Borrower Trust seeks entry of the Proposed Order disallowing and expunging the No Liability Borrower Claims from the Claims Register.

3. The proofs of claim identified on Exhibit A annexed to the Proposed Order solely relate to claims filed by current or former borrowers (collectively, the “Borrower Claims” and each a “Borrower Claim”). As used herein, the term “Borrower” means a person who is or was a mortgagor under a mortgage loan originated, serviced, and/or purchased or sold by one or more of the Debtors.<sup>2</sup>

4. The Borrower Trust expressly reserves all rights to object on any other basis to any No Liability Borrower Claim as to which the Court does not grant the relief requested herein.

### **JURISDICTION**

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

### **BACKGROUND**

#### *General Case Background*

6. 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 Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b).

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<sup>2</sup> The terms “Borrower” and “Borrower Claims” are identical to those utilized in the Procedures Order [Docket No. 3294].

7. On May 16, 2012, the United States Trustee for the Southern District of New York appointed a nine member official committee of unsecured creditors [Docket No. 102] (the “Creditors’ Committee”).

8. On December 11, 2013, the Court entered the *Order Confirming Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC et al. and the Official Committee of Unsecured Creditors* (the “Confirmation Order”) approving the terms of the Chapter 11 plan, as amended (the “Plan”), filed in these Chapter 11 Cases [Docket No. 6065]. On December 17, 2013, the effective date of the Plan occurred, and, among other things, the Borrower Trust was established [Docket No. 6137].

9. The Plan provides for the creation and implementation of the Borrower Trust, which is established for the benefit of Borrowers who filed Borrower Claims to the extent such claims are ultimately allowed either through settlement with the Borrower Claims Trustee or pursuant to an Order of the Court. See Plan, at Art. IV.F. The Borrower Trust was established to, among other things, “(i) direct the processing, liquidation and payment of the Allowed Borrower Claims in accordance with the Plan, and the distribution procedures established under the Borrower Claims Trust Agreement, and (ii) preserve, hold, and manage the assets of the Borrower Claims Trust for use in satisfying Allowed Borrower Claims.” See id.

*Claims-related Background*

10. On May 16, 2012, the Court entered an order [Docket No. 96] appointing Kurtzman Carson Consultants LLC (“KCC”) as the notice and claims agent in these Chapter 11 Cases. Among other things, KCC is authorized to (a) receive, maintain, and record and otherwise administer the proofs of claim filed in these Chapter 11 Cases and (b) maintain the official claims register for the Debtors (the “Claims Register”).

11. On August 29, 2012, this Court entered an order approving the Debtors' motion to establish procedures for filing proofs of claim in the Chapter 11 Cases [Docket No. 1309] (the "Bar Date Order"). The Bar Date Order established, among other things, (i) November 9, 2012 at 5:00 p.m. (Prevailing Eastern Time) as the deadline to file proofs of claim by virtually all creditors against the Debtors (the "General Bar Date") and prescribing the form and manner for filing proofs of claim; and (ii) November 30, 2012 at 5:00 p.m. (Prevailing Eastern Time) as the deadline for governmental units to file proofs of claim (the "Governmental Bar Date"). Bar Date Order ¶¶ 2, 3. On November 7, 2012, the Court entered an order extending the General Bar Date to November 16, 2012 at 5:00 p.m. (Prevailing Eastern Time) [Docket No. 2093]. The Governmental Bar Date was not extended.

12. On March 21, 2013, the Court entered the Procedures Order, which authorizes the Debtors to, among other things, file omnibus objections to no more than 150 claims at a time, on various grounds, including those set forth in Bankruptcy Rule 3007(d) and those additional grounds set forth in the Procedures Order. See Procedures Order at 2-3.

13. Based on substantial input from counsel to the Creditors' Committee and its special counsel for Borrower issues, SilvermanAcampora LLP ("Special Counsel"), the Procedures Order includes specific protections for Borrowers and sets forth a process for the Debtors or any successor in interest to follow before objecting to certain categories of Borrower Claims (the "Borrower Claim Procedures"). The Borrower Claim Procedures provide, *inter alia*, that prior to objecting to Borrower Claims filed with no or insufficient documentation, the Debtors must send each such Borrower claimant a letter requesting additional documentation in support of the purported claim (the "Request Letter"). See Procedures Order at 4.

14. Beginning in May of 2013, the Debtors sent Request Letters, substantially in the form as those attached as Exhibit 4, to all of the Borrowers who filed the No Liability

Borrower Claims. The Request Letters state that the claimant must respond within thirty (30) days (the “Response Deadline”) with an explanation that states the legal and factual reasons why the claimant believes it is owed money or is entitled to other relief from the Debtors and the claimant must provide copies of any and all documentation that the claimant believes supports the basis for its claim. See Request Letters at 1. The Request Letters further state that if the claimant does not provide the requested explanation and supporting documentation within 30 days, then the Debtors may file a formal objection to the claimant’s claim, seeking to have the claim disallowed and permanently expunged. Id.

15. The Response Deadline has passed, and the Debtors and the Borrower Trust either did not receive any response to the Request Letters or received insufficient information to establish a basis for liability with respect to the applicable No Liability Borrower Claims. See Priore Declaration at ¶ 5.

**THE NO LIABILITY BORROWER CLAIMS  
SHOULD BE DISALLOWED AND EXPUNGED**

16. Based upon its review of the No Liability Borrower Claims identified on Exhibit A annexed to the Proposed Order, the Borrower Trust determined that they do not represent valid prepetition claims against the Debtors and should be expunged. If the No Liability Borrower Claims are not disallowed and expunged, then the parties who filed these proofs of claim may receive a wholly improper recovery to the detriment of other Borrowers who hold valid claims. See Priore Declaration ¶ 9.

17. Section 501(a) of the Bankruptcy Code provides that “[a] creditor . . . may file a proof of claim.” 11 U.S.C. § 501(a). “The proof of claim, if filed in accordance with section 501 and the pertinent Bankruptcy Rules, constitutes prima facie evidence of the validity and amount of the claim under Federal Rule of Bankruptcy 3001(f) and Code section 502(a).” 4 COLLIER ON BANKRUPTCY ¶ 502.02[3][f] (Alan N. Resnick & Henry J. Sommer eds., 16th



ed. rev. 2013). Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such a claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law . . . .” 11 U.S.C. § 502(b)(1).

18. If an objection refuting at least one of the claim’s essential allegations is asserted, however, the claimant has the burden to demonstrate the validity of the claim. See In re Oneida Ltd., 400 B.R. 384, 389 (Bankr. S.D.N.Y. 2009); In re Adelphia Commc’ns Corp., Case No. 02-41729 (REG), 2007 Bankr. LEXIS 660, at \*15 (Bankr. S.D.N.Y. Feb. 20, 2007); In re Rockefeller Ctr. Props., 272 B.R. 524, 539 (Bankr. S.D.N.Y. 2000).

19. The Debtors and the Borrower Trust diligently analyzed the No Liability Borrower Claims and the allegations set forth therein and examined the Debtors’ books and records in order to assess the alleged liabilities asserted. See Priore Declaration at ¶¶ 4-6. In addition, the Debtors sent Request Letters to those claimants who filed No Liability Borrower Claims with insufficient supporting documentation to allow such claimants to provide additional support for their claims. The holders of the No Liability Borrower Claims that received Request Letters either failed to respond to the letters or failed to provide sufficient information to substantiate their claims. See id. at ¶ 5.

20. The Borrower Trust’s specific factual and/or legal reason(s) for objecting to the allowance of each No Liability Borrower Claim is set forth on Exhibit A to the Proposed Order under the heading titled “*No Liability Summaries.*” In general, the Borrower Trust’s objection to each No Liability Borrower Claim falls under one or more of the following ten categories:

- (i) **General No Liability.** This category includes a claim where the Claimant does not assert any wrongdoing on the part of the Debtors, but rather requests assistance in reviewing and modifying her loan.

To assess the validity of this claim, the Borrower Trust reviewed the Debtors’ books and records, including (a) the claimant’s transaction history showing the payments the

claimant has made and the Debtors' application of those payments to principal, interest, fees, and escrows, as applicable (the "Loan Payment History"), (b) the Debtors' records tracking the history of the servicing of the claimant's loan, including but not limited to documenting instances of i) communication with the claimant, ii) letters and notices sent by the Debtors to the claimant, and iii) the Debtors' efforts to foreclose, conduct loss mitigation efforts, inspect properties, pay taxes and insurance on behalf of the claimant, and other standard servicing activity (collectively, the "Internal Servicing Notes"), and (c) other records as applicable. See Priore Declaration at ¶ 8(i). Based on its review, the Borrower Trust has determined that the Debtors are not liable for the General No Liability Claim. See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as a General No Liability Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more<sup>3</sup> of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust; or
- Other documents that are relevant to the reconciliation of the claim.<sup>4</sup>

- (ii) **General Servicing Issues.** This category includes claims based on general servicing issues, including assertions that a Debtor misapplied mortgage payments, provided incorrect information or reporting to the claimant, or that the Claimant's mortgage was paid in full (the "General Servicing Issues Claims"). To assess the validity of these claims, the Borrower Trust reviewed Internal Servicing Notes, Loan Payment History, letters between the Debtors and the applicable Borrower(s), executed mortgage notes and deeds of trust, and other relevant documents. See Priore Declaration at ¶ 8(ii).

Based on its review, the Borrower Trust has determined that the General Servicing Issues Claims are not valid obligations of the Debtors because: (a) the alleged events involving General Servicing Issues never took place; (b) the Debtor remedied the alleged error or mishandling, and as a result, the Claimant did not incur any damages or failed to provide evidence of damages; (c) the Debtor acted properly in servicing the loan, in accordance with the Debtors standard policies and procedures and the terms of the executed note and deed of trust; and/or (d) the allegations relate to actions taken by a non-Debtor entity. See id.

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<sup>3</sup> For the purpose of clarification, the Borrower Trust is not suggesting that the listed documents in the respective objection categories are relevant to every Claim; rather, the Borrower Trust will provide the claimant and the Court with copies of only those relevant documents presently in its possession that substantiate the stated reason(s) for disallowance.

<sup>4</sup> The production of documents by the Borrower Trust (to claimants under any of the stated objection categories) will be subject to all applicable privileges, including without limitation, attorney-client, and where necessary, will be subject to a mutually acceptable Confidentiality Agreement.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as a General Servicing Issues Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors' in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust;
- Debtors' written communications to the claimant;
- Copies of lien releases; or
- Other documents that are relevant to the reconciliation of the claim.

(iii) **Origination Issues**. This category includes claims based on loan origination issues, which include, without limitation, claims relating to disputes regarding the loan application and closing process, disclosures, loan terms, rights of rescission or a purportedly defective title exam. To assess the validity of these claims (the "Origination Issues Claims"), the Borrower Trust reviewed the Debtors' books and records, including the claimants' executed mortgage notes, to determine whether any Debtor was involved in the origination of the applicable loans, and if so, if the claim would be barred by the applicable statute of limitations. See Priore Declaration at ¶ 8(iii).

Based on its review of the Debtors' books and records and its review of applicable state and federal law, the Borrower Trust determined that the Debtors are not liable for the Origination Issues Claims because either (1) no Debtor entity was involved in the origination of the applicable loans and vicarious liability cannot be imputed to any Debtor in its capacity as servicer or assignee of the loans,<sup>5</sup> or (2) the claim is barred by the applicable statute of limitations See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as an Origination Issues Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust;
- Origination File; or
- Other documents that are relevant to the reconciliation of the claim.

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<sup>5</sup> As noted in Exhibit A, to the extent the claimant asserts statutory claims related to origination of the loan, the Borrower Trust reviewed the applicable federal and state statutes and determined that such claims against servicers or loan assignees carry no successor liability. To the extent claimant asserts common-law claims, the Borrower Trust found no case precedent establishing assignee liability when a party is not involved with the origination of the loan, and the claimant did not provide any specific legal authority to substantiate its allegation.

- (iv) **Escrow Issues**. This category includes claims based on the alleged improper application or calculation of escrow amounts (the “Escrow Issues Claims”). To assess the validity of these claims, the Borrower Trust examined the Debtors’ books and records, including the Debtors’ escrow receipts and payments, the annual escrow analysis sent to Borrowers and any Internal Servicing Notes and written communication between the Debtors and the applicable Borrower(s).

Based on its review, the Borrower Trust determined that the Debtors are not liable for the Escrow Issues Claims. See Priore Decl. at ¶ 8(iv). In cases where a claimant asserted that they were owed a refund, the Borrower Trust determined that the payments to the Debtors received were all correctly applied. In cases where a claimant asserted that the escrow collected was insufficient to cover the property taxes and insurance, the Borrower Trust reviewed the escrow statements issued to the claimant, which outlined the amounts paid that year compared to what was estimated, as well as Internal Servicing Notes to the extent that there was an escrow account added to the loan, and determined that they have no liability as long as all amounts received from the Borrower were accurately recorded because the Borrowers are liable for the taxes and insurance on their real property. In cases where a claimant asserted that it was owed a refund, the Borrower Trust looked at (1) the escrow statement issued to the claimant to determine if there was a refund due, (2) the history of the loan to determine if a check was issued for the refund and (3) the internal account notes to determine if there were discussions with the claimant regarding an escrow refund not being received, and found that any refunds due were previously paid. Moreover, to the extent that the Debtors’ books and records indicated that the issues asserted by a claimant occurred after the Debtors ceased servicing the underlying loan, the Borrower Trust concluded that the Debtors had no liability for the claim. See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as an Escrow Issues Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust;
- Debtors’ written communications to the claimant;
- Escrow Statement;
- Loan Modification Agreement, if applicable; or
- Other documents that are relevant to the reconciliation of the claim.

- (v) **Wrongful Foreclosure**. This category includes claims based, either directly or indirectly, on allegations of wrongful foreclosure by the Debtors (the “Wrongful Foreclosure Claims”). To assess the validity of these claims, the Borrower Trust examined the Debtors’ books and records to verify that the Debtors foreclosed properly and, where applicable, took the appropriate loss mitigation steps. Specifically, the Borrower Trust reviewed Payment History, Internal Servicing Notes, as well as, where applicable, the

claimants' loan modification applications, loan modification approval letters, loan modification denial letters, compliance with loan modifications (trial and/or permanent), compliance with any other payment plans (forbearance and repayment), short sale applications and history, investor guidelines and/or direction, breach letters, and/or foreclosure related documents. Where a claimant asserted that he or she did not execute the mortgage note, the Borrower Trust compared the signatures on other executed documents in the claimant's file, as well as examining the Loan Payment History and any other information in the Debtors' possession. Moreover, where a Wrongful Foreclosure Claim was based on issues related to a short sale, the Borrower Trust further reviewed the Debtors' records to determine whether a short sale approval had been requested, and, if so and if such request was denied, whether the reason for denial was proper.<sup>6</sup> See Priore Declaration at ¶ 8(v). Based on its review, the Borrower Trust determined that the Debtors are not liable for the Wrongful Foreclosure Claims. See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as a Wrongful Foreclosure Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust;
- Loan Modification Agreement, if applicable;
- Debtors' written communications to Claimant, including the following, if applicable:
  - Denial Letters,
  - Missing Items Letters,
  - Loan Modification Offers,
  - Signed Modification Agreement(s),
  - Breach of Contract Notice, and
  - Trial, Forbearance, or Foreclosure Repayment Plan Letters;
- Escrow Statement, if applicable;
- Pooling and Servicing Agreements, if applicable; or
- Other documents that are relevant to the reconciliation of the claim..

- (vi) **Interest Rates and Fees Collected.** This category includes a claim based on the assertion that the interest rate charged to the claimant was inappropriate (the "Interest Rates and Fees Collected Claim"). To assess the validity of this claim, the Borrower Trust reviewed the Debtors' books and records, including the claimant's note, any adjustable rate rider and related documents, notices and/or adjustment letters sent to the claimant, Loan Payment History and fees charged. See Priore Declaration at ¶ 8 (vi).

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<sup>6</sup> Appropriate reasons for denying a short sale request include, without limitation, a claimant's failure to submit executed sale contracts, a claimant's failure to obtain approval from second lien holders and/or a claimant's short sale request did not comply with the investor's requirements.

Based on its review, the Borrower Trust has determined that the Debtors are not liable for the Interest Rates and Fees Collected Claim because the interest rate charged was consistent with the governing loan documents and the Debtors' servicing policies. To substantiate this determination, the Borrower Trust is prepared to provide the Court and the claimant whose claim is identified as the Interest Rates Claim and Fees Collected Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;
- Mortgage/Deed of Trust;
- Loan Modification Agreement, if applicable;
- Investor guidelines, if applicable;
- Servicing agreement(s), if applicable;
- Debtors' written communications to the claimant, including, if applicable Rate Adjustment Letters; or
- Other documents that are relevant to the reconciliation of the claim.

(vii) ***Res Judicata***. This category includes claims related to litigation that have already been adjudicated (the "Res Judicata Claims"). The Borrower Trust diligently reviewed the case notes from the Debtors' internal electronic case management system and the Debtors' internal files, relating to the litigation, including relevant underlying documents such as the note, loan agreement and/or deed of trust (the "Litigation File"). The Debtors or the Liquidating Trust (on behalf of the Borrower Trust) as applicable, supplemented the Litigation File by reaching out to the outside counsel who previously handled the litigation for the Debtors to obtain a current update as to the status of the litigation, as well as copies of any relevant case dockets, complaints, answers, counterclaims, motions, responsive pleadings, judgments, orders, and any other relevant documents relating to the underlying litigation. The allegations set forth in the Res Judicata Claims were compared to the information contained in the Litigation Files (as supplemented with information provided by outside counsel), as well as the Debtors' Books and Records. See Priore Declaration at ¶ 7(vii).

The Doctrine of res judicata provides that "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." Burgos v. Hopkins, 14 F.3d 787, 789 (2d. Cir. 1994) (quoting Allen v. McCurry, 449 U.S. 90, 94 (1980)). See also Bell v. Bd. of Supervisors, Cnty. Of Monterey, 990 F.2d 1255 (9th Cir. 1993) (stating the rule in California); Brennan v. Harmon Law Offices, P.C., 964 N.E.2d 370 (Mass. App. Ct. 2012) (stating the rule in Massachusetts). Moreover, when a judgment is issued by a state court, the preclusive effect of such determination "in a subsequent federal action is determined by the rules of the state where the prior action occurred . . . ." New York v. Sokol (In re Sokol), 113 F.3d 303, 306 (2d Cir. 1997) (citing 28 U.S.C. § 1738); see, e.g., Taylor v. Sturgell, 553 U.S. 880 (2008). Therefore, "[i]n applying the doctrine of res judicata, [a court] must keep in mind that a state court judgment has the same preclusive effect in federal court as the judgment would have had in state court." Burka v. N.Y.C. Transit Auth., 32 F.3d

654, 657 (2d. Cir. 1994) (citation omitted); see, e.g., Kremer v. Chem. Constr. Corp., 456 U.S. 461 (1982).

The Res Judicata Claims are related to litigation that has already been adjudicated between the Claimant and the Debtors by a federal court, and the court dismissed the claimant's complaint with prejudice. Copies of the relevant decisions are attached hereto as Exhibit 5 and Exhibit 7. The basis for the Res Judicata Claims are the same as the allegations made in the underlying litigation that were previously adjudicated on the merits by state or federal courts.

(viii) **Loan Modification**. This category includes claims based on loan modification issues (the "Loan Modification Claims"), which allege, among other things, that the Debtors (a) failed to provide a loan modification,<sup>7</sup> or (b) provided a loan modification, but the claimant believes the terms of the modification were not as favorable to the claimant as those to which claimant believed he or she was entitled.<sup>8</sup> To assess the validity of these claims, the Borrower Trust examined the Debtors' books and records to verify that the Debtors followed the applicable investor guidelines and policies regarding loan modifications. Specifically, the Borrower Trust reviewed Internal Servicing Notes, Loan Payment History, and, where applicable, loan modification agreements, loan modification applications, loan modification denial letters, loan modification approval letters, the claimant's compliance with modifications (trial and/or permanent) and any instructions or guidelines provided by the investor for the claimant's loan. See Priore Declaration at ¶ 8(viii).

Based on its review, the Borrower Trust determined that the Debtors are not liable for the Loan Modification Claims because: (a) in cases where a loan modification request was denied, the Debtors complied with the applicable investor guidelines and policies governing the loan modification process and (b) in the cases where the claimant obtained a loan modification, the claimant was not damaged by the loan modification assistance provided. See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as a Loan Modification Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of one or more of the following types of documents, each of which were prepared or kept by the Debtors in the course of their regularly conducted business activities:

- Loan Payment History;
- Internal Servicing Notes currently accessible to the Borrower Trust;
- Note and riders to the Note, if applicable;

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<sup>7</sup> As a regular part of the Debtors' business practices, the Debtors offered mortgage loan modifications to Borrowers in financial distress, pursuant to certain guidelines established by the investors ("Traditional Modifications"). The Home Affordable Modification Program ("HAMP") is an administrative program that was implemented in April 2009 by the United States Treasury Department to help eligible homeowners with loan modifications on their home mortgage debt. HAMP provided the Debtors with an additional type of loan modification (a "HAMP Modification") for assisting eligible Borrowers experiencing financial distress.

<sup>8</sup> A copy of the modification agreement provided to Claimant Kevin Dlin is attached hereto as Exhibit 6.

- Mortgage/Deed of Trust;
- Loan Modification Agreement, if applicable;
- Investor guidelines, if applicable;
- Servicing agreement(s), if applicable;
- Workout Packages;
- Debtors' written communications to Claimant, including the following, if applicable:
  - Denial Letters,
  - Missing Items Letters,
  - Loan Modification Offers,
  - Signed Mod Agreement(s),
  - Breach of Contract Notice(s), and
  - Trial, Forbearance, or Foreclosure Repayment Plan Letters;
- Escrow Statement; or
- Other documents that are relevant to the reconciliation of the claim.

(ix) **Insufficient Documentation**. This category includes claims that either (a) fail to identify the amount of the claim and the basis for claim, or (b) identify the claim amount but do not provide an explanation or attach any supporting documentation to substantiate the claim amount (the “Insufficient Documentation Claims”).

The Debtors sent Request Letters in connection with all of the Insufficient Documentation Claims to the either the property address or email address marked on the proof of claim by Claimant as the “address where notices should be sent”. See Priore Decl. at ¶ 8(ix). In each instance, Claimant either failed to respond or provided insufficient information to establish a basis for liability. As a result, the Claimant has failed to satisfy its initial burden to state a claim against the Debtors and therefore, the Borrower Trust has no liability for the Insufficient Documentation Claims. See id.

To substantiate this determination, the Borrower Trust is prepared to provide the Court and each claimant whose claim is identified as an Insufficient Documentation Claim on Exhibit A to the Proposed Order, upon their respective request, with copies of the Request Letters prepared by the Debtors. See id.

21. To prevent the claimants that filed the No Liability Borrower Claims from receiving improper recoveries to the detriment of other Borrowers holding valid claims, the Borrower Trust requests that the Court disallow and expunge in their entirety each of the No Liability Borrower Claims.



**NOTICE**

22. The Borrower Trust has served notice of this Objection in accordance with the Case Management Procedures entered on May 23, 2012 [Docket No. 141] and the Procedures Order. The Borrower Trust submits that no other or further notice need be provided.

**NO PRIOR REQUEST**

23. No previous request for the relief sought herein as against the holders of the No Liability Borrower Claims has been made by the Borrower Trust to this or any other court.

**CONCLUSION**

WHEREFORE, the Borrower Trust respectfully requests that the Court enter an order substantially in the form of the Proposed Order granting the relief requested herein and granting such other relief as is just and proper.

Dated: January 29, 2015  
New York, New York

/s/ Norman S. Rosenbaum  
Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett  
MORRISON & FOERSTER LLP  
250 West 55th Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900

*Counsel for The ResCap Borrower  
Claims Trust*

Hearing Date and Time: March 31, 2015 at 10:00 a.m. (Prevailing Eastern Time)  
Response Date and Time: March 2, 2015 at 4:00 p.m. (Prevailing Eastern Time)

**MORRISON & FOERSTER LLP**

250 West 55<sup>th</sup> Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett

*Counsel for The ResCap Borrower Claims  
Trust*

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

-----	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
-----	)	

**NOTICE OF THE RESCAP BORROWER CLAIMS TRUST'S  
EIGHTY-SECOND OMNIBUS OBJECTION TO CLAIMS  
(NO LIABILITY BORROWER CLAIMS)**

**PLEASE TAKE NOTICE** that the undersigned have filed the attached *ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)* (the "Omnibus Objection"), which seeks to alter your rights by disallowing your claim against the above-captioned Debtors.

**PLEASE TAKE FURTHER NOTICE** that a hearing on the Omnibus Objection will take place on **March 31, 2015 at 10:00 a.m. (Prevailing Eastern Time)** before the Honorable Martin Glenn, at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408, Room 501.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the Omnibus Objection must be made in writing, conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the Notice, Case Management, and Administrative Procedures approved by the Bankruptcy Court [Docket No. 141], be filed electronically by registered users of the Bankruptcy Court's electronic case filing system, and be served, so as to be received no later than **March 2, 2015 at 4:00 p.m. (Prevailing Eastern Time)**, upon: (a) Chambers of the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408; (b) counsel to the ResCap Borrower Claims Trust, Morrison & Foerster LLP, 250 West 55<sup>th</sup> Street, New York, NY 10019 (Attention: Norman S. Rosenbaum, Jordan A. Wishnew, and Jessica J. Arett); (c) the Office of the United States Trustee for the Southern District of New York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attention: Linda A. Riffkin and Brian S. Masumoto); (d) The ResCap Borrower Claims Trust, Polsinelli PC, 900 Third Avenue, 21st Floor, New York, NY 10022, (Attn: Daniel J. Flanigan) and (e) The ResCap Liquidating Trust, Quest Turnaround Advisors, 800 Westchester Avenue, Suite S-520, Rye Brook, NY 10573 (Attention: Jeffrey Brodsky).

**PLEASE TAKE FURTHER NOTICE** that if you do not timely file and serve a written response to the relief requested in the Omnibus Objection, the Bankruptcy Court may deem any opposition waived, treat the Omnibus Objection as conceded, and enter an order granting the relief requested in the Omnibus Objection without further notice or hearing.

Dated: January 29, 2015  
New York, New York

Respectfully Submitted,

/s/ Norman S. Rosenbaum  
Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett  
**MORRISON & FOERSTER LLP**  
250 West 55<sup>th</sup> Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900

*Counsel for The ResCap Borrower  
Claims Trust*

**Exhibit 1**

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

_____	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
_____	)	

**ORDER GRANTING RESCAP BORROWER CLAIMS TRUST'S EIGHTY-SECOND  
OMNIBUS OBJECTION TO CLAIMS (NO LIABILITY BORROWER CLAIMS)**

Upon the eighty-second omnibus objection to claims (the "Objection")<sup>1</sup> of the ResCap Borrower Claims Trust (the "Trust"), established pursuant to the terms of the confirmed Plan filed in the above-referenced Chapter 11 cases, as successor in interest to the Debtors with regard to Borrower Claim matters, seeking entry of an order, pursuant to section 502(b) of title 11 of the United States Code (the "Bankruptcy Code"), Rule 3007(d) of the Federal Rules of Bankruptcy Procedure, and this Court's order approving procedures for the filing of omnibus objections to proofs of claim [Docket No. 3294] (the "Procedures Order"), disallowing and expunging the No Liability Borrower Claims, all as more fully described in the Objection; and it appearing that this Court has jurisdiction to consider the Objection pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Objection and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided, and it appearing that no other or further notice need be provided; upon consideration of the Objection and the *Declaration of Kathy Priore in Support of the ResCap Borrower Claims*

<sup>1</sup> Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Objection.

*Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)* annexed thereto as Exhibit 2, and the *Declaration of Norman S. Rosenbaum in Support of the ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)*, annexed thereto as Exhibit 3; and the Court having found and determined that the relief sought in the Objection is in the best interests of the Trust, the Trust's constituents, the Debtors, and other parties in interest and that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and the Court having determined that the Objection complies with the Borrower Claim Procedures set forth in the Procedures Order; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the relief requested in the Objection is granted to the extent provided herein; and it is further

ORDERED that, pursuant to section 502(b) of the Bankruptcy Code, the claims listed on Exhibit A annexed hereto (collectively, the "No Liability Borrower Claims") are disallowed and expunged with prejudice; and it is further

ORDERED that Kurtzman Carson Consultants LLC, the Debtors' claims and noticing agent, is directed to disallow and expunge the No Liability Borrower Claims identified on the schedule attached as Exhibit A hereto so that such claims are no longer maintained on the Claims Register; and it is further

ORDERED that the Trust is authorized and empowered to take all actions as may be necessary and appropriate to implement the terms of this Order; and it is further

ORDERED that notice of the Objection, as provided therein, shall be deemed good and sufficient notice of such objection, and the requirements of Bankruptcy Rule 3007(a),

the Case Management Procedures entered on May 23, 2012 [Docket No. 141], the Procedures Order, and the Local Bankruptcy Rules of this Court are satisfied by such notice; and it is further

ORDERED that this Order has no res judicata, estoppel, or other effect on the validity, allowance, or disallowance of any claim not listed on Exhibit A annexed to this Order, and the Trust's and any party in interest's right to object on any basis are expressly reserved with respect to any such claim not listed on Exhibit A annexed hereto; and it is further

ORDERED that this Order shall be a final order with respect to each of the No Liability Borrower Claims identified on Exhibit A annexed hereto, as if each such No Liability Borrower Claim had been individually objected to; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: \_\_\_\_\_, 2015  
New York, New York

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THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE



**Exhibit A**

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
960	<p>MICHAEL E BOYD v GMAC MORTGAGE LLC MERS INC</p> <p>5439 SOQUEL DR Soquel, CA 95073</p> <p>\$186,000.00</p> <p>Secured</p> <p>GMAC Mortgage, LLC</p>	Res Judicata	<p>Debtors' involvement with Claimant's loans was limited to servicer of the loans. The loan on Soquel Dr. was originated by Plaza Home Mortgage Inc. in January 2007. Debtor GMAC Mortgage serviced the Soquel Dr. loan from April 10, 2007 until servicing transferred to Ocwen Loan Servicing LLC on February 16, 2013. The loan on Lakebird Dr. was originated by Plaza Home Mortgage Inc. Debtor, GMAC Mortgage serviced the Lakebird Dr. loan from March 13, 2007 until servicing transferred to Ocwen Loan Servicing LLC on February 16, 2013.</p> <p>On the proof of claim, Claimant listed as the basis for the claim "mortgage notes (2 each) U.S. District Court Northern District CA case # 11-cv-5018."</p> <p>On September 11, 2011, Claimant filed litigation in USDC, Northern District of CA, Case No 5:11-CV-05018, for "unconscionability contract and adhesion to real property." The claims in the complaint were to invalidate/contest the liens on the property that were being serviced by the Debtors. The case was dismissed with prejudice on August 22, 2012 by Order Granting Defendants' Motion to Dismiss Plaintiff's First Amended Complaint. Claimant appealed the District Court's decision to the U.S. Court of Appeals for the Ninth Circuit, Case No 12-17434. The Ninth Circuit affirmed the district court's order dismissing the case on August 22, 2014. On September 4, 2014, Claimant filed a Petition for Panel Rehearing with the U.S. Court of Appeals for the Ninth Circuit. On December 22, 2014, the Ninth Circuit denied Claimant's Petition for Rehearing and further indicated it would not</p>	11-12

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			entertain any further filings in this case. A copy of the decision is attached to the Objection as <u>Exhibit 5</u> . As a result, all appeals have been exhausted, and res judicata applies to preclude Claimant from relitigating issues through the proof of claim that have been finally decided.	
3732	Brian H. Wilson- Attorney to Claimant Kenneth Dlin  KENNETH DLIN VS GMAC MORTGAGE LLC  43 Bulldigger Court  Bailey, CO 80421  \$971,770.00  General Unsecured	Wrongful Foreclosure, Loan Modification Issues, Escrow Issues	Debtor's involvement with Claimant's loan was limited to its roles as servicer and purchaser of the loan. Greenpoint Mortgage Funding Inc. originated the first lien loan on February 20, 2004. Debtor GMAC Mortgage, LLC purchased the first lien loan from Greenpoint Mortgage Funding Inc. Debtor transferred its interest when the first lien loan was securitized on or about April 1, 2004 where HSBC Bank USA was appointed as Trustee. Debtor GMAC Mortgage, LLC serviced the first lien loan from July 1, 2004 until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. Debtors' records show that on February 28, 2006, non-Debtor Countrywide originated a second lien loan to Claimant. Debtor neither services nor originated the second lien loan.  Debtor has no liability for Claimant's wrongful foreclosure or standing claims. The first lien loan was referred to foreclosure on January 7, 2010. At the time of the referral, the loan was due for October 1, 2009 payment. The Debtors gave proper notice and complied with all state laws regarding the foreclosure. On May 27, 2010, the state court granted an order authorizing the sale of the property and	9-10, 12-13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
	GMAC Mortgage, LLC		<p>sale was completed through the Public Trustee's Office on July 28, 2010.</p> <p>An action for possession/eviction was commenced on August 11, 2010, in which Claimant asserted counterclaims for damages. Those claims were stayed due to the Debtors' bankruptcy. In his POC, Claimant alleges his damages are based on the default/deficiency judgment that was granted against him personally both on the first lien loan and second lien loan. Claimant fails to allege the Debtors' connection and thereby the basis for liability on the second lien, its deficiency or any judgment asserted against Claimant.</p> <p>In addition, the foreclosure deficiency bid was submitted to the Public Trustee setting a deficiency amount of \$191,743.68 on the first lien. However, in Colorado, no judgment results from the submission of a deficiency bid to the Public Trustee. A separate action must be filed in order to obtain a deficiency judgment, and the Debtor never commenced such an action. As a result, there has been no deficiency judgment on record against Claimant related to the debt on the first lien.</p> <p>Claimant contends that he was told by the Debtors that he needed to default on his mortgage in order to be eligible for a loan modification. He also alleges that the Debtors did not cooperate with him regarding a short sale.</p> <p>Debtors have no liability for Claimant's assertion that Debtors advised Claimant to</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>default in order to be eligible for a loan modification because the Debtors' records show that on November 19, 2008, Debtors explained to Claimant that a borrower can only be considered for a loss mitigation option if they are at least 2 months past due on their account. Debtors confirmed that there were no investor or government related guidelines at the time that would render Claimant eligible for loss mitigation options while being current on his loan. At no time in this conversation or any conversation thereafter did Debtors advise Claimant to stop making his payments, or that Claimant would be guaranteed a loan modification by becoming delinquent on his account.</p> <p>Claimant alleges that Debtors wrongfully modified Claimant's monthly mortgage payment to an amount that was higher than his original payment under the note, and further, that this was caused by Debtors' advice to default on his mortgage. Debtors have no liability for the assertion that Debtors advised Claimant to default for the reason set forth in the preceding paragraph. Debtors have no liability for the assertion that Debtors wrongfully increased Claimant's monthly payment because i) although Claimant's payment did increase, GMACM offered Claimant the only payment option available to Claimant under the investor's modification guidelines. Under Claimant's note, Claimant only paid interest on his loan. The loan modification terms available for Debtors to offer at the time Claimant applied for the loan modification did not include an interest-only option, but did include a principal and interest option. Furthermore, the modification</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>provided economic benefit to Claimant by reducing his interest rate from 5.375% to 3.2%, creating payment terms that allowed Claimant to pay his past due balances over time rather than at the end of the loan term, and also eliminated the delinquency on the account.</p> <p>Claimant agreed to the terms of the modification and the required monthly payments at issue by executing the modification agreement and delivering it to Debtors on March 30, 2009. A copy of the Modification Agreement is attached as <u>Exhibit 6</u> to the Objection. Additionally, leading up to the execution of the loan modification, Debtors explained to Claimant the reason for the increase to the proposed monthly payments, so Claimant was aware of, and provided ample explanation of, the terms prior to Claimant executing the agreement.</p> <p>In support of Debtors' objection pertaining to Claimant's loan modification related claims, Debtors' servicing records show the following timeline of events:</p> <p>On November 19, 2008 Claimant spoke to Debtors by phone and asked for a loan modification. Debtors' advised that modifications and other loss mitigation options are offered only for accounts that are owing for two months or more. Claimant insisted that he wanted a loan modification at that time, stating that he did not want his credit to be affected. Debtors advised Claimant that even if his account was referred for a loan modification review, the modification would be</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>denied due to his account being current. Claimant stated that he had already discussed a refinance with the Debtors' direct lending department but that a refinance was "not going to happen."</p> <p>Debtors spoke with Claimant on January 6, 2009 via phone. Debtors advised Claimant that a loan modification was not available at that time because the Claimant's account was current, however there may be new traditional loan modification options in February that Claimant would qualify for. Debtors spoke with Claimant on January 30, 2009 via phone. Debtors took verbal financials from Claimant and referred his account to loan modification review. Debtors denied Claimant's loan modification request on February 3, 2009 due to Claimant having obligations well in excess of Claimant's financial resources to meet those obligations. Debtors spoke with Claimant on February 17, 2009 via phone, at which time Claimant stated that the financial information he had previously provided was incorrect and Claimant provided Debtors with updated financial information. Debtors again referred the account for loan modification review.</p> <p>Debtors approved Claimant for a traditional loan modification on February 27, 2009. The terms included a payment contribution of \$3,483.46 due on March 15, 2009, \$13,324.29 in past due interest capitalized to principal, a reduced interest rate from 5.375% to 3.2% and bringing current the past due payments from December 2008 through April 2009. The monthly P&amp;I payment prior to loan</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>modification was \$2,834.51 and the new monthly P&amp;I payment was \$3,138.56. Debtors mailed a permanent loan modification agreement to Claimant on March 3, 2009.</p> <p>Debtors spoke with Claimant on March 9, 2009 via phone. Claimant questioned why the proposed monthly payment increased. Debtors advised him that the payment increased due to Debtors capping the delinquent amount to bring the account current, and that it was not possible to lower the proposed modified payment. Debtors spoke with Claimant on March 19, 2009 via phone, at which time Claimant stated that the proposed loan modification does not help him. Debtors advised Claimant that his options for bringing the account current were either to accept the proposed modification or to pay the delinquent balance on his loan.</p> <p>Debtors spoke with Claimant on March 24, 2009 via phone. Claimant wanted to know how to send in the permanent modification documents. Debtors advised that the documents and the payment contribution need to be received by March 31, 2009. Debtors received the first payment under the plan on March 27, 2009 and the signed traditional permanent modification documents from Claimant on March 30, 2009.</p> <p>Finally, Debtors have no liability for Claimant's assertion that Debtors wrongfully</p>	



Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>denied him a short sale, or failed to assist Claimant with a short sale. In every instance a short sale was denied, Debtors acted in accordance with the investor's guidelines, which stated that Debtors could not accept a short sale if the net proceeds from the sale would be less than 85% of the BPO (broker price opinion) after closing costs, commissions and fees in connection with the sale. In support of Debtors' basis for objection to the short-sale related claim, Debtors' records show the following chronology of events:</p> <p>Debtors mailed Claimant a short sale package on November 13, 2009. Debtors ordered a BPO on November 17, 2009. Debtors received a BPO on November 24, 2009 showing an estimated value of \$580,000. Debtors spoke with Claimant's authorized real estate agent on November 30, 2009. Debtors advised realtor to drop listing price to match fair market value of property based on BPO, or \$580,000. Debtors referred the account to Foreclosure on January 6, 2010 because Claimant had not received an offer on the property, and Claimant had not made arrangements to bring the account current. At that time, a short sale was still an option on the account.</p> <p>Debtors spoke with Claimant's realtor via phone on January 29, 2010, at which time the realtor advised that they had lowered the listing price but had still not received any offers and that they hope to have an offer within a week as there was a scheduled showing coming up. Debtors again spoke with Claimant's realtor</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>via phone on January 29, 2010. The realtor informed Debtors that they had an offer. Debtors advised the realtor to go back to the purchaser for their highest and best offer as the offer amount was too low and did not comply with the investor guidelines.</p> <p>Debtors spoke with Claimant's realtor via phone on February 23, 2010. Debtors advised the realtor that the investor of the loan requires at least an 85% net price based on the BPO. Debtors ordered a new BPO to be completed on March 15, 2010. The new BPO estimated the property value at \$530,000. Debtors received a new offer of \$450,000 on April 5, 2010. This offer was still below the 85% net value investor required of \$450,500 after closing costs and fees. Debtors emailed Claimant's realtor and informed them that the offer was below the investor requirement. The foreclosure sale was held on July 28, 2010 as an approved short sale offer was not received on the account, and Claimant had made no other arrangements to bring account current. The property was repurchased for \$477,000 and put in REO for sale.</p> <p>Based on the facts and reasons stated above, the proof of claim does not give rise to liability for claims of breach of contract, breach of duty of good faith and fair dealing, promissory estoppel, breach of fiduciary duty, negligent misrepresentation, deceptive trade practices, negligence, civil conspiracy,</p>	

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			interference with contract, negligent infliction of emotional distress or fraud.	
3842	Matina De Simone c/o Laird J. Heal, Esq  120 Chandler Street, Suite 2 R  Worcester, MA 01609  \$500,000.00  Secured  GMAC Mortgage, LLC	Origination Issues, Wrongful Foreclosure, Res Judicata	<p>Non-Debtor MortgageIT originated the loan on January 30, 2007. Debtor GMAC Mortgage, LLC serviced the loan from February 9, 2007 until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. The mortgage was assigned by MERS to Debtor on August 25, 2009 and from Debtor to HSBC Bank, NA, as trustee on March 25, 2013.</p> <p>Claimant attaches to her proof of claim a copy of a restraining order entered on May 20, 2010 in the Commonwealth of Massachusetts Superior Court, Case No. MICV2010-01074 and a Notice of Intent to Foreclose dated August 18, 2011.</p> <p>Ocwen and HSBC Bank USA, National Association as Trustee for the Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-OA5 previously filed a limited response to this claim on September 15, 2014 (Docket No. 7542). That response reserved the right to object to the claim.</p> <p>Claimant's husband also filed a proof of claim, claim number 3829. That claim was expunged by the court's <i>Order Granting the ResCap Borrower Claims Trust's Joinder and Supplemental Objection to Ocwen Loan Servicing LLC's Objection to Claim Number 3829 filed by Robert De Simone Incorporated Therein</i> [Docket No. 7952]. This claim is based on the exact same allegations as claim number 3829.</p>	8-10, 12-13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>On May 18, 2010, Claimant filed litigation against Debtor and others (with case number above). Debtor filed for Summary Judgment on two counts asserted against Debtors - Count I for violation of the Massachusetts Consumer Credit Cost Disclosure Act and Count IV for damages under Consumer Protection Statute GL Chapter 93A ("Chapter 93A"). Summary Judgment was granted in favor of Debtor on May 22, 2012. However upon filing of the Notice of Bankruptcy, final judgment was entered on October 22, 2012 dismissing only Count I as it related to equitable relief and count IV was stayed. A copy of the order dismissing count I is attached to the Objection as <u>Exhibit 7</u>.</p> <p>By Notice of Intention to Foreclose and of Deficiency After Foreclosure of Mortgage, dated July 6, 2012, Orlans Moran (on behalf of Debtor) noticed the Claimaint of Debtor's intent to foreclose by sale on August 2, 2012. On August 1, 2012, Claimaints filed a complaint for contempt against Debtor claiming that by noticing the foreclosure sale, it violated the previously issued injunction, which had not been expressly dissolved by the court after its summary judgment decision. On August 21, 2012, Debtor filed a motion to dismiss the contempt complaint and dissolve the injunction. The court concluded that in light of the allowance of Debtor's motion for summary judgment (which necessarily determined that the Claimaints' claims lacked any merit), the Claimaints could not prove an act of civil contempt and dismissed the contempt case and disssolved</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>the injunction on October 23, 2012.</p> <p>On November 21, 2012, Claimaint filed notice of appeal as to the summary judgment order and dismissal of the civil contempt complaint, Commonwealth of Massachusetts, Court of Appeals, Docket #2013-P-0114. On February 25, 2014, the appellate court affirmed the Superior Court dismissal orders.</p> <p>The allegations as to Debtor's liability under Chapter 93A have no basis because Chapter 93A claims cannot be advanced against assignees of a mortgage. Claimaint alleges in her complaint that Debtor is liable based on its status as an assignee, that Debtor is liable for MortgageIT's alleged inaccurate disclosures on the TIL and in making Claimaint an "unaffordable loan." Plaintiffs' Chapter 93A claim against Debtor fails as a matter of law: under Massachusetts law, an assignee of a mortgage cannot be held liable for purported violations of Chapter 93A.</p>	
3910 and 4085	PHILIP EMIABATA AND SYLVIA EMIABATA VS. HOMECOMINGS FINANCIAL (GMAC MORTGAGE LLC)	Loan Modification Issues, Wrongful Foreclosure, Escrow Issues, Origination Issues	Non-debtor Home Loan Corporation originated the loan on August 29, 2002. Debtor Residential Funding Company, LLC purchased the loan from Home Loan and transferred its interest when the loan was securitized on or about March 1, 2003 where JP Morgan Chase Bank, NA was appointed as Trustee. Debtor Homecomings Financial serviced the loan from January 29, 2003 until servicing transferred to GMAC Mortgage, LLC on July 1, 2009. GMAC Mortgage serviced	8-10, 12-13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
	<p>508 Grosbeak Drive Pflugerville, TX 78660</p> <p>\$228,928.28 General Unsecured</p> <p>\$271,071.72 Secured</p> <p>GMAC Mortgage, LLC</p>		<p>the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013.</p> <p>In a handwritten letter attached to the proof of claim, Claimant states the basis for claim is “(law)suit or claim creditor have against debtor on the property.” In box 8 of the proof of claim form, Claimant states “see case against GMAC LLC case # 11cv-11885 US District Court of Massachusetts Boston Division”. Claimant provides no explanation for the \$500,000 claim amount asserted in box 1 of the proof of claim form. On June 21, 2013, Debtors sent a Request Letter to Claimant seeking additional information and documentation in support of the claim. In a letter response received July 22, 2013, Claimant references the Massachusetts case and alleges “deceptive trade practices, various fraudulent foreclosures”, damaging Claimant’s credit, wrongfully refusing to give credit for payments, “creditor was not given exactly (sic) the acreage of the land which creditors paid for.” In Claimant’s lawsuit against Debtors (case # 11cv-11885), Claimant alleges the following: i) “deceptive trade practices, fraud, non-disclosure”, ii) Debtor gave Claimant a “sub-prime” loan when they wanted a different loan, iii) Debtors broke their promise that the loan would convert to a 30 year fixed rate loan after one year, iv) Debtors failed to properly credit Claimants account with payments made by Claimant, v) in 2010, Debtors failed to provide Claimant with a 1099 despite Claimant’s requests, vi) Debtors mishandled the Claimant’s escrow account and wrongfully required escrow for insurance when Claimant was paying</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>their own insurance, vii) Claimant did not receive title to all of the land it was supposed to acquire, presumably in connection with Claimant's mortgage loan, viii) wrongful foreclosure, and ix) wrongful denial of loan modification.</p> <p>Debtors have no liability for allegations that they provided Claimants with a "sub-prime" loan or that they "broke their promise that the loan would convert to a fixed rate loan" because the Debtors were not involved in the origination of the loan.</p> <p>Debtors have no liability for Claimant's loan modification claims because in every instance Debtor acted in accordance with the applicable investor and government guidelines and Debtors' standard policies and procedures. Furthermore, Claimant never submitted all the required items to Debtor in order for Debtor to be able to consider Claimant for a loan modification.</p> <p>Debtors have no liability for Claimants' wrongful foreclosure allegations because in every instance that Debtors employed foreclosure steps, Debtors acted within its rights under the terms of the mortgage, the note and applicable law. In support of Debtors' position that there is no liability for allegations of wrongful foreclosure or wrongful denial of loan modification, Debtors' records reflect the following:</p> <p>Debtors mailed a breach letter to Claimants on September 28, 2007 because the</p>	

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			<p>account was past due. On October 17, 2007, Claimant spoke to Debtors via phone. During the conversation, Claimants disputed the delinquency on their account and stated that they felt that the loan should be current as payments were made during the Claimants' bankruptcy (Claimants filed for chapter 13 bankruptcy protection on May 2, 2005 and the case was dismissed on September 17, 2007). Debtors explained to Claimants that the bankruptcy payments were applied to the most delinquent payment first and were not enough to bring the account current (at the time of the conversation, the account owed for the October 2005 through October 2007 payments). Debtors discussed modification options with Claimants and the account was referred for modification review.</p> <p>A traditional permanent loan modification was approved by Debtors on October 30, 2007. Debtors mailed documents to Claimants on the same day. The terms included a contribution amount of \$2,500 due by November 9, 2007, a new interest rate of 8.4%, a new margin of 3.4, a new ARM change date of March 2010, and the capitalization of \$102,000 to the principal balance.</p> <p>Claimants spoke to Debtors via phone on November 9, 2007. Claimants had questions regarding the loan modification that the Debtors answered. On November 27, 2007, Claimants' contribution check for \$2,500 was returned because the payment was required to be made via certified funds. Because the</p>	



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			<p>initial contribution was not received, the agreement was cancelled.</p> <p>On December 5, 2007, Debtors offered a new modification to Claimants with terms that included a \$2,500 contribution due by December 15, 2007, a new interest rate of 8.4%, a new margin of 3, an ARM date change to March 2010, and the capitalization of \$102,000 to principal balance for amounts owing. Debtors denied the permanent modification on February 5, 2008 due to Claimants not returning the signed documents and failing to pay the initial contribution.</p> <p>Claimants spoke to Debtors via phone on February 8, 2008. Claimants stated that they disputed the amount due on the account, and on that basis, they disputed the amount owing under the modification. During the call, Debtors explained the total amount due on account.</p> <p>Debtors referred the account to foreclosure on February 15, 2008 as the account was due for October 1, 2005 payment. On April 15, 2008, Claimants spoke to Debtors via phone and Claimants disputed amount due on account, but said that they would still like a modification on the account. Debtors advised them it will review the dispute. Debtors attempted to contact Claimants via phone on May 21, 2008 to discuss the payment dispute, but Claimants did not answer. Debtors left Claimants a message and a payment history was mailed to Claimants showing an accounting of Claimants' account.</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>Claimants spoke to Debtors via phone on May 23, 2008. Debtors set up a temporary repayment plan on the account to allow time for Debtors to review Claimants' payment dispute on the account. The plan was setup for Claimants to remit two payments of \$3,200 due on June 2 and July 2, 2008. Claimants spoke to Debtors via phone on June 2, 2008, at which time Debtors provided Claimants with payment instructions and Claimants requested that a copy of the repayment plan be faxed to them. Debtors faxed a copy to fax number Claimants provided. On June 2, 2008, Debtors closed the foreclosure file due to the account being set up on a loss mitigation repayment plan on June 6, 2008. Debtors received a debt dispute from Claimants on June 3, 2008 and Debtors began reviewing the dispute.</p> <p>Debtors returned a repayment plan payment received via personal check #778 in amount of \$3,200 on July 3, 2008 as the account required certified funds for the repayment plan payment. On July 17, 2008, Debtors cancelled the temporary plan because no replacement payment was received. Debtors mailed a breach letter to Claimants on July 18, 2008. Claimants spoke to Debtors via phone on July 21, 2008, at which time Debtors explained that the temporary plan was no longer active because Debtors did not receive certified funds for the payment due by July 2, 2008. Claimants advised that they still dispute the account balance. Debtors advised it cannot setup another temporary plan to allow more time as two months has already been given.</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>Debtors referred the account to foreclosure on August 21, 2008 as the account was due for December 1, 2005 payment. On August 25, 2008, Debtors scheduled the foreclosure sale for November 4, 2008.</p> <p>Claimants spoke to Debtors via phone on October 17, 2008. Claimants again disputed the application of payments and account balance. Debtors advised Claimants to send all proof of dispute in for review. Claimants spoke to Debtors via phone on October 21, 2008. Debtors advised Claimants that it needs bank statements to prove the payments cleared the bank and were received by Debtors. Debtors also advised Claimants of the pending foreclosure sale on November 4, 2008 and advised them of the options to apply for a loan modification; however, Claimants refused to discuss.</p> <p>Debtors received a fax from Claimants on October 27, 2008. Claimants did not include the bank statements requested by Debtors to confirm that the payments cleared the bank and were truly received by Debtors. Additionally, Debtors determined that the payments referenced in the faxed documents did not match the payments Claimants disputed in prior conversations and written statements with Debtors. Nonetheless, according to the fax, Claimants allege they sent in 22 payments between June 2005 and August 2007. Debtors confirmed all payments listed except one had been received. Debtors also confirmed that the payments received were correctly applied to the account. Note, the payments received</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>between months of June 2005 and August 2007 were payments made under Claimants' chapter 13 case (case number 0512492), and when Claimants filed for bankruptcy, the account was owing for February 2004 through May 2005 Payments.</p> <p>Claimants spoke to Debtors via phone on October 31, 2008. Claimants called to confirm and check the status of the documents faxed into Debtors, and Debtors advised that the documents were received on October 30, 2008. Homecomings advised it still needs to receive proof that the checks sent by Claimants had been cashed.</p> <p>Debtors placed a foreclosure hold on the account on November 4, 2008 to allow time to review the Claimants' loan modification package, at which time the foreclosure sale date was rescheduled for December 2, 2008. On November 14, 2008, Debtors received notification that Claimants had filed for Chapter 13 bankruptcy protection on November 4, 2008 in the United States Bankruptcy Court for the Western District of Texas (case number 0812211). The foreclosure was put on hold to November 17, 2008 due to the Claimants' bankruptcy. Debtors were informed on August 20, 2009 that Claimants' Chapter 13 Bankruptcy was dismissed on August 5, 2009.</p> <p>On October 19, 2009, Claimants spoke to Debtors via phone, at which time</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>Claimants advised that their bankruptcy was refiled (case number 09-37104). Claimants' bankruptcy was dismissed on October 29, 2009.</p> <p>Claimants spoke to Debtors via phone on November 9, 2009. Debtors discussed a possible HAMP modification with Claimants and set up a forbearance plan to allow time for Claimants to get a workout package in for modification review. GMAC Mortgage, LLC advised that it would mail a workout package to Claimants. Claimants spoke to Debtors via phone on November 14, 2009, at which time Claimants stated that they did not receive a copy of the workout package or the forbearance plan. Debtors remailed both to Claimants. Debtors received the signed copy of the forbearance plan on November 20, 2009.</p> <p>Claimants spoke to Debtors via phone on November 21, 2009. Claimants advised that they still had not received a workout package. Debtors advised Claimants how to access documents online. Claimants spoke to Debtors via phone on November 24, 2009 and they advised that they received the workout package. Debtors advised Claimants to send the completed package in as soon as possible.</p> <p>Debtors received a workout package from Claimants on December 16, 2009. Claimants spoke to Debtors via phone on January 22, 2010, at which time they informed the Debtors they wanted the foreclosure stopped since the account was under review for a modification. Claimants spoke to Debtors via phone on</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>February 2, 2010, at which time Debtors advised Claimants that the workout package was received in December 2009 but the loan has not been approved for a modification yet.</p> <p>Debtors sent emails to Claimants on March 18 and May 12, 2010 advising them of missing information that was needed for the modification review. The Debtors did not receive the necessary information from the Claimants.</p> <p>On August 12, 2012, Debtors sent Claimants a new breach letter on the account. Debtors referred the account to foreclosure on October 4, 2012 as the account was due for January 1, 2006.</p> <p>On November 9, 2012, Debtors scheduled a foreclosure sale for January 2, 2013. Debtors then postponed the foreclosure sale to February 5, 2013. The foreclosure sale did not proceed because of the Claimant's Massachusetts bankruptcy case.</p> <p>The Claimants filed Chapter 13 bankruptcy again on February 1, 2013. The bankruptcy was filed in Boston, MA (case number 13:10609). Debtors placed the foreclosure on hold on February 4, 2013 due to the Claimants' bankruptcy filing. The account was transferred to new servicer, Ocwen Loan Servicing, on February 16, 2013. At the time of servicing transfer to Ocwen, there was no active</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>foreclosure action, and the account was due for the June 1, 2006 payment.</p> <p>Debtors have no liability for Claimants' assertion that Debtors mishandled the Claimants' escrow account and wrongfully required escrow for insurance when Claimants were paying their own insurance. According to the Debtors' books and records, in each instance that Debtors placed property insurance on Claimants' property and required escrows for insurance, Debtors acted within their rights as provided in the deed of trust (see sections 3 and 5 of the deed of trust) because Claimants had not provided proof of property insurance despite Debtors' requests for such proof. When Claimants finally did provide evidence of insurance, Debtors appropriately refunded Claimants the lender-placed premiums due to Claimants. In support of Debtors' basis for objection with respect to escrow and insurance related claims, Debtors' servicing notes show the following:</p> <p>When servicing transferred to Homecomings on January 29, 2003, the transferring party indicated that the borrower was escrowing for taxes only; however, the transferring party failed to provide proof of Claimants' property insurance coverage. In accordance with Debtors' business practices and its duty to ensure a borrower's property is properly insured, on March 13, 2003, Debtors' sent a letter to Claimants requesting proof of property insurance. Debtors' records show that Claimants failed to respond to the letter. Because Claimants failed to respond to the letter, on July 24, 2003 Debtor obtained lender-placed</p>	

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>property insurance on the property with a payment of \$10,554.60 and policy effective dates covering April 24, 2003 through April 24, 2004. Debtors appropriately charged \$10,554.60 to Claimants' escrow account. In a phone call with Claimants on December 3, 2003, Claimants stated that they had their own property insurance and would fax evidence of this insurance to Debtors; however, Claimants failed to provide such proof. On March 25, 2004, Debtors disbursed \$10,549.57 for lender-placed insurance with policy effective dates April 24, 2004 through April 24, 2005. Debtors appropriately charged the \$10,549.57 to Claimants' escrow account. On September 4, 2004, Claimants provided proof of property insurance, and on that basis, Debtor cancelled the lender-placed policy and credited Claimants' escrow account on October 6, 2004 with a refund in the amount of \$6,709.45.</p> <p>Claimants also allege that Debtors failed to provide a 1099. Assuming that Claimants are referring to a "Form 1099-C: Cancellation of Debt," Debtors' records do not show a cancellation of debt on the account and therefore no 1099-C was required to be sent to Claimants. If Claimants meant a 1098 form, which shows annual interest paid on an account to be used for tax purposes, such forms are provided annually and Debtors' records do not reflect a request by Claimants for a replacement 1098.</p> <p>Based on the facts and reasons stated above, the proof of claim does not give rise</p>	



Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			to liability for claims of deceptive trade practices.	
5488	Gloria D. Minor  860 Bonneville, Terrace, N.W.  Atlanta, GA 30331  \$91,739.25  General Unsecured	Insufficient Documentation	Mid Atlantic Financial Services originated Claimant's loan on April 28, 2005. Debtor Residential Funding Company, LLC purchased the loan from Mid Atlantic and transferred its interest when the loan was securitized on or about August 1, 2005 where US Bank, NA was appointed as Trustee. Debtor Homecomings Financial serviced the loan from June 1, 2005 until servicing transferred to GMAC Mortgage, LLC on or about July 1, 2009. GMAC Mortgage LLC serviced the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013.  Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "mortgage note" as basis for claim in box 2 of the proof of claim form. Claimant provides no other explanation of the basis for claim. Claimant attaches to the proof of claim copies of several monthly mortgage statements, a copy of an approval letter for a loan modification dated March 13, 2009, a copy of an executed loan modification agreement dated May 1, 2009, and a copy of a check made to Homecomings Financial for \$821.56 dated May 4, 2009. On June 21, 2013, Debtors mailed to Claimant a letter requesting additional information and documentation in support of the claim; however, Claimant failed to respond. The Claimant received a permanent loan modification from the Debtors on June 9,	

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			2009, which brought the account current. At the time servicing was transferred to Ocwen, the Claimant's account was current.	
3874	Scott W. Bell 19912 Lowry St. Marion, MI 49665-8604  \$88,000  General Unsecured  GMAC Mortgage, LLC	Insufficient Documentation	<p>Homecomings Financial originated the loan on February 6, 2004. Debtor Residential Funding Company, LLC purchased the loan from Homecomings and transferred its interest when the loan was securitized on or about March 1, 2004 where Bank of New York Trust Company, NA was appointed as Trustee. Debtor Homecomings Financial serviced the loan from February 6, 2004, until servicing transferred to GMAC Mortgage, LLC on or about July 1, 2009. GMAC Mortgage LLC serviced the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was owing for December 1, 2012 payment.</p> <p>Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "mortgage note" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation for the basis for claim. Claimant attaches to the proof of claim three letters dated between 2011 and 2012 in which Debtor either advises Claimant about the status of their account, or responds to correspondence and requests for assistance. In the letter dated March 11, 2011 attached to the proof of claim, Debtors explain past account information</p>	13

Claim No(s).	Name and Address		Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
	Claim Amount	Asserted Debtor Name			
				including information related to the Claimant's property taxes, loan modification activity and agreement terms, and escrows. In the letter dated October 18, 2012 attached to the proof of claim, Debtor advises Claimant that they are past due and a late fee was assessed to the account. In the letter dated October 19, 2012 attached to the proof of claim, Debtor advises Claimant that Debtor has been attempting to contact Claimant, and that "your account is now past due". In 2013, Debtors mailed to Claimant a letter requesting additional information and documentation in support of the claim; however, Claimant failed to respond.	

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
3955	<p>Michael McGrath, Katelyn Genell Wise  Attn Andrew F. Lanius  Shipley Law Firm    20110-A U.S. Highway 441  Mount Dora, FL 32757-6963  \$76,329.00  General Unsecured  GMAC Mortgage, LLC</p>	Insufficient Documentation, Origination Issues	<p>USAA Federal Savings Bank originated the loan on May 16, 2006. Debtor GMAC Mortgage, LLC purchased the loan from USAA and transferred its interest to Fannie Mae on or about October 12, 2006. Debtor GMAC Mortgage LLC serviced the loan from May 24, 2006 until servicing transferred to GreenTree Servicing, LLC on February 1, 2013. At the time servicing transferred to GreenTree Claimant's account was current.</p> <p>Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "negative equity in fraudulent mortgage" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation for the basis of the claim. Claimant attaches to the proof of claim copies of a note, mortgage, and a condominium rider. Debtors mailed Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p> <p>Notwithstanding the above, if Claimant contends that their loan was made fraudulently, Debtors have no liability because Debtors were not involved with the origination of the loan. Debtors' review of the note shows that USAA Federal Savings Bank originated the loan on May 16, 2006.</p>	8-9, 13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
1142	<p>Steven D. Rigel</p> <p>751 Becker Ave N.E.</p> <p>Palm Bay, FL 32905</p> <p> \$76,000.00</p> <p>General Unsecured</p> <p> Homecomings Financial, LLC</p>	Insufficient Documentation	<p>Homecomings Financial originated the loan on October 9, 2007. Non-Debtor GMAC Bank purchased the loan from Homecomings. Debtor GMAC Mortgage, LLC purchased the loan from GMAC Bank and transferred its interest to Freddie Mac on or about November 20, 2007. Debtor Homecomings Financial serviced the loan from October 9, 2007 until servicing transferred to GMAC Mortgage, LLC on or about July 1, 2009. GMAC Mortgage LLC serviced the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was owing for June 1, 2012 payment.</p> <p>Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "mortgage note" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation of the basis for claim. Claimant attaches to the proof of claim i) a copy of the first page of a Contract for Sale and Purchase in connection with property in Palm Bay, Florida. Within the document, Claimant is listed as the buyer; ii) a copy of a "First Payment Notice" dated October 9, 2007, which lays out the amount of the monthly payment due to Homecomings in connection with Claimant's loan; iii) a copy of an amortization schedule of Claimant's loan; iv) a copy of a loan modification approval dated September 26, 2012, and v) a document that appears to be a portion of a credit report dated</p>	13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>September 12, 2012 showing that Claimant's mortgage account is "Late 120 Days".</p> <p>Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p>	
5644	<p>Don Barthelme</p> <p>12104 Cornflower Place</p> <p>Oklahoma City, OK 73120</p> <p> \$55,069.56</p> <p>Secured</p> <p> GMAC Mortgage, LLC</p>	Insufficient Documentation, Origination Issues	<p>Oak Street Mortgage originated two loans to claimant, a first lien loan and a second lien loan, on August 24, 2004. Non-Debtor Sovereign purchased the second lien loan from Oak Street. Debtor Residential Funding Company, LLC purchased the second lien loan from Sovereign and transferred its interest to EMC Mortgage Corporation on or about March 30, 2007 when the loan was securitized. Debtor GMAC Mortgage, LLC serviced the loan from March 13, 2007 until servicing transferred to First American Funding on January 1, 2011. At the time servicing transferred to First American Funding, Claimant's account was owing for March 28, 2007 payment.</p> <p>Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "mortgage fraud - mers" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation of the basis for claim. Claimant</p>	8-9, 13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>attaches to the proof of claim only a redacted copy of Claimant's April 2009 mortgage statement in connection with their 2nd lien mortgage. Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p> <p>If Claimant contends that Debtors procured Claimant's loans by fraud, Debtors have no liability because no Debtor was involved with the origination of Claimant's loans. Debtors' records show Claimant's first lien loan was originated by Oak Street Mortgage, LLC on August 24, 2004. The second lien loan was also originated by Oak Street Mortgage on or around August 24, 2004.</p>	
1278	<p>Lula Darnell Dilworth and Raymond Q. Dilworth Jr.</p> <p>21787 Duns Scotus St</p> <p>Southfield, MI 48075</p> <p>\$50,000.00</p>	Origination Issues	<p>Quicken Loans originated the loan, a second lien mortgage, on April 28, 2006. Non-Debtor Ally Bank purchased the loan from Quicken. Debtor GMAC Mortgage LLC serviced the loan from May 30, 2006 until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was current.</p> <p>Claimant asserts "due to predatory lending we obtained a 2nd mortgage with an appraisal that was too high for the market" as basis for claim in box 2 of the proof of claim form. Claimant attaches to the proof of claim a document written by Claimant stating that i) the "predatory lending" was procured by "Quicken Loans and GMAC in April 2006"; ii) "if not for the appraisal of \$288,000 we would have</p>	8-9

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
	General Unsecured  GMAC Mortgage, LLC		<p>never took out a second mortgage on our home," and iii) "we feel we have more than satisfied our obligations for this loan and ask for loan forgiveness for the remaining balance." Claimant provides no additional explanation of the basis for claim. Claimant attaches to the proof of claim a copy of Claimant's October 2012 mortgage statement in connection with their 2nd lien mortgage, a copy of Claimant's loan application dated April 26, 2004, and an appraisal dated March 3, 2004 showing an estimated market value of \$288,000.</p> <p>Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p> <p>Debtors have no liability for assertions of predatory lending on the basis of deficiencies in the appraisal because no Debtor was involved with the origination of Claimant's loan or the appraisal used to qualify Claimant for their loan. Debtors' records show Claimant's 2nd lien mortgage was originated by Quicken Loans, Inc. on April 28, 2006. Furthermore, Claimant's assertions and explanation within the proof of claim fail to support a valid predatory lending claim or show that Debtors violated any applicable laws governing predatory lending such as the Equal Credit Opportunity Act, the Home Ownership and Equity Protection Act, or any state or local laws.</p>	



Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
1412	<p>WILLIAM C FITHIAN III ATT AT LAW</p> <p>111 N MAIN ST Mansfield, OH 44902</p> <p>\$49,945.49</p> <p>General Unsecured</p> <p>GMAC Mortgage, LLC</p>	General Servicing Issues	<p>GMAC Mortgage Corporation d/b/a ditech originated the loan on January 25, 2003 and transferred its interest to Fannie Mae on or about February 21, 2003. Debtor GMAC Mortgage LLC serviced the loan from January 25, 2003 until servicing transferred to GreenTree Servicing, LLC on February 1, 2013. At the time servicing transferred to GreenTree, Claimant's account was current.</p> <p>Claimant asserts "mortgage already paid. Acknowledged by GMAC Mortgage several years ago" as basis for claim in box 2 of the proof of claim form. Claimant attaches to the proof of claim a May 2010 mortgage statement showing a maturity date of February 1, 2018 and a current principal balance of \$49,945.49, the asserted amount of the claim. Claimant provides no additional explanation of the basis for claim. Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p> <p>Debtors have no liability for the assertion that Claimant's mortgage was paid off and Debtors failed to apply the funds correctly to pay off the loan because this assertion is incorrect. Debtors' records show that Claimant never paid off their mortgage. At the time servicing was released to Greentree on February 1, 2013, Claimant's account was current with an unpaid principal balance of \$33,019.75. Furthermore, Debtors found no evidence in the servicing notes that Claimant ever disputed the principal balance of the loan or raised any issue regarding a payoff of</p>	7-8

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			their mortgage loan.	
2529	Shawn Petree, Anna Petree  4315 NE 45th St  Seattle, WA 98105  \$22,137.00  General Unsecured  GMAC Mortgage, LLC	Insufficient Documentation	GreenPoint Mortgage originated the loan on December 28, 2005. Debtor GMAC Mortgage LLC purchased the loan from GreenPoint and transferred its interest when the loan was securitized on or about July 28, 2006 when US Bank, NA was appointed as trustee. Debtor GMAC Mortgage LLC serviced the loan from May 5, 2006 until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was owing for the August 15, 2012 payment.  Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "2nd mortgage" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation of the basis for claim. Claimant attaches to the proof of claim copies of letters to GMAC Mortgage dated in September and October 2012, in which Claimant appears to demand certain information regarding their loan. The Debtors responded to this letter on October 17, 2012. Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed	13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			to respond.	
2045	Lillian C. Sandoval Estate and Belina Ramirez  c/o Belina Ramirez  PO Box 154  Manassa, CO 81141  \$20,037.51  General Unsecured  GMAC Mortgage, LLC	Insufficient Documentation	Community Banks of the Rockies originated the loan on July 29, 2003. Non-Debtor GMAC Bank purchased the loan from Community Banks. Debtor GMAC Mortgage LLC purchased the loan from GMAC Bank and transferred its interest in the loan to Fannie Mae. Debtor GMAC Mortgage LLC serviced the loan from September 5, 2003 until servicing transferred to GreenTree Servicing, LLC on February 1, 2013. At the time servicing transferred to GreenTree, Claimant's account was current.  Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "Mortgage" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation of the basis for claim. Claimant attaches to the proof of claim i) a "Notice of Assignment, Sale or Transfer of Servicing Rights" from Community Bank of the Rockies to non-Debtor GMAC Bank dated October 1, 2003; ii) a First Payment Letter dated July 29, 2003; iii) a copy of Claimant's note; iv) a document dated February 7, 2011 with a breakdown of costs to cure default in Claimant's foreclosure action; v) a copy of Claimant's October 2012 mortgage statement; vi) an "Assumption of Liability Agreement" dated November 10, 2008 signed by Claimant. Debtors mailed to Claimant a letter on June 21, 2013	13

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			requesting additional information and documentation in support of the claim; however, Claimant failed to respond.	
5527	Pamela Wagner and Michael S. Breuner  2724 Mountain Boulevard  Oakland, CA 94602-2608  \$16,277.96  General Unsecured  GMAC Mortgage, LLC	Insufficient Documentation	Homecomings Financial originated the loan on May 25, 2006. Debtor Residential Funding Company LLC purchased the loan from Homecomings and transferred its interest when the loan was securitized on or about June 1, 2006 when US Bank, NA was appointed as trustee. Debtor Homecomings Financial serviced the loan from May 25, 2006, until servicing transferred to GMAC Mortgage, LLC on or about July 1, 2009. GMAC Mortgage LLC serviced the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time of servicing transfer to Ocwen Claimant's account was current.  Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimant do not show how Debtors' connection to this claimant gives rise to liability. Claimant asserts "Mortgage claim" as basis for claim in box 2 of the proof of claim form. Claimant provides no additional explanation of the basis for claim. Claimant attaches to the proof of claim only a reinstatement letter sent to Claimant by Executive Trustee Services, LLC dated December 21, 2011, which states Claimant is due for the September 1, 2011 payment and owes \$16,277.96 to reinstate Claimant's loan. Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed	13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			to respond.	
3690	<p>GREGORY GULLO</p> <p>TERESA GULLO</p> <p>99 BRIAR LANE BOX 283</p> <p>CROMPOND, NY 010517</p> <p>\$10,364.00</p> <p>General Unsecured</p>	Escrow Issues, General Servicing Issues	<p>GMAC Mortgage Corporation d/b/a ditech originated the loan on June 2, 2003 and transferred its interest to Fannie Mae on or about July 8, 2003. Debtor GMAC Mortgage LLC serviced the loan from June 2, 2003 until servicing transferred to GreenTree Servicing on February 1, 2013. At the time servicing transferred to GreenTree, Claimant's account was current.</p> <p>Claimant asserts a claim for \$10,364.00 "if tax is not paid from escrow" as basis for claim in box 2 of the proof of claim form. Claimant attaches a property tax statement for the calendar year 2012 and a school tax statement for the fiscal year July 1, 2012 to June 30, 2013 issued by the Town of Cortland. Claimant provides no other documents in support of the claim. Debtors mailed to Claimant a letter on June 21, 2013 requesting additional information and documentation in support of the claim; however, Claimant failed to respond.</p> <p>Debtors have no liability for Claimant's claim because Debtors' records show Debtors paid all required taxes from Claimant's escrow account on time.</p> <p>Debtors' records show that Debtors remitted a property tax payment for 2012 taxes in the amount of \$3,451.34 on April 2, 2012, and a school tax payment in the amount of \$3,406.65 on September 6, 2012, and another school tax payment</p>	7-9

Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			in the amount of \$3,406.64 on January 22, 2013, for a total of \$10,264.63.	
4497	Herold Gay 31 Rosedale Rd North Woodmere, NY 11581  \$42,336.00  General Unsecured  Homecomings Financial, LLC	Origination Issues, Interest Rate and Fees	Trust One Mortgage Corporation originated the loan on May 17, 2006. Debtor Residential Funding Company LLC purchased the loan from Trust One Mortgage and transferred its interest to ETrade on or about May 30, 2006. Debtor Homecomings Financial serviced the loan from June 9, 2006 until servicing transferred to GMAC Mortgage, LLC on or about July 1, 2009. GMAC Mortgage LLC serviced the loan until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was owing for January 30, 2013 payment.  Claimant asserts "high interest rate 11% above" as basis for claim in box 2 of the proof of claim form. Claimant attaches a copy of his note and a "modification to payment date/revised payment coupon," both made by the lender Trust One Mortgage Corporation. Claimant provides no other documentation or explanation in support of the claim. On June 21, 2013 Debtors sent Claimant a letter requesting additional information and documentation in support of the claim. Claimant responded on July 22, 2013 stating "I was forced into obtaining this high interest rate home equity loan in 2006 in the amount of \$60,000. By calculation, I have been paying this interest since 2006 to date!" Claimant attaches to letter a Homecomings Financial account statement from August 2006. Claimant provides no additional explanation or documentation in support of the claim. Debtors'	7-8, 10-11

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>records show that Claimant submitted a workout package on March 9, 2009. Claimants' workout package was denied because her debt to income ratio was below the target payment. Claimant also applied for a modification in February 2013, however, her application was missing necessary documents, and the review of her account did not continue by the Debtor as the servicing was transferred to Ocwen.</p> <p>Debtors have no liability for any assertion involving the terms of Claimant's mortgage loan or for Claimant being "forced" to obtain their mortgage loan because no Debtor was involved in the origination of Claimant's loan. Debtors' records show the loan was originated by Trust One Mortgage Corporation on May 17, 2006. If it is Claimant's contention that Debtors did not charge the correct interest rate to Claimant, Debtors have no liability because in every instance, Debtors charged the rate in accordance with the terms of the Note agreed to by the Claimant.</p>	
5606	<p>Imelda Luna</p> <p>913 Forest Drive</p> <p>Colton, CA 92324-4551</p>	General No Liability	<p>GreenPoint Mortgage Funding originated the loan on February 2, 2006. Debtor GMAC Mortgage LLC purchased the loan from GreenPoint and transferred its interest when the loan was securitized on or about July 28, 2006 when US Bank, NA was appointed as trustee. Debtor GMAC Mortgage LLC serviced the loan from May 5, 2006 until servicing transferred to Ocwen Loan Servicing, LLC on February 16, 2013. At the time servicing transferred to Ocwen, Claimant's account was</p>	6-7

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
	\$28,580.73  General Unsecured		<p>current.</p> <p>Claimant fails to state a basis for claim in box 2 of the proof of claim form, but asserts a claim for \$28,580.73, which is also the principal balance of Claimant's mortgage loan reflected in a November 2012 mortgage statement that Claimant attaches to the proof of claim. Claimant also attaches a letter, explaining that as of November 16, 2012 she will no longer have a job, and that she is asking Debtors to lower her payment because she is "not sure" if she will be able to afford her payments. No other basis for claim or explanation for her basis for claim is provided. On May 20, 2013, Debtors mailed to Claimant a letter requesting additional information and documentation in support of their claim. Claimant responded on June 17, 2013 requesting again that Debtors "take the time to review my loan and help me." Claimant does not assert any damages or allege wrongdoing of any Debtor. Claimant states that she is unemployed and is underwater on her mortgages with Nationstar and Debtor. Claimant attaches to her letter Nationstar mortgage statements, an escrow statement, Claimant's gas and electric bills, and an Ocwen mortgage statement dated May 6, 2013. The Debtors' records reflect a loan modification completed in June, 2012, which reduced Claimant's interest rate from 4% to 1% with a ceiling of 3.875%. There is no record of a modification request from the Claimant after this date.</p> <p>Debtors have no liability because Claimant has failed to assert a valid basis for</p>	



Claim No(s).	Name and Address Claim Amount Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			claim. Nowhere in the proof of claim or letter response does Claimant assert any damages or allege wrongdoing that would impute liability to any Debtor. Furthermore, Debtor is no longer servicing Claimant's loan, so Debtor does not have the ability to modify Claimant's loan.	
2668	Eric T. Turnbach and Christine K. Turnbach  P.O. Box 344  Sybertsville, PA 18251   UNLIQUIDATED  General Unsecured   GMAC Mortgage, LLC	Insufficient Documentation	<p>GMAC Mortgage LLC originated the loan on April 25, 2008 and transferred its interest in the loan on or about May 27, 2008 to Fannie Mae. Debtor GMAC Mortgage LLC serviced the loan from April 25, 2008 until servicing transferred to GreenTree Servicing on February 1, 2013. At the time servicing transferred to GreenTree, Claimant's account was current.</p> <p>Debtors object to the claim on the grounds of "insufficient documentation" because the information and documents provided by Claimants do not show how Debtors' connection to this claimant gives rise to liability. Claimants simply proffer conclusory allegations and do not provide the Debtors with any details of the damages the Claimants alleged to have suffered for which a Debtor is purportedly responsible.</p> <p>Claimants assert "mortgage" as basis for claim in box 2 of the proof of claim form. Claimants attach only a website printout of Claimants' loan details. Claimants do not include any additional explanation or documentation in support of the claim. On May 20, 2013, Debtors mailed to Claimants a letter requesting additional</p>	13

Claim No(s).	Name and Address  Claim Amount  Asserted Debtor Name	Reason(s) for Disallowance	No Liability Summaries	Corresponding Page # in Omnibus Objection
			<p>information and documentation in support of their claim. Claimants responded on June 19, 2013 stating "we borrowed \$141,000 from GMAC Mortgage on 04/25/2008 till (sic) present. This is within the time frame that the incident occurred that the lawsuit is filed against." Claimants do not elaborate or describe the "incident" at issue, nor do Claimants provide any identifying information with respect to a "lawsuit". Claimants reattach to the letter Claimants' proof of claim, but do not attach any additional supporting documentation.</p> <p>Debtors found no evidence in their books and records of any lawsuit involving Claimants and Debtors, and the Borrower Trust is not aware of any such lawsuit.</p>	

**Exhibit 2**

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

_____	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
_____	)	

**DECLARATION OF KATHY PRIORE IN SUPPORT OF  
RESCAP BORROWER CLAIMS TRUST'S EIGHTY-SECOND OMNIBUS  
OBJECTION TO CLAIMS (NO LIABILITY BORROWER CLAIMS)**

I, Kathy Priore, hereby declare as follows:

1. I serve as Associate Counsel for the ResCap Liquidating Trust (the "Liquidating Trust"), established pursuant to the terms of the *Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC, et al. and the Official Committee of Unsecured Creditors* [Docket No. 6030] confirmed in the above-captioned Chapter 11 Cases. During the Chapter 11 Cases, I served as Associate Counsel in the legal department of Residential Capital, LLC ("ResCap"), a limited liability company organized under the laws of the state of Delaware and the parent of the other debtors in the above-captioned Chapter 11 Cases (collectively, the "Debtors"). On May 1, 2008, I began as in-house litigation counsel at ResCap. Prior to my in-house litigation counsel position, I held various roles within the legal department at ResCap.

2. In my role as Associate Counsel at ResCap, I was responsible for the management of litigation, including, among others, residential mortgage-related litigation. In connection with ResCap's chapter 11 filing, I also assisted the Debtors and their professional advisors in connection with the administration of the chapter 11 cases, including the borrower litigation matters pending before this Court. In my current position as Associate Counsel to the Liquidating Trust, among my other duties, I continue to assist the Liquidating Trust and the

Borrower Claims Trust (the “Borrower Trust”) in connection with the claims reconciliation process.<sup>1</sup> I am authorized to submit this declaration (the “Declaration”) in support of the *ResCap Borrower Claims Trust’s Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)* (the “Objection”).<sup>2</sup>

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge of the Debtors’ operations, information learned from my review of relevant documents and information I have received through my discussions with other former members of the Debtors’ management or other former employees of the Debtors, the Liquidating Trust, and the Borrower Trust’s professionals and consultants. If I were called upon to testify, I could and would testify competently to the facts set forth in the Objection on that basis.

4. In my capacity as Associate Counsel, I am intimately familiar with the claims reconciliation process in these Chapter 11 Cases with regard to Borrower Claims. Except as otherwise indicated, all statements in this Declaration are based upon my familiarity with the Debtors’ books and records, the Debtors’ schedules of assets and liabilities and statements of financial affairs filed in these Chapter 11 Cases (collectively, the “Schedules”), my review and reconciliation of claims, and/or my review of relevant documents. I or my designee at my direction have reviewed and analyzed the proof of claim forms and supporting documentation, if any, filed by the claimants listed on Exhibit A annexed to the Proposed Order. Since the Plan became effective and the Borrower Trust was established, I, along with other members of the

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<sup>1</sup> The ResCap Liquidating Trust and the ResCap Borrower Claims Trust are parties to an Access and Cooperation Agreement, dated as December 17, 2013, which, among other things, provides the Borrower Trust with access to the books and records held by the Liquidating Trust and Liquidating Trust’s personnel to assist the Borrower Trust in performing its obligations.

<sup>2</sup> Defined terms used but not defined herein shall have the meanings ascribed to such terms as set forth in the Objection.

Liquidating Trust's management or other employees of the Liquidating Trust have consulted with the Borrower Trust to continue the claims reconciliation process, analyze claims, and determine the appropriate treatment of the same. In connection with such review and analysis, where applicable, I or the Liquidating Trust personnel under my supervision, and the Liquidating Trust's and the Borrower Trust's professional advisors have reviewed (i) information supplied or verified by former personnel in departments within the Debtors' various business units, (ii) the Debtors' books and records, (iii) the Schedules, (iv) other filed proofs of claim, and/or (v) the Claims Register maintained in the Debtors' Chapter 11 Cases.

5. The Liquidating Trust, in support of the Borrower Trust, diligently evaluated any information provided by the claimants who filed the No Liability Borrower Claims, listed on Exhibit A to the Proposed Order. In accordance with the Borrower Claim Procedures, the Debtors previously contacted those Borrowers who filed the No Liability Borrower Claims whose claims were filed with insufficient or no supporting documentation and requested that they provide additional information so that the Debtors could reconcile such claimants' filed claims with the Debtors' books and records. Beginning in May of 2013, the Debtors sent Request Letters, substantially in the form as those attached at Exhibit 4 to the Objection, to all of the Borrowers that filed the No Liability Borrower Claims requesting additional documentation in support of their respective claim. The Borrowers who received the Request Letters either failed to respond to the Debtors' requests or failed to provide sufficient information to establish a basis for liability.

6. At my direction and with my oversight, the Liquidating Trust, in support of the Borrower Trust, thoroughly reviewed the No Liability Borrower Claims listed on Exhibit

A to the Proposed Order, together with information contained within the Debtors' books and records.

7. These efforts led to the conclusion that there is no present liability due and owing to such claimants and the specific objections to the allowance of such claims are set forth on Exhibit A to the Proposed Order in the column titled "*No Liability Summaries.*" The explanations for the requested disallowance of each claim set forth under the heading titled "*No Liability Summaries*" are incorporated by reference into this Declaration as if fully set forth herein.

8. In general, the Borrower Trust's objection to each No Liability Borrower Claim falls under one or more of the following ten categories:

- (i) **General No Liability.** This category includes a claim where the Claimant does not assert any wrongdoing on the part of the Debtors, but rather requests assistance in reviewing and modifying her loan.

To assess the validity of this claim, the Borrower Trust reviewed the Debtors' books and records, including (a) the claimant's transaction history showing the payments the claimant has made and the Debtors' application of those payments to principal, interest, fees, and escrows, as applicable (the "Loan Payment History"), (b) the Debtors' records tracking the history of the servicing of the claimant's loan, including but not limited to documenting instances of i) communication with the claimant, ii) letters and notices sent by the Debtors to the claimant, and iii) the Debtors' efforts to foreclose, conduct loss mitigation efforts, inspect properties, pay taxes and insurance on behalf of the claimant, and other standard servicing activity (collectively, the "Internal Servicing Notes"), and (c) other records as applicable. Based on its review, the Borrower Trust has determined that the Debtors are not liable for the General No Liability Claim. See Objection at pp. 6-7.

- (ii) **General Servicing Issues.** This category includes claims based on general servicing issues, including assertions that a Debtor misapplied mortgage payments, provided incorrect information or reporting to the claimant, or that the Claimant's mortgage was paid in full (the "General Servicing Issues Claims"). To assess the validity of these claims, the Borrower Trust reviewed Internal Servicing Notes, Loan Payment History, letters between the Debtors and the applicable Borrower(s), executed mortgage notes and deeds of trust, and other relevant documents.

Based on its review, the Borrower Trust has determined that the General Servicing Issues Claims are not valid obligations of the Debtors because: (a) the alleged events involving

General Servicing Issues never took place; (b) the Debtor remedied the alleged error or mishandling, and as a result, the Claimant did not incur any damages or failed to provide evidence of damages; (c) the Debtor acted properly in servicing the loan, in accordance with the Debtors standard policies and procedures and the terms of the executed note and deed of trust; and/or (d) the allegations relate to actions taken by a non-Debtor entity. See Objection at pp. 7-8.

- (iii) **Origination Issues**. This category includes claims based on loan origination issues, which include, without limitation, claims relating to disputes regarding the loan application and closing process, disclosures, loan terms, rights of rescission or a purportedly defective title exam (the “Origination Issues Claims”). To assess the validity of these claims, the Liquidating Trust, in support of the Borrower Trust, reviewed the Debtors’ books and records that were prepared and kept by the Debtors in the course of their regularly conducted business activities, including the claimants’ executed mortgage notes and other documents that are specifically identified in the Objection, see Objection at pp. 8-9, to determine whether any Debtor was involved in the origination of the applicable loans, and if so, if the claim would be barred by the applicable statute of limitations.

Based on this review and the Borrower Trust’s review of applicable state and federal law, the Origination Issues Claims are not valid liabilities of the Debtors because either (1) no Debtor entity was involved in the origination of the applicable loans and vicarious liability cannot be imputed to any Debtor in its capacity as servicer or assignee of the loans, or (2) the claim is barred by the applicable statute of limitations.

- (iv) **Escrow Issues**. This category includes claims based on the alleged improper application or calculation of escrow amounts (the “Escrow Issues Claims”). To assess the validity of these claims, the Liquidating Trust, in support of the Borrower Trust, reviewed the Debtors’ books and records that were prepared and kept by the Debtors in the course of their regularly conducted business activities, including the Debtors’ escrow receipts and payments, the annual escrow analysis sent to Borrowers, and any Internal Servicing Notes and written communication between the Debtors and the applicable Borrower(s) as well as other documents that are specifically identified in the Objection. See Objection at pp. 9-10.

Based on this review, the Escrow Issues Claims are not valid liabilities of the Debtors. In cases where a claimant asserted that they were owed a refund, the payments to the Debtors received were all correctly applied. In cases where a claimant asserted that the escrow collected was insufficient to cover the property taxes and insurance, the Borrower Trust reviewed the escrow statements issued to the claimant, which outlined the amounts paid that year compared to what was estimated, as well as Internal Servicing Notes to the extent that there was an escrow account added to the loan, and determined that the Debtors have no liability as long as all amounts received from the Borrower were accurately recorded because the Borrowers are liable for the taxes and insurance on their real property. In cases where a claimant asserted that it was owed a refund, the Borrower Trust looked at (1) the escrow statement issued to the claimant to determine if there was a



refund due, (2) the history of the loan to determine if a check was issued for the refund and (3) the internal account notes to determine if there were discussions with the claimant regarding an escrow refund not being received, and found that any refunds due were previously paid. Moreover, to the extent that the Debtors' books and records indicated that the issues asserted by a claimant occurred after the Debtors ceased servicing the underlying loan, the Debtors have no liability for the claim.

- (v) **Wrongful Foreclosure**. This category includes claims based, either directly or indirectly, on allegations of wrongful foreclosure by the Debtors (the "Wrongful Foreclosure Claims").

To assess the validity of these claims, the Liquidating Trust, in support of the Borrower Trust, reviewed the Debtors' books and records that were prepared and kept by the Debtors in the course of their regularly conducted business activities, to verify that the Debtors foreclosed properly and, where applicable, took the appropriate loss mitigation steps. Specifically, the Borrower Trust reviewed Payment History, Internal Servicing Notes, as well as, where applicable, the claimants' loan modification applications, loan modification approval letters, loan modification denial letters, compliance with loan modifications (trial and/or permanent), compliance with any other payment plans (forbearance and repayment), short sale applications and history, investor guidelines and/or direction, breach letters, and/or foreclosure related documents. Where a claimant asserted that he or she did not execute the mortgage note, the Borrower Trust also compared the signatures on other executed documents in the claimant's file, as well as examining the Loan Payment History and any other information in the Debtors' possession. Moreover, where a Wrongful Foreclosure Claim was based on issues related to a short sale, the Borrower Trust further reviewed the Debtors' records to determine whether a short sale approval had been requested, and, if so and if such request was denied, whether the reason for denial was proper.<sup>3</sup> See Objection at pp. 10-11.

Based on this review, the Wrongful Foreclosure Claims are not valid liabilities of the Debtors.

- (vi) **Interest Rates and Fees Collected**. This category includes a claim based on the assertion that the interest rate charged to the claimant was inappropriate (the "Interest Rates and Fees Collected Claim"). To assess the validity of this claim, the Borrower Trust reviewed the Debtors' books and records, including the claimant's note, any adjustable rate rider and related documents, notices and/or adjustment letters sent to the claimant, Loan Payment History and fees charged. See Objection at p. 10-11. Based on this review, the Interest Rates and Fees Collected Claim is not a valid liability of the Debtors because the interest rates and fees charged were consistent with the governing loan documents, the Debtors' servicing policies, and if applicable, investor guidelines and/or servicing agreements.

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<sup>3</sup> Appropriate reasons for denying a short sale request include, without limitation, a claimant's failure to submit executed sale contracts, a claimant's failure to obtain approval from second lien holders and/or a claimant's short sale request did not comply with the investor's requirements.

- (vii) **Res Judicata**. This category includes claims related to litigation that has already been adjudicated (the “Res Judicata Claims”). The Borrower Trust diligently reviewed the case notes from the Debtors’ internal electronic case management system and the Debtors’ internal files, relating to the litigation, including relevant underlying documents such as the note, loan agreement and/or deed of trust (the “Litigation File”). The Debtors or the Liquidating Trust (on behalf of the Borrower Trust) as applicable, supplemented the Litigation File by reaching out to the outside counsel who previously handled the litigation for the Debtors to obtain a current update as to the status of the litigation, as well as copies of any relevant case dockets, complaints, answers, counterclaims, motions, responsive pleadings, judgments, orders, and any other relevant documents relating to the underlying litigation. The allegations set forth in the Res Judicata Claims were compared to the information contained in the Litigation Files (as supplemented with information provided by outside counsel), as well as the Debtors’ Books and Records. See Objection at pp. 11-12.
- (viii) **Loan Modification**. This category includes claims based on loan modification issues (the “Loan Modification Claims”), which allege, among other things, that the Debtors (a) failed to provide a loan modification,<sup>4</sup> or (b) provided a loan modification, but the claimant believes the terms of the modification were not as favorable to the claimant as those to which claimant believed he or she was entitled. To assess the validity of these claims, the Liquidating Trust, in support of the Borrower Trust, reviewed the Debtors’ books and records that were prepared and kept by the Debtors in the course of their regularly conducted business activities, to verify that the Debtors followed the applicable investor guidelines and policies regarding loan modifications. Specifically, the Borrower Trust reviewed Internal Servicing Notes, Loan Payment History, and, where applicable, loan modification agreements, loan modification applications, loan modification denial letters, loan modification approval letters, the claimant’s compliance with modifications (trial and/or permanent) and any instructions or guidelines provided by the investor for the claimant’s loan. See Objection at pp. 12-13.

Based on this review, the Loan Modification Claims are not valid liabilities of the Debtors because: (a) in cases where a loan modification request was denied, the Debtors complied with the applicable investor guidelines and policies governing the loan modification process and (b) in the cases where the claimant obtained a loan modification, the claimant was not damaged by the loan modification assistance provided.

- (ix) **Insufficient Documentation**. This category includes claims that either (a) fail to identify the amount of the claim and the basis for claim, or (b) identify the claim amount but do

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4 As a regular part of the Debtors’ business practices, the Debtors offered mortgage loan modifications to Borrowers in financial distress, pursuant to certain guidelines established by the investors (“Traditional Modifications”). The Home Affordable Modification Program (“HAMP”) is an administrative program that was implemented in April 2009 by the United States Treasury Department to help eligible homeowners with loan modifications on their home mortgage debt. HAMP provided the Debtors with an additional type of loan modification (a “HAMP Modification”) for assisting eligible Borrowers experiencing financial distress.

not provide an explanation or attach any supporting documentation to substantiate the claim amount (the “Insufficient Documentation Claims”).

The Debtors sent Request Letters in connection with all of the Insufficient Documentation Claims to the either the property address or email address marked on the proof of claim by Claimant as the “address where notices should be sent”. In each instance, Claimant either failed to respond or provided insufficient information to establish a basis for liability. See Objection at p. 14.

9. If the No Liability Borrower Claims are not disallowed and expunged, the parties asserting such claims may potentially receive an improper distribution on account of the asserted liabilities to the detriment of other Borrower claimants.

10. Before filing this Objection, to the best of my knowledge, the Borrower Trust fully complied with all applicable provisions of the Borrower Claim Procedures set forth in the Procedures Order.

11. Accordingly, based upon this review, and for the reasons set forth in the Objection and Exhibit A to the Proposed Order, I have determined that each No Liability Borrower Claim that is the subject of the Objection should be afforded the proposed treatment described in the Objection.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 29, 2015

/s/ Kathy Priore  
Kathy Priore  
Associate Counsel for The ResCap  
Liquidating Trust

**Exhibit 3**

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

In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
	)	

**DECLARATION OF NORMAN S. ROSENBAUM IN SUPPORT OF  
RESCAP BORROWER CLAIMS TRUST'S EIGHTY-SECOND OMNIBUS  
OBJECTION TO CLAIMS (NO LIABILITY BORROWER CLAIMS)**

Norman S. Rosenbaum, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury:

1. I am a partner in the law firm of Morrison & Foerster LLP ("M&F"). M&F maintains offices for the practice of law, among other locations in the United States and worldwide, at 250 West 55th Street, New York, NY 10019. I am an attorney duly admitted to practice before this Court and the courts of the State of New York. By this Court's Order entered on July 16, 2012, M&F was retained as counsel to Residential Capital, LLC and its affiliated debtors (the "Debtors"). Following the Effective Date,<sup>1</sup> M&F has been retained as counsel to the ResCap Borrower Claims Trust (the "Trust").

2. I submit this declaration in support of the Objection and in compliance with this Court's Order entered March 21, 2013, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1009, 3007 and 9019(b), approving (i) claim objection procedures; (ii) Borrower Claim procedures; (iii) settlement procedures; and (iv) schedule amendment procedures [Docket No. 3294] (the "Claim Objection Procedures Order").

<sup>1</sup> Unless otherwise indicated herein, capitalized terms shall have the meanings ascribed to them in the *ResCap Borrower Claims Trust's Eighty-Second Omnibus Objection to Claims (No Liability Borrower Claims)* (the "Objection")

3. It is my understanding that in connection with the filing of the Objection, prior to the Effective Date of the Plan, the Debtors complied with the Borrower Claim Procedures. I have been advised by M&F attorneys under my supervision that, prior to the Plan's Effective Date, in accordance with the Claims Objection Procedures Order, the Debtors first reviewed a preliminary Borrower Claim List (as such term is defined in the Procedures Order), and then determined if such claims contradicted the information in the Debtors' books and records. Thereafter, the Debtors identified those claimants who should receive a Request Letter.

4. To the best of my knowledge, the Debtors sent a Request Letter to those Borrowers that the Debtors and SilvermanAcampora LLP, Special Counsel to the Creditors' Committee, agreed should receive a Request Letter, with the Debtors providing copies of such letters to Special Counsel. The Debtors sent a Request Letter to each Borrower that filed a No Liability Borrower Claim.

5. To the best of my knowledge, prior to the filing of the Objection, the Debtors and the Trust have fully complied with all other applicable terms of the Claim Objection Procedures Order.<sup>1</sup>

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

Executed in New York, New York on January 29, 2015

/s/ Norman S. Rosenbaum  
Norman S. Rosenbaum

---

<sup>1</sup> The Objection deviates from the Borrower Claim Procedures in that it is not supported by a declaration from Special Counsel. As of the Effective Date of the Plan, the Creditors' Committee was dissolved (see Plan at Art.XIII.D.). Because the Creditors' Committee was dissolved as of the Plan Effective Date (with the exception of certain limited duties provided for in the Plan), the Trust did not consult with Special Counsel prior to filing the Objection.

**Exhibit 4**



MORRISON | FOERSTER

June 21, 2013

**Claim Number:** XXX

Dear Claimant:

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case"), and we need additional information from you regarding the claim(s) ("claim") you are asserting against one or more of the Debtors.

**The Information we Need From You Regarding Your Proof of Claim:**

We reviewed a copy of the Proof of Claim form and documents, if any, that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. After reviewing the Proof of Claim form and any documents you submitted, we have determined that you did not provide sufficient information to support your "Basis for Claim" and we do not have sufficient information to understand the calculations you used to determine the amount you claim to be owed. In order to evaluate your claim, we need to understand the specific reasons as to why you believe you are owed money or are entitled to other relief from one or more of the Debtors. Please reply using the attached form and provide a written explanation, with supporting documentation, and include a detailed explanation of how you calculated the amount of your claim.

**You Must Respond to this Letter by no Later Than July 22, 2013:**

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than July 22, 2013 with an explanation stating the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases). You **must** provide copies of any and all documentation that you believe supports the basis for and amount of your claim. A form is included with this letter to assist you in responding to our request for additional information.

**Consequences of Failing to Respond:**

If you do not provide the requested information regarding the basis for and amount of your claim and the supporting documentation by July 22, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including that you failed to provide sufficient information and documentation to support your claim. If the Debtors file such an objection and it is successful, your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for and amount of your claim.



**For Those With a Mortgage Loan Originated or Serviced by One of the Debtors:**

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the loan number and property address that the loan relates to in the information and any documentation that you send us, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

**Questions:**

If you have any questions about this letter, or need help in providing the requested information and document(s), you should contact an attorney. You may also contact the Special Counsel to the Official Committee of Unsecured Creditors<sup>1</sup> with general questions (contact information provided below):

**SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

SILVERMANACAMPORA LLP

100 Jericho Quadrangle, Suite 300

Jericho, New York 11753

Telephone: 866-259-5217

Website: <http://silvermanacampora.com>

E-mail address: [rescapborrower@silvermanacampora.com](mailto:rescapborrower@silvermanacampora.com)

**You must send the requested information and document(s) supporting your claim on or before the date provided in this letter to either;**

- (i) [Claims.Management@gmacrescap.com](mailto:Claims.Management@gmacrescap.com); or
- (ii) Residential Capital, LLC  
P.O. Box 385220  
Bloomington, Minnesota 55438

**Please mark each document you send with the Claim Number referenced above.**

Sincerely,

Claims Management  
Residential Capital, LLC

---

<sup>1</sup> Please be advised that SilvermanAcampora LLP does not represent you individually and, therefore, cannot provide you with legal advice.



MORRISON | FOERSTER

July 21, 2013

**Claim Number:** XXX

Dear Claimant:

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case"), and we need additional information from you regarding the claim(s) ("claim") you are asserting against one or more of the Debtors.

**The Information we Need From You Regarding Your Proof of Claim:**

We reviewed a copy of the Proof of Claim form and documents, if any, that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. After reviewing the Proof of Claim form and any documents you submitted, we have determined that you did not provide sufficient information regarding the claim amount. In order to evaluate your claim, we need you to reply using the attached form and provide a specific explanation of how you calculated the amount of your claim and also provide sufficient documentation to support the amount you have claimed.

**You Must Respond to this Letter by no Later Than July 22, 2013:**

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than July 22, 2013 with an explanation stating the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases). You **must** provide copies of any and all documentation that you believe supports the basis for and amount of your claim. A form is included with this letter to assist you in responding to our request.

**Consequences of Failing to Respond:**

If you do not provide the requested information regarding the basis for and amount of your claim and the supporting documentation by July 22, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including that you failed to provide sufficient information and documentation to support your claim. If the Debtors file such an objection and it is successful, your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for and amount of your claim.

**For Those With a Mortgage Loan Originated or Serviced by One of the Debtors:**

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the loan number and property address that the loan relates to in the information and any documentation that you send us, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

**Questions:**

If you have any questions about this letter, or need help in providing the requested information and document(s), you should contact an attorney. You may also contact the Special Counsel to the Official Committee of Unsecured Creditors<sup>1</sup> with general questions (contact information provided below):

**SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

SILVERMANACAMPORA LLP

100 Jericho Quadrangle, Suite 300

Jericho, New York 11753

Telephone: 866-259-5217

Website: <http://silvermanacampora.com>

E-mail address: [rescapborrower@silvermanacampora.com](mailto:rescapborrower@silvermanacampora.com)

**You must send the requested information and document(s) supporting your claim on or before the date provided in this letter to either;**

- (i) [Claims.Management@gmacrescap.com](mailto:Claims.Management@gmacrescap.com); or
- (ii) Residential Capital, LLC  
P.O. Box 385220  
Bloomington, Minnesota 55438

**Please mark each document you send with the Claim Number referenced above.**

Sincerely,

Claims Management  
Residential Capital, LLC

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<sup>1</sup> Please be advised that SilvermanAcampora LLP does not represent you individually and, therefore, cannot provide you with legal advice.



MORRISON | FOERSTER

June 21, 2013

**Claim Number:** XXX

Dear Claimant:

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case"), and we need additional information from you regarding the claim(s) ("claim") you are asserting against the Debtors.

**The Information we Need From You Regarding Your Proof of Claim:**

We reviewed a copy of the Proof of Claim form and documents that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. According to our records, you have filed a lawsuit against one or more of the Debtors. Please reply using the attached form and let us know whether the basis for and amount of the claim contained in the Proof of Claim form are the same or different in any way from the claim you have asserted in your lawsuit against the Debtors. Please ensure that you provide specific detail and support as to the basis for and amount of claim referenced in your Proof of Claim. If your lawsuit has been dismissed or withdrawn, please provide a specific explanation as to why you believe that you are still owed money or entitled to other relief from one or more of the Debtors.

**You Must Respond to this Letter by no Later Than July 22, 2013:**

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than July 22, 2013 with the requested information and an explanation stating the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases). You **must** also provide copies of any and all documentation that you believe supports the basis for and amount of your claim. A form is included with this letter to assist you in responding to our request for additional information.

**Consequences of Failing to Respond:**

If you do not provide the requested information regarding the basis for and amount of your claim and the supporting documentation by July 22, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including that you failed to provide sufficient information and documentation to support your claim. If the Debtors file such an objection and it is successful, your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for and amount of your claim.

**For Those With a Mortgage Loan Originated or Serviced by One of the Debtors:**

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the loan number and property address that the loan relates to in the information and any documentation that you send us, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

**Questions:**

If you have any questions about this letter, or need help in providing the requested information and document(s), you should contact an attorney. You may also contact the Special Counsel to the Official Committee of Unsecured Creditors<sup>1</sup> with general questions (contact information provided below):

**SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

SILVERMANACAMPORA LLP

100 Jericho Quadrangle, Suite 300

Jericho, New York 11753

Telephone: 866-259-5217

Website: <http://silvermanacampora.com>

E-mail address: [rescapborrower@silvermanacampora.com](mailto:rescapborrower@silvermanacampora.com)

**You must send the requested information and document(s) supporting your claim on or before the date provided in this letter to either;**

- (i) [Claims.Management@gmacrescap.com](mailto:Claims.Management@gmacrescap.com); or
- (ii) Residential Capital, LLC  
P.O. Box 385220  
Bloomington, Minnesota 55438

**Please mark each document you send with the Claim Number referenced above.**

Sincerely,

Claims Management  
Residential Capital, LLC

---

<sup>1</sup> Please be advised that SilvermanAcampora LLP does not represent you individually and, therefore, cannot provide you with legal advice.



MORRISON | FOERSTER

**Claim Number: XXXX**

Dear Claimant:

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC, and other affiliated debtors and debtors in possession (collectively, the "Debtors"), pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case") and we need additional information from you regarding the claim(s) you are asserting against the Debtors.

**The Information we Need From You Regarding Your Proof of Claim:**

We received and reviewed a copy of the Proof of Claim form filed on your behalf, and noticed that it did not have any supporting documents attached to it. In order to evaluate your claim, we need to specifically understand why you believe you are owed money or are entitled to other relief from one or more of the Debtors. Although you may have stated the factual or legal basis for your claim on the first page of the Proof of Claim form, you have not provided any documentation to support this claim. Therefore, we need you to provide us with documents that support the basis for your asserted claim. A copy of your Proof of Claim form is enclosed for your reference.

**You Must Respond to this Letter by no Later Than June 24, 2013:**

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than June 24, 2013 with an explanation that states the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases), and you **must** provide copies of any and all documentation that you believe supports the basis for your claim. Included with this letter is a form to assist you in responding to our request.

**Consequences of Failing to Respond:**

If you do not provide the supporting documentation by June 24, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including the basis that you failed to provide sufficient information and documentation to support your claim, and your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for your claim.

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the loan number and property address that the loan relates to in the information and documentation that you send us, so that we can effectively search our records for information on your property and loan, and evaluate your claim(s).

**Questions:**

If you have any questions about this letter, or need help in providing the requested information and document(s), you should contact an attorney. You may also contact the Special Counsel to the Official Committee of Unsecured Creditors<sup>1</sup> with questions (contact information provided below):

**SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

SILVERMANACAMPORA LLP

100 Jericho Quadrangle, Suite 300

Jericho, New York 11753

Telephone: 866-259-5217

Website: <http://silvermanacampora.com>

E-mail address: [rescapborrower@silvermanacampora.com](mailto:rescapborrower@silvermanacampora.com)

**You must send the requested information and document(s) supporting your claim(s) on or before the date provided in this letter to either:**

- (i) **Claims.Management@gmacrescap.com; or**
- (ii) **Residential Capital, LLC  
P.O. Box 385220  
Bloomington, Minnesota 55438**

**Please mark each piece of correspondence with the Claim Number referenced above.**

Sincerely,

Claims Management  
Residential Capital, LLC

---

<sup>1</sup> Please be advised that SilvermanAcampora LLP does not represent you individually, and therefore, cannot provide you with legal advice.



MORRISON | FOERSTER

**Claim Number:**

Dear Claimant:

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case") and we need additional information from you regarding the claims you are asserting against the Debtors.

**The Information we Need From You Regarding Your Proof of Claim:**

We received and reviewed a copy of the Proof of Claim form and document(s), if any, that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. In the process of reviewing the Proof of Claim form and the document(s), if any, you submitted, we noticed that you left the "Basis for Claim" field on the Proof of Claim form blank, or indicated that the basis for your claim is "unknown". In order to evaluate your claim, we need to understand why you believe you are owed money or are entitled to other relief from one of the Debtors.

**You Must Respond to this Letter by no Later Than June 17, 2013:**

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than June 17, 2013 with an explanation that states the legal and factual reasons why you believe you are owed money or are entitled to other relief from one of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases) and, you **must** provide copies of any and all documentation that you believe supports the basis for your claim. Included with this letter is a form to assist you in responding to our request.

**Consequences of Failing to Respond:**

If you do not provide the basis for your claim and the supporting documentation by June 17, 2013, the Debtors may file a formal objection to your Proof of Claim on, among others, the basis that you failed to provide sufficient information and documentation to support your claim, and your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for your claim.



If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the loan number and property address that the loan relates to in the information and documentation that you send us, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

**Questions:**

If you have any questions about this letter, or need help in providing the requested information and document(s), you should contact an attorney. You may also contact the Special Counsel to the Official Committee of Unsecured Creditors<sup>1</sup> (contact information provided below):

**SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

SILVERMANACAMPORA LLP

100 Jericho Quadrangle, Suite 300

Jericho, New York 11753

Telephone: 866-259-5217

Website: <http://silvermanacampora.com>

E-mail address: [rescapborrower@silvermanacampora.com](mailto:rescapborrower@silvermanacampora.com)

**You must send the requested information and document(s) supporting your claim on or before the date provided in this letter to either;**

- (i) [Claims.Management@gmacrescap.com](mailto:Claims.Management@gmacrescap.com), or
- (ii) Residential Capital, LLC  
P.O. Box 385220  
Bloomington, Minnesota 55438

**Please mark each piece of correspondence with the Claim Number referenced above.**

Sincerely,

Claims Management  
Residential Capital, LLC

---

<sup>1</sup> Please be advised that SilvermanAcampora LLP does not represent you individually and, therefore, cannot provide you with legal advice.

**Exhibit 5**

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

DEC 22 2014

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

MICHAEL E. BOYD,

Plaintiff - Appellant,

v.

GMAC MORTGAGE LLC; MORTGAGE  
ELECTRONIC REGISTRATION  
SERVICES, INC.,

Defendants - Appellees.

No. 12-17434

D.C. No. 5:11-cv-05018-PSG  
Northern District of California,  
San Jose

ORDER

Before: THOMAS, Chief Judge, and SCHROEDER and HURWITZ, Circuit  
Judges.

Boyd's petition for panel rehearing is denied.

No further filings will be entertained in this closed case.

**Exhibit 6**

Record & Return To:  
GMAC Mortgage, LLC  
Record & Return To:  
GMAC Mortgage, LLC  
Attn.: Loss Mitigation Department  
3451 Hammond Avenue.  
Waterloo, IA 50702

-----[Space Above This Line For Recorder's Use]-----

4206

16767

## ADJUSTABLE RATE LOAN MODIFICATION AGREEMENT

This Adjustable Rate Loan Agreement ("Agreement"), made this April 1, 2009 ("Effective Date") between KENNETH DLIN ("Borrower") and GMAC Mortgage, LLC ("Lender"), amends and supplements that certain promissory note ("Note") dated 2/25/2004, in the original principal sum of Six Hundred Thirty Three Thousand Dollars and No Cents (\$ 633,000.00) executed by Borrower. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), and said security instrument covers the real and, if applicable, personal property described in such Security Instrument (the "Property") located at JEFFERSON County CO. Said Security Instrument covers the real and, if applicable, personal property described in such Security Instrument (the "Property") located at 3431 WELCH AVE KITTREDGE CO, 80457 which real property is more particularly described as follows:

(Legal Description)

Borrower acknowledges that Lender is the legal holder and the owner of the Note and Security Instrument and further acknowledges that if Lender transfers the Note, as amended by this Agreement, the transferee shall be the "Lender" as defined in this Agreement.

Borrower has requested, and Lender has agreed, to extend or rearrange the time and manner of payment of the Note and to extend and carry forward the lien(s) on the Property whether or not created by the Security Instrument.

Now, therefore, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. Borrower acknowledges that as of the Effective Date, the amount payable under the Note and secured by the Security Instrument (the "Principal Balance") is Six Hundred Forty Six Thousand One Hundred Forty Four Dollars and Twenty Nine Cents (\$ 646,144.29). Borrower hereby renews and extends such indebtedness and promises to pay jointly and severally to the order of Lender the Principal Balance, consisting of the amounts(s) loaned to Borrower by Lender and any accrued but unpaid interest capitalized to date.

Interest will be charged on the unpaid Principal Balance until the full amount of principal has been paid.

2. Borrower will pay interest at yearly rate of 3.20000% from April 1, 2009. The interest rate Borrower will pay will change in accordance with this Agreement. The interest rate required by this Agreement is the rate Borrower will pay both before and after any default under the terms of the Note, as amended by this Agreement.

3. Borrower promises to make monthly principal and interest payments of \$ 3,138.56, beginning on May 1, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on March 1, 2034 Borrower still owes amount under the Note and Security Instrument, as amended by this Agreement, Borrower will pay these amounts in full on the Maturity Date. Borrower will make such payments at 3451 Hammond Avenue, Waterloo, IA 50702 or at such other place as Lender may require.

4. The monthly payment may change based on changes in the unpaid principal of the loan and in the interest rate Borrower must pay. Lender will determine the new interest rate and the changed amount of the monthly payment in accordance with this Agreement. The interest rate Borrower will pay may change on April 1, 2012 and on that day every six months thereafter. Each date on which the interest rate could change is called a "Change Date".

5. Beginning with the first Change Date, the interest rate will be based on the Index. The "Index" is the average of

interbank offered rates for six-month U.S. dollar-denominated deposits in the London Market ("LIBOR") as published in The Wall Street Journal. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index." If the Index is no longer available, the lender will choose a new index which is based upon comparable information. Lender will give Borrower notice of this choice.

6. Before each Change Date, Lender will calculate the new interest rate by adding Two point Two Five percentage points (2.25000%) to the Current Index. Lender will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated below, this rounded amount will be the new interest rate until the next Change Date. Lender will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that Borrower is expected to owe at the Change Date in full on the Maturity Date at the new interest rate in substantially equal payments. The result of this calculation will be the new amount of the monthly payment. Borrower will pay the amount of the new monthly payment beginning on the first monthly payment date after the Change Date until the amount of the monthly payment changes again. The monthly payments will be applied first to the payment of interest due and then to the principal.

7. The interest rate Borrower is required to pay at the first Change Date will never be greater than 12.00000% or less than .00000%. Thereafter, the interest rate will never be increased or decreased on any single Change Date by more than one percentage points (1%) from the rate of interest Borrower has been paying for the preceding six months. The interest rate will never be greater than 12.00000%.

8. Before the effective date of any change, Lender will deliver or mail to Borrower notice of any changes in the interest rate and the amount of the monthly payment. The notice will include information required by law to be given to Borrower and also the title and telephone number who will answer any questions Borrower may have. Unless applicable laws requires a different method, any notice that must be given to Borrower under this Agreement will be given by delivering it or mailing it by first class mail to Borrower at the property address stated above or at a different address if Borrower gives Lender notice of Borrower's different address. Any notice that must be given to Lender under this Agreement will be given by mailing it first class mail to the Lender at the address stated in Paragraph 3 above or at a different address if Borrower is given notice of that different address.

9. If Lender has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, Borrower will pay a late charge to Lender. The amount of the charge will be the late charge percentage provided for in the Note multiplied by the overdue payment of principal and interest required under this Agreement. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy.

10. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby renewed and extended (if the Maturity Date of the original Note has been changed) until the indebtedness evidenced by the Note and this Agreement has been fully paid. Lender and Borrower acknowledge and agree that such renewal, amendment, modification, rearrangement or extension (if applicable) shall in no manner affect or impair the Note or liens and security interests securing same, the purpose of this Agreement being simply to modify, amend rearrange or extend (if applicable) the time and the manner of payment of the Note and indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note, which are expressly acknowledged by Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note.

11. If all or any part of the Property or any interest in it is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable law. If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security instrument. If Borrower fails to pay these sums prior to the expiration of this period, lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower. For purposes of this paragraph, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is transfer of title by Borrower at a future date to a purchaser.

12. As amended hereby, the provisions of the Note and Security instrument shall continue in full and effect, and the Borrower acknowledges and reaffirms Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement, including but not limited to, in the case of the Borrower, the obligation to pay items such as taxes, insurance premiums or

escrow items, as applicable. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said escrow items, as applicable. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.

13. Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto. This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement. EACH OF THE BORROWER AND THE LENDER ACKNOWLEDGE THAT NO REPRESENTATIONS, AGREEMENTS OR PROMISES WERE MADE BY THE OTHER PARTY OR ANY OF ITS REPRESENTATIVES OTHER THAN THOSE REPRESENTATIONS, AGREEMENTS OR PROMISES SPECIFICALLY CONTAINED HEREIN. THIS AGREEMENT, AND THE NOTE AND SECURITY INSTRUMENT (AS AMENDED HEREBY) SETS FORTH THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

Executed effective as of the day and year first above written.

  
KENNETH DLIN

#### BORROWER ACKNOWLEDGEMENT

State of Colorado

County of Denver

On March 20, 2009, before me Lindsay Harkness, personally appeared KENNETH DLIN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



My Commission Expires 11/26/2011

  
Notary Public

My Commission Expires 11/26/2011

GMAC Mortgage, LLC

GMAC Mortgage, LLC

By:

Kristi M Caya

**Limited Signing Officer**

Title: LIMITED SIGNING OFFICER

**LENDER ACKNOWLEDGEMENT**

State of IOWA

County of BLACK HAWK

On the 25 day of March, 2009, the undersigned, a Notary Public in and for said county and state, personally appeared KRISTI M CAYA, personally known to me or identified to my satisfaction to be the person who executed the within instrument as Limited Signing Officer of GMAC Mortgage, LLC and they duly acknowledged that said instrument is the act and deed of said entity, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.

REECE SEALOCK  
Iowa Notarial Seal  
Commission Number: 752353  
My Commission Expires: 04/17/2011

Reece Sealock  
Notary Public

My Commission Expires \_\_\_\_\_



**Exhibit 7**

**COMMONWEALTH OF MASSACHUSETTS**

**MIDDLESEX, ss.**

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**SUPERIOR COURT  
CIVIL ACTION  
NO. 10-1074**

**ROBERT DE SIMONE AND MATINA DE SIMONE**

**vs.**

**GMAC MORTGAGE, LLC, and others**

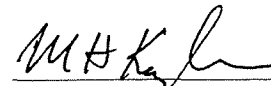
**ORDERS**

On October 22, 2012, this case came before the court for hearing on defendant, GMAC Mortgage, LLC's, motion to dismiss a complaint for contempt and motion to dissolve an injunction. At this hearing, the court also considered the plaintiffs, Robert and Matina DeSimone's motion to reconsider an order issued on September 10, 2012, that vacated a stay entered in this court after GMAC filed a bankruptcy petition. The facts of this case are set out in the court's prior memoranda of decisions and orders on the defendants' motions for summary judgment. After consideration of the parties' pleadings and argument, the court enters the following orders.

1. The DeSimones' motion to reconsider the September 10, 2012 order is DENIED. By order dated July 13, 2012, the Bankruptcy Court for the Southern District of New York issued an order which, among other things, provided relief from the automatic stay of actions pending in state court with respect to "actions initiated by . . . a borrower" in those states providing for non-judicial foreclosures, of which Massachusetts is one, "relating exclusively to the property that is the subject of the loan owned or serviced by [GMAC] for the purposes of . . . enjoining or precluding any foreclosure." This case is, in part, such a case. See Count I.

2. GMAC's motion to dissolve the injunction is ALLOWED. At the outset of this case a temporary restraining order issued enjoining GMAC from foreclosing on the DeSimone's home. On July 27, 2010, the court entered an order stating that the TRO would remain in effect until further order of the court. However, on May 22, 2012, the court issued a memorandum of decision and order which allowed GMAC's motion for summary judgment on the two counts that asserted claims against it. The order did not expressly state that the TRO was dissolved. Nonetheless, having found that the two counts asserting claims against GMAC must be dismissed as a matter of law, there is no basis for continuing injunctive relief. The court therefore orders that the restraining order be dissolved.<sup>1</sup> In order to provide the DeSimones with the opportunity to appeal the decision on summary judgment dismissing their claim for rescission (the claim on which the injunction was based), the court also orders that final judgment enter as to Count I of the complaint as to all parties. (It cannot do the same as to Count IV, as that count asks for monetary relief and therefore the Bankruptcy Court's motion providing relief from stay does not apply to that count.)
3. GMAC's motion to dismiss the complaint for contempt is also ALLOWED. In that complaint for contempt the DeSimones allege that GMAC noticed a foreclosure sale of the mortgaged property on August 1, 2012 and this conduct violated the restraining order which was still in effect. Whether that restraining order continued in effect after GMAC's motion for summary judgment was allowed is a close question. Certainly, it would have been better practice for GMAC specifically to have moved for an order dissolving the restraining order before it began the steps necessary to foreclose on the mortgaged property. However, before there is a finding of civil

contempt against a party there "must be a clear and unequivocal command and an equally clear and undoubted disobedience." In light of the allowance of GMAC's motion for summary judgment, the court concludes that the DeSimones cannot prove an act of civil contempt by GMAC. The complaint for contempt therefore must be dismissed.



Mitchell H. Kaplan  
Justice of the Superior Court

Dated: October 22, 2012

Entered: October 23, 2012