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

In re:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

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Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

**RESCAP BORROWER CLAIMS TRUST'S OBJECTION
TO AMENDED CLAIM NO. 4445 FILED BY ALAN MOSS**



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The ResCap Borrower Claims Trust (the “Borrower Trust”), established pursuant to the terms of the Plan confirmed in the above-captioned Chapter 11 Cases, as successor in interest to the above-captioned Debtors with respect to Borrower Claims (as defined below), by and through its undersigned counsel, hereby submits this Objection (the “Objection”) seeking to disallow and expunge, without leave to amend, the claim [Docket No. 8334] (the “Amended Claim”) filed by Alan Moss (“Mr. Moss”) against Executive Trustee Services (“ETS”) for \$750,000, pursuant to section 502(b) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), on the grounds that the Amended Claim fails to state a basis for liability against the Debtors.¹ The Borrower Trust seeks entry of an order substantially in the form annexed hereto as Exhibit 1 (the “Proposed Order”) granting the requested relief. In support of the Objection, the Borrower Trust submits the Declaration of Kathy Priore, Associate Counsel for the ResCap Liquidating Trust (the “Priore Declaration”), annexed hereto as Exhibit 2. In further support of the Objection, the Borrower Trust respectfully states as follows:

PRELIMINARY STATEMENT

1. The Borrower Trust examined the Amended Claim and the statements submitted in support thereof. For purposes of this Objection, the Borrower Trust takes these statements at face value. If the Court is not prepared to rule on the Objection with respect to Mr. Moss, then the Borrower Trust reserves the right to take discovery from Mr. Moss.

2. As described herein and in the Priore Declaration, the Borrower Trust thoroughly examined the Debtors’ books and records that were prepared and kept in the course

¹ The Borrower Trust reserves all of its rights to object on any other basis to the Amended Claim not set forth in this Objection, and the Borrower Trust reserves all of its rights to amend this Objection should any further bases come to light.

of their regularly conducted business activities (the “Books and Records”) in an effort to validate the accuracy of the allegations made in the Amended Claim.

3. The Court previously expunged Mr. Moss’ claim because Mr. Moss had only provided conclusory allegations that ETS acted with malice when it carried out its duties of recording the Notice of Default and the Notice of the Trustee’s Deed Upon Sale. See February 11 Hearing Transcript, pp. 51-52 [Docket No. 8293]. The Court granted Mr. Moss a second opportunity to support his allegations about ETS’ knowledge prior to the foreclosure sale. However, nothing has changed. Mr. Moss fails to sufficiently allege that ETS knew of the deficiencies with the Substitution of Trustee at the time it performed its duties. The Amended Claim simply rehashes the arguments previously presented and rejected by the Court, including that the default entered by the California court bars the Borrower Trust from objecting to his claim and that ETS negligently failed to examine the recorded documents. The only new argument Mr. Moss makes is that his lawsuits put ETS on notice of the issues with the Substitution of Trustee. However, both lawsuits were filed after the Notices were recorded and the foreclosure sale was complete. Therefore, Mr. Moss fails to sufficiently allege that ETS acted with actual malice in performing its duties as substitute trustee, and he fails to demonstrate why ETS’ actions are not privileged under California law.

4. Additionally, Mr. Moss cannot support his other causes of action even absent privilege. He cannot support his negligence claim because he has neither shown that ETS owed him a duty, nor has he shown that he was damaged as a result of ETS’ alleged negligence. Further, in California, recovery of emotional distress damages for a negligence claim is not permitted where the alleged conduct resulted in only economic loss. Similarly, Mr. Moss’ fraud claim fails because he has not shown that his damages were the result of ETS’ actions. Finally,

Mr. Moss has not shown he is entitled to a claim for intentional infliction of emotional distress because he has not adequately demonstrated that the actions of ETS qualified as “outrageous conduct.”

5. In essence, the Amended Claim is a failed second attempt to support Mr. Moss’ allegations of wrongdoing. While he asserts that the actions of ETS harmed him, he has failed to demonstrate how mere irregularities in the foreclosure process caused him injury, and he has failed to allege that ETS was aware of these irregularities when it was acting as substitute trustee.

JURISDICTION, VENUE, AND STATUTORY PREDICATE

6. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

7. The statutory predicates for the relief requested herein are section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007(a).

BACKGROUND

8. On May 14, 2012, 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).

9. 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”).

10. On or around November 7, 2012, Mr. Moss filed a proof of claim against Executive Trustee Services, LLC (“ETS”), designated as Claim No. 4445 (the “Moss Claim”), asserting a general unsecured claim for \$750,000.00. See Exhibit B to the Priore Declaration.

11. On March 21, 2013, this Court entered an order approving procedures for the filing of objections to proofs of claim filed in these Chapter 11 Cases [Docket No. 3294] (the “Procedures Order”). The Procedures Order includes specific protections for Borrowers² and sets forth a process for the Debtors to follow before objecting to certain categories of Borrower Claims (the “Borrower Claim Procedures”).

12. The Debtors sent a Request Letter to Mr. Moss on June 21, 2013, requesting additional documentation in support of the Claim. See Priore Declaration ¶ 4. The Request Letter stated that Mr. Moss must respond within 30 days with an explanation that states the legal and factual reasons why he believes he is owed money or is entitled to other relief from the Debtors, and that he must provide copies of any and all documentation that he believes supports the basis for his claim. The Request Letter further stated that if Mr. Moss does not provide the requested explanation and supporting documentation within 30 days, the Debtors may file a formal objection to the Claim, seeking to have the Claim disallowed and permanently expunged.

13. The Debtors received a response to the Request Letter from Mr. Moss on July 25, 2013 (the “Diligence Response”). A copy of the Diligence Response is attached to the Priore Declaration as Exhibit A. However, the Diligence Response failed to allege bases for claims against the Debtors’ estates. Further, as stated in the Objection, the Books and Records

² As used herein, the terms “Borrower” and “Borrower Claims” have the meanings ascribed to them in the Plan (defined below).

do not show any liability due and owing to Mr. Moss. See Priore Declaration ¶ 5.

14. On December 11, 2013, the Court entered an *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 (as defined in the Plan) of the Plan occurred [Docket No. 6137].

15. The Plan provides for the creation and implementation of the Borrower Trust, which is established for the benefit of Borrowers who filed claims to the extent such claims are ultimately allowed either through settlement or pursuant to an Order of the Court. See Plan, 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 the Allowed Borrower Claims.” See id.

16. On September 17, 2014, the Borrower Trust objected to the Moss Claim as part of the *ResCap Borrower Claims Trust’s Seventy-Fifth Omnibus Objection to Claims (No Liability Borrower Claims)* [Docket No. 7552] on the grounds that it did not demonstrate liability of the Debtors. Mr. Moss responded to that objection on January 23, 2015 [Docket No. 8044] (the “Moss Response”). The Court sustained the Borrower Trust’s objection to the Moss Claim without prejudice and permitted Mr. Moss to file an amended claim. See Order Sustaining ResCap Borrower Claims Trust’s Seventy-Fifth Omnibus Objection to Claims (No

Liability Borrower Claims) as it Relates to Claim No. 4445 Filed by Alan Moss [Docket No. 8127]. On March 16, 2015, Mr. Moss filed the Amended Claim.³

RELIEF REQUESTED

17. The Borrower Trust files this Objection, pursuant to Bankruptcy Code section 502(b) and Bankruptcy Rule 3007, and seeks entry of an order, substantially in the form annexed hereto as Exhibit 1, disallowing and expunging the Amended Claim with prejudice from the Claims Register in its entirety.

OBJECTION

18. A filed proof of claim is “deemed allowed, unless a party in interest ... objects.” 11 U.S.C. § 502(a). Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law....” 11 U.S.C. § 502(b)(1). Furthermore, the burden of persuasion once an objection refutes an essential allegation of the claim is on the holder of a proof of claim to establish a valid claim against a debtor by a preponderance of the evidence. Feinberg v. Bank of N.Y. (In re Feinberg), 442 B.R. 215, 220-22 (Bankr. S.D.N.Y. 2010).

A. Background Facts

19. The Debtors’ books and records show that non-Debtor CJ Mortgage, Inc. originated a loan in the amount of \$612,500.00 to Mr. Moss on June 22, 2005 (the “Moss Loan”), secured by a deed of trust on property located at 86 San Lucas Ave., Moss Beach, CA 94038 (the “Moss Property”). See Moss Note and Moss Deed of Trust, attached to the Priore

³ While the Amended Claim does not assert an amount against the Debtors’ estates, the Amended Claim incorporates Mr. Moss’ original claim (claim no. 4445) and therefore, the Borrower Trust assumes Mr. Moss intends the Amended Claim to be asserted in the same amount.

Declaration as Exhibit C and Exhibit D, respectively. Subsequently, the Moss Loan was transferred to Option One Mortgage Corp. (“Option One”) on or around June 27, 2005. See Option One Assignment, attached to the Priore Declaration as Exhibit E. Option One then transferred the Moss Loan to TCIF, LLC (“TCIF”) on or around September 15, 2007, and TCIF subsequently assigned the Moss Loan to Bank of New York Trust Company (“Bank of New York”) on or around April 29, 2008. See TCIF Assignment and Bank of New York Assignment, attached to the Priore Declaration as Exhibit F and Exhibit G, respectively.

20. Debtor GMAC Mortgage, LLC serviced the Moss Loan from March 14, 2006 until servicing was transferred to Ocwen Loan Servicing, LLC (“Ocwen”) on February 16, 2013. See Priore Declaration ¶ 9.

21. ETS was appointed as substitute trustee on September 21, 2006. See Substitution of Trustee, attached to the Priore Declaration as Exhibit H.

22. On June 16, 2006, the Moss Loan was referred to foreclosure because the account was owing for the April 1, 2006 payment (the “June 16 Foreclosure”). See Priore Declaration ¶ 10.

23. ETS recorded a notice of default on June 20, 2006 (the “2006 Notice of Default”). See Notice of Rescission of 2006 Notice of Default, attached to the Priore Declaration as Exhibit I. On May 4, 2007, a Notice of Rescission of the 2006 Notice of Default was recorded. See id.

24. On September 17, 2007, the Debtors again referred the Moss Loan to foreclosure because the account was owing for the July 1, 2007 payment (with the June 16 Foreclosure, the “Foreclosure Proceedings”). See Moss Payment History, attached to the Priore Declaration as Exhibit J.

25. ETS recorded a notice of default on September 18, 2007 (the “2007 Notice of Default”). See Notice of Rescission of the 2007 Notice of Default, attached to the Priore Declaration as Exhibit K.

26. On June 11, 2008, two days before the scheduled trustee’s sale, Mr. Moss contacted GMACM to request a loan modification. GMACM’s servicing notes reflect that during this call GMACM offered Mr. Moss a six-month foreclosure repayment agreement consisting of a \$50,000 down payment and six monthly payments of \$6,740.78. See Moss Servicing Notes, attached to the Priore Declaration as Exhibit L. Mr. Moss accepted this and paid the \$50,000. The foreclosure sale set for June 13, 2008 was cancelled. See id.

27. On June 13, 2008 GMACM mailed a copy of the foreclosure repayment agreement to Mr. Moss, a copy of which is attached to the Priore Declaration as Exhibit M. GMACM records do not indicate it ever received an executed copy from Mr. Moss. See Moss Servicing Notes. Further, Mr. Moss did not make the next payment that was due on July 12, 2008 in the amount of \$6,740.78. See id. Foreclosure was recommenced on July 18, 2008. See id. On August 21, 2008 GMACM received a personal check from Mr. Moss in the amount of \$6,000. See id. The check was returned to Mr. Moss as it was less than the amount owed under the foreclosure repayment agreement and made untimely. See id.

28. On May 7, 2009, ETS conducted a trustee sale and Bank of New York acquired title in the property. ETS recorded a Trustee’s Deed Upon Sale on May 15, 2009 (the “Notice of Trustee’s Deed Upon Sale” and with the 2006 Notice of Default and 2007 Notice of Default, the “Notices”), which granted title in the property to Bank of New York.⁴ See Notice of

⁴ The foreclosure sale was conducted by the Debtors in error due to a failure to communicate timely, notice of conditions that would have warranted a cancellation of the foreclosure. See Rescission of Notice of Trustee’s Deed Upon Sale.

Rescission of the Trustee's Deed Upon Sale, attached to the Priore Declaration as Exhibit N. A Notice of Rescission of the Trustee's Deed Upon Sale was recorded on September 18, 2012, and a Notice of Rescission of the 2007 Notice of Default was recorded on August 19, 2013. See Notices of Rescission. On information and belief, Mr. Moss continues to hold title to the Moss Property, subject to the note and the deed of trust.

29. On July 22, 2009, Mr. Moss filed litigation against Bank of New York in Superior Court, San Mateo County, CA (the "Superior Court"), case number 486130. A copy of the complaint (the "Bank of New York Complaint") is attached to the Moss Response as Exhibit 2. In the Bank of New York Complaint, Mr. Moss sought to set aside the 2009 trustee sale due to it being void. See Bank of New York Complaint, p. 6.

30. On May 5, 2011, Mr. Moss filed a parallel lawsuit against ETS in the Superior Court, case number 505386, for negligence, fraud, and intentional infliction of emotional distress resulting from ETS executing the Notice of Default and the Trustee's Deed Upon Sale. A copy of the complaint (the "ETS Complaint") is attached to the Moss Response as Exhibit 1. ETS did not enter an appearance in the case, and on June 17, 2011, a default was entered. See ETS Docket, attached to the Priore Declaration as Exhibit O. A motion to set aside the default was filed on April 4, 2012, and was not heard by the court before the imposition of the automatic stay in the Chapter 11 Cases. See id. No default judgment was ever entered against ETS. See id.

31. In November 2013, Bank of New York, through Ocwen as loan servicer, completed a settlement with Mr. Moss that included a dismissal with prejudice of the Bank of New York Complaint. See Priore Declaration ¶ 19. The terms of the settlement are subject to a confidentiality provision. See id.

B. Legal Argument

ETS' Default Has No Bearing on the Borrower Trust's Ability to Prosecute the Objection

32. In the Amended Claim, just as he argued in the Moss Claim, Mr. Moss asserts that the entry of a default should bar the Borrower Trust from objecting to the merits of his claim. See Amended Claim pp. 3-4. However, as Mr. Moss acknowledges in the Amended Claim, the court never entered an actual default judgment against ETS. See Amended Claim, p. 3.

33. In California, where a default is entered but the court does not enter a default judgment, the default is not considered a final judgment. See Ferraro v. Camarlinghi, 75 Cal. Rptr. 3d 19, 39 (Cal. Ct. App. 2008) (“A clerk’s entry of default possesses none of the characteristics of a preclusive judgment. It is not final, it is not on the merits; it does not decide anything; it results from no litigation on any issue. Indeed it does not *adjudicate* anything, it is not a judicial act.”). As a result, the fact that a default was entered against ETS has no preclusive effect and does not bar an objection to the Amended Claim.

ETS' Actions in Filing the Notices Are Privileged Under Cal. Civ. Code § 2924(d)

34. In the Amended Claim, Mr. Moss asserts that ETS is liable for negligence, fraud, and intentional infliction of emotional distress because it recorded the Notices. However, ETS cannot be liable for any of these causes of action because the Notices were privileged communications.

35. Non-judicial foreclosure documents are considered privileged under California Law. See Cal. Civ. Code § 2924(d); see also Kachlon v. Markowitz, 85 Cal. Rptr. 3d 532, 545 (Cal. Ct. App. 2008). The only exception to this privilege is when documents are published with actual malice, meaning “that the publication was motivated by hatred or ill will towards the plaintiff *or* a showing that the defendant lacked reasonable grounds for belief in the

truth of the publication and therefore acted in reckless disregard for the plaintiff's rights." See id. at 547 (internal quotations omitted).

36. The Amended Claim therefore fails for the same reasons as the Moss Claim. Mr. Moss again asserts that ETS lacked reasonable grounds for believing that it had the power to issue any requisite notices, see Moss p. 8, but presents no evidence that ETS knew the Substitution Trustee was invalid. A court in California held under nearly identical circumstances that where there is no evidence that a substitute trustee was aware that it was not validly the trustee when it recorded non-judicial foreclosure documents, there is no absence of privilege. See Bergman v. Bank of America, N.A., No. C-13-00741-JCS, 2013 WL 5863057, 2013 WL 5863057, at *17 (N.D. Cal. Oct. 23, 2013).⁵

37. In the Amended Claim, Mr. Moss asserts that ETS should have been aware that there were issues with the Substitution Trustee when he filed litigation against Bank of New York on July 22, 2009. See Amended Claim p. 7. However, the litigation post-dated when ETS recorded the Notices, and therefore has no bearing on ETS' knowledge at the time the Notices were recorded. See ¶¶ 28-29 *supra*. Furthermore, ETS' failure to rescind the Notices was also privileged. See Kachlon, 85 Cal. Rptr. 3d at 553. In Kachlon, the court held that even where the substitute trustee was shown evidence that the note had been satisfied, its failure to rescind the notice of default was not an act of malice and therefore, said act was privileged and the substitute trustee was relieved of liability. See id. Here, while the lawsuit against Bank of New York put ETS on notice that its appointment as substitute trustee was contested, like in

⁵ In his *Motion for Reargument re: Order Entered February 13, 2015* [Docket No. 8225], Mr. Moss argues that Kachlon is inapplicable here because ETS was not properly appointed. However, in Bergman, 2013 WL 5863057, at *17, the court, applying California law, applied the privilege to a substitute trustee that was not properly appointed. Further, this argument has already been rejected by the Court, as noted in the *Order Denying Motion of Alan Moss for Reargument* [Docket No. 8439], entered on April 7, 2015.

Kachlon, ETS took no further action until the contested issue was resolved, at which time it rescinded the Notices. As a result, Mr. Moss cannot demonstrate that ETS' actions amounted to actual malice.

Mr. Moss Has Not Satisfied the Requisite Elements for Any of the Causes of Action in the Moss Claim

38. Even if ETS' actions were not privileged, Mr. Moss' causes of action against ETS still fail because Mr. Moss has not sufficiently stated the necessary elements of any of his causes of action against ETS.

Negligence Claims

39. In the Amended Claim, Mr. Moss asserts causes of action for negligence⁶ against ETS because "ETS made no inquiry of recorded documents in order to verify that it was legally entitled to issue any notices." See Amended Claim, p. 6. However, Mr. Moss' negligence claim fails for numerous reasons.

40. In order to assert a cause of action for negligence under California law, Mr. Moss must demonstrate that ETS owed him a duty, that ETS breached that duty, and that Mr. Moss was damaged as a result of that breach. See Merrill v. Navegar, Inc., 28 P.3d 116, 123-24 (Cal. 2001). However, Mr. Moss can neither show that ETS owed him a duty, nor that he was damaged as a result of ETS' actions.

⁶ Mr. Moss asserts causes of action for negligence, negligence *per se*, and negligent infliction of emotional distress. Negligent infliction of emotional distress is not an independent tort doctrine in California, but rather is a form of the tort of negligence. See Varnado v. Midland Funding LLC, 43 F. Supp. 3d 985, 990 (N.D. Cal. 2014). Negligence *per se* is not a cause of action distinct from negligence; rather, it is "an evidentiary presumption that a party failed to exercise due care if: (1) it violated a statute, ordinance, or other regulation of a public entity; (2) the violation proximately caused death or injury to a person or property; (3) the death or injury resulted from an occurrence of the nature the statute, ordinance, or regulation was designed to prevent; and (4) the person suffering the death or injury to his or her person or property was one of the class of persons whose protection the statute, ordinance, or regulation was adopted." Maomanivong v. Nat'l City Mortg. Co., No. 13-05433-DMR, 2014 WL 4623873, at *16 (N.D. Cal. Sept. 15, 2014) (citation omitted). Before the presumption of negligence can be applied, it must be shown that the underlying claim of ordinary negligence is viable. See id. at *16.

41. Courts in California have held that “[a] trustee in a non-judicial foreclosure is not a true trustee with fiduciary duties, but rather a common agent for the trustor and beneficiary. The scope and nature of the trustee’s duties are exclusively defined by the deed of trust and the governing statutes. No other common law duties exist.” See Kachlon, 85 Cal. Rptr. 3d at 546 (internal citations omitted); see also Bascos v. Fed. Home Loan Mortg. Corp., No. 11-CV-3968-JFW (JCx), 2011 WL 3157063, at *7 (C.D. Cal. July 22, 2011) (dismissing Plaintiff’s claim for negligence against a substitute trustee because “a trustee under a deed of trust owes Plaintiff no duty beyond its duty contained in Cal. Civ. Code § 2924.”); Karimi v. GMAC Mortg., No. 11-CV-00926-LHK, 2011 WL 3360017, at *3 (N.D. Cal. Aug. 2, 2011) (“[A]lthough a trustee under a deed of trust, may be subject to statutory requirements, trustees are not subject to a common law duty of care.”) (citation omitted). Mr. Moss alleges that ETS violated its duty to examine the chain of title, however, no such duty exists in the deed of trust securing the Property, and Mr. Moss has not identified an applicable statute nor identified a provision within the deed of trust that creates such a duty. See Cedano v. Aurora Loan Services, LLC (In re Cedano), 470 B.R. 522, 534 (B.A.P. 9th Cir. 2012) (holding that a plaintiff could not assert that a substitute trustee breached a duty of care by alleging that the trustee did not sufficiently ascertain the validity of the foreclosure documents). If Mr. Moss is contending that ETS owed him a duty to rescind the Notices, he has similarly failed to support this contention with any authority in statute or the deed of trust. Therefore, while Mr. Moss contends that ETS owed him a duty, his contention is not supported by the law in California. Therefore, the claim for negligence must fail.

42. Mr. Moss also asserts a cause of action for negligence *per se* based on a violation of Cal. Civil Code sections 2924b and 2934. However, violations of sections 2924 and

2934 cannot constitute a breach of a duty for a negligence *per se* claim. See Maomanivong, 2014 WL 4623873, at *16 (a violation of section 2924 cannot support a breach of duty for a negligence *per se* claim); Le Beau v. Bank of America, N.A., Case No. G050079, 2014 WL 4809843, at *9 (Cal. Ct. App. Sept. 29, 2014) (holding that allegations of violation of sections 2924 and 2934 were not sufficient to support a negligence *per se* claim because the plaintiff had not shown that the defendant owed him a duty of care). Therefore, Mr. Moss' claim under a negligence *per se* theory fails for the same reason as his negligence claim.

43. Additionally, even if ETS did owe Mr. Moss a duty, Mr. Moss cannot show that he was in any way damaged as a result of ETS' actions. Mr. Moss asserts that he is entitled to emotional distress/pain and suffering damages in the amount of \$730,000, which he inexplicably calculated based on purported damages of \$3,000 a day for six months and \$1,000 a day for another six months. He also asserts that he is entitled to \$18,460.98 in attorney's fees and costs associated with defending the Foreclosure Proceedings. See Statement of Damages, attached to the Diligence Response. All of these damages are the result of Foreclosure Proceedings being commenced against him by the owner of the Moss Loan, Bank of New York. As discussed in ¶¶ 12, 14 *supra*, the Foreclosure Proceedings were commenced because Mr. Moss defaulted on the loan, and Mr. Moss does not contest that the owner of his loan had the right to commence foreclosure as a result of his default. ETS' only role in these proceedings was to record the Notices (at the direction of the owner of the Moss Loan) and conduct the sale of the Moss Property, both of which have been rescinded.

44. Moreover, ETS' recording of the Notices did not cause the commencement of the foreclosure process, and therefore cannot be the cause of Mr. Moss' alleged damages. See Bergman, 2013 WL 5863057, at *16 (plaintiff could not show that her

damages were caused by an alleged improper substitution of trustee, even where malice was demonstrated, because the plaintiff was in default at the time of the foreclosure); Freeman v. King, Case No. B181091, 2007 WL 1289810, at *6 (Cal. Ct. App. May 3, 2007) (holding that improper notice of a foreclosure sale did not cause the plaintiff to incur attorney's fees defending the foreclosure because the foreclosure was caused by the borrower's default on the loan); Walton v. Mortg. Elec. Reg. Sys. Inc., 507 Fed. Appx. 720, 721 (9th Cir. 2013) ("[Plaintiff] cannot prevail on her negligence claim because even if Appellees kept inaccurate records, she admits that she fell behind on her payments and has not alleged that she could have avoided the default.") In Bergman, the Plaintiffs asserted damages because they were ousted from their home through the foreclosure process, lost their equity in the home, and were forced to retain counsel to challenge the foreclosure. Bergman, 2013 WL 5863057, at *23. The court held that even given these facts, the plaintiffs were not prejudiced by the foreclosure, notwithstanding the allegation that the trustee did not have authority to conduct the sale. The court held that such lack of authority was a mere irregularity in the process, and that such irregularity did not harm the plaintiffs because their default would have subject them to foreclosure despite the irregularity. Bergman, 2013 WL 5863057, at *21. Similarly, Mr. Moss' default granted the owner of his loan the right to commence foreclosure proceedings, and therefore he cannot blame the foreclosure on the "mere irregularities" in the process caused by the issues with ETS' substitution.

45. Furthermore, Mr. Moss cannot show that he is entitled to emotional damages. In California, where a plaintiff incurs neither physical impact nor physical damage, and whose loss (other than emotional distress) is solely economic, the plaintiff is entitled to neither punitive damages nor recovery for emotional distress. See Friedman v. Merck & Co., 131 Cal.

Rptr. 2d 885, 908 (Cal. Ct. App. 2003) (citing Branch v. Homefed Bank, 8 Cal. Rptr. 2d 182, 187 (Cal. Ct. of App. 1992) (“Recovery for worry, distress, and unhappiness as the result of damage to property, loss of a job or loss of money is not permitted when the defendant’s conduct is merely negligent.”)); Smith v. Superior Court of Orange Cnty., 13 Cal. Rptr. 2d 133, 137 (1992) (“mere negligence will not support a recovery for mental suffering where the defendant’s tortious conduct has resulted in only economic injury to the plaintiff.”); Terry v. Travelers Indem. Co., No. 04-2314-MCE-GGH, 2005 WL 1984482, at *2 (E.D. Cal. Aug. 15, 2005) (“[U]nder California law, Plaintiffs’ unintentional tort claims (negligence and negligent misrepresentation) will not support recovery for emotional distress arising from property damage, absent special circumstances.”) As a result, Mr. Moss has failed to meet his burden of showing that he has been damaged as a result of any action taken by ETS, and his causes of action for negligence, negligence *per se*, and negligent infliction of emotional distress must fail.

Fraud

46. Mr. Moss’ cause of action for fraud must similarly fail. The elements of fraud in California are: (1) defendant made a false representation as to a past or existing material fact; (2) the defendant knew the representation was false at the time it was made; (3) in making the representation, the defendant intended to deceive the plaintiff; (4) the plaintiff justifiably and reasonably relied on the representation; and (5) the plaintiff suffered resulting damages. Lazar v. Superior Court of Los Angeles Cnty., 909 P.2d 981, 984 (Cal. 1996).

47. Mr. Moss asserts that ETS committed fraud when it recorded the Notices.⁷ See ETS Complaint, ¶¶ 45-54. However, as discussed above, Mr. Moss has not shown how he was damaged by the Notices, since the Notices have been rescinded, Mr. Moss has retained title

⁷ If Mr. Moss is premising his fraud claim on ETS’ failure to rescind the notices, such claim must fail, because failure to rescind is not a representation.

to his property, and any damages incurred in defending the foreclosures were caused by his own default. As a result, Mr. Moss has failed to show how ETS' actions resulted in any compensable damages that would support his claim.

Intentional Infliction of Emotional Distress

48. Finally, Mr. Moss alleges a cause of action for intentional infliction of emotional distress. The elements of a cause of action for intentional infliction of emotional distress are (1) the defendant engaged in extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, severe emotional distress to the plaintiff; (2) the plaintiff actually suffered severe or extreme emotional distress; and (3) the outrageous conduct was the actual and proximate cause of the emotional distress. Cabanilla v. Wells Fargo Bank, N.A., Case No. E055041, 2013 WL 1633626, at *6 (Cal. Ct. App. Apr. 17, 2013).

49. Mr. Moss cannot sustain a claim for intentional infliction of emotional distress because in California, foreclosing on a property does not amount to "outrageous conduct." See Aguinaldo v. Ocwen Loan Serv., LLC, Case No. 12-CV-01393-EJD, 2012 WL 3835080, at *7 (N.D. Cal. Sep. 4, 2012) ("[A]s a matter of law . . . foreclosing on property does not amount to the 'outrageous conduct' required to support a claim for intentional infliction of emotional distress."); Davenport v. Litton Loan Servicing, LP, 725 F. Supp. 2d 862, 884 (N.D. Cal. 2010) (holding that the act of foreclosing on a home "falls shy of 'outrageous,' however wrenching the effects on the borrower."); Mehta v. Wells Fargo Bank, N.A., 737 F. Supp. 2d 1185, 1204 (S.D. Cal. 2010), aff'd, 510 Fed. Appx. 498 (9th Cir. 2013) ("The fact that one of [the] Defendant [lenders] employees allegedly stated that the sale would not occur but the house was sold anyway is not outrageous as that word is used in this context." (citation omitted));

Harvey G. Ottovich Revocable Living Trust Dated May 12, 2006 v. Wash. Mut., Inc., No. 10-CV-02842, 2010 WL 3769459, at *4-5 (N.D. Cal. Sep. 22, 2010) (holding that the act of foreclosing on a home by itself does not constitute outrageous conduct for an intentional infliction of emotional distress claim). As a result, Mr. Moss cannot assert a cause of action for intentional infliction of emotional distress.

CONCLUSION

50. WHEREFORE, the Borrower Trust respectfully submits that the relief requested in the Objection should be granted in its entirety.

Dated: April 15, 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: June 4, 2015 at 10:00 a.m. (Prevailing Eastern Time)
Response Deadline: May 6, 2015 at 4:00 p.m. (Prevailing Eastern Time)

MORRISON & FOERSTER LLP
250 West 55th 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 RESCAP BORROWER CLAIMS TRUST'S
OBJECTION TO AMENDED CLAIM NO. 4445 FILED BY ALAN MOSS**

PLEASE TAKE NOTICE that the undersigned has filed the attached *ResCap Borrower Claims Trust's Objection to Amended Claim No. 4445 Filed by Alan Moss* (the "**Objection**").

PLEASE TAKE FURTHER NOTICE that a hearing on the Objection will take place on **June 4, 2015 at 10:00 a.m. (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 (the "**Bankruptcy Court**").

PLEASE TAKE FURTHER NOTICE that responses, if any, to the 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 **May 6, 2015 at 4:00 p.m. (Eastern Time)**, upon (a) the 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 55th 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 Liquidating Trust, Quest Turnaround Advisors, 800 Westchester Avenue, Suite S-520, Rye Brook, NY 10573 (Attention: Jeffrey Brodsky); (e) The ResCap Borrower Claims Trust, Polsinelli PC, 900 Third Avenue, 21st Floor, New York, NY 10022 (Attention: Daniel J. Flanigan); and (f) Alan Moss, P.O. Box 721, Moss Beach, CA 94038.

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

Dated: April 15, 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*

Exhibit 1

Proposed Order

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

In re:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

)
)
)
)
)
)
)

Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

**ORDER GRANTING THE RESCAP BORROWER CLAIMS TRUST’S OBJECTION
TO AMENDED CLAIM NO. 4445 FILED BY ALAN MOSS**

Upon the *ResCap Borrower Claims Trust’s Objection to Amended Claim No. 4445 Filed by Alan Moss* (the “Objection”), of the ResCap Borrower Claims Trust (the “Borrower Trust”) as successor to Residential Capital, LLC, and its affiliated debtors and debtors in possession (collectively, the “Debtors”) with respect to Borrower Claims, 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 proofs of claim no. 4445 [Docket No. 8334] (the “Amended Claim”) on the basis that the Debtors have no liability with respect to the Amended Claim; 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; and upon consideration of the Objection, the *Declaration of Kathy Priore in Support of the ResCap Borrower Claims Trust’s Objection to Amended Claim No. 4445 Filed by Alan Moss*

annexed thereto as Exhibit 2; and the Court having found and determined that the relief sought in the Objection is in the best interests of the Borrower Trust, the Borrower Trust's beneficiaries, the Debtors, and all 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 Claims 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 Amended Claim is hereby disallowed and expunged in its entirety 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 Amended Claim so that it is no longer maintained on the Debtors' Claims Register; and it is further

ORDERED that the Borrower 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 shall be a final order with respect to the Amended Claim; 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

THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 2

Priore Declaration

**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 THE RESCAP BORROWER
CLAIMS TRUST’S OBJECTION TO AMENDED CLAIM NO. 4445 FILED BY ALAN
MOSS**

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”). I joined ResCap on May 1, 2008 as in-house litigation counsel. 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.¹ I am authorized to submit this declaration (the “Declaration”) in support of the *ResCap Borrower Claims Trust’s Objection to Amended Claim No. 4445 Filed By Alan Moss* (the “Objection”).²

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 familiar with the claims reconciliation process in these Chapter 11 Cases with regard to Borrower Claims and I assist the Liquidating Trust with the claims reconciliation process. 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 form and supporting documentation filed by Mr. Moss, including the

¹The 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.

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

Amended Claim. Since the Plan became effective and the Borrower Trust was established, I, along with other members of the 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 Debtors sent a Request Letter to Mr. Moss on June 21, 2013, requesting additional documentation in support of the Claim. The Request Letter stated that Mr. Moss must respond within 30 days with an explanation that states the legal and factual reasons why he believes he is owed money or is entitled to other relief from the Debtors, and that he must provide copies of any and all documentation that he believes supports the basis for his claim. The Request Letter further stated that if Mr. Moss does not provide the requested explanation and supporting documentation within 30 days, the Debtors may file a formal objection to the Claim, seeking to have the Claim disallowed and permanently expunged.

6. The Debtors received a response to the Request Letter from Mr. Moss on July 25, 2013 (the "Diligence Response"). A copy of the Diligence Response is attached hereto as Exhibit A. However, the Diligence Response failed to allege bases for claims against the Debtors' estates. Further, as stated in the Objection, the Books and Records do not show any liability due and owing to Mr. Moss.

7. On or around November 7, 2012, Mr. Moss filed a proof of claim against Executive Trustee Services, LLC (“ETS”), designated as Claim No. 4445 (the “Moss Claim”), asserting a general unsecured claim for \$750,000.00. See Exhibit B-1 attached hereto. The Amended Claim, filed by Mr. Moss on March 16, 2015 [Docket No. 8334] is attached hereto as Exhibit B-2.

8. The Debtors’ books and records show that non-Debtor CJ Mortgage, Inc. originated a loan in the amount of \$612,500.00 to Mr. Moss on June 22, 2005 (the “Moss Loan”), secured by a deed of trust on property located at 86 San Lucas Ave., Moss Beach, CA 94038 (the “Moss Property”). See Moss Note and Moss Deed of Trust, attached hereto as Exhibit C and Exhibit D, respectively. Subsequently, the Moss Loan was transferred to Option One Mortgage Corp. (“Option One”) on or around June 27, 2005. See Option One Assignment, attached hereto as Exhibit E. Option One then transferred the Moss Loan to TCIF, LLC (“TCIF”) on or around September 15, 2007, and TCIF subsequently assigned the Moss Loan to Bank of New York Trust Company (“Bank of New York”) on or around April 29, 2008. See TCIF Assignment and Bank of New York Assignment, attached hereto as Exhibit F and Exhibit G.

9. Debtor GMAC Mortgage, LLC serviced the Moss Loan from March 14, 2006 until servicing was transferred to Ocwen Loan Servicing, LLC (“Ocwen”) on February 16, 2013.

10. ETS was appointed as substitute trustee on September 21, 2006. See Substitution of Trustee, attached hereto as Exhibit H.

11. On June 16, 2006, the Moss Loan was referred to foreclosure because the account was owing for the April 1, 2006 payment (the “June 16 Foreclosure”).

12. ETS recorded a notice of default on June 20, 2006 (the “2006 Notice of Default”). See Notice of Rescission of 2006 Notice of Default, attached hereto as Exhibit I. On May 4, 2007, a Notice of Rescission of the 2006 Notice of Default was recorded.

13. On September 17, 2007, the Moss Loan was referred to foreclosure because the account was owing for the July 1, 2007 payment (with the June 16 Foreclosure, the “Foreclosure Proceedings”). See Moss Payment History, attached hereto as Exhibit J.

14. ETS recorded a notice of default on September 18, 2007 (the “2007 Notice of Default”). See Notice of Rescission of the 2007 Notice of Default, attached hereto as Exhibit K.

15. One June 11, 2008, two days before the scheduled trustee’s sale, Mr. Moss contacted GMACM to request a loan modification. GMACM’s servicing notes reflect that during this call GMACM offered Mr. Moss a six-month foreclosure repayment agreement consisting of a \$50,000 down payment and six monthly payments of \$6,740.78. Mr. Moss accepted this and paid the \$50,000. The foreclosure sale set for June 13, 2008 was cancelled. On June 13, 2008 GMACM mailed a copy of the foreclosure repayment agreement to Mr. Moss. GMACM records do not indicate receiving an executed copy from Mr. Moss. Further, Mr. Moss did not make the next payment which was due on July 12, 2008 in the amount of \$6,740.78. Foreclosure was recommenced on July 18, 2008. On August 21, 2008 GMACM received a personal check from Mr. Moss in the amount of \$6,000. The check was returned to Mr. Moss as it was less than the amount owed under the foreclosure repayment agreement and made untimely. A copy of the relevant sections of the servicing notes is included in Exhibit L. A copy of the foreclosure repayment agreement sent to Mr. Moss is attached hereto as Exhibit M.

16. On May 7, 2009, ETS conducted a trustee sale and Bank of New York acquired title in the property. ETS recorded a Trustee's Deed Upon Sale on May 15, 2009 (the "Notice of Trustee's Deed Upon Sale") and with the 2006 Notice of Default and 2007 Notice of Default, the "Notices"), which granted title in the property to Bank of New York.³ See Notice of Rescission of the Trustee's Deed Upon Sale, attached hereto as Exhibit N. A Notice of Rescission of the Trustee's Deed Upon Sale was recorded on September 18, 2012, and a Notice of Rescission of the 2007 Notice of Default was recorded on August 19, 2013. See Notices of Rescission. Upon information and belief, Mr. Moss continues to hold title to the Moss Property, subject to the note and the deed of trust.

17. On July 22, 2009, Mr. Moss filed litigation against Bank of New York in Superior Court, San Mateo County, CA (the "Superior Court"), case number 486130. A copy of the complaint (the "Bank of New York Complaint") is attached to the Moss Response as Exhibit 2. In the Bank of New York Complaint, Mr. Moss sought to set aside the trustee sale due to it being void. See Bank of New York Complaint, p. 6.

18. On May 5, 2011, Mr. Moss filed a parallel lawsuit against ETS in the Superior Court, case number 505386, for negligence, fraud, and intentional infliction of emotional distress resulting from ETS executing the Notice of Default and the Trustee's Deed Upon Sale. A copy of the complaint (the "ETS Complaint") is attached to the Moss Response as Exhibit 1. ETS did not enter an appearance in the case, and on June 17, 2011, a default was entered. See ETS Docket, attached hereto as Exhibit O. A motion to set aside the default was filed on April 4, 2012, and was not heard by the court before the imposition of the automatic stay in the Chapter 11 Cases. See id. No default judgment was ever entered against ETS. See id.

³ The foreclosure sale was conducted by the Debtors in error due to a failure to communicate timely, notice of conditions that would have warranted a cancellation of the foreclosure. See Rescission of Notice of Trustee's Deed Upon Sale.

19. In November 2013, Bank of New York, through Ocwen as loan servicer, completed a settlement with Mr. Moss that included a dismissal with prejudice of the Bank of New York Complaint. The terms of the settlement are subject to a confidentiality provision.

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

Dated: April 15, 2015

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

Exhibit A

RESCAP

MORRISON | FOERSTER

Sent/Received

Claim Information

JUL 25 2013

Claim Number	4445
Basis of Claim	<p>To _____ By _____</p> <p>BASIS OF THIS CLAIM: This claim is based on the civil action I filed against Executive Trustee Services, LLC (hereinafter "ETS"), one of the debtors in this ResCap action: Action No. 505386, Superior Court of San Mateo California, May 5, 2011. This action has been stayed since May 23, 2012 when Debtor Executive Trustee Services filed a Notice of Stay of Proceedings on that date.</p> <p>The basis of this action, in general terms, is the negligence of ETS when it proceeded with a trustee sale of the property of claimant without having any authority to do so, and failing to ascertain whether it had authority to conduct a trustee sale, thus causing claimant significant damages—explained fully in the attached documents.</p> <p>The basis of this lawsuit in San Mateo County, CA and the basis of this claim (Claim No. 4445) is identical, and the damages sought in each are identical. The proof that I am "owed money from one of the debtors as of May 14, 2012" is contained in the attached documents: (1) Complaint, CIV505386; (2) Statement of Damages filed 8/22/11; (3) Memorandum of Costs; (4) Declaration of Alan Moss In support of Request To Enter Default Judgment By Court. These documents are attached hereto, and made a part of this claim.</p>

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 following loan information, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

Loan Number: 7900		
I DON'T KNOW IF MY CLAIM "RELATES" TO ONE OF THE DEBTORS AS THAT TERM IS USED. THE LOAN WAS SERVICED BY GMAC BUT THE CLAIM IS NOT AGAINST GMAC. IT IS AGAINST THEIR ALLEGED TRUSTEE.		
Address of property related to the above loan number:		
86 SAN LUCAS		
City:	State:	ZIP Code:
MOSS BEACH	CA	94038.

Additional resources may be found at - <http://www.kccllc.net/rescap>

ALAN MOSS
P.O. Box 721
MOSS BEACH CA 94038

TELEPHONE:
(415)494-8314

E-MAIL: alanmoss.office@gmail.com

FACSIMILE:
(650)728-0738

July 20, 2013

Residential Capital, LLC
P.O. Box 385220
Bloomington, Minnsota 55438

Re: ResCap Bankruptcy
Claim No. 4445, Alan Moss

Dear Sirs::

Pursuant to your letter of June 21, 2013(on Morrison and Foerster letter head), enclosed you will find my response to the information requested regarding Claim No. 4445.

I have attached four documents as Exhibits 1 - 4 to that form entitled Claim Information." These four documents explain in great detail the lawsuit I filed against Executive Trustee Services, LLC("ETS") and which was stayed by operation of the bankruptcy filing, and which was the basis of my claim against the debtor. The claim in each are identical as set forth on that form. The lawsuit is still pending.

ETS is one of the debtors encompassed in the ResCap bankruptcy. ETS acted as trustee and initiated and consummated a trustee sale of my property, when it was illegally appointed as a substitute trustee, and due to its negligence, failed to ascertain if they had been given proper authority to act as trustee. It had not. ETS has now rescinded the sale and returned title to me. However, I suffered and continue to suffer great damages as a result of its illegal action, all of which is explained in the documents attached. My action was stayed one day before a default judgment prove-up hearing to establish the extent of damages—the amount of which is identical to the claim I filed in this ResCap action.

I believe this fully responds to your request for information. If for some reason it does not, please let me know.

Very truly yours,



ALAN MOSS

CLAIM No. 4445

1 Alan Moss
2 P.O. Box 721
3 Moss Beach CA 94038
4 Telephone: (415)296-7500
5 Facsimile: (650)728-0738

(ENDORSED)
FILED
SAN MATEO COUNTY

MAY 5 2011

CLERK OF THE SUPERIOR COURT
by G. Lopez
DEPUTY CLERK

6 Attorney *In Pro Per*

7
8 SUPERIOR COURT OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN MATEO

10
11 ALAN IRVING MOSS,

12 Plaintiff,

13 vs.

14
15 EXECUTIVE TRUSTEE SERVICES, LLC
16 F/K/A EXECUTIVE TRUSTEE SERVICES,
17 INC., AND DOES 1-50, INCLUSIVE

18 Defendants.

CIV 505386
Action No.

COMPLAINT FOR
(1). Negligence
(2). Negligence *per se*
(3). Fraud
(4). Intentional Infliction of
Emotional Distress
(5). Negligent Infliction of
Emotional Distress

19 Plaintiff ALAN IRVING MOSS alleges as follows:

20 1. Plaintiff ALAN IRVING MOSS is, and at all times hereinafter mentioned
21 was, an individual residing in the County of San Mateo, California.

22 2. Defendant EXECUTIVE TRUSTEE SERVICES, LLC F/K/A EXECU-
23 TIVE TRUSTEE SERVICES, INC., (hereinafter "ETS") is, and at all times hereinafter men-
24 tioned was, a business of unknown legal origin and form.

25 3. The true names and capacities, whether individual, corporate, associate or
26

1 otherwise, of defendants sued herein as Does I through 50, inclusive, are unknown to plaintiff,
2 who sue said defendants by such fictitious names; plaintiff will amend this Complaint to show
3 the true names and capacities if and when the same are ascertained; and plaintiff is informed
4 and believes, and thereon alleges, that said defendants, and each of them, are responsible in
5 some manner for plaintiff's damages as herein alleged.

6 4. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, each of the defendants was the agent of the remaining defendants and, in doing
8 the things herein alleged, was acting within the course and scope of such agency.

9 5. Plaintiff has owned and resided in the property located at 86 San Lucas,
10 Moss Beach, California (the "property"), within the County of San Mateo, continuously from
11 1984 to the present. The legal description of the property, as contained in the official records
12 of San Mateo County, is APN No. 037-275-120, Lots 22 and 23, Blk. 13, Riviera Ocean
13 Villa.

14 6. According to actions taken by defendant hereinafter described, the subject
15 property also included Parcel No. 037-275-170, Lot 20 when it was encumbered by the finan-
16 cial instrument which is the subject of this lawsuit. Lot 20 is not contiguous to Lots 22 and
17 23, but rather is separated by a legally separate lot, Lot 21.

18 7. On or about June 22, 2005, plaintiff took out a loan against the subject pro-
19 perty, as evidenced by a Note. Plaintiff was the borrower. CJ Mortgage, Inc. was the lender.

20 8. The Note was secured by a Deed of Trust, in which the purported parties
21 were: CJ Mortgage, Inc. as the beneficiary, Alliance Title was the trustee, and plaintiff was
22 the trustor. Said Deed of Trust described the property as APN 037-275-170-6. Said instru-
23 ment was recorded on July 5, 2005.

24 9. The County of San Mateo does not contain any APN number with the des-
25 cription 037-275-170-6.

1 10. The original lender, CJ Mortgage, Inc. drafted both the Note and Deed of
2 Trust. Plaintiff took no part in the drafting of these documents, which were drafted so as to
3 bifurcate the debt(Note) from the security(Deed of Trust) in order to, on information and be-
4 lief, facilitate the creation of certain securitized investment vehicles.

5 11. According to public records on file with the Recorders Office of San Mateo
6 County, on or about June 27, 2005, said property was allegedly assigned to Option One Mort-
7 gage Corporation by CJ Mortgage Inc. The trustee listed in said assignment was Alliance
8 Title. Said alleged assignment was recorded on April 4, 2007. A true and correct copy of said
9 assignment as contained in the official records of the County of San Mateo is attached hereto
10 as Exhibit 2. Plaintiff herein never received notice of said assignment. Said instru-ment was
11 recorded on July 5, 2005.

12 12. On or about October 26, 2005, Option One Mortgage Corporation prepared
13 a document entitled "Substitution of Trustee," in which it substituted Premier Trust Deed Ser-
14 vices Inc. as trustee in place and stead of Alliance Title. Said document was recorded on
15 February 3, 2006. A true and correct copy of said assignment as contained in the official re-
16 cords of the County of San Mateo is attached hereto as Exhibit 3.

17 13. On or about October 26, 2005, an entity set forth as "TCIF REO2, LLC"
18 prepared a document entitled "Substitution of Trustee," in which it claims to be the "present
19 beneficiary and claims to substitute Executive Trust Deed Services, LLC FKA Executive
20 Trust Deed Services, Inc." as trustee in place and stead of, on information and belief, Premier
21 Trust Deed Services Inc. Said document was recorded on November 10, 2006. This docu-
22 ment was signed in Pennsylvania by a Margie Kwaitanowski, as vice-president of TCIP
23 REO2, LLC. On or about October 25, 2005, Ms. Kwaitanowski was actually employed by
24 GMAC in Pennsylvania, a business entity of unknown legal form. In addition, the notary on
25 the document was Brenda Staehle, who was also an employee of GMAC. A true and correct
26

1 copy of said assignment as contained in the official records of the County of San Mateo is at-
2 tached hereto as Exhibit 4.

3 14. On or about October 26, 2005, TCIF REO2, LLC was not the present bene-
4 ficiary under the deed of trust referred to hereinabove, nor had it been assigned the deed of
5 trust as of that date.

6 15. On or about November 10, 2006, TCIF REO2, LLC was not the present be-
7 neficiary under the deed of trust, nor had it been assigned the deed of trust as of that date.

8 16. According to public records on file with the Recorders Office of San Mateo
9 County, on or about September 15, 2007, said property was allegedly assigned to "TCIF,
10 LLC" by Option One Mortgage Inc. The signature of the officer of the assignor was notar-
11 ized more than four months prior to the signature of the representative of the assignor, on May
12 7, 2007; the date of May 7, 2007 was interlineated by handwriting after a typed date of May
13 8, 2008 was crossed out. The document was allegedly notarized on May 7, 2007; the "7" of
14 the "2007" date was written by hand over the "8" of the typed "2008." Plaintiff is informed
15 and believes, and on that basis alleges, that this document was actually signed and notarized
16 on My 8, 2008. Said alleged assignment was recorded on June 16, 2008. A true and correct
17 copy of said assignment as contained in the official records of the County of San Mateo is at-
18 tached hereto as Exhibit 5. Plaintiff herein never received notice of said assignment.

19 17. According to public records on file with the Recorders Office of San Mateo
20 County, on or about September 17, 2007, a Notice of Default was recorded against said pro-
21 perty. Said document was issued by "TCIF REO2, LLC c/o Executive Trustee Services
22 LLC." The document was signed by "Executive Trustee Services, LLC as agent for benefi-
23 ciary." The document was recorded on September 18, 2007. A true and correct copy of said
24 assignment as contained in the official records of the County of San Mateo is attached hereto
25 as Exhibit 6.

26

1 18. Plaintiff never received notice of any Notice of Default up to and including
2 the present time.

3 19. According to public records on file with the Recorders Office of San Mateo
4 County, on or about April 29, 2008, said property was allegedly assigned to The Bank of New
5 York Trust Company by TCIF, LLC. Said alleged assignment was recorded on June 16, 2008.
6 A true and correct copy of said assignment as contained in the official records of the County
7 of San Mateo is attached hereto as Exhibit 7. Plaintiff herein never received notice of said
8 assignment.

9 20. According to public records on file with the Recorders Office of San Mateo
10 County, on or about May 19, 2008, a Notice of Trustees Sale was recorded on said property
11 by ETS Services, LLC, which was, on information and belief, a sub-entity of Executive Trus-
12 tee Services. A true and correct copy of this document as contained in the official records of
13 the County of San Mateo is attached hereto as Exhibit 8.

14 21. On or about May 7, 2009, unbeknownst to plaintiff, a Trustee Sale took
15 place, conducted by defendant ETS, pursuant to the Notice of Default and Notice of Trustees
16 Sale, regarding the foreclosure on the property, in which defendant ETS as trustee, sold the
17 property.

18 22. On or about May 12, 2009, defendant ETS prepared a document entitled
19 Trustee's Deed Upon Sale which purported to grant to The Bank of New York Trust Com-
20 pany, title to said property. The document states that "grantee was the foreclosing benefi-
21 ciary." On information and belief, this was a full credit purchase sale, and no cash changed
22 hands, in derogation of the specific language of the Notice of Trustees Sale. The Bank of
23 New York Trust Company was not a BFP. A true and correct copy of this document as con-
24 tained in the official records of the County of San Mateo is attached hereto as Exhibit 9.

1 **FIRST CAUSE OF ACTION**
2 **(NEGLIGENCE)**
3

4 23. Plaintiff re-alleges and re-asserts, as though fully set forth herein, Para-
5 graphs 1 - 22 inclusive.

6 24. At all relevant times herein, defendant ETS, acting as trustee, owed plaintiff
7 an affirmative duty of care, that in fulfilling its responsibilities as trustee, and in particular to
8 exercise the power of sale of residential real property, to faithfully comply and strictly com-
9 port with the laws of California and the provisions of the deed of trust referred to herein-
10 above. In particular, because ETS was acting under a power of sale whose actions could re-
11 sult in the removal of plaintiff from his residence, and because ETS had an affirmative duty
12 of care to plaintiff, ETS had an affirmative duty of care to plaintiff to treat plaintiff fairly, in
13 a manner equal to the manner in which it was treating the alleged beneficiary, and in confor-
14 mance with the law.

15 25. Prior to issuing the Notice of Default and the Notice of Trustees Sale, de-
16 fendant ETS negligently failed to examine the chain-of-title of the subject property and negli-
17 gently failed to determine that it had not in fact been legally and properly substituted in as
18 trustee, and had no power and authority to issue said Notice of Default and Notice of Trustee
19 Sale.

20 26. At the time that defendant ETS was allegedly made trustee by virtue of said
21 substitution of trustee prepared and recorded by TCIF REO2, LLC , TCIF REO2, LLC was
22 not the present beneficiary of the deed of trust. Therefore, defendant ETS could not, and did
23 not, legally acquire the power of sale from the purported substitution; therefore, ETS had no
24 power and authority to issue said notices.

25 27. Prior to conducting the trustee's sale which resulted in plaintiff allegedly
26

1 losing his property, defendant ETS negligently failed to examine the chain-of-title of the sub-
2 ject property and negligently failed to determine that it had in fact been legally and properly
3 substituted in as trustee, and had the power and authority to conduct said trustee's sale.

4 28. At the time that defendant ETS was allegedly made trustee by virtue of said
5 substitution of trustee prepared and recorded by TCIF REO2, TCIF REO2, LLC was not the
6 present beneficiary of the deed of trust. Therefore, defendant ETS could not, and did not, le-
7 gally acquire the power of sale from the purported substitution; therefore, ETS had no power
8 and authority to conduct said trustee sale.

9 29. Prior to issuing the Trustees Deed referred to hereinabove, defendant ETS
10 negligently failed to examine the chain-of-title of the subject property and negligently failed
11 to determine that it had in fact been legally and properly substituted in as trustee, and had the
12 power and authority to issue said Trustees Deed.

13 30. At the time that defendant ETS was allegedly made trustee by virtue of said
14 substitution of trustee prepared and recorded by TCIF REO2, TCIF REO2, LLC was not the
15 present beneficiary of the deed of trust. Therefore, ETS could not, and did not, legally acquire
16 the power of sale from the purported substitution; therefore, ETS had no power and authority
17 to issue said Trustees Deed.

18 31. By doing the acts aforementioned mentioned, and each of them, defendant
19 ETS breached the duty of care it owed to plaintiff.

20 32. As a direct and proximate result of the negligence of defendant ETS, as set
21 forth hereinabove, plaintiff sustained damage, both physically, emotionally and financially,
22 and plaintiff prays judgment against defendant as hereinafter set forth.

23 **SECOND CAUSE OF ACTION**

24 **(NEGLIGENCE *PER SE*)**

25 33. Plaintiff re-alleges and re-asserts, as though fully set forth herein, para-
26

1 graphs 1 - 32 inclusive.

2 34. On or about September 21, 2006, defendant ETS was allegedly substituted
3 in as trustee of the Note and Deed of Trust as set forth hereinabove.

4 35. As the purported trustee under a Deed of Trust, ETS believed it had ac-
5 quired the powers enunciated in the Deed of Trust and the relevant statutes of the State of
6 California, i.e., Civil Code §§ 2924b and 2934, including the power of sale.

7 36. Acting under this supposed power, defendant ETS negligently issued a No-
8 tice of Default dated September 17, 2007 regarding the subject property.

9 37. Acting under this supposed power, ETS negligently issued a Notice of Trus-
10 tees Sale dated May 19, 2008.

11 38. Acting under this supposed power, defendant ETS negligently conducted
12 a Trustees Sale on said property, in which The Bank of New York Trust Company "bought"
13 the property on a credit bid and acting as the "foreclosing beneficiary."

14 39. Acting under this supposed power, defendant ETS negligently issued a
15 Trustees Deed to the Bank of New York Trust Company, purporting to pass title to said pro-
16 perty to The Bank of New York Trust Company.

17 40. At all relevant times herein, there was in effect California Civil Code §§
18 2924b and 2934 which provided the only method by which a beneficiary could substitute in
19 a new trustee and insin on said trustee all the powers of the previous trustee and trust deed.
20 Pursuant to said statute, only the beneficiary or beneficiaries had the power to substitute a new
21 trustee. On the date that ETS was substituted in as new trustee by TCIF REO2, LLC, TCIF
22 REO2, LLC was not the beneficiary under said Deed of Trust, because it was not assigned the
23 deed of trust until May 7, 2007 at the earliest.

24 41. Civil Code §§ 2924b and 2934 are a statutory scheme designed specifically
25 for the protection of trustors under a deed of trust, specifically in this case the plaintiff herein.

26

1 42. As a result of defendant ETS acting in derogation of the aforementioned
2 statutes, plaintiff was directly and proximately injured as hereinafter prayed and set forth.

3 43. As a direct and proximate result of the negligence of defendant ETS, as set
4 forth hereinabove, plaintiff sustained damaged, both physically, emotionally and financially,
5 and plaintiff prays judgment against defendant as hereinafter set forth.

6
7 **THIRD CAUSE OF ACTION**

8 **(FRAUD)**

9 44. Plaintiff re-alleges and re-asserts, as though fully set forth herein, para-
10 graphs 1 - 43 inclusive.

11 45. At the time that defendant ETS issued the Notice of Default and the Notice
12 of Trustee Sale, defendant ETS knew or should have known, that it did not have the legal au-
13 thority to issue said notices.

14 46. At the time that defendant ETS conducted the trustees sale set forth here-
15 inabove, defendant ETS knew or should have known, that it did not have the legal authority
16 to conduct said sale.

17 47. At the time that defendant ETS issued the Trustees Deed on said property,
18 as set forth hereinabove, defendant ETS knew or should have known, that it did not have the
19 legal authority to issue said Trustees Deed.

20 48. As a direct result of these aforementioned actions of defendant ETS, and
21 because of direct representations of defendant ETS to plaintiff, plaintiff was caused to believe
22 that his property was subject to being sold at a trustees sale and that said sale would not be
23 cancelled unless and until plaintiff reached an agreement with the loan servicer, GMAC.

24 49. Defendant ETS, by doing the acts hereinabove complained of, intended that
25 plaintiff rely on its official capacity and representations, and that plaintiff had to reach agree-
26

1 ment with GMAC to cancel said sale.

2 50. Due to the fraudulent misrepresentations made to plaintiff by defendant
3 ETS, and others purporting to act on behalf of those purporting to hold a beneficial interests
4 in the property, and their principals, agents, assignors, assignees and predecessor, plaintiff was
5 induced to reasonably rely on their express and implied assurance regarding loan forbearance
6 and forgiveness, cancellation and postponement of the foreclosure process.

7 51. Plaintiff reasonably relied on said representations in paying \$50,000.00 to
8 the loan servicer in order to cancel said sale; plaintiff reasonably and in good faith relied on
9 said representations that the sale would be cancelled; as a direct result, plaintiff believed that
10 defendant ETS cancelled said scheduled trustees sale.

11 52. In reliance on said representations, Plaintiff did not receive notice of any
12 subsequently scheduled trustee sale.

13 53. As a result of the fraudulent activities by defendant ETS, Does 1 through
14 50 and their assignors ad predecessors in interest, plaintiff has been damaged in an amount
15 to be determined at trial, both as to compensatory and punitive damages.

16 54. As a direct and proximate result of the negligence of defendant ETS, as set
17 forth hereinabove, plaintiff sustained damaged, both physically, emotionally and financially,
18 and plaintiff prays judgment against defendant as hereinafter set forth.

19

20

FOURTH CAUSE OF ACTION

21

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

22

23 55. Plaintiff re-alleges and re-asserts, as though fully set forth herein, para-
24 graphs 1 through 54 inclusive.

25

26

56. Defendant's conduct, as hereinabove set forth, was intentional and mali-

1 cious and done for the purpose of causing plaintiff to suffer humiliation, mental anguish, and
2 emotional and physical distress. Defendant's conduct in confirming and ratifying that conduct
3 was done with knowledge that plaintiff's emotional and physical distress would thereby in-
4 crease, and was done with a wanton and reckless disregard of the consequences to plaintiff.

5 57. As a direct and proximate result of the acts alleged above, plaintiff suffered
6 humiliation, mental anguish and emotional and physical distress, and has been injured in mind
7 and body, all to plaintiff's damage.

8 58. By reason of the acts alleged above, plaintiff was prevented from attending
9 to plaintiff's usual occupation and thereby lost earnings. Plaintiff is informed and believes
10 and thereon alleges, that plaintiff will thereby be prevented from attending to plaintiff's usual
11 occupation for a period in the future which plaintiff cannot ascertain, and will thereby sustain
12 further loss of earnings.

13 59. The acts of defendants alleged above were willful, wanton, malicious, and
14 oppressive, and justify the awarding of exemplary and punitive damages.

15 60. Defendant ETS, Does 1 through 50 and any of their agents, principals, as-
16 signors, assignees, predecessor and related entities are in the business of real estate and knew
17 or should have known of the requirements of State law regarding the sale of real property.
18 Defendants, and each of them, deliberately and carelessly, or with such callous disregard for
19 State law that it amounted to deliberate, violated the requirements of State law as set forth
20 hereinabove.

21 61. Defendants intentionally, with callous disregard for plaintiff, and with ma-
22 lice aforethought violated numerous requirements of State law, and as a direct and proximate
23 result, plaintiff was severely injured and made to suffer for months on end as this process
24 went forward.

25 62. As a direct and proximate result of the negligence of defendant ETS, Does
26

1 1 -50, and their agents, as set forth hereinabove, plaintiff sustained damages, both physically,
2 emotionally and financially, and plaintiff prays judgment against defendant as hereinafter set
3 forth.

4
5 **FIFTH CAUSE OF ACTION**
6 **(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**
7

8 63. Plaintiff realleges and re-asserts, as though fully set forth herein, para-graphs
9 1 through 62 inclusive.

10 63. Defendant ETS, Does 1 - 50, and their agents, knew or should have known,
11 that its failure to exercise due care in the performance of its acts, as set forth hereinabove,
12 would cause plaintiff severe emotional distress.

13 64. Defendant's, and each of them, in their acts in defiance of the law, and in
14 a manner designed to be in derogation of California statute and the deed of trust, was a direct
15 breach of the law and statutes and deed of trust.

16 65. As a direct and proximate result of defendant's, and each of them, acts and
17 omissions, plaintiff suffered extreme emotional distress and threatened, and as of this date,
18 actual, loss of his property.

19 66. As a further proximate result of defendant's breach of duty and the conse-
20 quences proximately caused by it, as hereinabove alleged, plaintiff suffered severe emotional
21 distress and mental suffering, all to his damage.

22 67. As a direct and proximate result of the negligence of defendant ETS, as set
23 forth hereinabove, plaintiff sustained damaged, both physically, emotionally and financially,
24 and plaintiff prays judgment against defendant as hereinafter set forth.

1 WHEREFORE, plaintiff prays for judgment against Defendant ETS and Does
2 1 through 50 as follows:

3
4 AS TO THE FIRST CAUSE OF ACTION:

- 5 1. For special and general damages according to proof at time of trial.
6 2. For incidental damages in an amount to be determined at trial;
7 3. For reasonable attorney fees;
8 4. For costs of suit incurred; and
9 5. For such other and further relief as the court may deem just and proper.

10
11 AS TO THE SECOND CAUSE OF ACTION:

- 12 1. For special and general damages according to proof at time of trial.
13 2. For incidental damages in an amount to be determined at trial;
14 3. For reasonable attorney fees;
15 4. For costs of suit incurred; and
16 5. For such other and further relief as the court may deem just and proper.

17
18 AS TO THE THIRD CAUSE OF ACTION:

- 19 1. For monetary damages, both compensatory and punitive, in an amount to be determined
20 at trial;
21 2. For reasonable attorney fees;
22 3. For costs of suit incurred; and
23 4. For such other and further relief as the court may deem just and proper.

24
25 AS TO THE FOURTH CAUSE OF ACTION:

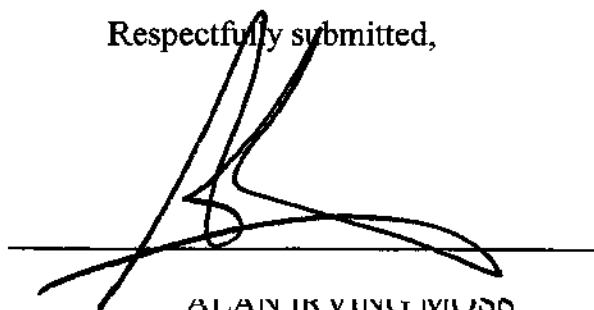
1. For special and general damages according to proof at time of trial.
2. For incidental damages in an amount to be determined at trial;
3. For punitive damages according to proof at trial.
4. For reasonable attorney fees;
5. For costs of suit incurred; and
6. For such other and further relief as the court may deem just and proper.

AS TO THE FIFTH CAUSE OF ACTION:

1. For special and general damages according to proof at time of trial.
2. For incidental damages in an amount to be determined at trial;
3. For reasonable attorney fees;
4. For costs of suit incurred; and
5. For such other and further relief as the court may deem just and proper.

Dated: May 3, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alan Irving Moss', is written over a horizontal line.

ALAN IRVING MOSS

Attorney In Pro Per

CLAIM No. 9445

-UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Alan Moss P.O. Box 721 Moss Beach CA 94038		TELEPHONE NO (415)4948314	FOR COURT USE ONLY
ATTORNEY FOR (name) In Pro Per			ENDORSED FILED SAN MATEO COUNTY AUG 22 2011 Clerk of the Superior Court By <u>A. Degliantoni</u>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO STREET ADDRESS 400 COUNTY CTR MAILING ADDRESS CITY AND ZIP CODE REDWOOD CITY CA 94063 BRANCH NAME			
PLAINTIFF: ALAN IRVING MOSS DEFENDANT: EXECUTIVE TRUSTEE SERVICES, LLC			CASE NUMBER: CIV505386
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			

To (name of one defendant only): EXECUTIVE TRUSTEE SERVICES, LLC

Plaintiff (name of one plaintiff only): ALAN IRVING MOSS

seeks damages in the above-entitled action, as follows:

	AMOUNT
1. General damages	
a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience	\$365,000.00
b. <input type="checkbox"/> Emotional distress	\$365,000.00
c. <input type="checkbox"/> Loss of consortium	\$
d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only)	\$
e. <input type="checkbox"/> Other (specify)	\$
f. <input type="checkbox"/> Other (specify)	\$
g. <input type="checkbox"/> Continued on Attachment 1.g.	
2. Special damages	
a. <input type="checkbox"/> Medical expenses (to date)	\$
b. <input type="checkbox"/> Future medical expenses (present value)	\$
c. <input type="checkbox"/> Loss of earnings (to date)	\$
d. <input type="checkbox"/> Loss of future earning capacity (present value)	\$
e. <input type="checkbox"/> Property damage	\$
f. <input type="checkbox"/> Funeral expenses (wrongful death actions only)	\$
g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only)	\$
h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only)	\$
i. <input checked="" type="checkbox"/> Other (specify) Attorney Fees	\$16,960.98
j. <input checked="" type="checkbox"/> Other (specify) Costs, Copying, Postage, Filing Fees, etc.	\$1,500.00
k. <input type="checkbox"/> Continued on Attachment 2.k.	
3. <input type="checkbox"/> Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify) \$	748,460.98
when pursuing a judgment in the suit filed against you.	

Date: August 8, 2011

Alan Irving Moss

(TYPE OR PRINT NAME)

(Proof of service on reverse)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

Page 1 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): ALAN MOSS PO BOX 721 MOSS BEACH CA 94038 TELEPHONE NO. (415) 494-8314 FAX NO.: ATTORNEY FOR (Name): IN PRO PER		CLAIM NO. 4445
INSERT NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: SUPERIOR COURT SAN MATEO COUNTY		
PLAINTIFF: ALAN IRVING MOSS		
DEFENDANT: EXECUTIVE TRUSTEE SERVICES LLC ET AL.		
MEMORANDUM OF COSTS (SUMMARY)		CASE NUMBER: CIV 505386

The following costs are requested:

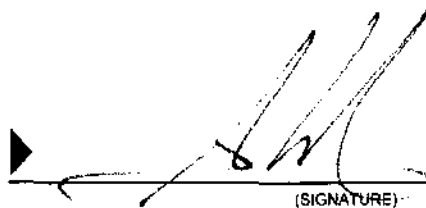
	TOTALS
1. Filing and motion fees COMPLAINT: \$395.00	1. \$ \$395.00
2. Jury fees	2. \$
3. Jury food and lodging	3. \$
4. Deposition costs	4. \$
5. Service of process 5/10/11: \$25.00 8/22/11: \$25.00	5. \$ 50.00
6. Attachment expenses	6. \$
7. Surety bond premiums	7. \$
8. Witness fees	8. \$
9. Court-ordered transcripts	9. \$
10. Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required)	10. \$
11. Models, blowups, and photocopies of exhibits	11. \$
12. Court reporter fees as established by statute	12. \$
13. Other	13. \$ 445.00
TOTAL COSTS	\$ 445.00

I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

Date: **2/28/12.**

ALAN MOSS

(TYPE OR PRINT NAME)



(SIGNATURE)

(Proof of service on reverse)

CLAIM No. 4445

1 Alan Moss
P.O. Box 721
2 Moss Beach CA 94038
Telephone: (415)296-7500
3 Facsimile: (650)728-0738

4 Attorney *In Pro Per*

5
6
7
8 SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

9
10 ALAN IRVING MOSS,

11 Plaintiff,

12 vs.

13
14 EXECUTIVE TRUSTEE SERVICES, LLC
F/K/A EXECUTIVE TRUSTEE SERVICES,
15 INC., AND DOES 1-50, INCLUSIVE

16
17 Defendants.)

Action No. CIV 505386

DECLARATION OF ALAN
MOSS IN SUPPORT OF
REQUEST TO ENTER
DEFAULT JUDGMENT BY
COURT

18
19 I, ALAN MOSS, declare as follows:

20 1. I am the plaintiff in this action, and as such, am familiar with the facts in-
21 volved in this matter, and if called to testify, could and would testify under oath as follows:

22 2. The Complaint in this matter was filed on May 5, 2011. The Complaint is
23 founded on theories of negligence against Executive Trustee Services, LLC f/k/a Executive
24 Trustee Services, Inc.(hereinafter "ETS"), who, acting as trustee, issued all notices regarding
25
26

1 a foreclosure action on plaintiff's property, conducted the trustee's sale, and thereafter issued
2 a trustee's deed. The allegations of negligence are based on (1) the breach of the duty that
3 ETS as trustee owed to plaintiff, and (2) the fact that ETS became trustee by substitution by
4 an entity who would not become the beneficiary of the note for some twenty-three months af-
5 ter the attempted substitution. Under long established California law, a trustee in a foreclosure
6 action owes an equal duty to both beneficiary *and trustor* to act with due care and in good
7 faith, and to insure that the entire process was legally and correctly done. *See Munger vs.*
8 *Moore*(1970) 11 Cal.App.3rd 1; *Kerivan vs. Title Insurance and Trust Company*(1983) 147
9 Cal.App.3rd 225; *Residential Capital, LLC vs. Cal-Western Reconveyance Corp.*(2003) 108
10 Cal.App.4th 807; *Pro Value Properties, Inc. Vs. Quality Loan Service Corp.*(2009) 170
11 CalApp.4th 579.

12 3. The Complaint and the Summons issued thereunder by the clerk of this court
13 were served on defendant by a California registered process server, California Civil Process,
14 Inc. of West Sacramento(hereinafter "CCP"), by serving CSC—Lawyers Incorporating Service
15 (hereinafter "CSC"). CSC is listed on the website of the California Secretary of State as the
16 agent for service of process of defendant ETS.

17 4. CCP informed me that the Complaint and Summons were accepted by CSC,
18 and that if CSC was not the proper agent for service of process on defendant ETS, CCP would
19 have been so informed and CSC would have rejected the papers forthwith. At no time from
20 the time of service to the present has CCP or the undersigned ever been informed that CSC
21 was not the proper agent for service of process on defendant ETS, nor have the papers ever
22 been rejected or returned.

23 5. A Proof of Service of the Summons and Complaint in this matter was filed
24 with the Clerk of this Court on June 2, 2011.

25 6. On June 17, 2011, the undersigned filed a Request To Enter Default with the
26

1 Clerk of this Court.

2 7. On June 17, 2011, the Clerk of this Court entered the default of defendant
3 ETS.

4 8. On August 22, 2011, the undersigned filed a Statement of Damages as to
5 defendant ETS with the Clerk of this Court.

6 9. On August 22, 2011, plaintiff filed Proof of Service of Statement of Da-
7 mages on defendant ETS, with a service date of August 9, 2011. Said service was completed
8 by CCP. At no time from the time of service to the present has CCP or the undersigned ever
9 been informed that the CSC was not the proper agent for service of process on defendant ETS,
10 nor have the papers ever been rejected or returned.

11 10. The facts underlying the Complaint in this matter are as follows:

12 A. Plaintiff has owned and resided in the property located at 86 San
13 Lucas, Moss Beach, California(the "property"), within the County of
14 San Mateo, continuously from 1984 to the present.

15 B. On or about June 22, 2005, plaintiff took out a loan against the sub-
16 ject property, as evidenced by a Note. Plaintiff was the borrower, and
17 CJ Mortgage, Inc. was the lender. The Note was secured by a Deed of
18 Trust, in which the purported parties were: CJ Mort-gage, Inc. as the be-
19 neficiary, Alliance One was the trustee, and plaintiff was the trustor.

20 C. According to public records on file with the Records Office of San
21 Mateo County, on or about June 27, 2005, said property was allegedly
22 assigned to Option One Mortgage Corporation by CJ Mort-gage Inc.

23 D. On or about October 26, 2005, Option One Mortgage Corporation
24 prepared a document entitled "Substitution of Trustee," in which it sub-
25 stituted Premier Trust Deed Services Inc. as trustee in place and stead
26

1 of Alliance Title.

2 E. On or about September 21, 2006, an entity set forth as "TCIF REO2,
3 LLC" prepared a document entitled "Substitution of Trustee," in which
4 it claims to be the "present beneficiary" and claims to substitute "Execu-
5 tive Trust Deed Services, LLC FKA Executive Trust Deed Services,
6 Inc." as trustee in place and stead of, on information and belief (such in-
7 formation is not set forth in the actual do-cument), Premier Trust Deed
8 Services Inc. Said document was recorded on November 10, 2006. This
9 document was signed in Pennsylvania by a Margie Kwaitanowski, as
10 vice-president of "TCIP REO2, LLC." On or about September 21,
11 2006, Ms. Kwaitanowski was actually employed by GMAC in Pennsyl-
12 vania, a business entity of unknown legal form. In addition, the notary
13 on the document was Brenda Staehle, who was also an employee of
14 GMAC. On or about September 21, 2006, "TCIF REO2, LLC" was not
15 the present beneficiary under the deed of trust referred to hereinabove,
16 nor had it been assigned the deed of trust as of that date. Thus, TCIF
17 REO2, LLC had no authority, power or legal right to substitute a new
18 trustee under the deed of trust.

19 r. Twenty-three months later, according to public records on file with
20 the Records Office of San Mateo County, on or about September 15,
21 2007, said property was allegedly assigned to "TCIF, LLC" (not TCIF
22 REO2, LLC) by Option One Mortgage Inc. The signature of the officer
23 of the assignor was notarized more than four months prior to the signa-
24 ture of the representative of the assignor, on May 7, 2007; the date of
25 May 7, 2007 was interlineated by handwriting after a typed date of May
26

1 8, 2008 was crossed out. The document was allegedly notarized on May
2 7, 2007; the "7" of the "2007" date was written by hand over the "8" of
3 the typed "2008." Based on conversations with this notary, Plaintiff
4 believes that this document was actually signed and notarized on My 8,
5 2008. Said alleged assignment was recorded on June 16, 2008.

6 G. According to public records on file with the Recorders Office of San
7 Mateo County, on or about September 17, 2007, a Notice of Default was
8 recorded against said property. Said document was is-sued by "TCIF
9 REO2, LLC c/o Executive Trustee Services LLC." The document was
10 signed by "Executive Trustee Services, LLC as agent for beneficiary."

11 H. According to public records on file with the Recorders Office of San
12 Mateo County, on or about April 29, 2008, said property was allegedly
13 assigned to The Bank of New York Trust Company by "TCIF, LLC."
14 Said alleged assignment was recorded on June 16, 2008.

15 I. According to public records on file with the Recorders Office of San
16 Mateo County, on or about May 19, 2008, a Notice of Trustees Sale was
17 recorded on said property by ETS Services, LLC , which was, on infor-
18 mation and belief, a sub-entity of Executive Trustee Services.

19 J. On or about May 7, 2009, unbeknownst to plaintiff, a trustee sale
20 took place, conducted by defendant ETS, pursuant to the Notice of
21 Default and Notice of Trustees Sale, regarding the foreclosure on the
22 property, in which defendant ETS as trustee, sold the property. The
23 Notice of Trustee Sale had expired under California law approximately
24 a year earlier.

25 K. On or about May 12, 2009, defendant ETS prepared a document en-
26

1 titled Trustee's Deed Upon Sale which purported to grant to The Bank
2 of New York Trust Company, title to said property. The document
3 states that "grantee was the foreclosing beneficiary." On information
4 and belief, this was a full credit purchase sale, and no cash changed
5 hands, in derogation of the specific language of the Notice of Trustees
6 Sale. The Bank of New York Trust Company was not a BFP.

7 L. Thereafter, the Bank of New York has attempted to oust plaintiff
8 from his residence, by the filing of two unlawful detainer actions in this
9 court. The first action(Action No. CLJ199552) was dismissed and the
10 second action(Action No. CLJ199935) was stayed by order of this court,
11 and ultimately dismissed by The Bank of New York.

12 M. The undersigned initiated an action against The Bank of New York
13 for *inter alia* wrongful foreclosure, which action defendant removed to
14 Federal District Court, where it is presently pending.

15 11. Based on the undersigned's investigation into the facts of this matter, and
16 legal research conducted, it was learned that the appointed trustee of a beneficiary has a legal
17 duty to the trustor equal to the duty owed the beneficiary. Based on this, this Complaint was
18 filed against defendant herein for negligence, negligence *per se*, fraud, intentional infliction
19 of emotional distress, and negligent infliction of emotional distress. The essential fact is that
20 ETS took its multiple actions to foreclose on plaintiff's home without ever checking to see
21 if they had the legal power to do so. A simple check of the county's recorded documents
22 would have revealed that the entity that supposedly appointed it to act as trustee had no po-
23 wer to do so for at least twenty-three months. ETS clearly, and beyond dispute based on the
24 recorded documents on file with the County of San Mateo, breached the duty it owed to plain-
25 tiff herein, and as a result, caused extreme damage to plaintiff, which continues to this day.

1 12. The damages which have flowed from defendant's negligence, and were
2 proximately caused by defendant's negligence, are as follows:

3 A. Defendant had a duty to comply with California law, deliberately
4 acted in derogation of several requirements of California law, deliberately acted in derogation
5 of validly issued Orders from this Court, deliberately and intentionally, and this caused
6 plaintiff such emotional distress of such debilitating quality that no reasonable person in a
7 civilized society should be expected to endure it.

8 B. The allegations of outrageous conduct form the basis of the tort of
9 abuse of process: the use of the court to attempt to sanction illegal activity: "...misuse of the
10 power of the court; it is an act done in the name of the court and under its authority for the pur-
11 pose of perpetrating an injustice." That is precisely what happened here: the process server
12 lied that he had personally served the undersigned, and as a result, the Court quashed the al-
13 leged service—not once, but twice.

14 C. Defendant or its attorneys had a duty to ascertain the chain-of-title
15 or to insure that the trustee was acting within its authority. Yet even when this was pointed
16 out to them, they continued to harass plaintiff instead of taking any kind of corrective action.
17 Of note is the fact that even when their unlawful detainer action was stayed, they deliberately
18 showed up for trial three days later with witnesses to proceed. Had not the undersigned show-
19 ed up in court in an abundance of caution, the trial could have proceeded and a default judg-
20 ment obtained. If this is not deliberate interference with a court, it is difficult to perceive what
21 may be.

22 D. Nor can it be argued, though attempt be made, that specific vio-
23 lations of California law were not set forth in the Complaint. The Sixth Cause of Action speci-
24 fically incorporates the previous allegations in their entirety. Those allegations specifically
25 set forth the myriad violations of California law which were committed by this defendant.

1 E. This defendant fraudulently concocted and altered assignments in
2 order to attempt to establish a chain-of-title and create the apparent right of this defendant to
3 proceed with the foreclosure activities. These attempts went so far as to substitute a new
4 trustee months before the defendant had any ownership interest in the property and therefore
5 was without authority to substitute any new trustee. This was done by an employee of defen-
6 dant who had already been held in contempt by a Florida court and sanctioned for the very
7 same activities.

8 F. Defendant owed plaintiff a duty to know the law, to comply with the
9 law, and to not misuse judicial process in derogation of the law. It cannot be stated too force-
10 fully: the defendant engaged in conduct so obviously intended to harm plaintiff that it is evi-
11 dent on the face of the documents which the defendant has previously asked this court to judi-
12 cially notice. They doctored assignments and changed dates on the assignments such that the
13 defendant took title from an entity that didn't even have title at the time they assigned it to
14 defendant. And this occurred notwithstanding attempts on their part to legitimize this whole
15 matter by changing dates on assignment documents and notarizing these documents, in some
16 case four months early and in other cases more than a year later.

17 G. Because of the aforementioned, the undersigned came very close to
18 being evicted from his home. The foreclosing bank filed two separate cases in attempting to
19 evict plaintiff from his home. These actions, with their short time fuse, caused extreme emo-
20 tional distress on a day-to-day basis. Due to the short time limits, and the assumptions inher-
21 ent in the entire process, it became virtually impossible to predict what would happen from
22 day-to-day and week-to-week. Because one of the assumptions inherent in an unlawful de-
23 tainer action is the presumption of regularity, the courts were unwilling to provide plaintiff
24 with a fair and open-minded forum for resolving this matter. As a result of this, plaintiff was
25 forced to hire attorneys to defend him from eviction.

1 H. In order to maintain these lawsuits, there were process servers who
2 came to plaintiff's home at every hour of the day and night, screaming plaintiff's name in the
3 middle of the night, waking plaintiff and the neighborhood, and otherwise striking terror in
4 the heart of plaintiff. Further, the process server lied under oath that he had served plaintiff
5 with process. This was done on multiple occasions.

6 I. Plaintiff lives on a very quiet street with very limited traffic. Essen-
7 tially plaintiff lived for months listening to every car that passed by, waiting to see if the
8 vehicle would stop or keep going.

9 J. The process server would pound loudly on the door and scream plain-
10 tiff's name loudly at 2 o'clock in the morning, waking plaintiff and the neighborhodd. The
11 process server lied about personally serving plaintiff, which was never done, under oath to this
12 court. This is but one example of trying to scare plaintiff out of his home.

13 K. Neither plaintiff's attorneys nor plaintiff was ever able to speak to
14 the attorney of record for the bank. He never would take a call and would never return a call.
15 He was bent on achieving eviction, notwithstanding no legal basis for doing so. Even when
16 this court stayed the scheduled trial three days before it was scheduled, he had an attorney
17 show up at the courthouse with witnesses. If the plaintiff had not have showed up to inform
18 the presiding judge, the trial would have proceeded, notwithstanding that it had been stayed
19 by order of the court. The fear that was experienced during that weekend cannot be under-
20 stated. Further, over a period of a year, and throughout all of the court appearances in this
21 matter, numbering some twenty hearing, not once did the defendant's attorney show up in
22 court, He always hired other attorneys to do his work, who knew nothing of what had trans-
23 pired or what the facts were. This was like continuous torture that went on for over a year.

24 K. Throughout this entire period, the plaintiff was humiliated, unable
25 to function, unable to interact with his community, unable to sleep and unable to relate to
26

1 other individuals.

2 L. As it turns out, the bank's attorney has been suspended due to unethi-
3 cal behavior in foreclosure cases. What he was accused of doing is exactly what happened
4 to plaintiff. If plaintiff had not persevered and attempted to get the truth before the court, the
5 plaintiff would be out on the street.

6 M. Based on the above, the undersigned served and filed a Statement
7 of Damages pursuant to CCP 425.11, which set forth the following in money damages:

- 8 1. Pain and Suffering: \$365,000.00
- 9 2. Emotional Distress: \$365,000.00
- 10 3. Attorney Fees: \$16,960.98
- 11 4. Costs: \$1,500.00
- 12 5. Punitive Damages: \$748,460.98

13 N. These damage figures are based on damages of \$1,500.00 per day for
14 half of a year and \$500.00 per day for another half of a year for Pain & Suffering, and the
15 same allocation for emotional distress. The attorney fees were incurred in trying to prevent
16 eviction in the unlawful detainer action, which was in turn caused by defendant unlawfully
17 selling plaintiff's property, and thereafter issuing a Trustee's Deed to the Bank of New York.
18 The costs are the actual and estimated miscellaneous costs of litigation, including the fees for
19 a process server, mailing, copying, and the like.

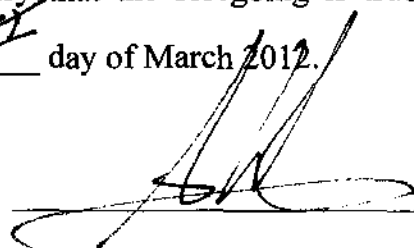
20 13. Since the Complaint contains causes of action for *inter alia* intentional in-
21 fliction of emotional distress and fraud, punitive damages are appropriate in this case. The ut-
22 ter recklessness and carelessness, and the complete derogation of plaintiff's rights, the inten-
23 tional violation of mandatory California law, particularly where such violations go directly
24 toward plaintiff maintaining a dwelling, all indicate the appropriateness of punitive damages
25 in this case. That the allegations of this complaint are not isolated but are widespread is indi-
26

1 cated by the recent settlement between forty-nine of the Attorney-Generals of the country and
2 five of the largest banks/loan servicers in the country. The "robo-signing" that was rampant
3 has clearly been proven and the parties to this settlement have readily acknowledged their
4 guilt in this regard.

5 14. It is therefore appropriate to inform the court that one of the parties to the
6 global settlement is Ally Bank. Ally Bank is, on information and belief, the new name taken
7 by GMAC Mortgage. GMAC Mortgage now owns ETS. See Exhibit One attached hereto
8 and made a part hereof. GMAC's involvement in this instant matter is clear from a court fil-
9 ing in the case presently pending in Federal District Court in San Francisco, where an employ-
10 ee who identified himself as part of GMAC requested the Court to allow the substitution of
11 a new attorney on its behalf. GMAC is not named as a party to that lawsuit, and its entry is
12 obviously based on its role as a servicer of the loan on behalf of the Bank of New York.

13 15. Further, this illegal activity on the part of ETS caused extreme harm to
14 plaintiff's credit and other personal data.

15
16 I declare under penalty of perjury that the foregoing is true and correct.
17 Executed at Moss Beach California on the 15th day of March 2012.

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ALAN MOSS

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Mo. Day			
Delivery Date	Time	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			

CUSTOMER USE ONLY

Signature of addressee or authorized agent is required. If signature is not provided, the carrier must obtain a signature from the addressee or authorized agent. If the addressee or authorized agent is not available, the carrier must obtain a signature from the addressee or authorized agent. If the addressee or authorized agent is not available, the carrier must obtain a signature from the addressee or authorized agent.

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Date Accepted	Scheduled Date of Delivery	Return Receipt Fee
Mo. Day Year	Month Day	\$
Time Accepted	Scheduled Time of Delivery	COD Fee Insurance Fee
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Flat Rate 10 or Weight	Military	Total Postage & Fees
lbs. ozs.	<input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	\$
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Exhibit B-1

Exhibit B-1 Pg 2 of 6
UNITED STATES BANKRUPTCY COURT Southern District of New York

PROOF OF CLAIM

Name of Debtor:
EXECUTIVE TRUSTEE SERVICES, LLC

Case Number:
12-12028-MG

FILED
U.S. BANKRUPTCY COURT

NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):
ALAN MOSS

S.D. OF N.Y.

COURT USE ONLY

Name and address where notices should be sent:
P.O. Box 721
Moss Beach CA 94038

☐ Check this box if this claim amends a previously filed claim.

Court Claim Number: _____
(If known)

Telephone number: 415-494-8314 email: alanmoss.office@gmail.com

Filed on: _____

Name and address where payment should be sent (if different from above):

RECEIVED
NOV 15 2012

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

Telephone number: email:

KURTZMAN CARSON CONSULTANTS

1. Amount of Claim as of Date Case Filed: \$ 750,000.00

If all or part of the claim is secured, complete item 4.

- ☒ Date Stamped Copy Returned
☐ No self addressed stamped envelope
☐ No copy to return

If all or part of the claim is entitled to priority, complete item 5.

☐ Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: Damages sought in Moss vs. Executive Trustee Services LLC, /
(See instruction #2)

3. Last four digits of any number by which creditor identifies debtor:

3a. Debtor may have scheduled account as:
n/a
(See instruction #3a)

3b. Uniform Claim Identifier (optional):
n/a
(See instruction #3b)

4. Secured Claim (See instruction #4)

Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:

\$ _____

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Basis for perfection: _____

Value of Property: \$ _____

Amount of Secured Claim: \$ _____

Annual Interest Rate _____ % ☐ Fixed or ☐ Variable
(when case was filed)

Amount Unsecured: \$ _____

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

☐ Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).

☐ Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).

Amount entitled to priority:

☐ Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).

☐ Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)().

\$ _____

*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)



12120281211070000000000000

Exhibit B-1 Pg 3 of 6

7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

RECEIVED

NOV 15 2012

8. Signature: (See instruction #8)

KURTZMAN CARSON CONSULTANTS

Check the appropriate box.

- ☒ I am the creditor. ☐ I am the creditor's authorized agent. ☐ I am the trustee, or the debtor, or their authorized agent. ☐ I am a guarantor, surety, indorser, or other codebtor. (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Alan Moss

Title: _____

Company: _____

Address and telephone number (if different from notice address above): _____

Telephone number: _____ email: _____

(Signature)

(Date)

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

ALAN MOSS
P.O. Box 721
Moss Beach CA 94038

November 6, 2012

FILED
U.S. BANKRUPTCY COURT
2012 NOV -7 P 1:19
S.D. OF N.Y.

TO: Clerk of the Court
U.S. Bankruptcy Court
Southern District of New York
One Bowling Green
New York NY 10004

Re: In Re ResCap Cases(Executive Trustee Services: 12-12-12028)

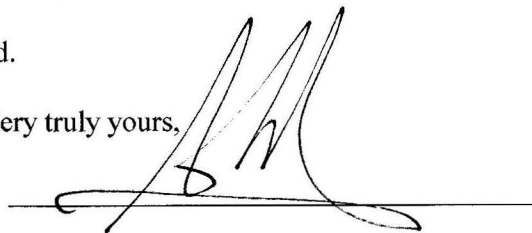
Case No. 12-12020

ENCLOSED: REQUEST FOR NOTICES

REQUESTED ACTION:

- ☐ Check in the amount of \$_____ enclosed;
- ☒ File original(s) and return file stamped copies;
- ☐ File original(s), certify ____ copies and return;
- ☐ Certify ____ copies and return;
- ☐ Sign where indicated, date (if applicable) and return;
- ☐ Sign before a Notary Public and return with Notarial Acknowledgment;
- ☐ Obtain signature of Judge/Commissioner/Magistrate, file and return conformed copies;
- ☐ For your ☐ approval; ☐ correction; ☐ comments; ☐ information; ☐ file; ☐ return;
- ☒ Stamped, self-addressed envelope enclosed.

Very truly yours,



FIRST AMERICAN TITLE COMPANY

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
EXECUTIVE TRUSTEE SERVICES, LLC
2255 NORTH ONTARIO STREET #400
BURBANK, CA 91504-3120

CERTIFIED BY FIRST AMERICAN TITLE
INSURANCE COMPANY TO BE A COPY
OF THE DOCUMENT RECORDED ON 09/18/2012
AS INSTRUMENT NO. 2012-134405
IN BOOK PAGE
OFFICIAL RECORDS OF SAN MATEO

LOAN# [REDACTED] 4900
T.S.# [REDACTED] 076-C

[REDACTED] 7600

NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

This Notice of Rescission is made this day 9/13/2012 with respect to the following:

1.) THAT Executive Trustee Services, LLC dba ETS Services, LLC is the duly appointed Trustee under that certain Deed of Trust dated 6/22/2005 and recorded 7/5/2005 as instrument number 2005-111708 in book page wherein ALAN IRVING MOSS AN UNMARRIED MAN are named as trustors, ALLIANCE TITLE is named as trustee, and CJ MORTGAGE INC. ; is named as beneficiary;

2.) THAT The Bank of New York Trust Company NA as successor to JPMorgan Chase Bank, National Association, f/k/a JPMorgan Chase Bank, as TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2006-1 is the beneficiary of record under that Deed of Trust by virtue of an Assignment of Beneficial Interest recorded 6/16/2008, Instrument # 2008-069109

3.) THAT THE DEED OF TRUST encumbers real property located in the County of San Mateo , State of California , described as follows:

LOTS 20, 22 AND 23, BLOCK 13, AS DESIGNATED ON THAT CERTAIN MAP ENTITLED, "MAP OF RIVIERA OCEAN VILLA TRACT, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JUNE 15, 1908, IN BOOK 6 OF MAPS, AT PAGE 20.

4.) THAT BY VIRTUE OF a default under the terms of the Deed of Trust, the beneficiary did declare a default, as set forth in a Notice of Default recorded 9/18/2007 as instrument number 2007-138470 in book , page in the office of the Recorder of San Mateo County, State of California ;

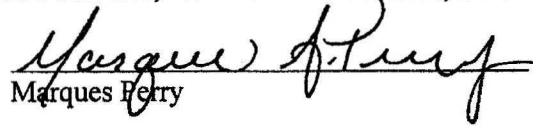
LOAN# [REDACTED] 4900
T.S.# [REDACTED] 076-C

5.) THAT THE TRUSTEE has been informed by the Beneficiary that the beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale which was conducted in error due to a failure to communicate timely, notice of conditions which would have warranted a cancellation of the foreclosure which did occur on 5/7/2009 ;

6.) THAT THE EXPRESS PURPOSE of this Notice of Rescission is to return the priority and existence of all title and lien holders to the status quo-ante as existed prior to the trustee's sale;

NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS THAT THE TRUSTEE'S DEED UPON SALE DATED 5/12/2009 AND RECORDED 5/18/2009 AS INSTRUMENT NUMBER 2009-124607 IN THE COUNTY OF San Mateo , STATE OF California, FROM Executive Trustee Services, LLC dba ETS Services, LLC (TRUSTEE) TO The Bank of New York Trust Company NA as successor to JPMorgan Chase Bank, National Association, f/k/a JPMorgan Chase Bank, as TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2006-1 (GRANTEE) IS HEREBY RESCINDED, AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF TRUST DATED 6/22/2005 , RECORDED 7/5/2005 AS INSTRUMENT NUMBER 2005-111708 IN BOOK , PAGE , IS IN FULL FORCE AND EFFECT.

Executive Trustee Services, LLC dba ETS Services, LLC


Marques Perry

State of California } S.S.
County of Los Angeles }

On 9/13/2012 ,before me Sally Beltran Notary Public, personally appeared Marques Perry, who 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 the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal


Sally Beltran



Exhibit B-2

1 Alan Moss
2 P.O. Box 721
3 Moss Beach CA 94038
4 Telephone: (415)494-8314
5 Facsimile: (650)728-0738

6 *Attorney In Propria Personum*

7
8
9 IN THE UNITED STATES BANKRUPTCY COURT
10 FOR THE SOUTHERN DISTRICT OF NEW YORK
11 MANHATTAN DIVISION

12 IN RE:

13 RESIDENTIAL CAPITAL, LLC, *ET*
14 *AL.*

15 Debtors.)
16
17
18

) BANKRUPTCY CASE NO. 12-12020-MG
) CHAPTER 11

) Jointly Administered
) (Executive Trustee Services, Case No. 12-
) 12028)

) **AMENDED CLAIM PURSUANT TO**
) **COURT ORDER DATED FEBRUARY 13,**
) **2015[Doc 8127]**

) [Claim No. 4445]

19 **AMENDED CLAIM NO. 4445:**

20
21 PURSUANT TO COURT ORDER DATED FEBRUARY 13, 2015, DOC 8127, CLAIMANT ALAN MOSS HEREBY SUBMITS HIS AMENDED CLAIM:
22
23

24
25
26
RECEIVED

MAR 16 2015

U.S. BANKRUPTCY COURT, SDNY

AMENDED CLAIM OF ALAN MOSS [CLAIM NO. 4445]

BANKRUPTCY ACTION NO. 12-12020-MG

1 Claimant re-alleges and re-asserts his entire Original Claim, which sets forth *inter alia* the
2 following:

3
4 **“ORIGINAL CLAIM:**

5
6 BASIS OF THIS CLAIM: This claim is based on the civil action I filed against
7 Executive Trustee Services, LLC(hereinafter “ETS”), one of the debtors in this ResCap
8 action: Action No. 505386, Superior Court of San Mateo California, May 5, 2011. This
9 action has been stayed since May 23, 2012 when Debtor Executive Trustee Services filed a
10 Notice of Stay of Proceedings on that date.

11 The basis of this action, in general terms, is the negligence of ETS when it proceeded
12 with a trustee sale of the property of claimant without having any authority to do so, and
13 failing to ascertain whether it had authority to conduct a trustee sale, thus causing claimant
14 significant damages—explained fully in the attached documents.

15 The basis of this lawsuit in San Mateo County, CA and the basis of this claim(Claim
16 No. 4445) is identical, and the damages sought in each are identical. The proof that I am
17 “owed money from one of the debtors as of May 14, 2012” is contained in the attached
18 documents: (1) Complaint, CIV505386; (2) Statement of Damages filed 8/22/11; (3)
19 Memorandum of Costs; (4) Declaration of Alan Moss In support of Request To Enter Default
20 Judgment By Court. These documents are attached hereto, and made a part of this claim.”

21
22 Claimant hereby provides additionally as his amended claim as follows:
23
24

25 ///
26

1 **AMENDED CLAIM:**

2
3 The Original Claim is incorporated into, and made a part of, this Amended Claim.

4
5 Debtor ResCap, at all times relevant hereto, was the successor to GMAC. GMAC was a
6 servicer of home loans and serviced loans nationally. In some of the states, GMAC serviced
7 loans which were "mortgages" pursuant to State law. In some states, GMAC serviced loans
8 which were "deeds of trust." Claimant's loan originated in the State of California, which
9 was, and is, a "deed of trust" state.

10
11 Debtor ResCap, owned and operated a subsidiary by the name of Executive Trustee Services
12 ("ETS"). ETS was known as Executive Trustee Services, LLC and Executive Trustee
13 Services, Inc.; it was also known as ETS Services, Inc. All three entities are referred to
14 herein as "ETS." As a result of this, when ResCap declared bankruptcy, ETS also filed a
15 petition in bankruptcy. See Action No. 12-12028, filed May 14, 2012 as Doc 1. In this
16 petition, ETS stated that it was, or shortly would be, a "jointly administered" entity with
17 ResCap. ETS described itself in this petition as an "affiliated entity" of ResCap.

18
19 On the date of the filing of the GMAC/ResCap/ETS bankruptcy, Claimant had pending a
20 lawsuit naming ETS as the defendant. See Original Claim, with attached underlying
21 documents. This claim resulted from this lawsuit. The lawsuit has been stayed by operation
22 of Federal law since that day. As of the date this lawsuit was stayed, the status of the case
23 was that ETS had been defaulted by the San Mateo County Superior Court, because it had
24 failed to respond to the complaint for more than nine months. A hearing was pending to
25 determine the amount of monetary damages and to thereafter enter a default judgment.

1 Because of the default status of the case, under California law, all material allegations of the
2 complaint are deemed admitted, including all of the causes of action which included
3 negligence, negligence per se, fraud, and intentional infliction of emotional distress; both
4 the cause of action for fraud and intentional infliction of emotional distress alleges that ETS
5 acted with "malice" in doing the acts complained of in the complaint. Therefore, it has been
6 conclusively demonstrated that ETS acted with "malice" when it issued the notices. Because
7 ETS was defaulted, it could not appear and could not be heard at the hearing that had been
8 scheduled for entry of judgment arising from the default.

9
10 The ETS complaint detailed the chain-of-title of the underlying loan, all from recorded
11 documents, and demonstrated that ETS was not properly substituted in as a trustee of the
12 loan: under California law, an entity may be substituted in as trustee, provided that the
13 present beneficiary(ies) record the substitution. In this case, as can be seen from the
14 recorded documents, it was TCIF who recorded a Substitution of Trustee, on November 10,
15 2006, naming ETS as the trustee. TCIF was not assigned the loan until June 16, 2008.
16 Chronologically, this can be put succinctly thusly,

17
18
19 **CJ MORTGAGE(6/22/05)**

20 [ORIGINAL LOAN]

21 ↓

22 ↓

23 **OPTION ONE MORTGAGE**

24 (BY ASSIGNMENT DATED 6/27/05, RECORDED 4/4/07)

25 ↓

↓
OPTION ONE SUBSTITUTES NEW TRUSTEE

PREMIER TRUST DEED SERVICES (10/26/05, RECORDED 2/3/06)

↓
↓
TCIF REO2, LLC, AS BENEFICIARY, SUBSTITUTES NEW TRUSTEE

EXECUTIVE TRUSTEE SERVICES, LLC("ETS")(9/21/06, **RECORDED 11/10/06**)

↓
↓
NOTICE OF DEFAULT ISSUED BY ETS ON BEHALF OF TCIF REO2, LLC

9/17/07, RECORDED 9/18/07)

↓
↓
TCIF, LLC

(BY ASSIGNMENT DATED 5/7/08, RECORDED 6/16/08)

↓
↓
THE BANK OF NEW YORK TRUST COMPANY

(BY ASSIGNMENT DATED 4/29/08, RECORDED 6/16/08)

↓
↓
NOTICE OF TRUSTEES SALE ISSUED BY ETS(5/19/08, RECORDED 5/22/08)

↓
↓
TRUSTEES SALE CONDUCTED BY ETS 5/7/09

↓
↓
TRUSTEES DEED TO BNY BY ETS(5/7/09, RECORDED 5/18/09)

Said lawsuit alleged that, inter alia, ETS was negligent when it issued the requisite notices required by California law to promulgate a foreclosure proceeding, to wit: (1) Notice of Default, (2) Notice of Trustee Sale, and (3) Trustees Deed Upon Sale. As can be seen from the diagram, ETS was made trustee by an entity that would not be assigned the loan for almost two years. Thus, TCIF had no power to substitute ETS, and therefore ETS had no power to issue any of the three notices.

ResCap concedes that ETS was illegally appointed and agrees that ETS had no power to issue any notices required by statute.

Because the entity which substituted ETS was not the beneficiary, and would not become the beneficiary, if at all, for eighteen months, ETS could not have had any reasonable grounds for believing that it had been properly appointed as trustee. ETS received no communication, either written or oral, demonstrating to it that the entity which named it as trustee had the power to do so. ETS received no communication, either oral or written, that demonstrated to it, or to any other reasonable individual or entity, that it was legally substituted in as trustee. ETS made no inquiry of recorded documents in order to verify that it was legally entitled to issue any notices. ETS was under a duty to ascertain whether it was legally appointed as trustee.

1 ETS, as a subsidiary of GMAC/ResCap, at all times relevant hereto, was represented by the
2 same office and same individual within GMAC, to wit the Litigation Case Manager("LCM").
3 who was responsible for the control of all litigation concerning claimant, both as to ETS and
4 the wrongful foreclosure action. The same attorney represented both GMAC/ResCap and
5 ETS. Said LCM admitted under oath that she knew of both the underlying case and the ETS
6 case, that she was the LCM for both cases, and was periodically advised of the status of each
7 case and the allegations of claimant. At no time did said LCM, despite notice of illegal
8 substitution of ETS, make inquiry of said allegations, and determine the truth or lack of truth
9 of the allegations. As a result, this matter was allowed to be litigated for more than four
10 years; the two cases overlapped for more than two years. Never during this time was it
11 admitted that the substitution of ETS was illegal and of no force and effect.

12
13 Further, during the course of this litigation, claimant herein(plaintiff in the underlying case),
14 posed multiple discovery questions to GMAC/ResCap beginning in 2009, and continuing
15 thereafter through 2013, including interrogatories, requests for documents, requests for
16 admission, subpoenas for documents and individuals, all to ascertain any documentation
17 regarding the substitution of ETS as trustee, and to determine the validity or invalidity of said
18 substitution. Said discovery requests were routinely forwarded to the LCM for responses and
19 information in order to be responded to. Throughout these four years and the multitude of
20 discovery requests and motions to compel, filed in both California and Federal courts,
21 GMAC/ResCap failed and refused to acknowledge that ETS was improperly substituted as
22 trustee. Not until ResCap's Objection to this claim was it admitted.

23
24 Further, claimant caused to be served subpoenas duces tecum on each entity of ETS for
25 business records concerning the loan and claimant. ETS refused to produce any records.

26

1 Claimant is informed and believes, and on this basis alleges, that there was a program and
2 practice at GMAC and ETS to foster foreclosures by any means necessary, including
3 fraudulent notarizations of documents and other documentations, in order to finalize
4 foreclosures, even by methods and means that did not comport with state law. Because of
5 this, ETS was engaged in practices, the likes of which resulted in a failure to comport with
6 state law. GMAC was held in contempt of court in numerous jurisdictions throughout the
7 United States because of these practices, which have been well documented throughout the
8 mortgage crisis. In point of fact, the individual who notarized some of the relevant
9 documents in this matter, an employee of GMAC, was held in contempt on more than one
10 occasion, and another GMAC employee who notarized other documents in this matter was
11 sanctioned for notarizing unsigned documents. The fact that ETS allowed itself to act as
12 trustee, notwithstanding any basis for believing that it was duly appointed, is another
13 example of this pattern and practice.

14 Claimant recently requested ETS's records concerning claimant and ETS's lawyers refused
15 to provide said records on the ground that this claim had been dismissed.

16
17 Further, in the underlying case, GMAC/ResCap made four separate motions to dismiss
18 pursuant to FRCP 12(b)(6); as a result of these motions, the latest amended complaint, the
19 Fourth Amended Complaint, contained a cause of action for Intentional Infliction of
20 Emotional Distress, which remained a viable cause of action, the District Court denying the
21 motion to dismiss.

22
23 Therefore, ETS lacked reasonable grounds for believing that it had the power to issue any
24 requisite notices, or in the truth of the information contained in the notices it issued and
25 therefore acted in reckless disregard of the rights of claimant. ETS acted in reckless
26

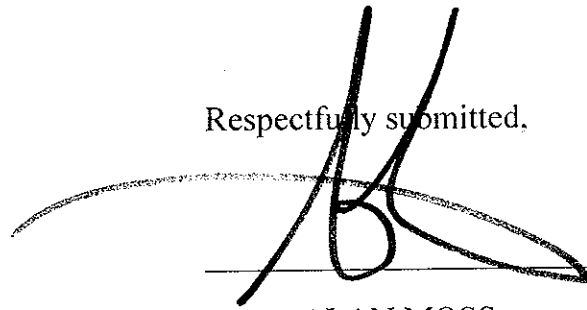
1 disregard of the rights of claimant from the initiation of litigation in July 2009 up to, and
2 including, the present time. ETS possessed no information, at no time, that it had been
3 properly substituted as trustee, and despite years to ascertain the truth, and despite having
4 been placed on notice that it had no power to act as trustee, failed to take any steps or to
5 make any inquiry regarding whether it had been properly appointed and substituted.
6 Therefore, ETS lacked any grounds, let alone reasonable grounds, to believe it had the power
7 to issue any requisite notices in this matter, and therefore ETS acted in reckless disregard of
8 the rights of claimant.

9
10 Claimant will request the Court to provide claimant with a copy of the ETS file which the
11 debtor's attorneys have in their possession.

12
13 Claimant reserves the right to amend this claim as further information becomes available.

14
15 Dated: March 12, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'A. Moss', written over a horizontal line.

ALAN MOSS

Attorney In Propria Personum

PROOF OF SERVICE

COURT: U.S. BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NAME: RESCAP

ACTION NO.: BANKRUPTCY NO. 12-12020-MG

I am employed in the County of San Francisco, California. I am over the age of 18 and not a party to the within action. On this date, I served the foregoing document(s) described as:

AMENDED CLAIM NO. 4445

on the party(ies) set out in said document by causing a true copy thereof to be:

- ☐ Telecopied via facsimile to the addressee's facsimile number listed below per CRC 2008(b).
- ☐ Telecopied via facsimile to the addressee's telephone number listed below, and thereafter mailed according to the procedures set forth immediately hereinbelow.
- ☒ By Federal Express OVERNIGHT mail, for delivery by Monday, March 16, 2015, by placing said document(s) in a sealed envelope and handing it to an agent for Federal Express..
- ☐ By U.S. mail, Return Receipt Requested, by placing said document(s) in a sealed envelope with appropriate postage thereon fully prepaid and then placed in the designated office area for outgoing mail.
- ☐ Delivered by hand to the person set forth below, or by handing said document in a sealed envelope to a messenger service for delivery as addressed.
- ☐ Sent via Priority overnight mailing, by handing said document in a sealed envelope to an agent for the USPS for overnight delivery.

and mailed, addressed as follows and sent to the following address(es):

Hon. Martin Glenn (Chambers Copy)
Judge of the U.S. Bankruptcy Court in and for the
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York New York 10004-1408

Clerk's Office (Filing Copy)
U.S. Bankruptcy Court in and for the
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York New York 10004-1408

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By First Class Mail:

Morrison and Foerster LLP
ATTN: Norman S. Rosenbaum
250 West 55th Street
New York New York 10019

ResCap Borrowers Trust
Polsinelli PC
ATTN: Daniel J. Flanigan
900 Third Avenue, 21st Floor
New York New York 10022

Office of the U.S. Trustee for the
Southern District of New York
ATTN: Linda A. Rifkin & Brian S. Masumoto
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York New York 10014

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

Executed this 13th day of March, 2015 at San Francisco, California.



Exhibit C

Loan Number: [REDACTED] 0931

ADJUSTABLE RATE NOTE

(LIBOR Six-Month Index (As Published In *The Wall Street Journal*)-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

JUNE 22, 2005
[Date]

BREA
[City]

CALIFORNIA
[State]

86 SAN LUCAS AVE., MOSS BEACH, CALIFORNIA 94038
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 612,500.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is CJ MORTGAGE INC., A CALIFORNIA CORPORATION

I will make all payments under this Note in the form of cash, check or money order.

I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 10.250 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payments on the 1st day of each month beginning on AUGUST 1 2005. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. IF, on JULY 1, 2035, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 3230 E IMPERIAL HWY SUITE 203, BREA, CALIFORNIA 92821

or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 5,488.62. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the 1st day of JULY, 2007, and on that day every 6th month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an 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 Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SIX AND 950/1000 percentage points (6.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 13.250 % or less than 10.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage point(s) (1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 16.250 %. My interest rate will never be less than 10.250 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions read as follows:

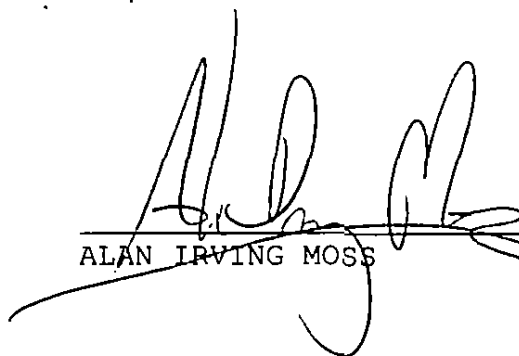
Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property 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 require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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 given in accordance with Section 15 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 this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.



ALAN IRVING MOSS (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

Allonge to Promissory Note

Allonge to Promissory Note

Without recourse pay to the order of:

Option One Mortgage Corporation

By: _____

Name: Christian Trausch

Title: President

Company: CJ Mortgage, Inc

Borrower(s) Name: Alan Irving Moss

Loan Number: [REDACTED] 6028 Exhibit C Pg. 8 of 10
Servicing Number: [REDACTED] 569-8

Date: 01/01/00

ALLONGE TO NOTE (INVESTOR)

This allonge makes reference to the following Note:

Borrowers: ALAN IRVING MOSS

Loan #: [REDACTED] 6028

Property Address: 86 SAN LUCAS AVE, MOSS BEACH, CA 94038-9749

Loan Amount: \$612,500.00

Note Date: 01/01/00

Therefore, in reference to the captioned note, the following applies:

Pay to the order of:

Without Recourse

Option One Mortgage Corporation
A California Corporation

By: 
Leah Green
Assistant Secretary

PREPAYMENT ADDENDUM TO NOTE

Loan Number: [REDACTED] 0931

Date: JUNE 22, 2005

Borrower(s): ALAN IRVING MOSS

THIS PREPAYMENT ADDENDUM TO NOTE (the "Addendum") is made this 22nd day of JUNE, 2005, and is incorporated into and shall be deemed to amend and supplement that certain promissory note (the "Note") made by the undersigned ("Borrower") in favor of CJ MORTGAGE INC., A CALIFORNIA CORPORATION

("Lender") and dated the same date as this Addendum. Repayment of the Note is secured by a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") given by Borrower in favor of Lender and dated the same date as this Addendum. To the extent that the provisions of this Addendum are inconsistent with the provisions of the Note, the provisions of this Addendum shall supersede the inconsistent provisions of the Note.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Note, Borrower and Lender further covenant and agree as follows:

Section 5 of the Note is amended to read in its entirety as follows:

5. BORROWER'S RIGHT TO PREPAY; PREPAYMENT CHARGE

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

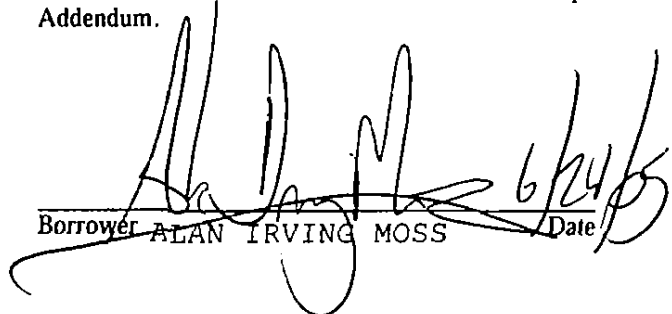
The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under the Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes.

If the Note contains provisions for a variable interest rate, my partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

If within TWENTY-FOUR (24) months from the date the Security Instrument is executed I make a full Prepayment or one or more partial Prepayments, and the total of all such Prepayments in any 12-month period exceeds TWENTY percent (20.000 %) of the original principal amount of the loan, I will pay a Prepayment charge in an amount equal to SIX (6) months' advance interest on the amount by which the total of my Prepayments within any 12-month period exceeds TWENTY percent (20.000 %) of the original principal amount of the loan.

If the Note contains provisions for a variable interest rate, and the purpose of the loan is to finance the purchase or construction of real property containing four or fewer residential units or on which four or fewer residential units are to be constructed, then I may prepay the loan in whole or in part without a Prepayment charge within 90 days of notification of any increase in the rate of interest.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Addendum.


Borrower ALAN IRVING MOSS Date 6/24/15

Borrower _____ Date _____ Borrower _____ Date _____

Borrower _____ Date _____ Borrower _____ Date _____

Exhibit D

Recording Requested By:
CJ MORTGAGE INC.

ALLIANCE TITLE COMPANY

And After Recording Return To:
CJ MORTGAGE INC.
3230 E IMPERIAL HWY SUITE 203
BREA, CALIFORNIA 92821
Loan Number: [REDACTED] 0931

2005-111708

12:53pm 07/05/05 DT Fee: 58.00

Count of pages 18

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



AP# [REDACTED] 20-6 [Space Above This Line For Recording Data] [REDACTED] 6028
OR# [REDACTED] 0373

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated JUNE 22, 2005, together with all Riders to this document.
- (B) "Borrower" is ALAN IRVING MOSS, AN UNMARRIED MAN.

Borrower is the trustor under this Security Instrument.

- (C) "Lender" is CJ MORTGAGE INC.

Lender is a CALIFORNIA CORPORATION organized
and existing under the laws of CALIFORNIA
Lender's address is 3230 E IMPERIAL HWY SUITE 203, BREA, CALIFORNIA
92821

Lender is the beneficiary under this Security Instrument.

- (D) "Trustee" is ALLIANCE TITLE
25B TECHNOLOGY DR. STE. 100, IRVINE, CALIFORNIA 92618

- (E) "Note" means the promissory note signed by Borrower and dated JUNE 22, 2005.
The Note states that Borrower owes Lender SIX HUNDRED TWELVE THOUSAND FIVE
HUNDRED AND 00/100 Dollars (U.S. \$ 612,500.00)
plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later
than JULY 1, 2035

- (F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

- (G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under
the Note, and all sums due under this Security Instrument, plus interest.

18P
15

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY

of SAN MATEO

:

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A".
A.P.N. #: [REDACTED] 120-6

which currently has the address of 86 SAN LUCAS AVE.

MOSS BEACH, California 94038 ("Property Address"):
[City] [Street] [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may

Exhibit "A"

All that certain real property in the County of San Mateo, State of California, described as follows:

Lots 20, 22 and 23, Block 13, as designated on that certain map entitled, "Map of Riviera Ocean Villa Tract, San Mateo County, California", which map was filed in the Office of the Recorder of the County of San Mateo, State of California on June 15, 1908, in Book 6 of Maps at Page 20.

be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the

Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement

is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or

other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "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 the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property 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 require immediate payment in full of all sums secured by this 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 given in accordance with Section 15 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 this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

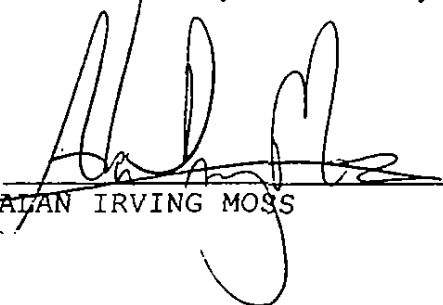
Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

24. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

25. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.


ALAN IRVING MOSS (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

Witness:

Witness:

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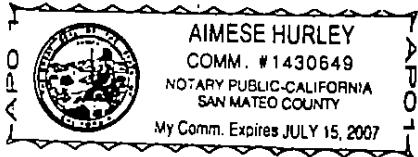
State of California)
County of ~~SAN MATEO~~ *San Francisco*) ss.

On *June 24, 2005* before me, *Aimese Hurley*

personally appeared ALAN IRVING MOSS

~~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 the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



NOTARY SEAL

Aimese Hurley
NOTARY SIGNATURE

Aimese Hurley
(Typed Name of Notary)

Loan Number: [REDACTED] 0931

ADJUSTABLE RATE RIDER
(LIBOR Six-Month Index (As Published In *The Wall Street Journal*)
- Rate Caps)

THIS ADJUSTABLE RATE RIDER is made this 22nd day of JUNE, 2005
and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or
Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure
Borrower's Adjustable Rate Note (the "Note") to CJ MORTGAGE INC., A CALIFORNIA
CORPORATION

("Lender") of the same date and covering the property described in the Security Instrument and located at:

86 SAN LUCAS AVE., MOSS BEACH, CALIFORNIA 94038

[Property Address]

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE
INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE
AMOUNT BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND
THE MAXIMUM RATE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security
Instrument, Borrower and Lender further covenant and agree as follows:

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 10.250 %. The Note provides for changes
in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the 1st day of JULY, 2007
and on that day every 6th month thereafter. Each date on which my interest rate could change is called
a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an 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 Note Holder will choose a new index that is based upon
comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SIX AND 950/1000 percentage points (6.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 13.250 % or less than 10.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage points (1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 16.250 %. My interest rate will never be less than 10.250 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER
Uniform Covenant 18 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "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 the transfer of title by Borrower at a future date to a purchaser.

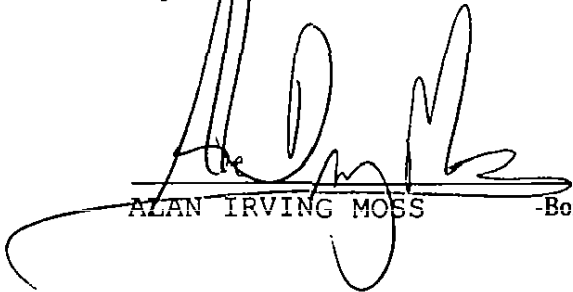
If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan

assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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 given in accordance with Section 15 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 this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.



ALAN IRVING MOSS (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower


(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

Exhibit E

Prepared by: Option One Mortgage Corp.
& When Recorded Return to: Assn Dept.
American Document Services, Inc.
250 Commerce 2nd Floor
Irvine, CA 92602 PROJECT 632
(888)477-4780

2007-051106
2007-051106
09:11am 04/04/07 AT Fee: 13.00
Count of pages 3
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder

* 2 0 0 7 0 0 5 1 1 0 6 A R *

PREPARED BY: STEVE EMBRY
OPTION ONE MORTGAGE CORP.
3 ADA, IRVINE CA 92618
(949) 790-3600

ODT1

LOAN # [REDACTED] 31

6028 ASSIGNMENT OF DEED OF TRUST

For Value Received, the undersigned holder of a Deed of Trust (herein "Assignor") whose address is
3230 E. IMPERIAL HWY #203, BREA, CA 92821

does hereby grant, sell, assign, transfer and convey, unto **OPTION ONE MORTGAGE**
a corporation organized and existing under the laws of **THE UNITED STATES OF AMERICA**
(herein "Assignee"),

whose address is **3 ADA, IRVINE, CA 92618**
all beneficial interest under a certain Deed of Trust, dated **JUNE 22, 2005**, made and executed
by **ALAN IRVING MOSS, AN UNMARRIED MAN.**

Property Address: **86 San Lucas Ave., Moss Beach, CA 94038**

to **ALLIANCE TITLE**

Trustee, upon the following

Described property situated in **SAN MATEO COUNTY**

State of California

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

APN. # [REDACTED] 120-6

such Deed of Trust having been given to secure payment of **\$612,500.00** which Deed of Trust is of record in
(original principal amount)

Instrument No. **2005-111708** on **7/5/05** in book **1**, page **1**

of Official Records in the County Recorder's office of **SAN MATEO**
County, State of **California**, together with the note(s) and obligations therein described, the money due
and to become due thereon with interest, and all rights accrued under said Deed of Trust.

TO HAVE AND TO HOLD, the same unto Assignee, its successor and assigns, forever, subject only to the terms and conditions of the above-described Deed of Trust.

IN WITNESS WHEREOF, the undersigned Assignor has executed this assignment of Deed of Trust on 6/27/05

CJ MORTGAGE INC., A CALIFORNIA
CORPORATION

BY


Vanessa Bran

State of California
County of ORANGE

On 6/27/05 before me, Christian Trausch, Notary Public
~~Vanessa Bran~~
Vanessa Bran, personally appeared

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 acknowledge 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 the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



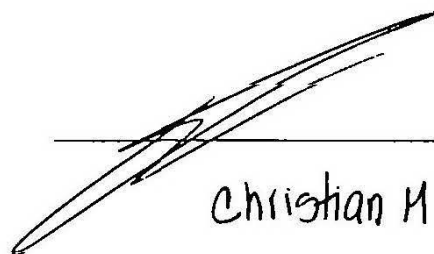

Christian M. Trausch

Exhibit A
LEGAL DESCRIPTION
LEGAL DESCRIPTION

All that certain real property in the County of San Mateo, State of California, described as follows:

Lots 20, 22 and 23, Block 13, as designated on that certain map entitled, "Map of Riviera Ocean Villa Tract, San Mateo County, California", which map was filed in the Office of the Recorder of the County of San Mateo, State of California on June 15, 1908, in Book 6 of Maps at Page 20.

APN No: [REDACTED] 120-6

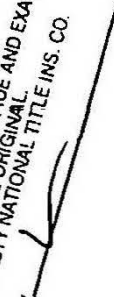
CERTIFIED TO BE A TRUE AND EXACT
COPY OF THE ORIGINAL
FIDELITY NATIONAL TITLE INS. CO.
By 

Exhibit F

011076028001
011076028001

Loan Number: [REDACTED] 6028
Servicing Number: [REDACTED] 6698

**RECORDING REQUESTED BY/
RETURN TO:**

Option One Mortgage Corporation
3 Ada, Irvine, CA 92618

ALLIANCE TITLE CONTROL

2008-069108
FIRST AMERICAN TITLE COMPANY
08:00am 06/16/08 AT Fee: 7.00
Count of pages 1
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder



* 2 0 0 8 0 0 6 9 1 0 8 A R *

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CORPORATION ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to:
TCIF, LLC

all beneficial interest under that certain Deed of Trust dated June 22, 2005
executed by ALAN IRVING MOSS, AN UNMARRIED MAN.

to CJ MORTGAGE INC., A CALIFORNIA CORPORATION
ALLIANCE TITLE

and recorded 07/05/05 as document No. 2005-111708, in Book

of Official Records in the office of the County Recorder of ~~San Francisco~~ San Mateo
describing land therein as:

, Trustor,

, Trustee

, Page
County, CALIFORNIA

AS DESCRIBED ON THE DEED OF TRUST REFERRED TO HEREIN

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with
interest, and all rights accrued or to accrue under said Deed of Trust.

Dated: Sept 15, 2007
May 07, 2008

Option One Mortgage Corporation,
A California Corporation

STATE OF CALIFORNIA
COUNTY OF ORANGE

On May 07, 2007 before me,

R. A. Salazar, personally appeared

Brian D. McConnell, Assistant Secretary

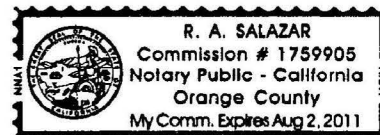
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s)
on the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

Witness my hand and official seal.

By [Signature]
Brian D. McConnell Assistant Secretary

By _____

(This area for official notarial seal)



Signature [Signature]
R. A. SALAZAR

Exhibit G

STACO

Requested and Prepared by:
Executive Trustee Services, LLC

When Recorded Mail To:
Executive Trustee Services, LLC
2255 North Ontario Street, Suite 400
Burbank, California 91504-3120

2008-069109
FIRST AMERICAN TITLE COMPANY
08:00am 06/16/08 AT Fee: 7.00
Count of pages 1
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder



APN: [REDACTED]-120 [REDACTED]

Loan No.: [REDACTED] 4900

TS No: GM-117076-C

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ASSIGNMENT OF DEED OF TRUST


For Value Received, the undersigned corporation hereby grants, assigns, and transfers to:

The Bank of New York Trust Company as successor to JPMorgan Chase Bank, N.A. as Trustee
for Truman Capital Mortgage Loan Trust 2006-1.

all beneficial interest under that certain Deed of Trust dated: **6/22/2005** executed by **ALAN IRVING MOSS AN UNMARRIED MAN**, as Trustor(s), to **ALLIANCE TITLE**, as Trustee, and recorded as Instrument No. **2005-111708**, on **7/5/2005**, in Book , Page of Official Records, in the office of the County Recorder of **San Mateo County, California** together with the Promissory Note secured by said Deed of Trust and also all rights accrued or to accrue under said Deed of Trust.

Date: 4/29/2008

TCIF, LLC


Margie Kwiatkowski, Assistant Vice President

State of Pennsylvania } SS
County of Montgomery }

On April 30, 2008 before me, Mary Lynch Notary Public, personally appeared Margie Kwiatkowski, 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 the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Mary Lynch (Seal)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary Lynch, Notary Public
Horsham Twp., Montgomery County
My Commission Expires Nov. 3, 2010
Member, Pennsylvania Association of Notaries

Exhibit H

RECORDING REQUESTED BY:

Recording requested by:
FIRST AMERICAN TITLE

FIRST AMERICAN TITLE INSURANCE

**EXECUTIVE TRUSTEE SERVICES, LLC.
15455 SAN FERNANDO MISSION BLVD
SUITE #208
MISSION HILLS, CA 91345
(818) 837-2300**

TS NO : **830-C**
LOAN NO : **4900**

2006-170399

01:54pm 11/10/06 ST Fee: 10.00

Count of pages 2

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBSTITUTION OF TRUSTEE

WHEREAS, ALAN IRVING MOSS, AN UNMARRIED MAN was the original Trustor, **ALLIANCE TITLE** was the original Trustee, and **CJ MORTGAGE INC., A CALIFORNIA CORPORATION** was the original Beneficiary under that certain Deed of Trust dated **6/22/2005** and recorded on **7/5/2005** as Instrument No. **2005-111708**, in Book , Page of Official Records of **San Mateo** County, California; and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and

WHEREAS, the undersigned hereby substitutes a new Trustee under said Deed of Trust in place and instead of said original Trustee, or Successor Trustee, thereunder, in the manner in said Deed of Trust provided,

NOW, THEREFORE, the undersigned desires to substitute **EXECUTIVE TRUSTEE SERVICES, LLC FKA EXECUTIVE TRUSTEE SERVICES, INC.,** as Trustee under said Deed of Trust.

Whenever the context hereof so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

Dated : September 21, 2006

TCIF RE02, LLC

Margie Kwaitanowski

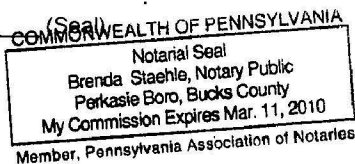
MARGIE KWAITANOWSKI, VICE PRESIDENT

State of *PA* } ss.
County of *Montgomery*

On 09/21/06 before me, *Brenda Staehle* Notary Public, personally appeared *Margie Kwaitanowski* 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 signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed this instrument.

WITNESS my hand and official seal.

Signature *Brenda Staehle*



**AFFIDAVIT OF MAILING
FOR SUBSTITUTION OF TRUSTEE BY CODE**

T.S. No. : [REDACTED] 330-C

Trustor :ALAN IRVING MOSS, AN UNMARRIED MAN

I, Beatriz Osorio, TRUSTEE SALE OFFICER, declare: That I am an officer, agent or employee of **EXECUTIVE TRUSTEE SERVICES, LLC** whose business address is:

15455 San Fernando Mission Blvd., Suite 208, Mission Hills, California 91345

I am over the age of eighteen years; On 11/08/2006, by Certified and First Class mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Mail, a copy of the attached Substitution of Trustee to the trustee of record under the Deed of Trust described in said Substitution, and;

A copy of the attached Substitution has been mailed prior to the recording thereof, in the manner provided in Section 2924(b) of the Civil Code of the State of California to all persons to whom a copy of the Notice of Default would be required to be mailed by the provisions of said section.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 07, 2006


Beatriz Osorio, Trustee Sale Officer

Exhibit I

FIRST AMERICAN TITLE COMPANY

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO

**EXECUTIVE TRUSTEE SERVICES, LLC.
15455 SAN FERNANDO MISSION BLVD
SUITE #208
MISSION HILLS, CA 91345**

**CERTIFIED BY FIRST AMERICAN TITLE
INSURANCE COMPANY TO BE A COPY
OF THE DOCUMENT RECORDED ON 05/17/07
AS INSTRUMENT NO.2007-076538
IN BOOK PAGE
OFFICIAL RECORDS OF SAN MATEO**

**T.S. No.: 830-C
Loan No.: 4900**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF RESCISSION OF NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN: That **EXECUTIVE TRUSTEE SERVICES, LLC FKA EXECUTIVE TRUSTEE SERVICES, INC.** is duly appointed Trustee under a Deed of Trust dated **6/22/2005**, executed by **ALAN IRVING MOSS, AN UNMARRIED MAN**, as Trustor, to secure certain obligations in favor of **CJ MORTGAGE INC., A CALIFORNIA CORPORATION**, as Beneficiary, recorded **7/5/2005**, as Instrument No. **2005-111708**, in book , page , of Official Records in the Office of the Recorder of **San Mateo** County, California describing land therein as more fully described on the above referenced deed of trust.

said obligations including one note for the sum of **\$612,500.00**.

Whereas, the present beneficiary under that certain Deed of Trust herein above described, heretofore delivered to the Trustee thereunder written Declaration of Default and Demand for Sale; and Whereas, Notice was heretofore given of breach of obligations for which said Deed of Trust is security and of election to cause to be sold the property therein described; and Whereas, a Notice of Default was recorded on the day and in the book and page set forth below:

Notice was recorded on **6/20/2006** in the office of the Recorder of **San Mateo** County, California, Instrument No. **2006-092022**, in Book , Page , of Official Records.

NOW, THEREFORE, NOTICE IS HEREBY GIVEN that the present Beneficiary and/or the Trustee, does hereby rescind, cancel and withdraw said Declaration of Default and Demand for Sale and said Notice of Breach and Election to Cause Sale; it being understood, however, that this rescission shall not in any manner be construed as waiving or affecting any breach or default--past, present or future under said Deed of Trust, or as impairing any right or remedy thereunder, but is, and shall be deemed to be, only an election, without prejudice, not to cause a sale to be made pursuant to said Declaration and Notice, and shall nowise jeopardize or impair any right, remedy or privilege secured to the Beneficiary and/or the Trustee, under said Deed of Trust, nor modify nor alter in any respect any of the terms, covenants, conditions or obligations thereof, and said Deed of Trust and all obligations secured thereby are hereby reinstated and shall be and remain in force and effect the same as if said Declaration of Default and Notice of Breach had not been made and given.

EXECUTIVE TRUSTEE SERVICES, LLC

Dated: **May 04, 2007**

By: 

**DIANNA SANDOVAL
TRUSTEE SALE OFFICER**

Exhibit J

Loan Info		Dates		Current Balances		Uncollected		Year-To-Date	
Arm Flag	Y	Int Collected To	12/01/2007	Principal	\$0.00	Late Charges	\$0.00	Interest	\$0.00
Loan Type	Conventional	Next Due	01/01/2008	Escrow	\$0.00	Interest	\$0.00	Taxes	\$0.00
Lien Position	01	Last Payment	06/13/2008	Unapplied	\$0.00	Fees	\$0.00		
Interest Rate	12.375%	Last Activity	02/24/2014	Buydown	\$0.00	Opt	\$0.00		
Collection Status	PO	Setup Date	03/13/2006						
		Maturity Date	07/01/2035						

[illegible]

	02/07/2013	12/01/2007	\$604,642.14 Escrow Refund		R04	\$10,870.21	\$0.00	\$0.00	\$10,870.21	\$0.00	\$0.00	\$0.00	\$0.00
	01/17/2013	12/01/2007	\$0.00 Comment		SLC	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	01/04/2013	12/01/2007	\$0.00 FEE	040	FB	\$300.00	\$0.00	\$0.00	\$0.00	\$300.00	\$0.00	\$0.00	\$0.00
	01/03/2013	12/01/2007	\$604,642.14 Escrow Refund-REO Fire		R23	\$280.00	\$0.00	\$0.00	\$280.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/27/2012	12/01/2007	\$604,642.14 Non-Cash		AA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,329.19
	12/27/2012	12/01/2007	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,329.19
	12/26/2012	12/01/2007	\$604,642.14 PAYMENT		PT	(\$61,929.57)	\$0.00	\$0.00	(\$67,633.17)	\$0.00	\$5,703.60	\$0.00	\$0.00
	12/26/2012	12/01/2007	\$604,642.14 PAYMENT		RT	\$61,929.57	\$0.00	\$0.00	\$67,633.17	\$0.00	(\$5,703.60)	\$0.00	\$0.00
	12/26/2012	12/01/2007	\$0.00 Unapplied		UFU	\$5,703.60	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/10/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/07/2012	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$5,502.30)	\$0.00	\$0.00	(\$5,502.30)	\$0.00	\$0.00	\$0.00	\$0.00
	10/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	09/10/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	08/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	07/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	06/11/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	05/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	04/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	03/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	03/07/2012	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$5,353.96)	\$0.00	\$0.00	(\$5,353.96)	\$0.00	\$0.00	\$0.00	\$0.00
	02/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	01/09/2012	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	12/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2011	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$5,353.96)	\$0.00	\$0.00	(\$5,353.96)	\$0.00	\$0.00	\$0.00	\$0.00
	10/10/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	09/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	08/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	07/11/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	06/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	05/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	04/11/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	03/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	03/09/2011	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$5,088.01)	\$0.00	\$0.00	(\$5,088.01)	\$0.00	\$0.00	\$0.00	\$0.00
	02/09/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00

	01/10/2011	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	12/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/10/2010	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$5,088.01)	\$0.00	\$0.00	(\$5,088.01)	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	10/11/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	09/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	08/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	07/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	06/24/2010	12/01/2007	\$0.00 FEE	040	FB	\$6,198.60	\$0.00	\$0.00	\$0.00	\$6,198.60	\$0.00	\$0.00	\$0.00
	06/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	05/10/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	04/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	03/10/2010	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$2,587.88)	\$0.00	\$0.00	(\$2,587.88)	\$0.00	\$0.00	\$0.00	\$0.00
	03/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	02/09/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$579.00)	\$0.00	\$0.00	(\$579.00)	\$0.00	\$0.00	\$0.00	\$0.00
	01/25/2010	12/01/2007	\$0.00 FEE	164	FB	\$83.00	\$0.00	\$0.00	\$0.00	\$83.00	\$0.00	\$0.00	\$0.00
	01/11/2010	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$634.00)	\$0.00	\$0.00	(\$634.00)	\$0.00	\$0.00	\$0.00	\$0.00
	12/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$634.00)	\$0.00	\$0.00	(\$634.00)	\$0.00	\$0.00	\$0.00	\$0.00
	11/11/2009	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$2,587.88)	\$0.00	\$0.00	(\$2,587.88)	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$634.00)	\$0.00	\$0.00	(\$634.00)	\$0.00	\$0.00	\$0.00	\$0.00
	10/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$634.00)	\$0.00	\$0.00	(\$634.00)	\$0.00	\$0.00	\$0.00	\$0.00
	09/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$634.00)	\$0.00	\$0.00	(\$634.00)	\$0.00	\$0.00	\$0.00	\$0.00
	08/10/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$663.00)	\$0.00	\$0.00	(\$663.00)	\$0.00	\$0.00	\$0.00	\$0.00
	07/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$663.00)	\$0.00	\$0.00	(\$663.00)	\$0.00	\$0.00	\$0.00	\$0.00
	06/09/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$663.00)	\$0.00	\$0.00	(\$663.00)	\$0.00	\$0.00	\$0.00	\$0.00
	05/13/2009	12/01/2007	\$604,642.14 Escrow Disb-REO Fire		E23	(\$663.00)	\$0.00	\$0.00	(\$663.00)	\$0.00	\$0.00	\$0.00	\$0.00
	05/11/2009	12/01/2007	\$0.00 FEE	040	FB	\$7.00	\$0.00	\$0.00	\$0.00	\$7.00	\$0.00	\$0.00	\$0.00
	05/08/2009	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	04/22/2009	12/01/2007	\$0.00 FEE	164	FB	\$83.00	\$0.00	\$0.00	\$0.00	\$83.00	\$0.00	\$0.00	\$0.00
	04/13/2009	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	03/11/2009	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$2,365.65)	\$0.00	\$0.00	(\$2,365.65)	\$0.00	\$0.00	\$0.00	\$0.00
	03/11/2009	12/01/2007	\$0.00 FEE	040	FB	\$7.00	\$0.00	\$0.00	\$0.00	\$7.00	\$0.00	\$0.00	\$0.00
	03/10/2009	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	02/13/2009	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	01/13/2009	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	12/31/2008	12/01/2007	\$604,642.14 Interest On Escrow		EI	\$6.94	\$0.00	\$0.00	\$6.94	\$0.00	\$0.00	\$0.00	\$0.00
	12/05/2008	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	11/11/2008	12/01/2007	\$604,642.14 Escrow Disb-Tax County		E90	(\$2,365.65)	\$0.00	\$0.00	(\$2,365.65)	\$0.00	\$0.00	\$0.00	\$0.00
	11/10/2008	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00

	10/29/2008	12/01/2007	\$0.00 FEE	164	FB	\$83.00	\$0.00	\$0.00	\$0.00	\$83.00	\$0.00	\$0.00	\$0.00
	10/07/2008	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	09/09/2008	12/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	06/16/2008	12/01/2007	\$0.00 FEE	040	FB	\$2,517.90	\$0.00	\$0.00	\$0.00	\$2,517.90	\$0.00	\$0.00	\$0.00
	06/13/2008	07/01/2007	\$605,690.39 PAYMENT		RP	\$6,740.78	\$312.35	\$5,176.27	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	08/01/2007	\$605,485.02 PAYMENT		RP	\$7,703.71	\$205.37	\$6,246.18	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	09/01/2007	\$605,277.53 PAYMENT		RP	\$7,703.71	\$207.49	\$6,244.06	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	10/01/2007	\$605,067.90 PAYMENT		RP	\$7,703.71	\$209.63	\$6,241.92	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	11/01/2007	\$604,856.11 PAYMENT		RP	\$7,703.71	\$211.79	\$6,239.76	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	12/01/2007	\$604,642.14 PAYMENT		RP	\$7,703.71	\$213.97	\$6,237.58	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	12/01/2007	\$604,642.14 PAYMENT		SR	\$4,740.67	\$0.00	\$0.00	\$0.00	\$0.00	\$4,740.67	\$0.00	\$0.00
	06/13/2008	12/01/2007	\$0.00 Unapplied		UFF	\$4,740.67	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	06/13/2008	06/12/2008	\$0.00 Comment		RPL	\$50,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	06/11/2008	06/01/2007	\$606,002.74 Non-Cash		AA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$2,857.37)
	06/11/2008	06/01/2007	\$0.00 Unapplied		UFF	\$962.93	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	06/11/2008	06/01/2007	\$0.00 Unapplied		UFU	(\$962.93)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	06/11/2008	06/01/2007	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$2,857.37)
	06/05/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	05/13/2008	06/01/2007	\$0.00 FEE	164	FB	\$85.00	\$0.00	\$0.00	\$0.00	\$85.00	\$0.00	\$0.00	\$0.00
	04/29/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	04/02/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	03/17/2008	06/01/2007	\$606,002.74 Escrow Disb-Tax County		E90	(\$2,328.43)	\$0.00	\$0.00	(\$2,328.43)	\$0.00	\$0.00	\$0.00	\$0.00
	02/21/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	01/23/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	01/14/2008	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	12/11/2007	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	12/07/2007	06/01/2007	\$0.00 FEE	040	FB	\$1,792.61	\$0.00	\$0.00	\$0.00	\$1,792.61	\$0.00	\$0.00	\$0.00
	12/03/2007	06/01/2007	\$0.00 FEE	164	FB	\$85.00	\$0.00	\$0.00	\$0.00	\$85.00	\$0.00	\$0.00	\$0.00
	11/08/2007	06/01/2007	\$606,002.74 Escrow Disb-Tax County		E90	(\$2,328.43)	\$0.00	\$0.00	(\$2,328.43)	\$0.00	\$0.00	\$0.00	\$0.00
	10/26/2007	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	10/08/2007	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	09/06/2007	06/01/2007	\$0.00 FEE	028	FB	\$30.00	\$0.00	\$0.00	\$0.00	\$30.00	\$0.00	\$0.00	\$0.00
	08/29/2007	06/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	08/01/2007	06/01/2007	\$606,002.74 PAYMENT		AP	\$6,740.78	\$309.70	\$5,178.92	\$1,252.16	\$0.00	\$0.00	\$0.00	\$0.00
	08/01/2007	06/01/2007	\$606,002.74 PAYMENT		SWA	\$962.93	\$0.00	\$0.00	\$0.00	\$0.00	\$962.93	\$0.00	\$0.00
	08/01/2007	06/01/2007	\$0.00 Unapplied		UFU	\$962.93	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	08/01/2007	06/01/2007	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$274.43)
	07/27/2007	05/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00
	06/28/2007	05/01/2007	\$0.00 FEE	011	FB	\$11.25	\$0.00	\$0.00	\$0.00	\$11.25	\$0.00	\$0.00	\$0.00

	01/16/2007	01/08/2007	\$0.00 PAYMENT		RPY	\$12,067.27	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/16/2006	08/01/2006	\$608,984.35 PAYMENT		SR	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/16/2006	08/01/2006	\$0.00 Unapplied		UFE	\$2,351.90	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/16/2006	08/01/2006	\$0.00 Unapplied		UFU	(\$2,351.90)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	04/01/2006	\$610,107.77 PAYMENT		RP	\$5,488.62	\$274.93	\$5,213.69	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	05/01/2006	\$609,830.49 PAYMENT		RP	\$5,488.62	\$277.28	\$5,211.34	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	06/01/2006	\$609,550.84 PAYMENT		RP	\$5,488.62	\$279.65	\$5,208.97	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	07/01/2006	\$609,268.80 PAYMENT		RP	\$5,488.62	\$282.04	\$5,206.58	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	08/01/2006	\$0.00 FEE	011	FE	\$105.00	\$0.00	\$0.00	\$0.00	\$105.00	\$0.00	\$0.00
	12/11/2006	08/01/2006	\$0.00 FEE	164	FE	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00	\$0.00	\$0.00
	12/11/2006	08/01/2006	\$608,984.35 PAYMENT		RP	\$5,488.62	\$284.45	\$5,204.17	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	08/01/2006	\$608,984.35 PAYMENT		SWP	\$2,351.90	\$0.00	\$0.00	\$0.00	\$0.00	\$2,351.90	\$0.00
	12/11/2006	08/01/2006	\$0.00 Unapplied		UFU	\$2,351.90	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/11/2006	12/08/2006	\$0.00 PAYMENT		RPY	\$30,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/05/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	12/04/2006	03/01/2006	\$610,382.70 Non-Cash		AA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$1,646.58)
	12/04/2006	03/01/2006	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$1,646.58)
	12/01/2006	03/01/2006	\$610,382.70 PAYMENT		SR	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/01/2006	03/01/2006	\$0.00 Unapplied		UFF	\$446.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	12/01/2006	03/01/2006	\$0.00 Unapplied		UFU	(\$446.46)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	11/09/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	11/08/2006	03/01/2006	\$610,382.70 Escrow Disb-Tax County		E90	(\$2,263.14)	\$0.00	\$0.00	(\$2,263.14)	\$0.00	\$0.00	\$0.00
	10/18/2006	03/01/2006	\$0.00 FEE	164	FB	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00	\$0.00	\$0.00
	09/26/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	09/19/2006	03/01/2006	\$610,382.70 Escrow Disb-Tax County		M90	(\$102.05)	\$0.00	\$0.00	(\$102.05)	\$0.00	\$0.00	\$0.00
	08/23/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	07/31/2006	03/01/2006	\$610,382.70 PAYMENT		PT	(\$4,293.28)	\$0.00	\$0.00	(\$4,739.74)	\$0.00	\$446.46	\$0.00
	07/31/2006	03/01/2006	\$610,382.70 PAYMENT		RT	\$4,293.28	\$0.00	\$0.00	\$4,739.74	\$0.00	(\$446.46)	\$0.00
	07/31/2006	03/01/2006	\$0.00 Unapplied		UFU	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	07/24/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	07/17/2006	03/01/2006	\$610,382.70 Escrow Disb-Tax County		M90	(\$4,739.74)	\$0.00	\$0.00	(\$4,739.74)	\$0.00	\$0.00	\$0.00
	06/28/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	05/23/2006	03/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	05/15/2006	03/01/2006	\$0.00 FEE	011	FWA	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	05/15/2006	03/01/2006	\$610,382.70 PAYMENT		AP	\$5,488.62	\$272.61	\$5,216.01	\$0.00	\$0.00	\$0.00	\$0.00
	05/15/2006	03/01/2006	\$610,382.70 PAYMENT		SWA	(\$15.00)	\$0.00	\$0.00	\$0.00	\$0.00	(\$15.00)	\$0.00
	05/15/2006	03/01/2006	\$0.00 Unapplied		UFU	(\$15.00)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/25/2006	02/01/2006	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00
	04/13/2006	08/01/2005	\$612,243.15 PAYMENT		RP	\$5,488.62	\$256.85	\$5,231.77	\$0.00	\$0.00	\$0.00	\$0.00

	04/13/2006	08/01/2005	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$2,195.44)
	04/13/2006	09/01/2005	\$611,984.11 PAYMENT		RP	\$5,488.62	\$259.04	\$5,229.58	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	10/01/2005	\$611,722.85 PAYMENT		RP	\$5,488.62	\$261.26	\$5,227.36	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	11/01/2005	\$611,459.36 PAYMENT		RP	\$5,488.62	\$263.49	\$5,225.13	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	12/01/2005	\$611,193.62 PAYMENT		RP	\$5,488.62	\$265.74	\$5,222.88	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	01/01/2006	\$610,925.61 PAYMENT		RP	\$5,488.62	\$268.01	\$5,220.61	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	02/01/2006	\$0.00 FEE	011	FWP	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00	\$0.00
	04/13/2006	02/01/2006	\$0.00 FEE	040	FWP	\$723.40	\$0.00	\$0.00	\$0.00	\$723.40	\$0.00	\$0.00	\$0.00
	04/13/2006	02/01/2006	\$610,655.31 PAYMENT		RP	\$7,684.06	\$270.30	\$5,218.32	\$0.00	\$0.00	\$0.00	\$0.00	\$2,195.44
	04/13/2006	02/01/2006	\$610,655.31 PAYMENT		SWP	\$461.46	\$0.00	\$0.00	\$0.00	\$0.00	\$461.46	\$0.00	\$0.00
	04/13/2006	02/01/2006	\$0.00 Unapplied		UFU	\$461.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	04/13/2006	02/01/2006	\$0.00 Unapplied		UI	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,195.44
	03/21/2006	07/01/2005	\$0.00 FEE	011	FB	\$15.00	\$0.00	\$0.00	\$0.00	\$15.00	\$0.00	\$0.00	\$0.00
	03/16/2006	07/01/2005	\$0.00 FEE	040	FR	(\$723.40)	\$0.00	\$0.00	\$0.00	(\$723.40)	\$0.00	\$0.00	\$0.00

Exhibit K

2013-121648
11:44 am 08/19/13 NR Fee: 18.00

Count of Pages 2
Recorded in Official Records
County of San Mateo
Mark Church
Assessor-County Clerk-Recorder



REQUESTED BY:

WHEN RECORDED MAIL TO: *CJAIR ROMAN*
1 PM BARCADERO CENTER
SAN FRANCISCO CA 94111

[SPACE Above This Line For Recording Data]

LN# [REDACTED] 4900
A.P.N.: [REDACTED] 5-120

NOTICE OF RESCISSION of Notice of Default and Election to Sell Under Deed of Trust


NOTICE IS HEREBY GIVEN: That **EXECUTIVE TRUSTEE SERVICES, LLC** is the duly appointed Trustee under a Deed of Trust dated **6/22/2005**, executed by **ALAN IRVING MOSS, AN UNMARRIED MAN**, as Trustor, to secure certain obligations in favor of **CJ MORTGAGE., A CALIFORNIA CORPORATION**, as Beneficiary, recorded **7/6/2005**, as Instrument No. **2005-111708**, in Book , Page , of Official records in the Office of the Recorder of **San Mateo County, California** describing land therein as more fully described on the above referenced Deed of Trust.

Whereas, the beneficiary under that certain Deed of Trust herein described, heretofore delivered to the Trustee thereunder written Declaration of Default and Demand for Sale; and whereas, Notice was heretofore given of breach of obligations for which said Deed of Trust is security and of election to cause to be sold the property therein described, and whereas, a Notice of Default was recorded on the day and in the book and page set forth below:

Notice was recorded on **9/18/2007** in the office of the Recorder of **San Mateo County, California**, Instrument No. **2007-138470**, in Book , Page , of Official Records.

NOW, THEREFORE, NOTICE IS HEREBY GIVEN that the present Beneficiary and/or the Trustee, does hereby rescind, cancel, and withdraw said Notice of Default and Election to Sell Under Deed of Trust; this rescission shall not in any manner be construed as waiving or affecting any breach of default – past, present or future – under said Deed of Trust, or as impairing any right or remedy thereunder, but is, and shall be deemed to be, only an election, without prejudice, not to cause a sale to be made pursuant to said Notice of Default and Election to Sell Under Deed of Trust, and shall nowise jeopardize or impair any right, remedy or privilege secured to the Beneficiary and/or the Trustee, under said Deed of Trust, nor modify nor alter in any respect any of the terms, covenants, conditions or obligations thereof, and said Deed of Trust and all obligations secured thereby are hereby reinstated and shall be and remain in force and effect the same as if said Declaration of Default and Notice of Breach had not been made or given.

Dated: *JANUARY 9, 2013* **EXECUTIVE TRUSTEE SERVICES, LLC**

By: 
Myron Ravelo, Authorized Signer

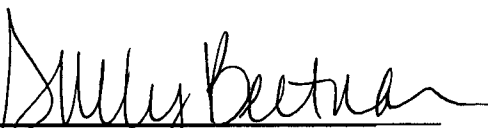
LN# [REDACTED] 4900
A.P.N.: [REDACTED] 5-120

ACKNOWLEDGMENT

State of California)
)
County of Los Angeles)

On January 9, 2013, before me, Sally Beltran, Notary Public, personally appeared Myron Ravelo, who 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 they executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


SIGNATURE



SEAL

Exhibit L

DISPLAY/HISTORY

12-12020-mg Doc 8502-16

Filed 04/15/15 Entered 04/15/15 15:54:28 Declaration

Acct: [REDACTED] Name: **ALAN IRVING MOSS**

Exhibit L Sub 2 of 8

Investor: 41728 Warn: 5 Lock: 1 Stop: 0

Page:

SSN: [REDACTED] 6898

Refresh Date:

- Dates -	Paid To:	12/1/2007	Next Due:	Type:	1/1/2008	Last Pmt:	6/13/2008
- Bal -	Prin:	\$0.00	Esc:	\$0.00			
- Uncol -	LC:	\$0.00	P&I Adv:	\$0.00	Esc Sht:	\$0.00	

NOTES:

Trans Added Date	Trans Type	Area ID that Originated the Message	Document Notice Id	Document Text Id	Document Text Type Code	Add Teller	TransactionDescription
6/3/2008	DM					T:00000	EARLY IND: SCORE 222 MODEL EIFRC
6/5/2008	FSV		0	00	1	T:00000	INSP TP F RESULTS RCVD; ORD DT=05/15/08
6/5/2008	FOR						06/05/08 - 14:27 - 57127
6/5/2008	FOR						User has updated the system for the
6/5/2008	FOR						following event: Bidding
6/5/2008	FOR						Instructions Received By Attorney,
6/5/2008	FOR						completed on 6/5/2008
6/5/2008	FOR						06/05/08 - 13:07 - 00007
6/5/2008	FOR						Foreclosure - Bidding Instructions
6/5/2008	FOR						(NIE Id# 7237867) sent to Executive
6/5/2008	FOR						Trustee Services, Inc. at 6/5/2008
6/5/2008	FOR						12:56:13 PM by Michelle Swaim
6/5/2008	FOR						06/05/08 - 12:36 - 39281
6/5/2008	FOR						User has updated the system for the
6/5/2008	FOR						following event: Bidding
6/5/2008	FOR						Instructions To Attorney, completed
6/5/2008	FOR						on 6/5/2008
6/5/2008	FOR						BIDDING INSTRUCTIONS (609) COMPLETED 06/05/08
6/6/2008	CBR		0	00	1	T:00000	FORECLOSURE STARTED
6/6/2008	CBR		0	00	1	T:00000	DELINQUENT: 180+ DAYS
6/9/2008	ET		0	0	0		ARM CHANGE NOTICE SCHEDULED FOR 06/10/08
6/11/2008	D19		0	04	8		ARM CHANGE NOTICE CREATED - LETTER
6/11/2008	NT	LMT				T:21629	submitted for approval
6/11/2008	NT	LMT				T:21629	will be required. I have advised of the terms,
6/11/2008	NT	LMT				T:21629	due date, payment options and consequences if the
6/11/2008	NT	LMT				T:21629	plan fails. Additional Notes: mortgagor is an
6/11/2008	NT	LMT				T:21629	attorney and became very sick 7/07 and went back
6/11/2008	NT	LMT				T:21629	into full practice 10/07 had lawsuits tied up in
6/11/2008	NT	LMT				T:21629	the court system and he was not being paid,he just

6/11/2008	NT	LMT	12 12020 mg	Doc 8502-16	Filed 04/15/15	Entered 04/15/15 15:54:28	T:21629	received funds for a case that was recently
6/11/2008	NT	LMT			Exhibit L	Pg 3 of 8	T:21629	settled,I suggest we place mortgagor on a 6 month
6/11/2008	NT	LMT					T:21629	trial mod to establish a payment history.He has
6/11/2008	NT	LMT					T:21629	not paid since 8/07. Whe he completes trial we can
6/11/2008	NT	LMT					T:21629	cap his delinquency and modify the loan to a
6/11/2008	NT	LMT					T:21629	current status; Additional Lien(s): N/A; Policy
6/11/2008	NT	LMT					T:21629	"Trial Modification Justification: Hardship:
6/11/2008	NT	LMT					T:21629	Illness of mortgagor; Date: 7/1/2007-10/1/2007;
6/11/2008	NT	LMT					T:21629	Monetary Impact: \$200000; Income : \$11000;
6/11/2008	NT	LMT					T:21629	Expenses (Post Mod): \$9880.78; Residual :
6/11/2008	NT	LMT					T:21629	\$1119.22; Access To Savings/401k: \$0; OAV :
6/11/2008	NT	LMT					T:21629	\$875000; BPO : \$835000; Change In Market: \$-40000;
6/11/2008	NT	LMT					T:21629	UPB: \$606002; LTV : 0.73;Proposed Solution: GMAC
6/11/2008	NT	LMT					T:21629	Mortgage proposes a 6 month trial modification
6/11/2008	NT	LMT					T:21629	consisting of a down payment of \$50000 and a
6/11/2008	NT	LMT					T:21629	monthly contribution of \$6740.78 followed by an
6/11/2008	NT	LMT					T:21629	assessment of the financials to determine if a
6/11/2008	NT	LMT					T:21629	permanent modification or an alternative solution
6/11/2008	LMT							REPAY PLAN STARTED (4001) COMPLETED 06/11/08
6/11/2008	RPA	00						REPAY PLAN SET UP
6/11/2008	LMT							LMT SOLUTN PURSUED (6) COMPLETED 06/11/08
6/11/2008	LMT							COMPLETE FIN PKG REC (3) COMPLETED 06/11/08
6/11/2008	LMT							ASSESS FINANCL PKG (2) COMPLETED 06/11/08
6/11/2008	LMT							REFERRD TO LOSS MIT (1) COMPLETED 06/11/08
6/11/2008	LMT							PURSUE REPAY PLAN (4000) COMPLETED 06/11/08
6/11/2008	LMT							PURSUE LN MODIFCATN (1000) COMPLETED 06/11/08
6/11/2008	LMT							APPROVED FOR LMT 06/11/08
6/11/2008	DM						T:21629	HTO STATED CAN COME UP WITH 50K TOLD HIM WILL
6/11/2008	DM						T:21629	SUBMIT FOR PLAN
6/11/2008	DM						T:21629	ACTION/RESULT CD CHANGED FROM LMDC TO LMDC
6/11/2008	DM						T:21629	HTO SD HAS 25K TO PAY ON LOAN ,R4D=STATED HE IS
6/11/2008	DM						T:21629	S/E A LAWYER 7/07,8/07,9/07 HE WAS SICK HAS NOT
6/11/2008	DM						T:21629	BEEN PAID FOR SERVICES TOLD HIM MUST PAY AT LEAST
6/11/2008	DM						T:21629	HALF OF DELINQUENCY TO BE CONSIDERED FOR A PMT
6/11/2008	DM						T:21629	PLAN
6/11/2008	DM						T:21629	ACTION/RESULT CD CHANGED FROM LMDC TO LMDC
6/11/2008	DM						T:29807	TT B1 VIC, CALL TO SEEK POSS MOD, ADV HE WILL HAVE
6/11/2008	DM						T:29807	25-30K READY TO FED-EX TODAY, TRANS FILE TO CITI
6/11/2008	DM						T:29807	REP FOR ASSIST. CSLOAN 6512
6/11/2008	DM						T:29807	ACTION/RESULT CD CHANGED FROM BRLM TO LMDC

6/12/2008	DM	12-12020-mg	Doc 8502-16	Filed 04/15/15	Entered 04/15/15 15:54:28	PROMISE BROKEN 06/12/08 PROMISE DT 06/12/08
6/12/2008	FOR			Exhibit L	Pg 4 of 8	06/11/08 - 18:12 - 57127 Declaration
6/12/2008	FOR					Fees and costs response: Good
6/12/2008	FOR					Through:6/12/2008 Fees: 1000.00
6/12/2008	FOR					Costs: 1578.90 Comment:
6/12/2008	FOR					06/11/08 - 17:53 - 42783
6/12/2008	FOR					A fees and costs request has been
6/12/2008	FOR					entered for this loan by Alford
6/12/2008	FOR					Hudspeth, good through 6/12/2008
6/12/2008	NT	LMT			T:21629	calld fcl atty sale is postponed as a result of a
6/12/2008	NT	LMT			T:21629	repayment plan
6/12/2008	NT	LMT			T:21629	recvd via fax confirmation that 50k was sent out
6/12/2008	NT	LMT			T:21629	in a cashier check fedex tracking# 792714594908
6/12/2008	NT	LMT			T:17624	viewed acct for dep. no payment made yet. per prev
6/12/2008	NT	LMT			T:17624	notes Alford would put acct on hold if copy of
6/12/2008	NT	LMT			T:17624	check and airbill were recvd. at this time 4:55pm
6/12/2008	NT	LMT			T:17624	fcl sale still scheduled, and no hold.
6/12/2008	DM				T:21629	HTO WILL MAIL O/N MAIL 50K HE WILL FAX COPY OF
6/12/2008	DM				T:21629	CHECK AND AIRBILL ASAP,THEN I WILL POSTPONE SALE
6/12/2008	DM				T:21629	ACTION/RESULT CD CHANGED FROM LMDC TO LMDC
6/12/2008	NT	FSV			T:01952	Loan on pres new repay report. Ran CINS
6/12/2008	NT	FSV			T:01952	script to cancel any open insp on mtg.
6/13/2008	FOR					06/12/08 - 18:25 - 08736
6/13/2008	FOR					System updated for the following
6/13/2008	FOR					event: User has ended the Issue
6/13/2008	FOR					associated with this loan. Issue
6/13/2008	FOR					Type: Sale Postponement Request. Com
6/13/2008	FOR					06/12/08 - 18:25 - 08736
6/13/2008	FOR					ments: we will pp sale fro repay.
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					User has completed the Sale
6/13/2008	FOR					Scheduled For data form with the
6/13/2008	FOR					following entries: Sale
6/13/2008	FOR					Postponement Reason: : Loss Mitigati
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					on
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					Process opened 6/13/2008 by user
6/13/2008	FOR					Kathleen Gowen.
6/13/2008	FOR					06/13/08 - 07:22 - 11960

6/13/2008	FOR	12 12020 mg	Doc 8502-16	Filed 04/15/15	Entered 04/15/15 15:54:28	Kathleen Gowen - (Cont) - ease
6/13/2008	FOR			Exhibit L	Pg 5 of 8	postpone sale we have a repay plan
6/13/2008	FOR					in place Resolution:
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					User has updated the system for the
6/13/2008	FOR					following event: Sale Scheduled
6/13/2008	FOR					For. User changed date completed
6/13/2008	FOR					from 6/13/2008 to completed on 7/14/
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					2008. Reason: From: Fitton, Donna -
6/13/2008	FOR					CA Sent: Thursday, June 12, 2008
6/13/2008	FOR					4:26 PM To: Gowen, Kathleen - CA
6/13/2008	FOR					Subject: sale for 06-13-08 GM-117076
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					Issue: Sale Postponement
6/13/2008	FOR					Request : Active Start Date:
6/13/2008	FOR					06/12/2008 Close Date: n.a.
6/13/2008	FOR					Entered By: Alford Hudspeth, GMAC CI
6/13/2008	FOR					06/13/08 - 07:22 - 11960
6/13/2008	FOR					osed By: n.a. Reviewed By: n.a.
6/13/2008	FOR					Reviewed: n.a. Projected End: n.a.
6/13/2008	FOR					Days Open: 0 Comments: PI
6/13/2008	FOR					06/12/08 - 18:24 - 42783
6/13/2008	FOR					System updated for the following
6/13/2008	FOR					event: User has created a
6/13/2008	FOR					Process-Level issue for this
6/13/2008	FOR					loan.Issue Type: Sale Postponement R
6/13/2008	FOR					06/12/08 - 18:24 - 42783
6/13/2008	FOR					equest. Issue Comments: Please
6/13/2008	FOR					postpone sale we have a repay plan
6/13/2008	FOR					in place Status: Active
6/13/2008	FOR					06/12/08 - 18:23 - 42783
6/13/2008	FOR					Process opened 6/12/2008 by user
6/13/2008	FOR					Alford Hudspeth.
6/13/2008	FOR					06/12/08 - 18:22 - 42783
6/13/2008	FOR					Process opened 6/12/2008 by user
6/13/2008	FOR					Alford Hudspeth.
6/13/2008	FOR					TASK:0605-FCL-CHANGD FUPDT 07/14/08
6/13/2008	NT	LMT			T:23001	snt rpy pln agreemnt overnite tk# 7970 1263 0862
6/13/2008	OL		0	15	5	WDOYLM - FORECLOSURE REPAYMENT AGREEMENT

6/13/2008	RES	12 12020 mg	0	00	0	ON-LINE REPAYMENT SCHEDULE
6/16/2008	LMT		Doc 8502	16	00	DECLARATION
6/16/2008	LMT					TRIAL MOD EXECUTED (1055) COMPLETED 06/16/08
6/16/2008	D28		0	DT	8	TRIAL MOD APPROVED (1052) COMPLETED 06/16/08
7/2/2008	DM					BILLING STATEMENT FROM REPORT R628
7/2/2008	CIT	FCL20				T:00000 EARLY IND: SCORE 249 MODEL EIFRC
7/2/2008	CIT	FCL20				T:01845 014 LOAN HAS REPAYMENT PLAN - O/R
7/2/2008	CIT	FCL20				T:01845 Loan Number = [REDACTED] PIR = 0.00
7/2/2008	CIT	FCL20				T:01845 Private Label = 0.00
7/2/2008	CIT	FCL20				T:01845 Taxes = 0.00 PMI = 0.00
7/2/2008	CIT	FCL20				T:01845 THE BANK OF NEW YORK, N.A. = 110.00
7/2/2008	CIT	FCL20				T:01845 P&I = 0.00
7/2/2008	CIT	FCL20				T:01845 Silent 2nd = 0.00
7/3/2008	CIT	CSH30				T:19338 014 DONE 07/03/08 BY TLR 19338
7/3/2008	CIT	CSH30				T:19338 TSK TYP 724-POP USE-TOT DUE
7/9/2008	FOR					BIDDING INSTRUCTIONS (609) COMPLETED 07/09/08
7/9/2008	FOR					BIDDING INSTRUCTIONS (609) UNCOMPLETED
7/11/2008	FOR					07/11/08 - 14:17 - 38579
7/11/2008	FOR					Intercom Message: / Sent:
7/11/2008	FOR					7/11/2008 2:16:42 PM / From:
7/11/2008	FOR					Michael Mora, at-exet / To:
7/11/2008	FOR					Kathleen Gowen (GMAC) / CC: Jessica
7/11/2008	FOR					07/11/08 - 14:17 - 38579
7/11/2008	FOR					Hill (GMAC) / Message Type: General
7/11/2008	FOR					Update / Subject: Fw: / Message:
7/11/2008	FOR					Sent: 7/11/2008 9:24:00 AMFrom:
7/11/2008	FOR					Hill, JessicaTo: Fitton, Donna(at-ex
7/11/2008	FOR					07/11/08 - 14:17 - 38579
7/11/2008	FOR					et); Mora, Michael(at-exet)CC:
7/11/2008	FOR					Message Type: Response
7/11/2008	FOR					NeededSubject: Message: Please
7/11/2008	FOR					postpone 7/14 sale for 30 days. Than
7/11/2008	FOR					07/11/08 - 14:17 - 38579
7/11/2008	FOR					ks
7/11/2008	FOR					07/11/08 - 15:00 - 08736
7/11/2008	FOR					Intercom Message: / Sent:
7/11/2008	FOR					7/11/2008 2:59:55 PM / From: Donna
7/11/2008	FOR					Fitton, at-exet / To: Kathleen
7/11/2008	FOR					Gowen (GMAC) / CC: / Message Type:
7/11/2008	FOR					07/11/08 - 15:00 - 08736
7/11/2008	FOR					General Update / Subject: Fw: /

7/11/2008	FOR	12 12020 mg	Doc 8502	16	Filed 04/15/15	Entered 04/15/15 15:54:28	Message: Sent: 7/11/2008 9:24:00 AM From: Hill, Jessica To: Fitton, Donna(at-exet); Mora, Michael(at-exe
7/11/2008	FOR				Exhibit L	Pg 7 of 8	07/11/08 - 15:00 - 08736
7/11/2008	FOR						t)CC: Message Type: Response
7/11/2008	FOR						NeededSubject: Message: Please
7/11/2008	FOR						postpone 7/14 sale for 30 days.
7/11/2008	FOR						Thanks
7/11/2008	FOR						07/11/08 - 09:22 - 39123
7/11/2008	FOR						Process opened 7/11/2008 by user
7/11/2008	FOR						Jessica Hill.
7/11/2008	FOR						07/11/08 - 11:54 - 57127
7/11/2008	FOR						User has updated the system for the
7/11/2008	FOR						following event: Attorney Confirmed
7/11/2008	FOR						File on Hold, completed on 7/11/2008
7/11/2008	FOR						07/11/08 - 09:24 - 39123
7/11/2008	FOR						Intercom From: Jessica Hill, GMAC -
7/11/2008	FOR						To: Donna Fitton (at-exet), Michael
7/11/2008	FOR						Mora (at-exet) / Message: Please
7/11/2008	FOR						postpone 7/14 sale for 30 days. Than
7/11/2008	FOR						07/11/08 - 09:24 - 39123
7/11/2008	FOR						ks
7/11/2008	FOR						07/11/08 - 09:22 - 39123
7/11/2008	FOR						User has updated the system for the
7/11/2008	FOR						following event: Attorney Notified
7/11/2008	FOR						to Place File on Hold, completed on
7/11/2008	FOR						7/11/2008
7/11/2008	LMT						REC'D EXECUTED DOCS (4100) COMPLETED 07/11/08
7/14/2008	DM					T:00000	PROMISE BROKEN 07/14/08 PROMISE DT 07/12/08
7/15/2008	FOR						file on hold
7/15/2008	FOR						TASK:0606-FCL-CHANGD FUPDT 08/14/08
7/15/2008	FOR						file on hold
7/15/2008	FOR						TASK:0605-FCL-CHANGD FUPDT 08/14/08
7/16/2008	NT	LMT				T:16659	Repay Plan Late, Phoned.
7/16/2008	NT	LMT				T:16659	Repay Plan Late, Phoned.
7/18/2008	CBR		0	00	1	T:00000	FORECLOSURE STARTED
7/18/2008	CBR		0	00	1	T:00000	DELINQUENT: 180+ DAYS
7/18/2008	CBR		0	00	1	T:00000	CHANGE IN PRIMARY BORROWERS ADDR
7/21/2008	D28		0	DT	8		BILLING STATEMENT FROM REPORT R628
7/23/2008	FSV		0	00	1	T:00000	INSP TYPE F ORDERED; REQ CD =AUTO DELQ

8/4/2008	DM	12 12020 mg	Doc 8502-16	0	00	1	T:00000	EARLY IND; SCORE 244 MODEL EIFRC
8/8/2008	CBR			0	00	1	T:00000	FORECLOSURE STARTED
8/8/2008	CBR			0	00	1	T:00000	DELINQUENT: 180+ DAYS
8/12/2008	DM						T:21319	TT B1 TRFR EXT.3283. TCERTAIN EXT.6142
8/12/2008	DM						T:21319	ACTION/RESULT CD CHANGED FROM LMDC TO LMDC
8/19/2008	D28			0	DT	8		BILLING STATEMENT FROM REPORT R628
8/21/2008	CIT	CSH10					T:01659	015 New Cit #827-recd prsnl ck #1294 \$6000.00 for
8/21/2008	CIT	CSH10					T:01659	this FCLs Dallas3P Loan. Please advise.
8/21/2008	CIT	CSH10					T:01659	Retarget to T1659
8/25/2008	FSV			0	00	1	T:00000	INSP TYPE F ORDERED; REQ CD =AUTO DELQ
8/25/2008	CIT	COL10					T:21383	015 retargeting CIT 827: please return \$6000.00 as
8/25/2008	CIT	COL10					T:21383	rpp amount is \$6740/78: gsaverin x2909
8/27/2008	OL			0	53	7		WDOYCSH-PYMT PROC-RTRN PYMT TO CUSTOMER
8/27/2008	NT	STOP					T:01655	WARNING CODE 5; Returning personal check 1294 in
8/27/2008	NT	STOP					T:01655	the amount of \$6,000.00; not enough to reinstate
8/27/2008	CIT	CSH10					T:01655	015 DONE 08/27/08 BY TLR 01655
8/27/2008	CIT	CSH10					T:01655	TSK TYP 827-LOSS MIT INSTRU

Exhibit M

GMAC Mortgage

3451 Hammond Ave
P.O. Box 780
Waterloo, IA 50704-0780

06/13/08

FORECLOSURE REPAYMENT AGREEMENT

ALAN IRVING MOSS

86 SAN LUCAS AVE
MOSS BEACH CA 94038-0000

RE: Account Number **REDACTED**
Property Address 86 SAN LUCAS AVE
MOSS BEACH CA 94038-0000

ALAN IRVING MOSS ("Customer") and GMAC Mortgage, LLC ("Lender"), in consideration for the mutual covenants set forth in this Foreclosure Repayment Agreement (the "Agreement"), hereby agree as follows:

1. There is an outstanding debt to the Lender pursuant to a note and mortgage or deed of trust or equivalent security instrument (the "Mortgage") executed on 06/22/05, in the original principal amount of \$612500.00.
2. The account is presently in default for non-payment to Lender of the 01/01/08 installment and all subsequent monthly payments due on the Mortgage for principal, interest, escrows and charges.
3. The amount necessary to cure the default is \$97,608.50 plus such additional amounts that are presently due under the terms of the loan documents as of 06/13/08, and will increase until the default in the account is brought current.
4. Lender has instituted foreclosure proceedings against the property securing the Mortgage indebtedness, which proceedings will continue until the default(s) described herein is/are brought current under the terms of the Mortgage, or otherwise cured as provided for in this Agreement.
5. Notwithstanding the foregoing, Lender agrees to suspend but not terminate foreclosure activity on the default account, provided we receive the executed Agreement and we receive the initial installment in the amount of \$50,000.00 no later than 6/12/2008. This executed Agreement can be mailed or faxed to us at:

06/13/08

Account REDACTED

Page Two

GMAC Mortgage, LLC
Attention: Default Payment Processor
3451 Hammond Avenue
Waterloo, IA 50702
Fax: 866-340-5043

6. Pursuant to your request you agree to pay the remainder of the default, \$47,608.50, as indicated in the Payment Schedule enclosed and made a part hereof by reference. Customer understands that payments due under the Payment Schedule may include amounts due for real estate taxes and insurance, and the Payment Schedule amounts may, in such event, have to be increased, at the sole option of the Lender, if the items for such escrow purposes should increase during the duration of the Agreement.
7. All payments under this Agreement, including the regular monthly payments, shall be made in certified funds or cashier's check, shall include the account number on the Customer's check or on a written attachment to the check, and shall be sent to the following address:

GMAC Mortgage, LLC
Attention: Default Payment Processor
3451 Hammond Avenue
Waterloo, IA 50702

Additional methods of remitting payments under this agreement are:

- Money Gram using a Receive Code of 2365
- Western Union using a Code City and State of HOME, IOWA

If payment is tendered in any other form, Lender may return the payment and invoke any remedies available under the loan documents and this Agreement.

8. In the event we do not receive timely payment called for under this Agreement, Lender may, without further notice to Customer, undertake or continue collection or foreclosure activities. In such event, any payments tendered under this Agreement shall be applied to the account in the manner specified in the Mortgage, and there will be no right to a refund of the tendered funds. In the event Lender chooses to accept any payment not in the full amount called for under this Agreement, such acceptance shall not be deemed a waiver of Lender's right to declare a default under this Agreement. Upon any default in meeting the terms of this Agreement, any such payments received under the terms of this Agreement shall be applied first against the default in the account, with the excess, if any, then applied according to the terms of the Mortgage. The parties expressly understand and agree time shall be of the essence as to the obligation under this Agreement.

06/13/08

Account Number **REDACTED**

Page Three

9. Customer understands and agrees that all other provisions, covenants and agreements set forth in the Mortgage shall remain in force and effect during the duration of this Agreement and thereafter, and this Agreement shall not constitute a modification or extension of the Mortgage.
10. If a notice of a new or subsequent bankruptcy is received during the duration of this Agreement, the Agreement will automatically be voided.
11. Acceptance of any payment hereunder shall not constitute a cure nor be deemed a waiver of the existing default, and in no manner shall such acceptance prejudice any rights of Lender to proceed with the Trustee Sale Action noticed in the Notice of Default, and shall not constitute a violation of California Code of Civil Procedure Section 726.580(a), 580(d) (the One Form of Action Rule), and shall not invalidate the Notice of Default. Customer expressly relinquishes and waives any rights, claims and defenses Customer may have under any of the Code of Civil Procedure Sections or under the Loan with regard to any whole or partial payments, whether current, past or future.
12. If any additional amounts are added to the loan to be collected that have not been addressed in this agreement, those amounts will need to be paid at the conclusion of this agreement.

Notice: This is an attempt to collect a debt, and any information obtained will be used for that purpose. If your debt has been discharged in bankruptcy, our rights are being exercised against the collateral for the above-referenced account, not as a personal liability.

If you have any additional questions, please contact us at 800-850-4622, extension 8746820.

Loss Mitigation Department
Loan Servicing

Enclosure

06/13/08
Account REDACTED
Page Four

*****CERTIFIED FUNDS ONLY*****

NOTE: There is no grace period during this Agreement. Pursuant to your request and in order to cure the default on this account, all payments must be received on or before the due date.

RECEIVED AND AGREED:

_____(Seal)
ALAN IRVING MOSS
Customer Date

Customer Date

Upon receipt of the signed agreement, we as the Servicer will also execute to indicate our concurrence with this agreement.

Servicer

5:15

SIGN AND RETURN THIS PAGE ONLY

***** FAX TO 866-340-5043 *****

Exhibit N

FIRST AMERICAN TITLE COMPANY

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
EXECUTIVE TRUSTEE SERVICES, LLC
2255 NORTH ONTARIO STREET #400
BURBANK, CA 91504-3120

LOAN# [REDACTED] 4900
T.S.# [REDACTED] 076-C

[REDACTED] 7600

CERTIFIED BY FIRST AMERICAN TITLE
INSURANCE COMPANY TO BE A COPY
OF THE DOCUMENT RECORDED ON 09/18/2012
AS INSTRUMENT NO. 2012-134405
IN BOOK PAGE
OFFICIAL RECORDS OF SAN MATEO

NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

This Notice of Rescission is made this day 9/13/2012 with respect to the following:

- 1.) THAT Executive Trustee Services, LLC dba ETS Services, LLC is the duly appointed Trustee under that certain Deed of Trust dated 6/22/2005 and recorded 7/5/2005 as instrument number 2005-111708 in book page wherein ALAN IRVING MOSS AN UNMARRIED MAN are named as trustors, ALLIANCE TITLE is named as trustee, and CJ MORTGAGE INC. ; is named as beneficiary;
- 2.) THAT The Bank of New York Trust Company NA as successor to JPMorgan Chase Bank, National Association, f/k/a JPMorgan Chase Bank, as TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2006-1 is the beneficiary of record under that Deed of Trust by virtue of an Assignment of Beneficial Interest recorded 6/16/2008, Instrument # 2008-069109
- 3.) THAT THE DEED OF TRUST encumbers real property located in the County of San Mateo , State of California , described as follows:

LOTS 20, 22 AND 23, BLOCK 13, AS DESIGNATED ON THAT CERTAIN MAP ENTITLED, "MAP OF RIVIERA OCEAN VILLA TRACT, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JUNE 15, 1908, IN BOOK 6 OF MAPS, AT PAGE 20.
- 4.) THAT BY VIRTUE OF a default under the terms of the Deed of Trust, the beneficiary did declare a default, as set forth in a Notice of Default recorded 9/18/2007 as instrument number 2007-138470 in book , page in the office of the Recorder of San Mateo County, State of California ;

LOAN# [REDACTED] 4900
T.S.# [REDACTED] 076-C

5.) THAT THE TRUSTEE has been informed by the Beneficiary that the beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale which was conducted in error due to a failure to communicate timely, notice of conditions which would have warranted a cancellation of the foreclosure which did occur on 5/7/2009 ;

6.) THAT THE EXPRESS PURPOSE of this Notice of Rescission is to return the priority and existence of all title and lien holders to the status quo-ante as existed prior to the trustee's sale;

NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS THAT THE TRUSTEE'S DEED UPON SALE DATED 5/12/2009 AND RECORDED 5/18/2009 AS INSTRUMENT NUMBER 2009-124607 IN THE COUNTY OF San Mateo , STATE OF California, FROM Executive Trustee Services, LLC dba ETS Services, LLC (TRUSTEE) TO The Bank of New York Trust Company NA as successor to JPMorgan Chase Bank, National Association, f/k/a JPMorgan Chase Bank, as TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2006-1 (GRANTEE) IS HEREBY RESCINDED, AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF TRUST DATED 6/22/2005 , RECORDED 7/5/2005 AS INSTRUMENT NUMBER 2005-111708 IN BOOK , PAGE , IS IN FULL FORCE AND EFFECT.

Executive Trustee Services, LLC dba ETS Services, LLC


Marques Perry

State of California } S.S.
County of Los Angeles }

On 9/13/2012 ,before me Sally Beltran Notary Public, personally appeared Marques Perry, who 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 the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal


Sally Beltran



Exhibit O

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CA Superior - San Mateo
(SanMateo)

CIV505386

Alan Irving Moss VS Executive Trustee Ser., Llc

This case was retrieved from the court on Monday, December 08, 2014

[Update Now](#)

Header

Case Number: CIV505386

Date Filed: 05/05/2011

Date Full Case Retrieved: 12/08/2014

Misc: (9) CIVIL COMPLAINT; (CIV) Unlimited Civil

[\[Summary\]](#) [\[Participants\]](#) [\[Proceedings\]](#) [\[Complaints\]](#) [\[Minutes\]](#) [\[Pending Hearings\]](#)

Summary

No Information is Available for this case

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Participants

LitigantAlan Irving Moss
Plaintiff

Complaint Number: 1

Status: DISPOSITIONED 05/23/2012

Executive Trustee Services, Llc
Defendant

Complaint Number: 1

Status: Default Entered 06/17/2011

Attorney

Pro Per

Moss, Alan Irving

P.O. Box 721

Moss Beach, CA 94038

Unrepresented

Executive Trustee Services, Llc

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Complaints

<u>Nbr</u>	<u>Type</u>	<u>File Date</u>	<u>Status</u>
1	COM COMPLAINT of ALAN IRVING MOSS	05/05/2011	Dispositioned 05/23/2012

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Minutes

<u>Type</u>	<u>Details</u>
Reference Action	(S) Complaint Filed

12-12020-mg Doc 8502-19 Filed 04/15/15 Entered 04/15/15 15:54:28 Declaration
Exhibit O Pg 3 of 4

05/05/2011
Receipt: 110506-0149 \$395.00
Reference Action Case Management Conference
08/26/2011 9:00 AM
Dept 7
Hearing Continued to 12/02/11 at 09:00 in Department 7.
Reference Action Case Management Conference
12/02/2011 9:00 AM
Dept 21
Honorable Robert D. Foiles, Judge Presiding. Clerk: Cheryl Lyssand Court Reporter: Cindy Del Rosario
Alan Irving Moss Appeared in Pro Per by Courtcall.
The Court is Informed A Prove-Up Hearing Will be Set.
Hearing Continued to 03/07/12 at 09:00 in Department 7.
Plaintiff to Give Notice.
Plaintiff Shall Submit an Updated Case Management Statement.
If A Judgment is Filed Then no Appearance is Required.
Entered by C Lyssand on 12/02/11.
- 11 -
Reference Action First Paper Fee Paid by Executive Trustee Services, Llc.
03/06/2012
Receipt: 120306-0801 \$395.00
Reference Action Case Management Conference
03/07/2012 9:00 AM
Dept 7
Hearing Continued to 06/08/12 at 09:00 in Department 7.
Reference Action Hearing Default Prove-Up.
03/09/2012 9:00 AM
Dept PJ
Honorable Beth Labson Freeman, Judge Presiding. Clerk: Sean Kane Court Reporter: Chris Perez
Attorney(S): Elena Kouwabina Appearing For Defendant Executive Trustee Services, Llc.
Alan Irving Moss Not Present.
Court Informs Defense Counsel it Received A Telephone Call From Mr. Moss Informing The Court
That he Did Not Intend to Proceed With A Prove-Up Hearing Today, as Defendant Has Filed A Motion to
Set Aside Entry of Default.
Matter Dropped From Calendar.
If Defendants Motion is Denied, Plaintiff Must Re-Calendar His Default Prove-Up Hearing
Himself.
Entered by S Kane on 03/09/12.
=====

Reference Action Motion Fee Paid by Executive Trustee Services, Llc.
04/04/2012
Receipt: 120404-0443 \$40.00
Reference Action Hearing: Motion Re: to Set Aside Entry of Default Filed by Executive Trustee Services, Llc
04/18/2012 9:00 AM
Dept LM
Hearing Off Calendar. Reason: Per Moving Partys Notice of Withdrawal of Motion, Filed 4/4/12.
Reference Action Hearing: Motion Re: to Set Aside Entry of Default Filed by Executive Trustee Services, Llc
05/31/2012 9:00 AM
Dept LM
Honorable Joseph C. Scott, Judge Presiding. Clerk: Linda Makela Court Reporter: Makela.
No Appearance is Made by Any Parties Herein or Their Counsel of Record.
Action Automatically Stayed, Bankruptcy Petition Filed by Moving Party on 05/14/12.
=====

Entered by Lmakela on 05/31/12.

[Back to Top](#)**Pending Hearings****No Information is Available for this case**[Back to Top](#)**Documents**

Retrieve Document(s)

Items 1 to 32 of 32

	Availability	Nbr	Date	Details	Disposition
<input type="checkbox"/>					

12-12020-mg Doc 8502-19 Filed 04/15/15 Entered 04/15/15 15:54:28 Declaration
Exhibit O Pg 4 of 4

<input type="checkbox"/>	Online	1	05/05/2011	(S) Complaint Filed	
<input type="checkbox"/>	Online	2	05/05/2011	30 Day Summons, Issued And Filed.	
<input type="checkbox"/>	Online	3	05/05/2011	Civil Case Coversheet Received	
<input type="checkbox"/>	Runner	4	06/02/2011	Proof of Personal Service of Summons And Complaint Filed 05/05/2011 of Alan Moss Served on Executive Trustee Services, Llc by Serving Bradley Ellison, Agent For Service With Service Date of 05/09/11	
<input type="checkbox"/>	Runner	5	06/17/2011	Default Entered as to Executive Trustee Services, Llc	
<input type="checkbox"/>	Runner	6	06/17/2011	Request For Default Filed And Default Entered on Complaint Filed 05/05/2011 of Alan Moss as to Executive Trustee Services, Llc.	
<input type="checkbox"/>	Runner	7	08/22/2011	Statement of of Damages Filed by Alan Irving Moss	
<input type="checkbox"/>	Runner	8	08/22/2011	Proof of Service (Personal) of Statement of Damages * Served on Executive Trustee Services, Llc With Service Date of 08/09/11 Filed.	
<input type="checkbox"/>	Online	9	08/26/2011 9:00 AM	Case Management Conference (Dept 7)	Continued
<input type="checkbox"/>	Runner	10	11/28/2011	Case Management Statement Filed by Alan Irving Moss.	
<input type="checkbox"/>	Runner	11	12/01/2011	Hcmc1i Calendared on 12/02/11 in Dept. 7. Has Been Updated to 12/02/11 in Dept. 21.	
<input type="checkbox"/>	Runner	12	12/02/2011 9:00 AM	Case Management Conference (Dept 21)	Continued
<input type="checkbox"/>	Runner	13	03/01/2012	Request to Set Hearing on Uncontested Calendar (Default Prove-Up), Filed.	
<input type="checkbox"/>	Runner	14	03/06/2012	First Paper Fee Paid by Executive Trustee Services, Llc.	
<input type="checkbox"/>	Runner	15	03/06/2012	Notice of Motion And Motion to Set Aside Entry of Default Based on Excusable Mistake Filed by Executive Trustee Services, Llc	
<input type="checkbox"/>	Runner	16	03/06/2012	Declaration of Carol Bonello in Support of Executive Trustee Services, Lics Motion to Set Aside	
<input type="checkbox"/>	Runner	17	03/06/2012	Declaration of Ilena Kouvabina Insupport of Motion to Set Aside Entry of Default	
<input type="checkbox"/>	Runner	18	03/06/2012	Proof of Service of Defendants Notice of Motion, Etc. Served on Mr. Alan Irving Moss by Usps With A Service Date of 03/06/12.	
<input type="checkbox"/>	Runner	19	03/07/2012 9:00 AM	Case Management Conference (Dept 7)	Continued
<input type="checkbox"/>	Runner	20	03/09/2012 9:00 AM	Hearing Default Prove-Up. (Dept Pj)	Completed
<input type="checkbox"/>	Runner	21	04/04/2012	Notice of Withdrawal of Motion to Set Aside Entry of Default Filed by Executive Trustee Services, Llc.	
<input type="checkbox"/>	Runner	22	04/04/2012	Notice of Motion And Motion to Set Aside Entry of Default Based on Extrinsic Fraud or Mistake Filed by Executive Trustee Services, Llc	
<input type="checkbox"/>	Runner	23	04/04/2012	Motion Fee Paid by Executive Trustee Services, Llc.	
<input type="checkbox"/>	Runner	24	04/04/2012	Declaration of Carol Bonello in Support of Executive Trustee Services Motion to Set Aside Default	
<input type="checkbox"/>	Runner	25	04/04/2012	Declaration of Elena Kouvabina in Support of Motion to Set Aside Entry of Default	
<input type="checkbox"/>	Runner	26	04/18/2012 9:00 AM	Hearing: Motion Re: to Set Aside Entry of Default Filed by Executive Trustee Services, Llc (Dept Lm)	Off-Calendar
<input type="checkbox"/>	Runner	27	05/17/2012	Alan Irving Moss` s Response to Defendants Motion to Set Aside Default Filed.	
<input type="checkbox"/>	Runner	28	05/17/2012	Declaration of Alan Moss in Support of Plaintiffs Response to Motion to Set Aside Default	
<input type="checkbox"/>	Runner	29	05/23/2012	Case Dispo` d - Bankruptcy/Federal Court Notification Received	
<input type="checkbox"/>	Runner	30	05/23/2012	Notice of Stay of Proceedings Filed by Executive Trustee Services, Llc.	
<input type="checkbox"/>	Runner	31	05/31/2012 9:00 AM	Hearing: Motion Re: to Set Aside Entry of Default Filed by Executive Trustee Services, Llc (Dept Lm)	Completed
<input type="checkbox"/>	Runner	32	06/08/2012 9:00 AM	Case Management Conference (Dept 7)	Vacated

Items 1 to 32 of 32

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