

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT NEW YORK

RESIDENTIAL CAPITAL, L.L.C., et al.  
Debtors

Chapter 11  
Administratively Consolidated

-----  
RESCAP BORROWER CLAIMS TRUST,  
Objector  
v.  
RICHARD D. RODE,  
Creditor-Beneficiary

DECLARATION OF ROBERT M. ADAMS

Robert M. Adams declares under penalty of perjury pursuant to 28 U.S.C. sec. 1746:

1. I am a competent adult, more than 18 years of age, and am a citizen of the State of Texas and the United States of America.

2. I am a Certified Public Accountant licensed in the State of Texas, with offices at 5906 Dolores Street, Suite 113, Houston, Texas 77057. My office telephone number is (713) 626-1040 and my email address is <bob@bobadamscpa.com>.

3. A true and correct copy of my Curriculum Vitae is attached hereto as Exhibit A.

4. Exhibit B attached hereto is his report of the economic losses sustained by Richard D. Rode as a result of the failure of GMAC Mortgage, LLC to modify his mortgage as determined by the United States Bankruptcy Court for the Southern District of New York.

5. Exhibit B was prepared at the request of Richard D. Rode, based on documents provided to me by Mr. Rode and was prepared using generally accepted accounting principles for the determination of economic loss damages, as recognized by the District Courts in the State of Texas.

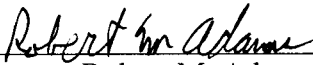
6. Since 1989, I have testified as an expert witness in the District Court in the State of Texas on dozens of occasions pertaining to business valuation and tax issues.

7. Exhibit B is my expert opinion of the amount, character and extent of Mr. Rode's economic loss, without calculation of the exemplary or punitive damages, from the breach of contract which was determined by the United States Bankruptcy Court for the Southern District of New York.



8. Exhibits A and B attached hereto are made part of this Declaration and is submitted as my direct testimony in accordance with the Orders of Judge Martin Glenn.

Dated at Houston, Texas this 31<sup>st</sup> day of March, 2016.

  
\_\_\_\_\_  
Robert M. Adams

# EXHIBIT A

**ROBERT M. ADAMS**

Certified Public Accountant  
5906 Dolores Street, Suite 113  
Houston, Texas 77057  
713-626-1040

**EDUCATION**

The University of Texas, BS, 1971  
The University of Texas, MBA, 1974

**CERTIFICATION**

Certified Public Accountant, 1979  
Texas Certificate No 19777

Accredited in Business Valuation, 1999  
AICPA Certificate No 522

**PROFESSIONAL ACTIVITIES**

American Institute of Certified Public Accountants  
Association of Certified Fraud Examiners - Associate Member  
American Society of Appraisers - Candidate Member

**PROFESSIONAL AND BUSINESS HISTORY**

01/84 - Present Certified Public Accountant in Public Practice  
07/81 - 10/83 Durkee Drilling, Inc., Vice President of Finance of a \$7 million start-up  
contract drilling company  
11/79 - 06/81 Moran Energy, Inc., Treasurer of a \$98 million NYSE company. Participated  
in redemption of \$20 of convertible subordinated debentures, and sale of  
\$50 million of convertible subordinated debentures, and sale of 880,000  
shares of common stock; managed \$60 million investment portfolio  
12/77 - 11/79 Weatherford International, Inc., Corporate Cash Manager  
07/75 - 12/77 Texas Commerce Bank, Assistant Vice President, cash management

Partial list of Continuing Education Courses Attended

		<u>Hours</u>
10/1987	Litigation Support and Expert Testimony, TSCPA	8
8/5/1988	Creative Valuation Techniques: Case Illustrated, TSCPA	8
5/12/1989	Divorce Litigation Support, Houston Bar Association Family Law Committee & Houston, TSCPA	8
6/1-2/1989	AICPA National Conference on Divorce and Related Tax Planning, AICPA	16
5/24/1990	Valuation Issues in Taxation, Litigation and Bankruptcy, Houston Chapter, TSCPA and Price Waterhouse	4
6/11-12/1990	The 1990 AICPA National Conference on Divorce, AICPA	16
5/9-12/1991	Business Valuation 1, American Society of Appraisers	24
6/6-7/1991	The AICPA 1991 National Conference on Divorce, AICPA	16
9/4-5/1991	Business Valuation 2, American Society of Appraisers	16
8/17-20/1992	18 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	24
9/28-29/1992	Locating Hidden Assets, National Association of Fraud Examiners	16
6/3-4/1993	The AICPA 1993 National Conference on Divorce, AICPA	16
8/16-20/1993	19 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	24
6/6-7/1994	The CPA's Role in Matrimonial Disputes, AICPA	17
3/29/1995	Presenting Data and Information, Edward Tufte	5
8/15-18/1994	20 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	26
8/7-10/1995	21 <sup>st</sup> Advanced Family Law Course, State Bar of Texas	20
9/14/1995	NBVI: Introduction to Valuation of Business and Practices, AICPA	8
10/20/1995	NBV2: Engagement Approach to Researching, Evaluating and Understanding the Company, AICPA	8

		<u>Hours</u>
11/15/1995	NBV3: Data Research in Valuations, AICPA	4
12/6/1995	NBV4: Valuation Methods, AICPA	8
8/19-22/1996	22 <sup>nd</sup> Advanced Family Law Course, State Bar of Texas	22
11/4/1996	NBV5: Special Issues in Business Valuation, AICPA	8
12/10/1996	NBV6: Valuation and Transfers, AICPA	8
8/18-21/1997	23 <sup>rd</sup> Advanced Family Law Course, State Bar of Texas	25
9/18-19/1997	Business Valuations: Fundamentals, Techniques & Theory, National Association of Certified Valuation Analysts	15
10/16-17/1997	New Frontiers in Marital Property Law, State Bar of Texas	13
11/3-6/1997	NACVA Fall (Valuation) Conference, National Association of Certified Valuation Analysts	24
12/1/1997	NBV7: The CPA Valuator - Expert Witness, AICPA	8
1/29-2/1/1998	1998 National Conference, Institute of Business Appraisers	19
2/19/1998	1998 Annual Healthcare Conference, Houston Chapter TSCPA	8
2/24-25/1998	Cost of Capital and Advanced Cost of Capital Workshops, Ibbotson Associates	12
4/30-5/2/1998	Business Valuation 3, American Society of Appraisers	27
8/17-20/1998	24 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	19
10/8-9/1998	3 <sup>rd</sup> Annual New Frontiers in Marital Property Law Course, State Bar of Texas	10
8/16-19/1999	25 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	25
10/13-14/1999	4 <sup>th</sup> Annual New Frontiers in Marital Property Law Course, State Bar of Texas	11
10/28-29/1999	18 <sup>th</sup> Annual Advanced Business Valuation Conference, American Society of Appraisers	11
5/22-23/2000	The 2000 AICPA National Advanced Divorce Conference, AICPA	14

		<u>Hours</u>
8/21-24/2000	26 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	24
10/5-6/2000	5 <sup>th</sup> Annual New Frontiers in Marital Property Law Course, State Bar of Texas	11
8/6-9/2001	27 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	21
10/11-12/2001	6 <sup>th</sup> Annual New Frontiers in Marital Property Law Course, State Bar of Texas	12
10/25-26/2001	20 <sup>th</sup> Annual Advanced Business Valuation Conference, American Society of Appraisers	12
11/9-10/2001	Art of Negotiation, Advanced Negotiation Techniques for the Litigator/ Mediator, South Texas College of Law	7
12/2-4/2001	AICPA National Valuation Conference, AICPA	19
8/5-8/2002	28 <sup>th</sup> Advanced Family Law Course, State Bar of Texas	26
10/10-11/2002	New Frontiers in Marital Property Law, State Bar of Texas	8
10/24-26/2002	5 <sup>th</sup> Joint ASA/CICBV Advanced Business Valuation Conference, American Society of Appraisers	17
11/17-19/2002	2002 AICPA National Business Valuation Conference, AICPA	21
8/18-21/2003	29 <sup>th</sup> Annual Advanced Family Law Course, State Bar of Texas	23
10/9-10/2003	New Frontiers in Marital Property Law, State Bar of Texas	12
10/16-17/2003	22 <sup>nd</sup> Annual Advanced Business Valuation Conference, American Society of Appraisers	12
11/16-18/2003	2003 AICPA National Business Valuation Conference, AICPA	24
5/13-14/2004	2004 AAML/ AICPA National Conference on Divorce, AICPA	15
8/9-12/2004	30 <sup>th</sup> Annual Advanced Family Law Course, State Bar of Texas	21
10/7-9/2004	23 <sup>rd</sup> Annual Advanced Business Valuation Conference, American Society of Appraisers	22
10/14-15/2004	New Frontiers in Marital Property Law, State Bar of Texas	10

		<u>Hours</u>
11/7-9/2004	2004 AICPA National Business Valuation Conference, AICPA	19
8/8-11/2005	31 <sup>st</sup> Annual Advanced Family Law Course, State Bar of Texas	19
10/20-21/2005	New Frontiers in Marital Property Law, State Bar of Texas	9
11/14-16/2005	2005 AICPA/ ASA Joint National Business Valuation Conference, AICPA and ASA	18
8/14-17/2006	32 <sup>nd</sup> Annual Advanced Family Law Course, State Bar of Texas	21
10/12-13/2006	New Frontiers in Marital Property Law, State Bar of Texas	9
12/3-5/2006	2006 AICPA National Business Valuation Conference, AICPA	20
8/6-9/2007	33 <sup>rd</sup> Annual Advanced Family Law Course, State Bar of Texas	19
10/4-5/2007	New Frontiers in Marital Property Law, State Bar of Texas	6
10/26/2007	Non-Traditional Tools for Valuation Professionals, Center for Advanced Valuation Studies, American Society of Appraisers	8
10/27/2007	Cost of Capital, Grabowski, Center for Advanced Valuation Studies, American Society of Appraisers	8
10/29-31/2007	26 <sup>th</sup> Annual Advanced Business Valuation Conference, American Society of Appraisers	19
12/2-4/2007	2007 AICPA National Business Valuation Conference, AICPA	20
8/11-14/2008	34 <sup>th</sup> Annual Advanced Family Law Course, State Bar of Texas	19
10/16-17/2008	New Frontiers in Marital Property Law, State Bar of Texas	9
8/3-8/6/2009	35 <sup>nd</sup> Annual Advanced Family Law Course, State Bar of Texas	19
5/5-7/2010	2010 AICPA/AAML National Conference on Divorce, AICPA	17
8/9-11/2010	36 <sup>th</sup> Annual Advanced Family Law Course, State Bar of Texas	18
10/4-6/2010	2010 ASA-CICBV Business Valuation Conference, American Society of Appraisers	19
10/28-29/2010	New Frontiers in Marital Property Law, State Bar of Texas	9
11/7-9/2010	2010 AICPA National Business Valuation Conference, AICPA	22



		<u>Hours</u>
8/1-3/2011	Advanced Family Law Course, State Bar of Texas	21
10/10-12/2011	2011 ASA Advanced Business Valuation Conference, ASA	22
11/6-8/2011	2011 AICPA National Business Valuation Conference, AICPA	18
8/6-8/2012	Advanced Family Law Course, State Bar of Texas	12
10/4-6/2012	New Frontiers in Marital Property Law, State Bar of Texas	9
11/11-13/2012	2012 AICPA Forensic & Valuation Conference, AICPA	19
8/5-7/2013	Advanced Family Law Course, State Bar of Texas	18
10/3-4/2013	New Frontiers in Marital Property Law, State Bar of Texas	9
10/-/2013	BV301 Valuation of Intangible Assets, ASA	27
11/10-12/2013	2013 AICPA Forensic & Valuation Services Conference, AICPA	20
8/4-6/2014	Advanced Family Law Course, State Bar of Texas	18
10/23-24/2014	New Frontiers in Marital Property Law, State Bar of Texas	9
11/9-11/2014	2014 AICPA Forensic & Valuation Services Conference, AICPA	19
8/3-5/2015	Advanced Family Law Course, State Bar of Texas	18
10/15-16/2015	New Frontiers in Marital Property Law, State Bar of Texas	9

9/28-29/1992	Locating Hidden Assets, National Association of Certified Fraud Examiners	16
10/11/1994	Contract and Procurement Fraud, Association of Certified Fraud Examiners	8
10/1/1996	Alternative Interviewing and Interrogation Techniques, Association of Certified Fraud examiners	8
10/6/1998	Statement Analysis, Association of Certified Fraud Examiners	8
1/29/2002	Digital Evidence Recovery Seminar, Houston Chapter of the Association of Certified Fraud Examiners	8
9/10/2002	Data/Digital Analysis, Houston Chapter of the Association of Certified Fraud Examiners	3
3/8/2007	Healthcare Fraud, Association of Certified Fraud Examiners	7
5/5/2010	Do's and Don'ts of Electronic Evidence: Review of Rules of Evidence, AICPA	3
5/13-14/2010	Digital Forensic Tools and Techniques, Association of Certified Fraud Examiners	11

## EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT NEW YORK

---

RESIDENTIAL CAPITAL, L.L.C., et al.  
Debtors

Chapter 11  
Administratively Consolidated

-----  
RESCAP BORROWER CLAIMS TRUST,  
Objector  
v.  
RICHARD D. RODE,  
Creditor-Beneficiary

---

REPORT OF ROBERT M. ADAMS, CPA

---

I have been engaged by Richard D. Rode to assist him with the identification and quantification of economic damages he has suffered in the above case.

**Documents and Information Utilized**

I used documents and my conversations with Richard D. Rode in performing my work and developing my opinions. The documents I inspected pertaining to the Residential Capital, L.L.C., et al, Debtors v. Richard D. Rode, Creditor-Beneficiary case include (but are not limited to) the documents provided by Richard D. Rode and Maudeena Rode. Those documents include copies of bank statements, cancelled checks, mortgage payment confirmations, mortgage statements, escrow analysis statements, detailed loan payment histories, credit reports, etc.

**Background**

Richard D. Rode purchased 2301 West Lawther Lane, Deer Park, Texas in March 2001, utilizing a \$272,850 mortgage from North American Mortgage Co. He refinanced the property with Southtrust Mortgage Co. in 2003. That mortgage was sold to Homecomings Financial in 2004. Unsuccessful attempts were made to modify the mortgage, and Homecomings Financial sent delinquency notices and started foreclosure proceedings. Mr. Rode filed suit in 2011.

**Legal fees and costs paid by Richard Rode**

- A. Richard Rode paid \$61,399.16 to the Texas Equal Access to Justice Foundation/Uzick & Oncken, PC on March 29, 2011, for legal services provided by Uzick & Oncken PC in connection with the lawsuit (Exhibit A). The current invoice 26147 totals \$48,080.02 (Exhibit B). But for the circumstances requiring filing and pursuing the lawsuit, Richard Rode would not have incurred, or had to pay for those legal fees. It is my opinion that Mr. Rode has been economically damaged in the amount of not less than \$48,080.02.
- B. Richard Rode paid an aggregate \$11,000.00 to Attorney Wendy Allison Nora (Exhibit C), for fees and costs incurred in pursuing the lawsuit. But for the circumstances requiring filing and pursuing the lawsuit, Richard Rode would not have incurred, or had to pay for those legal fees and costs. It is my opinion that Mr. Rode has been economically damaged in the amount of not less than \$11,000.00.

My opinions pertaining to the economic damages resulting from the payment of attorney fees and costs are based on the documents I reviewed and my conversations with Mr. Rode.

**Additional 2009 income tax paid by Richard Rode**

GMAC Mortgage (parent or owner of Homecomings Financial) issued an erroneous 2009 Form 1099-C, Cancellation of Debt, to Richard Rode, in the amount of \$9,673.69 (Exhibit D). This was the aggregate amount of Mr. Rode's mortgage payments that Homecomings Financial/GMAC Mortgage misapplied, and did not give Mr. Rode credit for. Because of the issuance of this erroneous Form 1099-C, Mr. Rode incurred additional 2009 federal income tax in the amount of not less than \$2,418. It is my opinion that Mr. Rode was economically damaged in the amount of \$2,418.

My opinion pertaining to the economic damages resulting from the issuance of the erroneous 2009 Form 1099-C is based on the documents I reviewed and my conversations with Mr. Rode.

I reserve the right to amend or update the above observations if I receive additional relevant information.

Robert Adams