

Bankruptcy Litigation Model

HANDOUTS

For Ipad

Copyright © 2011
By the Law Offices of O. Max Gardner III, P.C.
All Rights Reserved.

Handouts

Table of Contents

Tabs	Page
Summit Employee Spotlight	Employee Spotlight: Liquenda Allotey 5
The Summit September 2006	The Summit 7
	Affidavit of John Cody 27
	Affidavit of Dory Goebel 29
Who is FIS/LPS	FIS Information 32
	Fidelity Information Services, Timeline 33
	Lender Processing Services (LPS) 34
	Meeting with LPS Network Attorney 50
	Deposition of Christian S. Hymer 59
	LPS Document Management Services 82
	LPS Roundtable: August 10, 2009 86
	LPS Roundtable: June 11, 2009 91
	LPS Website information 96
	Fidelity LPS Employees 97
Moss Codilis, Not Really a Law Firm	Moss Codilis' Response to Order Show Cause 121
	Declaration of Stefanie Jeffries 129
Prommis Solutions	Prommis: National Bankruptcy Services 134
	Prommis Solutions Holding Corp 136
Fannie Mae New Attorney Network, Fees & Costs	Fannie Mae Announcement 12/20/2010 157
	Fannie Mae Announcement 08/02/2010 160
	Fannie Mae Announcement 08/06/2008 167
	FM Establishes New Foreclosure and Bankruptcy Attorney Network 181
Standard & Poors Servicer Evaluations	Servicer Evaluation: HSBC Mortgage Corp 183
MERS Milestone Report & Milestone Plus	MERS Milestone Report 203
	MERS Milestone Plus 205

Securitized Diagram	Starkey Flow Chart	208
	Zokle Diagram	209
	Mikels Flow Chart	210
	Holder in Due Course	211
	Dan & Teri Securities	212
Your Clients Securitized Mortgage	A Basic Road Map	214
Mortgage Proof of Claim Checklist & Resources	Mortgage Proof of Claim Checklist	226
	Resources on Mortgage Servicing	230
	Deciphering Mortgage Proof of Claims	237
Examples of Daily Interest Mortgage	Example of Daily Interest Mortgage	245
Uniform DT Instrument	The Key Term in the Uniform Covenants	254
	Deed of Trust	255

The Summit
Employee Spotlight:
Liquenda Allotey

EMPLOYEE SPOTLIGHT: LIQUENDA ALLOTEY

by Christina Hladun

Whether it's immigrating to a new country or working with FIS desktop, FNFS Foreclosure Manager Liquenda Allotey adjusts to change with the panache of a true professional.

Liquenda came to the United States from the West African country of the Republic of Ghana in February 1997. By June of the same year he embarked upon his career with FNFS (then Northwest Mortgage Services) as a mailroom clerk, distributing mail to co-workers.

Even though it was a very different position from his previous one, as an Assistant Research Officer with the Food Research Institute of Ghana, Liquenda offered that he enjoyed every moment of it due to his belief that you should always do your best and make your job fun.

Liquenda quickly adapted to his new role, but the frigid Minnesota weather was more difficult to get used to. "Emigrating from a place with an average temperature of 90 degrees to the sometimes negative temperatures in Minnesota was difficult," he admitted. He added that he quickly learned the importance of dressing properly.

With the initial wardrobe hurdles cleared, Liquenda set to work learning the ins and outs of the company he was now a part of. Less than a year after being hired, he was promoted to a Financial Specialist. This new job outline included preparing and auditing bidding instructions, judgment figures and VA 567s.

Liquenda received another promotion in March 2000, this time to Foreclosure Specialist, when Fidelity acquired the HomeEq outsource business. He was one of three employees to handle the portfolio, a process he describes as being very exciting.

Subsequent promotions followed: Foreclosure Team Lead in October 2000, Operational Analyst in September 2002, and Foreclosure Supervisor in March 2003. In October 2003, he

was promoted to his current position of Foreclosure Manager. "Communicating with clients and attorneys to resolve foreclosure issues is what I like best about my job," Liquenda explained. He added that having been through several other foreclosure case management systems, none comes close to FIS desktop Process Management. "I love NewTrak [FIS desktop]," he stated simply.

Liquenda's talent in handling attorney and client foreclosure issues is also noted and acknowledged by his fellow workers.

"COMMUNICATING
WITH CLIENTS AND
ATTORNEYS TO
RESOLVE
FORECLOSURE ISSUES
IS WHAT I LIKE BEST
ABOUT MY JOB."

"There is something that has always been consistent with Liquenda, which is his genuine commitment to working with both attorney and client to get things resolved. Just the nature of this business can sometimes be tense and stressful, but Liquenda never waivers from his calm demeanor and willingness to help others. He ensures that the needs of clients, fellow workers, employees and attorneys are met," said Lynn McNamee, VP, Foreclosure Attorney

Management. "I have had the pleasure of working with Liquenda throughout my 5-year career at Fidelity. I am very proud to have Liquenda on my team and part of the Fidelity family," she added.

When he's not busy resolving foreclosure issues, Liquenda is spending time with his wife Shamera and their children: Laurenda, Linda, Loretta and newborn son, Leon. He especially enjoys helping his children with their schoolwork so that someday they will be able to take advantage of the same opportunities he has since arriving in the United States.

(RIGHT): Liquenda recently spoke to a local 3rd grade class that was studying Africa. Liquenda explained that, when he was a child in Ghana, they decided that children were old enough to attend school when they could reach their arm over their head and touch their ear. Prior to the age of 5, it is physically impossible to do this. Because birth records are rare, this test is used to determine if a child has reached the age of 5 instead of birth dates.



The Summit

September 2006

John Cody/Dory Goebel

THE SUMMIT

September 2006

Volume 2 Issue 3

IN THIS ISSUE

FIDELITY INFORMATION	2
FIDELITY CONTACTS	3
AUTOMATIC STAY - RECENT DEVELOPMENTS	4
CLIENT/STAFF PHOTOS	5
EC PURCHASING	6
MI MANUFACTURED HOME PERFECTION	8
FNFS ATTORNEY AUDITS	9
ATTORNEY PERFORMANCE AWARD WINNERS	10
Q2 INCENTIVE WINNERS	11
FIRM SPOTLIGHT: MANN AND STEVENS	12
EMPLOYEE SPOTLIGHT: CHRISTINE ANDERSON	13
TENNESSEE SERVICEMEMBERS CIVIL RELIEF ACT	14
FEES AND COSTS MODULE	15
DEPARTMENT SPOTLIGHT: DOCUMENT EXECUTION	16
EMPLOYEE ANNIVERSARIES	17
ATTORNEY NEWS	18
TECHNOLOGY NEWS	19
PEAK PERFORMANCE AWARD WINNERS	20

FIS»

THE SUMMIT

THE 5TH ANNUAL ATTORNEY SUMMIT

BY LINDSEY LESCH

The 5th Annual Attorney Summit, held this June in Minneapolis, was marked by record attendance, beautiful golfing weather, and successful entertainment. This year, 550 attendees were registered for the conference, which provided attendees the opportunity to meet with Fidelity management, clients, and fellow attorneys during the golf tournament, cocktail hour, various presentations, dinner, and the open house at the FNFS office.

The 2006 Attorney Summit Golf Tournament returned to the renowned Legends Golf Course, featuring prizes for longest drive, longest putt, and closest to the pin. Players were given the opportunity to win \$20,000 for a hole in one on hole #17. No one took home the prize for a hole in one this year, but Frank Olson of McCurdy and Candler LLC made the closest attempt.

This year's FNFS presentation covered topics such as Fidelity Network Performance in Bankruptcy and Foreclosure, Attorney Performance Reporting, Client Power Rating, EC Purchasing, NewInvoice, NewTrak, NewImage, and ProVest. At the end of the

presentation, Attorney Awards were presented for Performance Excellence, Service Excellence, and Rookie of the Year.

The entertainment following the dinner this year was provided by comedian Kevin Pollak, who delivered a memorable performance. Those who attended will be glad to know that similar entertainment is planned for next year.

If you were unable to attend this year, mark your calendars for June 13-15, 2007, when the 6th Annual Attorney Summit will return to Minneapolis, MN and will be held at the Marriott City Center in the heart of downtown Minneapolis. Register early to secure your place, as the 2006 conference was sold out in only 45 days, with hotels at maximum capacity by mid-May.

Registration for the next Summit will begin in spring 2007. Stay tuned for website information.

For those who plan ahead, the 7th Annual Attorney Summit in 2008 will make its way to Jacksonville, FL. Further details will be provided after the 2007 Summit.

Attorney Performance and Golf Tournament Award Winners pictured on pages 10 and 11.


SAVE THE DATE: JUNE 13-15, 2007

A publication of Fidelity National Foreclosure Solutions, Inc.

FIDELITY INFORMATION

Fidelity National Foreclosure Solutions, Inc.

A Division of Fidelity National Default Solutions



The Jacksonville offices of Fidelity National Foreclosure Solutions, NewTrak, NewImage Express, and NewInvoice relocated to a new office on the Fidelity corporate campus in downtown Jacksonville this July. The new workspace provides a positive environment with additional amenities and room for continued growth.



Fidelity National Foreclosure Solutions, Inc. (FNFS) provides loan servicers with single-source solutions for managing foreclosures, bankruptcies, and related matters on a nationwide basis.

Possessing the expertise to manage diverse loan procedures and credit types, FNFS helps clients realize consistent pricing for default management services as well as reductions in the cost per loan serviced.

When clients refer a loan to FNFS, we manage and report on the loan until resolution. The individual requirements of each loan are identified and processed to ensure the most

efficient outcome. Stringent internal time limits are placed on every important event and active monitoring is conducted to minimize the overall timeframe. This loan level data is reported to Fidelity partners on a daily basis using NewTrak, Fidelity's web-based default management tool. NewTrak allows Fidelity

and its clients to view status from the lowest level of detail on a case all the way up to an aggregated view of the statewide and nationwide performance of the vendor. It provides unparalleled efficiency by delivering critical case and management data at the fingertips of vendors, clients, and Fidelity employees.

NewImage Express (NIE) is another collaborative technology product offered by FNFS. NIE assists Fidelity clients and vendors with the expanding document retention requirements they face today. It is a secure, stand-alone scanning and document management system that reduces manual servicing requirements by transitioning hard copied documents to an electronic, indexed format for easy filing, retrieval, and storage. Once information has been transferred to electronic format,

it becomes a more valuable strategic resource. The integration of NewTrak and NIE allows users to manage their files along with the variety of documents associated with those files.

The system offers a secure 128-bit encrypted bidirectional conduit for transmission of documents between FNFS and our clients' offices. Stored documents can be viewed, searched, and printed worldwide from any computer through a secure password-authenticated Internet connection. An NIE user can easily find and send a document created years ago without rummaging through endless filing cabinets, making copies, and paying for the postage to mail it.

FIDELITY'S FIVE FUNDAMENTAL PRECEPTS

Autonomy and Entrepreneurship
Bias for Action
Employee Ownership
Minimize Bureaucracy
Close Customer Relationships

NewInvoice 5.0 is an important tool for the mortgage community that provides the most complete vendor management solution for B2B electronic invoice submission and processing in the industry. NewInvoice has made a significant investment in enhancing the

ability to create, present, and process the many thousands of invoices received daily by clients. Using approved stage pricing, NewInvoice has made the invoice approval process fully automated, allowing focus to be limited to exceptions.

From referral to invoice, Fidelity National Foreclosure Solutions, Inc. provides unique, money-saving solutions for the mortgage community.

FLORIDA OFFICE

601 Riverside Ave.
Building 5, 3rd Floor
Jacksonville, FL 32204
904.470.7700
904.470.7800 fax

MINNESOTA OFFICE

1270 Northland Drive
Suite 200
Mendota Heights, MN 55120
651.234.3500
651.234.3600 fax

FNFS MANAGEMENT

SCOTT BARNES	SVP Operations	904.470.7703
LARRY DINGMANN	SVP Division Counsel	651.234.3506
STEVE GERTHS	SVP Business Development	651.234.3504
JAMES IREDALE	SVP MIS and Core Development	904.470.7704
LAURA MACINTYRE	SVP NewInvoice Operations	651.234.3511
BARB NICKEL	SVP Controller	651.234.3587
DENNIS STEMME	SVP Technology Solutions	904.470.7705
GREG WHITWORTH	President and COO	904.470.7701

CONTACT US!

NEWTRAK
support@newtrak.com



NEWIMAGE EXPRESS
chris.lewis@fnfs.net
brock.martin@fnfs.net
barry.crouch@fnfs.net



NEWINVOICE
mike.jurkovic@fnfs.net

CUSTOMER/ATTORNEY RELATIONS

POLINA BELINSKAYA 904.470.7881
SELENA EDWARDS 904.470.7837
KRIS HARVICK 904.470.7879
JANE JOHNS 904.470.7766
LINDSEY LESCH 904.470.7831
DENISE MARTIN 904.470.7863
MATTHEW ROGINA 904.470.7731
KATHERINE ZORN 651.234.3723
attyfeedback@fnfs.net

THE SUMMIT

The Summit is published quarterly by the Customer/Attorney Relations Team for employees, clients, and attorney firms in the Fidelity National Foreclosure Solutions partnership.

EDITOR

Lindsey Lesch

EDITORIAL DIRECTOR

Matthew Rogina
VP Customer/Attorney Relations

STAFF PHOTOGRAPHER

Eric Tate

COVER PHOTOGRAPHER

Richard Reynolds

CONTRIBUTING AUTHORS*

Joe Kirsch
Bill Meagher
June Mann
Thomas G. Tutton Jr.

*The opinions expressed by contributing authors are those of the authors and do not necessarily reflect the opinions of Fidelity National Foreclosure Solutions.

Do you want to be featured in next quarter's issue of *The Summit*? We welcome all articles or comments about your company/firm.** Tell us about changes, improvements, legislation that affects you — whatever you think will be interesting to readers of *The Summit*! The deadline for submissions for the next issue is September 15.

We also welcome your photos (digital photos set to the highest resolution are preferred). Send comments, photos, and story ideas to:

E-mail: lindsey.lesch@fnfs.net

Phone: 904.470.7831

Fax: 904.470.7800

**Fidelity reserves the right to edit submissions for space constraints.

WHEN SHOULD A CREDITOR OBJECT TO A MOTION TO EXTEND OR IMPOSE THE AUTOMATIC STAY - RECENT CASE DEVELOPMENT

by Thomas G. Tutten, Jr.
SIROTE & PERMUTT, P.C.

By now, all creditors have seen numerous motions in one form or the other requesting the court to “extend” or “impose” the automatic stay in situations where a debtor has filed multiple cases. Upon receipt of one of these motions, a creditor must decide if they want to object to the motion. In most cases, if the creditor chooses not to object, these motions are routinely granted and the debtor gets the benefit of the automatic stay, which otherwise may not have been available. Many courts will routinely extend or impose this stay for the life of the plan.

A recent case styled *In re: Earl Masuca* entered by a Bankruptcy Court in the Northern District of Alabama, Southern Division, (not published as of yet) addressed many of the complicated legal issues involved when a request to impose or extend the automatic stay is filed and objected to by a creditor in the case. In this particular case, the debtor had filed several prior cases. Motions to lift the automatic stay had been filed in each of these cases on behalf of the mortgage creditor. The debtor filed a “Motion to Extend Stay” or, in the alternative, “Motion to Impose Stay.” This motion was timely objected to by the mortgage creditor, a hearing was held and the court entered a fourteen page opinion setting out all of the legal issues involved with such a motion and objection.

The court found that there were four steps to determine whether to extend a stay pursuant to section 362(c)(3) of the Bankruptcy Code:

Step One- Determine if there was in fact a limitation of the stay under Subsection 362(c)(3)(A) when the case was filed.

Step Two- Determine if the case was filed in “good faith” as required by Subsection 362(c)(3)(B).

Step Three- Determine the parameters for determining “good faith” and the related burdens of proof and presumptions.

Step Four- Determine the criteria for determining “good faith.”

“MANY COURTS WILL
ROUTINELY EXTEND OR
IMPOSE THIS STAY FOR
THE LIFE OF THE PLAN.”

The court found that when the case is presumed to have not been filed in “good faith” that the burden of proof is by “clear and convincing” evidence, a much stronger burden than the previous standard “preponderance of the evidence” burden. The court also found that it can find lack of “good faith” pertaining to an individual creditor in the case while finding “good faith” as to the rest of the creditors. This allows the court to refuse to extend or impose the stay for an individual creditor while allowing the extension of the stay for all others.

The practical application of this is that a Creditor will have a much better chance of prevailing when they object to these motions if the case is presumed to have not been filed in “good faith” under Subsection 362 (c)(3)(C)(i) of the Bankruptcy Code. What “good faith” means varies from jurisdiction to jurisdiction. Each local counsel is in the best position to help make that determination.



THOMAS G. TUTTEN JR. is the Managing Partner for Consumer Bankruptcy at Sirote & Permutt, P.C. in Birmingham, Alabama.

CLIENT SPOTLIGHT: HOMECOMINGS

HOMECOMINGS BK TEAM

(L TO R) Christine Freeman, Jennifer Galvin, Penny Ottman, Pat Gibson, Nicki Butler, Lisa Dahl, Monica Gonzalez.



HOMECOMINGS FC TEAM

BACK (L TO R) Mike Dacey, Stacey Minear, Erin Vaughn, Tony Wolfinger.
FRONT (L TO R) Brandi Smith, Monica Cervantes.

FNFS MN SOFTBALL

by Ron Stuart

When the FNFS Minnesota Information Technology and Operations co-rec league softball teams were scheduled to play against one another this summer, the FNFS activities committee sponsored a picnic at the park on the day of the game. After the picnic, everyone filled the bleachers at the softball diamond to watch the game. Fidelity IT put forth a competitive team effort but, in the end, Fidelity Ops celebrated a victory and holds bragging rights along with their trophy.



PAM ANDERSON (NEWINVOICE)

Photo by John Cody



NATE MILLER (OPS)

Photo by Ron Stuart

MARK CARDENAS
MALINDA CARDENAS

FRANK COON

JULIE COON

Photo by John Cody



JIM MORRIS (OPS)

CARRIE CURRAN (OPS)

JAIME GOVER
(OPS TEAM CAPTAIN)

KIM WESTPHAL (IT)

Photo by Ron Stuart



Welcome to EC Purchasing, part of Fidelity National Financial's family of companies. We started our business in 1999 to allow FNF customers to benefit from national account prices that are traditionally only available to America's largest organizations. As we embark on our sixth anniversary in business, we're proud that more than 20,000 businesses have improved their profitability by enjoying Fidelity's discounts on office supplies, overnight shipping, wireless, copiers, fax machines, scanners, conference calling, and more!



STEVE MIZES
EC PURCHASING PRESIDENT

HOW TO BECOME A MEMBER

Joining the EC Purchasing program is fast and simple. Just follow these three easy steps:

1. Log on to www.ecpurchasing.com and click on "Sign Up Here."
2. Complete the application, providing contact information for your sponsor.
3. EC Purchasing will contact you with your password.

WHY ARE WE OFFERING YOU DISCOUNTS?

As a Fortune 500™ company, FNF has negotiated significantly discounted prices available to a select few organizations. By helping our customers "link" to FNF's buying power, EC Purchasing will reduce your expenses and increase your profits with no cost, no risk, and no investment. It's one more way we can add value to our business relationship with you.

MORE NATIONAL VENDORS PARTNER WITH EC PURCHASING

If you're only using the EC Purchasing program for FedEx or UPS shipping, you'll be amazed at the number of additional product and service discounts that are available to you. We are constantly adding to the list of companies that provide 20%-50% discounts to our members. We encourage our members to review our web site, and call often to make certain they are always benefiting from all savings possibilities.

COMPLIMENTARY COST COMPARISON

To best understand the value of EC Purchasing, ask one of our account executives to provide you with a complimentary cost comparison. Just send us invoices of what you are currently spending for office supplies, copiers, computers, overnight shipping, and more. Our account executives will provide you with an exact comparison identifying the percentage savings and anticipated annual savings.

Sample Savings Comparison

Product/Service	Monthly Cost	Opportunity Savings	Member Cost
Office Supplies	\$3,616	25%	\$2,712
UPS or FedEx	\$2,887	50%	\$1,444
Cingular / Verizon	\$600	18%	\$492
Nextel / Sprint			
TOTALS	\$7,103	\$2,443	\$4,660

EC Purchasing's complimentary cost comparisons often find savings in excess of 20, 30 or even 50 percent for customers.

EC Purchasing has negotiated significant discount pricing with national vendors for office supplies, computers, copiers, wireless communications, temporary labor, and overnight shipping (examples shown below). Sign up for FREE and take advantage of tremendous savings!



DARE TO COMPARE:

EC Purchasing WILL ANALYZE YOUR COSTS TO QUANTIFY SAVINGS

EC Purchasing launched its business by offering member discounts on overnight shipping, but we've expanded considerably since then. Although you can still enjoy significant savings on FedEx and UPS shipments, take a look at the wide variety of discounts offered through EC Purchasing on other products and services:

TECHNOLOGY PRODUCTS

Members may purchase HP and Dell equipment from the manufacturer directly from a preferred pricing link posted on the EC Purchasing web site. For custom IT Products such as servers, scanners, networked printers, and more, please call our preferred value added reseller, JDAMI infrastructure.

REDUCE OFFICE SUPPLY COSTS

If the cost of paper, pens, tape, files and other office supplies is taking a huge bite out of your budget, it's time to look at the discounts EC Purchasing could offer you through Office Depot and Staples. EC Purchasing consultants can quickly develop a complimentary analysis showing you a side-by-side comparison of your current costs versus the discounted pricing you could enjoy through EC Purchasing.

WHAT OUR CUSTOMERS SAY

"EC Purchasing has proven to be a wonderful resource to Holland & Knight (the country's 11th largest law firm with offices throughout the U.S.). We have worked with their account executives to explore savings opportunities in office supplies, overnight delivery, copiers, IT equipment, wireless service, and more. With EC Purchasing, we are able to enjoy volume discounts without being locked into exclusive agreements or minimum purchase commitments. I highly recommend EC Purchasing."

**DIRECTOR OF HUMAN RESOURCES,
HOLLAND & KNIGHT**
Andy Petterson



"With more than 300 attorneys, Winstead Sechrest & Minick P.C. is among the largest business law firms in Texas. The Firm's size is an asset to our clients, but it presents challenges in effectively managing costs which impact our clients' success. Winstead's business relationship with EC Purchasing, and Fidelity's leasing group, FNF Capital, provides a deeper discount for the Firm's fleet of more than 35 Canon High Speed/High Volume multifunction copiers than leasing directly from a vendor."

**DIRECTOR OF OFFICE SERVICES,
WINSTEAD, SECHRIST & MINICK, P.C.**
Gary Glahn



Office Supply Savings Analysis

Retail Prices				Member's Prices		
Product	Units	Retail Price	Total Price	Member Unit Price	Total Member Price	Savings
Copy paper, letter size	100	\$2.69	\$269.00	\$2.18	\$218.00	\$51.00
Copy paper, legal size	70	\$4.99	\$349.30	\$2.94	\$205.80	\$143.50
Tape	4	\$0.85	\$3.40	\$0.51	\$2.04	\$1.36
3-ring binders	2	\$5.27	\$10.54	\$1.68	\$3.36	\$7.18
Book, notary	2	\$11.21	\$22.42	\$8.48	\$16.96	\$5.46
Jumbo paper clips	6	\$0.39	\$2.34	\$0.30	\$1.80	\$0.54
Letter-size files	2	\$11.99	\$23.98	\$3.51	\$7.02	\$4.97
Correction tape	2	\$0.75	\$1.50	\$0.35	\$0.70	\$0.80
Flag tape, notarize	4	\$2.42	\$9.68	\$1.90	\$7.60	\$2.08
Post-its	3	\$2.19	\$6.57	\$0.59	\$1.77	\$4.80
Clasp env. (9" x 12")	2	\$15.99	\$31.98	\$4.18	\$8.36	\$23.62
Laserjet toner cartridge	2	\$88.99	\$177.98	\$84.95	\$169.90	\$8.08
Customer's invoice without ECP				\$908.69		
Customer's invoice (estimated) with ECP				\$643.31		
EC Purchasing Savings				\$265.38		

MICHIGAN: MANUFACTURED HOME PERFECTION CLARIFICATION

by Bill Meagher

TROTT AND TROTT, P.C.

Legislative action and judicial application have finally clarified what was previously a perplexing issue in the State of Michigan. In short, a security interest in a manufactured home affixed to real property can now be perfected through the recording of a mortgage. It took several years of various challenges, legislative involvement, and ultimately judicial interpretation to get to where we are today. A historical review is warranted in order to fully understand the significance of this development in Michigan law.

In re Kroskie

Prior to July 14, 2003, there was no mechanism in Michigan to convert a manufactured home to real property. In fact, the Sixth Circuit Court of Appeals ruled in *In re Kroskie*, 315 F.3d 644 (6th Cir. 2003) that the only manner in which to perfect a secured interest in a manufactured home under the Mobile Home Commission Act, MCL 125.2301 *et seq.* ("MHCA"), was to place the lender's security interest on the manufactured home's certificate of title.

Legislative Action

The *Kroskie* decision created chaos in the Michigan manufactured home financing market. In response to the chaos, the Michigan legislature enacted Public Act 44 of 2003 on July 14, 2003. Public Act 44 amended the MHCA to add a statutory mechanism for conversion of manufactured homes to real property through the recording of an affidavit of affixture.

While the intent of the legislature may have been clear, the language of the legislation caused more confusion than it resolved. In the years following the initial legislative response to *In re Kroskie*, additional challenges and litigation ensued. The litigants and courts were particularly interested in whether the new legislation was to be given retroactive effect and whether it was sufficient to allow perfection through standard real property methods.

The Michigan legislature took action in response to the ongoing turmoil. On October 4, 2005, the MHCA was once again amended. The most recent amendment unequivocally established that the legislation was retroactive and that perfection of a security interest in a manufactured home affixed to the realty could be accomplished through the recording of a mortgage. With the recent statutory amendment, the appellate courts were

now fully empowered to issue the key governing opinions on manufactured home perfection in Michigan.

Judicial Application

In re Oswald

In re Oswald, 444 F.3d 524 (6th Cir. 2006), presented the Sixth Circuit with the manufactured home security perfection issue in the bankruptcy context for the first time since the post-*Kroskie* legislative amendment. The Court opined that the most recent legislative amendment to the MHCA applies retroactively. The Court interpreted the legislative intent as being to clarify the pre-*Kroskie* version of the MHCA and to resolve the controversy about perfection created by the *Kroskie* decision.

MERS v. Pickrell

The ongoing perfection debate was quickly put to rest in the state court context following the *In re Oswald* decision. In *Mortgage Electronic Registration Systems v. Pickrell, et al.*, __ Mich App __ (2006), the Michigan Court of Appeals held that a security interest in a manufactured home affixed to real property prior to July 14, 2003 could be perfected through the recording of a mortgage. The Court determined that the legislative intent was to allow such liens to be perfected according to

real property law. The Court concluded that the security interest in the affixed manufactured home was perfected with the recording of the mortgage that encumbered both the real property and all fixtures, despite not having a secured interest reflected on the certificate of title to the manufactured home.

Summary

The two cases above offer much needed judicial support to the evolving legislation in the State of Michigan on the manufactured home issue. While additional challenges may arise, the intent of the legislature, with the support and clarification of the judiciary, offers much needed assistance to lenders with manufactured homes in Michigan.

BILL MEAGHER is the supervising Attorney of the Litigation Department, as well as a partner, at Trott and Trott, P.C..



"THE COURT DETERMINED THAT THE LEGISLATIVE INTENT WAS TO ALLOW SUCH LIENS TO BE PERFECTED ACCORDING TO REAL PROPERTY LAW."

FNFS APR RANDOM AUDIT PROGRAM

by Jennifer Anthony and Lynn McNamee

Since 2005, FNFS Operations has been conducting random audits of core stage information entered into NewTrak by Fidelity Network Attorneys. The purpose of that effort is to maintain the reliability of the Attorney Performance Report (APR) program. This is accomplished by ensuring that all firms are following the stage reporting requirements for their state outlined by FNFS Operations in the “NewTrak Stage Expectations” document.

In 2006, the FNFS Quality Assurance Department, managed by Jennifer Anthony, re-vamped the existing audit process in order to increase the random sampling, provide improved reporting information back to FNFS Senior Management, and to improve the feedback provided to Network firms concerning their audit results. A former FNFS Foreclosure Manager who also managed the Sales Audit team within the company, Jennifer is well-versed in the timeline compliance needs and APR Stage Expectations requirements necessary for a successful APR Audit program.

Each month, the Quality Assurance team randomly selects several states to audit. Once a state is selected, every firm in that state is audited at the same time. The initial audit contains a random sample of all core stages scored in the foreclosure and bankruptcy processes: First Legal, Service Complete, Judgment Entered, MFR Filed, and Hearing Date. Once the random audit sampling of loans is determined, an audit process in NewTrak will launch for the firms to acknowledge the audit. In order to complete the audit, firms are required to use NewImage Express to upload satisfactory evidence (such as the filed, stamped copy of a court document) that the date they entered in NewTrak for stage completion is accurate. The specific evidence required for each stage was agreed to by the firms practicing in each state, and is outlined in the NewTrak Stage Expectations document. Firms have a maximum of 14 days to upload these supporting documents.

Once audits are completed, notification is sent to the firms via e-mail indicating the results of their audit. If a firm passes the initial or “Primary” audit, a letter is sent stating that the firm has passed their audit and the audit is complete. If

any loans fail during the Primary audit, the Quality Assurance team conducts a Secondary audit with a larger sample of files for each failed stage. If a firm fails the Primary audit but then passes the Secondary audit, a letter is sent stating what files failed the initial audit, that those files have been corrected, that they have passed the second audit, and their audit is now complete.

If, however, a firm fails the Secondary audit, they are expected to conduct an internal audit of the stages which failed and to make all necessary corrections to their stage information. Fidelity provides the listing of all files that are currently within the APR for this internal audit by the firm and the firm has 30 days to complete all corrective action. After 30 days, Fidelity will conduct another Final random audit to ensure compliance by the firm and to review the percentage of events that required correction. Failure to achieve a passing audit from this Final sampling will result in consequences up to and including removal from the APR scorecard system and notification of audit results to clients.

The Quality Assurance team is pleased to report a very positive trend in all audits performed to date. While a handful of firms have failed their primary or secondary audit, it has been determined that in most cases the failures were not the results of false information which would have improved the timelines represented in the APR. Instead, most of these firms were found to have populated dates later than when the stages were actually completed, resulting in negatively impacted timelines for the firm! Bringing these types of examples to everyone’s attention has allowed firms to make corrections which reflect their true performance.

As the APR Audits continue, please be sure that your firm is in compliance with the NewTrak Stage Expectations document (available by contacting your designated FNFS State Representative or Supervisor). The Attorney Performance Report (APR) is an important reference tool for firms, for clients and for Fidelity, and the Quality Assurance team appreciates your assistance in protecting its integrity.

REASONS A FILE COULD FAIL AN AUDIT INCLUDE:

Date Fail: The date entered in NewTrak by the firm does not match the supporting document scanned into NewImage Express (NIE).

Incorrect Document: The document scanned into NIE does not support the stage audit.

Date Stamp Illegible: The supporting document scanned into NIE has an unreadable stamp or date entry or is otherwise unusable.

Audit Timeframe Expired: The proof of documentation for the stage audit was not scanned into NIE within the allowable timeframe of 14 days.

2005-2006 ATTY PERFORMANCE AWARDS

2005 PERFORMANCE EXCELLENCE - BANKRUPTCY

Reiner, Reiner & Bendett (CT)
Robinson Tait (WA)

2005 PERFORMANCE EXCELLENCE - FORECLOSURE

Manley Deas Kochalski (OH)
Potestivo & Associates (MI)

2005 SERVICE EXCELLENCE - BANKRUPTCY

Codilis & Associates (IL)

2005 SERVICE EXCELLENCE - FORECLOSURE

Hughes Watters Askanase (TX)

2005 ROOKIE OF THE YEAR

Shapiro & Kirsch (TN)



REINER, REINER & BENDETT

REINER, REINER & BENDETT: (L TO R)
Anna Allard (bk paralegal), Kathleen T. Madigan (attorney at law), Randall S. McHugh (partner & managing bankruptcy attorney), Patti Ann Lipinski (bk paralegal), Anna Gordon (bk paralegal).

MANLEY, DEAS KOCHALSKI:

BACK (L TO R) Thayer Horton (Service Mgr.), Brian Huggins (Cuyahoga County Mgr.), Michele Brown (Cuyahoga County Judgment), Liz John (Cuyahoga County Admin), Kim Milosevich (Judgment Mgr.), Jen Jordan (Sale Mgr.), Karissa Mirtallo (First Legal Mgr.)

FRONT (L TO R) Heather Burdick (Cuyahoga County Complaints, Ed Kochalski (Partner), Kelly Breckner (Cuyahoga County Judgment).



MANLEY DEAS KOCHALSKI



ROBINSON TAIT

ROBINSON TAIT: (L TO R) Nicole Krause, Jennifer Castleton, Jennifer Tait, John Edmundson, Sydney Robinson and Tammy Buechler

POTESTIVO & ASSOCIATES:

BACK (L TO R) Angel Stach, Susan Kania, Jamie Paravano, Amy Angelo, Brandon Evans, Jackie Taylor, Shevon Elam, Rachel Jury, Erica Bryant, Brian Kendall, Karly McCallum.

MIDDLE (L TO R) Pam Smith, Christina Barberi, Pauline VanDamme, Brian Potestivo, Jocelyn Floyd, Karen Zeock, Trina Warren, Heather Christel.

FRONT (L TO R) Angela Veda, Megan Schwarze, Holly Eason, Susan Brown, Lauren Kush, Charlotte Haack.



POTESTIVO & ASSOCIATES



CODILIS & ASSOCIATES

BACK (L TO R) B.J. Maley (Bankruptcy Supervising Attorney), Pam Fotino (Bankruptcy Manager), Jaycy Varghese (Bankruptcy Supervisor).
FRONT (L TO R) Trish Zannelli and Sue Trudo.



HUGHES WATTERS ASKANASE

"We are honored to receive the 2005/2006 Service Excellence Award! The award was certainly a morale booster for our employees."

- CAROLYN TAYLOR, Hughes Watters Askanase



SHAPIRO & KIRSCH

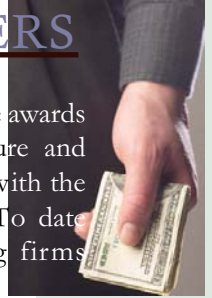
BACK (L TO R) Jeremy Lipford, Sharon Fewell, Denise Griffin, Ginny Miller, Mary Anne Lane.
FRONT (L TO R) Ashley Woods, Joe Kirsch, DJ Blumer.

Q2 - 2006 WINNERS FORECLOSURE

AR	Mickel Law Firm, PA
CO	Aronowitz & Ford, LLP
IA	Belin, Harris, Lamson & McCormic
IN	Bleecker Brodey and Andrews
MA	Korde & Associates
MN	Usset & Weingarden, PLLP
MS	Adams & Edens PA
MS	Shapiro & Massey
NC	Shapiro & Ingle
NC	Morris, Schneider & Prior, LLC
NY	Jonathan D. Pincus
OH	Manley Deas & Kochalski
OH	Shapiro & Felty
OH (Cuyahoga County)	Manley Deas & Kochalski
OR	Shapiro & Sutherland, LLC
PA	Shapiro & Kreisman
SC	Finkel Law Firm, LLC
TN	Apperson, Crumo, Duzane & Maxwell PLC
VA	Shapiro & Burson
WI	Vollmar and Huismann, S.C.

APR INCENTIVE WINNERS

Each quarter, FNFS distributes financial incentive awards to the top ten performing firms in Foreclosure and Bankruptcy in the form of \$20 per billable file, with the next ten firms receiving \$10 per billable file. To date, FNFS distributed over \$275,000 to top performing firms as quarterly incentive payouts.



Q2 - 2006 WINNERS BANKRUPTCY

AR	Mickel Law Firm	OR	Shapiro & Sutherland, LLC
FL	David J. Stern, PA	PA	Goldbeck McCafferty & McKeever
IL	Codilis and Associates, PC	PA	McCabe Weisberg
IL	Freedman, Anselmo, Lindberg & Rappe	PA	Shapiro & Kreisman
IL	Kluever and Platt	SC	Roger, Townsend, and Thomas
LA	The Boles Law Firm	SC	Weston Adams Law Firm
MA	Korde and Associates	TN	Shapiro & Kirsch
NH	Harmon Law Offices, PC	VA	Friedman and MacFadyen
NJ	Fein, Such, Kahn & Shepard	VA	Shapiro & Burson
NJ	Zucker, Goldberg & Ackerman	VA	Sykes, Bourdon, Ahern & Levy
NY	Shapiro & DiCaro		



"I received yesterday the letter and check regarding the Bankruptcy Incentive Award. I am very proud of the work that my staff has done to get to this point. We are striving to be in the top 10 nationwide. I fully understand that you do not need to give out the incentive awards. I am very appreciated of this and in my way have tried to use your incentive to create an incentive for my staff. We are going to use the check to create a "lunch" fund to buy bagels, pizza and other foods."

- Steven C. Lindberg, FREEDMAN, ANSELMO, LINDBERG & RAPPE

(left) Lisa Cinquegrani (BK Manager) and Steven Lindberg.

2006 ATTY SUMMIT GOLF TOURNAMENT



(LEFT): Selena Edwards (FNFS) at Hole 17, where a Hole in One could have won \$20,000. There were no Hole in One winners this year. Better luck next year!

(RIGHT): The team with the lowest score (L to R): Mike Arnovitz, Gerald Shapiro, Clay Cornett, and Ernie Codilis.



FIRM SPOTLIGHT: MANN & STEVENS, P.C.

by June Mann

MANN & STEVENS, P.C.

Mann and Stevens, P.C. earns this quarter's Firm Spotlight for their consistent performance, according to the Fidelity APR, in both Bankruptcy and Foreclosure in Texas.

Thinking outside the box, along with a strong commitment to quality service from loyal employees has helped Mann & Stevens, P.C. to effectively and efficiently represent its clients since 1996. Mann & Stevens is based in Houston and provides services to the mortgage banking industry throughout the state of Texas. Its current shareholders, June Mann and Diana Stevens, met while in law school, and each have more than 20 years of experience representing mortgage companies and financial institutions in consumer and business bankruptcy, foreclosure, eviction, probate and litigation matters.

Partnered with Fidelity and its predecessor since the inception of the firm, Mann & Stevens has grown and continues to prosper as Fidelity has expanded in order to meet its clients' needs. June and Diana have attended the Fidelity Summit each year since its inception, and have taken an active role in Fidelity's programs as speakers and productive participants. Mann & Stevens currently employs eight attorneys and over 30 staff members. The firm is dedicated to pursuing the most economical and adept solutions to ensure that their clients' issues are handled expeditiously and in a professional manner. Additionally, the staff at Mann & Stevens is well versed and trained in the many complex issues that face the mortgage banking industry and the firm is proud to state that someone will always be there to solve any last minute issues that may arise.

"JUNE AND DIANA TAKE A VERY PERSONAL INTEREST IN THEIR FIRM AND THE CASES THAT THE FIRM IS HANDLING..."

June's specialty is the representation of mortgage companies and financial institutions in consumer, business, and Chapter 11 bankruptcies, and Diana's main focus is in the areas of foreclosure, eviction, probate and litigation. Additionally, two of the firm's valued employees, Stacy Borgfeldt, the Foreclosure Manager, and Thomas Delaney, the Title Manager, have both been with the firm since its inception and work with many other longtime employees to resolve issues on a daily basis.

June and Diana take a very personal interest in their firm and the cases that the firm is handling; clients may reach them directly at any time to discuss problem files. This hands-on philosophy has helped to create a solid and knowledgeable firm that is able to solve problems aggressively and proficiently. Although each department at the firm has its own employees and managers, June and Diana promote teamwork. When the going gets tough, it is common for the firm to draw upon all of its internal resources and talent to deliver the highest standards of service to their clients. This can-do attitude has helped Mann & Stevens attain the level of success it enjoys today.

DIANA STEVENS, SCOTT BARNES (FNFS), and JUNE MANN (l to r) at the 2005 Attorney Summit, where Mann & Stevens received a "Service Excellence" Award.



EMPLOYEE SPOTLIGHT: CHRISTINE ANDERSON

by Lindsey Lesch

Every office has that one person who inexplicably brightens faces and lightens the mood. In FNFS' Minnesota office, that person is Christine Anderson. With her good humored pranks and spunky attitude, Chris has earned a reputation as the office jokester. However, her charms are not limited to humor alone. In work and in play, Chris is willing to take on any challenge, especially those involving the outdoors. Whether it's snowmobiling or Walleye fishing, this native of the Midwest has a new take on what it is to be an all-American Mom.

Chris started with Fidelity in the fall of 2002 as a "Customer Service" Supervisor. At that time, her team handled referrals, fees and costs, payoffs and reinstatements, judgment figures, and bids. With the numerous responsibilities she was undertaking, Christine maintained the philosophy that "you have to have some humor in this stressful industry." Even when she's juggling work responsibilities and motherhood, Chris remembers that it's the little things that can add to your day – like finding just the right cowbell to ring when her team resolves a "problem file." Like Christopher Walken and Will Ferrell in their famous SNL skit, Chris' teams always "need more cowbell!"

Christine has worked in many different areas of the company. First as "Customer Service" Supervisor where she was later promoted to Manager. Shortly thereafter she was transferred to a Foreclosure Manager. She then became a Special Assets Manager and was recently promoted to an Assistant Vice President on the Special Assets team. Motivated by a challenge, Chris thrives in this environment where performance is measured by timelines. As she says, "It's motivating to be able to measure your results and always strive for more — raise the bar."

One of Christine's favorite things about FNFS is "how innovative everyone is." It didn't take long for her

to notice that "everyone is excited about new ideas and change." This creative thinking is a perfect fit for Christine, who, as the youngest of nine children, was forced to use her brains to combat her older siblings. Never one to physically harm others, seven-year-old Christine once placed sheets of butcher paper (a coloring-time staple in her house) under an older sister's mattress when she was picked on. When this sister, who was a very light sleeper, tried to get comfortable in her bed, her mattress crinkled and crunched all night long.

While Christine's antics may show her mischievous side, those who know her will tell you that she is truly kind and is refreshingly devoted to her family. When she and her husband are not traveling to their son's games, Chris enjoys spending time with her family in other outdoor activities. Whether it's snowmobiling, fishing, or playing soccer, this sporty mother lives life to the fullest –

and for a good reason. While she has always been adventurous, Chris' attitude changed a bit when her mother was re-diagnosed with Breast cancer a year ago after having being cancer-free for ten years. After this reoccurrence, Chris and her sisters started their team called "Barb's Backers" and have been active in Breast Cancer fund raisers, participating in various walks and runs.

Christine's life experiences have given her the necessary tools for dynamic leadership. Her good nature, witty antics and motivating management style make her a perfect fit in any department.

**"IT'S MOTIVATING TO
BE ABLE TO MEASURE
YOUR RESULTS AND
ALWAYS STRIVE FOR
MORE — RAISE THE BAR."**

To learn more about how you can help with the fight against Breast cancer, please visit www.susangkolmen.org.



TENNESSEE SERVICEMEMBERS CIVIL RELIEF ACT OF 2006

by Joe Kirsch

SHAPIRO & KIRSCH, L.L.P.

The Tennessee Legislature recently passed a bill that we will call the Tennessee Servicemembers Civil Relief Act (TSCRA). This bill was signed into law on May 15, 2006 and became effective July 1, 2006. The bill suspends any foreclosure provision of a home mortgage until 90 days after the return to Tennessee of any reservist or Tennessee National Guard member. Such an agreement must have been entered into before being called into full-time duty outside the U.S. during a period of hostilities.

To take advantage of the TSCRA, the servicemember must submit certain information to the lender. The servicemember must provide a written notice to the lender prior to or during deployment in order to suspend foreclosure of a home during the period of deployment. The notice must include a copy of the deployment order and an anticipated date of return that authorizes the lender to rely upon such date in any future foreclosure. If the anticipated date of return changes, the servicemember must submit additional notice to the lender. Such notice can be given at any stage before a final foreclosure sale. Notice can also be given pursuant to federal law under Section 202 of the Servicemembers Civil Relief Act (SCRA).

Several distinctions should be made between the two laws. The TSCRA pertains specifically to the purchase of a home by certain servicemembers in the state of

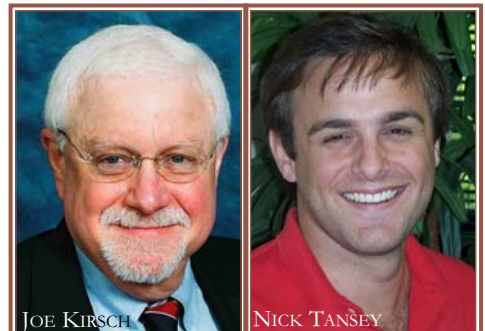
Tennessee, while the SCRA applies to any civil action by or against a servicemember. Unlike the SCRA, the TSCRA does not require the servicemember to go to court and does not provide damages if the act is violated. Additionally, the TSCRA requires servicemembers to submit a copy of their deployment orders, while the SCRA requires a communication stating how the military duty interferes with the proceeding and a communication from the commanding officer denying military leave. The servicemember still may execute a waiver pursuant to Section 107 of the SCRA.

The TSCRA also has practical implications for the company which may service such a file. The statute can delay the foreclosure process for an indefinite amount of time because it

provides that the mortgagee may not commence action until the servicemember returns to the state. What if the servicemember doesn't return to the state? What is the relief? The statute is silent. A lawsuit could be brought for relief in this case. A guardian would have to be appointed for the servicemember who would file a report with the court. The court could then make a decision with the facts at hand whether to permit a foreclosure. Any pleadings should contain an allegation that the mortgage company is suffering irreparable harm by not being paid. No precedence has been established for court rulings on this statute.

“THE STATUTE CAN
DELAY THE
FORECLOSURE PROCESS
FOR AN INDEFINITE
AMOUNT OF TIME...”

This article was written by JOE KIRSCH, managing partner of Shapiro & Kirsch, LLP, whose practice includes Tennessee and Arkansas, with the assistance of NICK TANSEY, a third year law student at Mississippi College School of Law.



FEES AND COSTS MODULE

by Lindsey Lesch

Fees & Costs

One of the benefits of NewTrak is its ability to track and document the progress of a file, which then allows FNFS to report performance based on this data. Prior to March of 2005, fees and costs requests from servicers and vendors came in via email to a designated public box. The turnaround time for the request was about 30 hours.

In March of 2005 the introduction of the Fees and Costs Module revolutionized the fees and costs process for FNFS and its clients. The module provides immediate tracking as well as timeline documentation of when and by whom requests are made and completed through NewTrak. When a servicer needs the fees and costs on a file, a requester opens a fees and costs request in NewTrak. This automatically generates a request on all active processes on that loan to the vendor assigned to each process (Foreclosure, Bankruptcy, BPO, Vacancy, etc.). When all of the fees and costs for the eligible processes have been provided and totaled, they are combined in one module and sent back to the requester. With the automation of the system and measurable performance through NewTrak, the average time for a fees and costs request has been reduced to approximately 40 minutes, with many firms averaging only a matter of minutes.

Additional convenience has been created for users, such as loss mitigators, who do not need access to NewTrak for anything other than fees and costs. These users are able to request fees and costs quotes through the website, www.feesandcosts.com or .net. These websites provide a direct link to the Fees and Costs Module in NewTrak. This module also allows for

automation, which sends out requests to vendors having active processes and responds back to the requester when completed.

Because attorneys are scored on their response times for fees and costs requests through FNFS' Attorney Performance Reporting (APR), we would like to take the time to provide additional information about a couple features of the module that have generated some questions:

"THE MODULE PROVIDES IMMEDIATE TRACKING AS WELL AS DOCUMENTATION THROUGH NEWTRAK OF WHEN AND BY WHOM REQUESTS ARE MADE AND COMPLETED."

- The Fees and Costs "timer" will continue to "tick" even after the request has been completed. It will stop running when the requester has acknowledged the completion. However, NewTrak creates a time stamp at the exact moment each request is completed by the firms or vendors. The APR score is based on these

time stamps. The data included in the APR for fees and costs requests is accessible through the Service Detail Report on the FNFS Reporting Site.

- A fees and costs request will automatically open on every open process for the loan in question, even if multiple processes are currently being handled by one firm. Firms handling multiple processes are required to respond to the request in each process.
- The Fees and Costs Turntime Service Activity has been removed from the BK APR score. This stage will still appear on the scorecard, but will have no weighting applied. The 2 percentage point weighting previously applied to Fees and Costs in bankruptcy has been reallocated to the remaining service items with 1 percent going to "Referred to Received" and the other 1 percent going to "Reprojection Completion Percentage."

DEPARTMENT SPOTLIGHT: DOCUMENT EXECUTION

by Dory Goebel and Chrys Houston

Fidelity National Foreclosure Solutions, Inc.'s Document Execution teams are responsible for facilitating requests between attorneys and clients for documents that need to be executed. FNFS has signing authority for a number of our clients. Any documents that can be executed by FNFS are executed and returned to attorneys, while those that must be executed by clients are forwarded to clients or investors and are tracked through a process within NewTrak called "Signature Required."

In January 2006, FNFS introduced Signature Required into NewTrak. This feature provides the opportunity for the attorney, FNFS and the client to communicate regarding the execution of documents relating to the foreclosure or bankruptcy. When attorneys click on the Signature Required Button in NewTrak, a pop-up window opens for them to identify the process for which the document needs to be executed. Once the process is selected, a signature required process is opened for attorneys to provide the document that needs to be executed through a step in NewTrak. When the document is loaded into NewTrak, it automatically prints in Minnesota for the Document Execution team to work.

The Document Execution team in Minnesota manages the execution of documents through Signature Required while our Client Document Execution team in Jacksonville works with the clients and 3rd party investors on documents that FNFS is not able to execute. In Minnesota, Dory Goebel manages the Document Execution team with the assistance of supervisors Holly Farley and Bethany Hood.

"DOCUMENTS ARE SENT VIA NEXT DAY AIR, SO ATTORNEYS SHOULD RECEIVE DOCUMENTS WITHIN 48 HOURS OF THEIR REQUEST WHEN SIGNED IN-HOUSE."

In Jacksonville, Chrys Houston manages the Client Document Execution team with the assistance of supervisor Reginald Lynch.

The Document Execution team is set up like a production line, ensuring that each document request is resolved within 24 hours. On average, the team will execute 1,000 documents per day. The Document Execution department, totaling 18 associates, is divided into 2 areas, the Routing team and the Document Review team. The routing team distributes documents between internal team members and to signors. The teams work hand-in-hand to get the documents signed and returned to the attorneys. (See Diagram on page 17).

The Client Document Execution team is made up of 8 associates who work to obtain signatures on all documents where FNFS does not have authority to sign. They work not only with the clients but also with their investors to secure signatures and ensure they are returned to the firms. The timeframe for forwarding a document to a client or investor is within 24 hours of the MN team launching the document forward process. The only exception is if the investor is unable to be located – in these cases the team will perform detailed research in an attempt to obtain a contact by utilizing various resources that are available to them.

With the introduction of Signature Required, we have the ability to track documents and identify documents that may have been misplaced and need to be re-executed. Documents are sent via next day air, so attorneys should receive documents within 48 hours of their request when signed in-house. Any document that is not reflecting as returned to the attorney within 48 hours is re-executed that

CONTINUED ON NEXT PAGE



REVIEW AND QUALITY CONTROL TEAM

REVIEW AND QC: BACK (L TO R) Holly Farley (sup.), Amy McBain, Allen LeTourneau, Christopher Fyhr, Alfonzo Greene.

MIDDLE (L TO R) Seema Menon, Kimberley Anoka, Blong Yang.

FRONT (L TO R) Laura Hescott (lead), Elizabeth Milburn, Michael Thomas, Carmela Lagarile, Dory Goebel (mgr.).

ROUTE AND ENTER: BACK (L TO R) Jim Morris, Christina Seabright (lead), Valarie Crawford, Andre Friedman.

FRONT (L TO R) Shannon James, Amber Kaiser, Paris Jackson, Bethany Hood (sup.), Dory Goebel (mgr.).



ROUTE AND ENTER TEAM

same day. Additionally, the Signature Required process allows for all users to view the status of the requested document. Documents that have been forwarded to clients show their status in the “document forward” process. The next goal for document execution is to set the standard for any requests that are received prior to 2:00 CT to be mailed to attorneys the same day.



Sig Req

Document requested in NewTrak through Signature Required. Document is auto-printed, stapled and routed to the Review Team.

Document is reviewed based on FNFS’ signing authority and attorney comments. If the document can be executed by Fidelity, the review team updates NewTrak and the “Printed for Execution” process is initiated. If a document cannot be executed, the “Doc Forward” process will be initiated for the Client Document Execution team.

Executable documents are returned to the route team to be routed to a signor or notary. The document is placed in an interoffice envelope and passed out to the signors.

After the document is signed and notarized, the document is sent to the Quality Control team. This team reviews the document to ensure that proper signing authority has been utilized, all information is filled out, and proper signature and notary is completed.

Document is returned to the attorney. The Enter Team will complete the step “Document Notarized and Sent to Attorney.” The document is sent by the mailroom via overnight UPS.



CLIENT DOCUMENT EXECUTION:

BACK (L TO R)
Matthew Terrill,
Angie Smith,
Marinda Bottoms,
Annetta Milligan,
Chrys Houston (mgr)
FRONT (L TO R)
Reginald Lynch (sup.),
Angie Bryan-Withers,
September Stoudemire,
Cecilia Knox (lead).

CLIENT DOC EXECUTION TEAM

EMPLOYEE ANNIVERSARIES

JULY, AUGUST, SEPTEMBER, OCTOBER

Joseph Alvarado
Felix Amenumey
Sarah Block
Janette Boatman
Sheri Bongaarts
Jennifer Bradjich
Christopher Bray
Tammy Brooks-Saleh
Jacqueline Brown
Paul Bruha
Hari Charagundla
Julie Coon
Jeremy Cox
Yvette Day
Teresa DeBaker
Kimbretta Duncan
Selena Edwards
Fedelis Fondungallah
Elizabeth Geretschlaeger
Peggy Glass
Steven Grout
Michelle Halyard
Craig Hanlon
Chrys Houston
Etsuko Kabeya
Gloria Karau

Scott Keller
Kyurstina Lawton
Lindsey Lesch
Whitney Lewis
Brock Martin
Donna McNaught
Marissa Menza
Steve Moe
Taylor Moore
Annmarie Morrison
Melissa Mosloski
Susan Nightingale
Richard Olasande
Ingrid Pittman
Rona Ramos
Paige Sahr
Kimberly Sanford
Erika Spencer
Maya Stevenson
September Stoudemire
Emmanuel Tabot
Keo Maney Kue Vang
Rebecca Verdeja
Kim Waldroff
Katrina Whitfield-Bailey
Jerry Yang

1 YEAR

Robyn Colburn	BANKRUPTCY SPECIALIST	5
Frank Coon	AVP BANKRUPTCY SUPPORT	5
Jason Dreher	ACCOUNTING MANAGER	5
Craig Hinson	FORECLOSURE SUPERVISOR	5
Paul Hunt	VP IT CORE DEVELOPMENT	5
Katie Zrust	BANKRUPTCY SPECIALIST	5
Larry Dingmann	SVP DIVISION COUNSEL	6
Fanessa Fuller	AVP IMP. AND TECH. SUPPORT	6
Cathy Hagstrom	STOP HOLDS SPECIALIST	6
Jamal Kahin	NEWINVOICE DEVELOPER	6
Pam Kammerer	NEWINVOICE AUDITOR	6
Joel Martinson	NEWINVOICE DEVELOPER	6
Kim Mullins	NEWINVOICE LEAD AUDITOR	6
Renae Stanton	BANKRUPTCY SUPERVISOR	6
Mellisa Ziertman	SPECIAL ASSETS LEAD	6
Rodney Cadwell	VP BUSINESS DEV. AND CLIENT IMP.	7
Pam Anderson	MANAGER, NEWINVOICE	8
Angela Vaith	NEWINVOICE LEAD AUDITOR	10
Joyce Helberg	LOSS ANALYST	11
Deidra Murr	NEWINVOICE AUDITOR	11
Susan Carstensen	POST IMP/TESTING MANAGER	13
Angela Morris	PRODUCTION COORDINATION MANAGER	13

6 YEARS

ATTORNEY GUEST SEMINARS

Fidelity would like to thank those firms who participated in the Attorney Guest Seminar program this past quarter. The schedule for the Guest Seminars for the remainder of 2006 is listed below. Here are some photos from a few of the seminars in April, May, and July.



SHAPIRO & KIRSCH
BACK (L TO R):
Jeremy Lipford,
Sharon Fewell,
Denise Griffin,
Ginny Miller, Mary
Anne Lane.

FRONT (L TO R):
Ashley Woods, Joe
Kirsch, DJ Blumer.

APRIL - MN



HUNT LIEBERT
BACK (L TO R):
Sabrina Wright (FNFS),
Bill Geary (FNFS),
Selena Edwards (FNFS).

MIDDLE (L TO R):
Chrys Houston (FNFS),
Michelle Halyard (FNFS),
Reginald Lynch (FNFS).

FRONT (L TO R):
Richard Leibert
(Hunt Liebert),
Susan Higgins
(Hunt Liebert).

MAY - FL



BAER, TIMBERLAKE, COULSON & CATES

BACK (L TO R): Anita Bryant, Crisha Littrell, Debra Stopforth, Jane Bailey, Angela Ortego,
Nicole Smallwood, Cindy Davis, Matthew Hudspeth, Deborah Jeffries, Richard Chapman.

FRONT (L TO R): Glenda Smith, Candice Elliott, Brandy Wright, Sydney Staten, Sherry
Tolbert, Charonda Gaines, Amanda Bread, Tina Woodberry.

MAY - MN

ATTORNEY GUEST SEMINAR PROGRAM SCHEDULE 2006 - MN

MONTH	STATE	FIRM
AUGUST	MS	Dyke, Henry, Goldsholl
SEPTEMBER	KY/IN	Reisenfeld & Associates
OCTOBER	VA	Samuel I. White P.C.
NOVEMBER	SC	Rogers Townsend Thomas
DECEMBER	NC	Brock & Scott

ATTORNEY GUEST SEMINAR PROGRAM SCHEDULE 2006 - FL

MONTH	STATE	FIRM
AUGUST	MI	Trott & Trott
SEPTEMBER	FL	David J. Stern
OCTOBER	SC	McDonald McKenzie
NOVEMBER	OR/WA	Bishop White & Marshal
DECEMBER	FL	Marshall Watson



SHAPIRO & SWERTFEGER
BACK (L TO R):
Whitney Lewis (FNFS),
Andrew Devitt (FNFS),
Philip Hasty (S&S),
Chris Maset (FNFS).

FRONT (L TO R):
Sean Quirk (S&S),
Raynette Prince (FNFS),
Jim Larotonda (S&S),
Courtney Coleman
(S&S).

JULY - MN



SHAPIRO & SWERTFEGER
BACK (L TO R):
Sean Quirk (S&S),
Philip Hasty (S&S),
Courtney Coleman
(S&S),
Christina Allen (FNFS).

FRONT (L TO R):
Jim Larotonda (S&S),
Jeanelle Gray (FNFS),
Melissa Mosloski
(FNFS).

JULY - MN

NEW TO THE FIDELITY PARTNERSHIP

Fidelity National Foreclosure Solutions welcomes the following clients and firms to the Fidelity partnership from April, May, June, and July.

CLIENTS

FNFS and NewTrak	Aegis
FNFS and NewTrak	Specialized Loan Servicing
NewInvoice	Fremont Investments
NewTrak	Homecomings
NewTrak	ABN AMRO

FIRMS

AK	Alaska Trustee, LLC
AK, HI, ID, MT, OR, WA, TX	Malcolm Cisneros
AK, HI, ID, MT, OR, WA, TX	Trustee Corps.
AL, MS	Dumas and McPhail, L.L.C.
AR	Robert S. Coleman, Jr., P.A.
CO	Edwards & Taylor, LLC
CO	Frascona, Joiner, Goodman and Greenstein
HI	Pite, Duncan & Melmet
IL	Wirbicki Law Group
MO	Codilis, Stawiarski & Moody
MT	Just Law Office
NH	Korde & Associates
PA	Shaffer & Scerni
PA	Zucker, Goldberg, Ackerman
SC, TN	Brock & Scott, PLLC
SC	Fleming and Whitt, P.A. (formerly Pearce W. Fleming Law)
TN	Richard B. Maner, PC
TX	Robertson & Anschutz, P.C.
VA	Specialized, Inc. of Virginia

FNFS PROMOTIONS

Our continued growth and success as a leader in the Default Servicing industry has enabled Fidelity to provide promotional opportunities for our team members. This summer, additional layers were added to FNFS' management structure with the following promotions:

Barb Nickel: Senior Vice President, Controller
Chuck Cote: 1st Vice President and FL IT Site Manager
Dave Funk: 1st Vice President and MN IT Site Manager
Bill Newland: 1st Vice President and FL Ops Site Manager
Chris Hymer: 1st Vice President and MN Ops Site Manager
Michael Cloin: Vice President, Business Analytics
Stephen Garrett: Vice President, Core Development
Matt Rogina: Vice President, Customer/Attorney Relations
Christine Anderson: Assistant Vice President, Special Assets
Frank Coon: Assistant Vice President, Bankruptcy Support
Bill Geary: Assistant Vice President, Financial Support
Scott Walter: Assistant Vice President, Bankruptcy Attorney Management



NEWIMAGE EXPRESS: NewImage Classic is kicking off a barcode project to provide further automation for the Fidelity-based Signature Required processes. NewImage rolled out EquityOne as a new client on the latest version of NewImage which incorporates a new user interface and enhanced work flow management tools. Further roll-outs involving other Fidelity companies are scheduled for the weeks and months ahead.

NEWINVOICE: Now that NewInvoice has successfully converted all of its clients to 5.0, we are working on enhancements and new modules to better serve our customer and clients.

NEWTRAK: The following items are scheduled for release in August/September:

- New GSM (NewTrak log on screen) will pave the way for future single sign on capability with NewInvoice and NewTrak.
- Spell checker for Intercoms.
- On/off capabilities for automated Intercoms.
- Data exchange with Quandis/FreddieMac DCS.

NewTrak will be upgrading hardware and software over the next month to accommodate continued growth.

NTIEE: NTIEE now has over 70 attorneys integrated, using differing web services to support integration between NewTrak and case management systems. We continue to work on imaging exchange capability and an improved error code framework. Before the end of the year, NTIEE will use the newly released Business Partner Interface to allow greater functionality including “push” of data to attorneys (NTIEE currently utilizes “pull” where attorneys request data rather than subscribing to receive automated updates).

PEAK PERFORMANCE AWARD WINNERS

The Peak Performance Award program was created to recognize superior employee performance at FNFS. Employees are nominated for noteworthy performance, customer praise, suggestions or improvements, or completion of additional tasks. Peak Performance Award winners have taken it upon themselves to improve our company through their exceptional work ethic, creativity, and customer service.



Angela received a Peak Performance Award for her work in the BK POC and Plans department. Her manager praised Angela's personal attention to her clients' problems and the way she takes full ownership of any issues until they are resolved. Angela was recently promoted to Supervisor over this team.



Sandra was nominated for a Peak Performance Award in May for her work with several Fidelity clients on sales results. Each client expressed how happy they were with Sandra's reliable performance in this area.



In April, Holly was nominated for an award for her assistance with holds and stops on GA/TX Super Tuesday. Holly gladly stepped in and completed these additional tasks while also managing her Georgia foreclosure portfolio. Her manager also recognized Holly's thorough work ethic and pleasant personality.



Lee received a Peak Performance Award for his work with Christina Seabright to help the Law Offices of Thomas J. Young obtain a high-priority document. Lee went "above and beyond" in his effort to make sure this document was sent to the firm that day.



Macy's manager nominated her for a Peak Performance Award for her impressive responsiveness to issues for Fidelity clients as well as fellow Fidelity associates. Multiple internal teams have praised Macy's consistent assistance and expedient resolution to issues.



Christina's Peak Performance Award was the result of her coordination with Lee Bodnar to be sure that a document that the Law Offices of Thomas J. Young needed for a pending BK action was executed appropriately and sent out immediately.



Brian received a Peak Performance Award when he went out of his way after business hours to help a client resolve issues with access to one of their systems. He was nominated by a team other than his own for the extra time and effort he put in to support FNFS operations.



When Hughes Watters and Askanase received their 2005/2006 Service Excellence Award, they were sure to let Fidelity know that they could not have achieved this distinction without the hard work and dedication of their Fidelity bankruptcy specialist, Dana.



An FNFS client contacted Amy's manager to praise her level of professionalism in any communications this client had received from Amy. Amy was nominated for a Peak Performance Award in recognition of her proven effort to make sure her transactions are complete and clear at all times.



In July, Katy displayed great attention to detail in her work with Fidelity clients. Katy was credited with a "great catch" by one client for a file on which she was instructed to close and bill. Katy identified that the file was not in a restart state and made sure the file was handled appropriately.



Paige received a Peak Performance Award based on the comments received from Zucker, Goldberg & Ackerman. Paige took the time to walk them through FNFS' APR reports to help them better understand the factors that make up their reports. The result was an improved APR score for the firm.



Carrie was nominated for a Peak Performance Award when Hughes Watters and Askanase credited their performance in part to Carrie's knowledgeable and professional performance. They said that they could not have won their Service Performance Award without their FNFS foreclosure specialist.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

AFFIDAVIT

In Re:

EILEEN FAGAN,

Debtor.

Case No.: 04-23460-ash
(Chapter 13)

Assigned to:
Hon. ADLAI S. HARDIN, JR.
Bankruptcy Judge

STATE OF MINNESOTA)) SS:
CITY OF MENDOTA HEIGHTS)

John Cody

, being duly sworn deposes and says:


1. I am a ASST VICE PRESIDENT of HOMECOMINGS FINANCIAL NETWORK, secured creditor ("Secured Creditor") herein, and as such, I am fully familiar with the facts and circumstances hereinafter set forth.
2. This affidavit is submitted in support of Secured Creditor's application for stay relief as set forth in the moving papers.
3. Secured Creditor is the holder of a mortgage covering the premises commonly known as 16 BREWSTER AVENUE, STONY POINT, NY 10980 ("Mortgaged Premises").
4. On the 21st day of September, 2004, Debtor EILEEN FAGAN, filed a Petition under Chapter 13 of Title 11 U.S.C. § 101 et seq with this Court under case no. 04-23460-ash, and an Order for relief was duly entered.

5. The Note and Mortgage provide that the Debtor will be in default if he or she does not make full monthly payments on each due date. As of the 31st day of March, 2006, the Debtor has failed to make 2 post-petition payments in the amount of \$3,709.17 which represents the payments due the 1st day of February, 2006 through March, 2006 and has not cured said default. In addition, 2 post-petition payments due the 1st day of April, 2006 through May, 2006 will be due at the date this motion is heard.
6. That as of the 31st day of March, 2006, there was an unpaid principal balance owed on the Note and Mortgage in the sum of \$278,043.61, with interest thereon in the amount of \$20,553.51, plus late charges in the amount of \$946.28, for an estimated amount owing Secured Creditor in the amount of \$299,543.40. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make further advances for property taxes, insurance and related matters.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises, together with such other, further and different relief as the Court may deem just in this matter.


ASST VICE PRESIDENT **John Cody**

Subscribed and sworn to before me
this 3 day of April, 2006.


Notary Public



In Re:

Debtor.

Assigned to:
Hon. ADLAI S. HARDIN, JR.
Bankruptcy Judge

Dory Goebel, being duly sworn deposes and says:

1. I am a Bankruptcy Representative of HOMECOMINGS FINANCIAL, LLC, secured creditor ("Secured Creditor") herein, and as such, I am fully familiar with the facts and circumstances hereinafter set forth.
2. This affidavit is submitted in support of Secured Creditor's application for stay relief as set forth in the moving papers.
3. Secured Creditor is the holder of a mortgage covering the premises commonly known as 16 BREWSTER AVENUE, STONY POINT, NY 10980 ("Mortgaged Premises").
4. On the 21st day of September, 2004, Debtor EILEEN FAGAN filed a Petition under Chapter 13 of Title 11 U.S.C. § 101 et seq with this Court under case no. 04-23460-ash, and an Order for relief was duly entered.

5. The Note and Mortgage provide that the Debtor will be in default if he or she does not make full monthly payments on each due date. As of the 30th day of May, 2007, the Debtor has failed to make 4 post-petition payments in the amount of \$4,020.03 which represents the payments due the 1st day of February, 2007 through May, 2007 and has not cured said default.
6. That as of the 30th day of May, 2007, there was an unpaid principal balance owed on the Note and Mortgage in the sum of \$278,043.61, with interest thereon in the amount of \$20,553.51, plus late charges in the amount of \$946.28, for an estimated amount owing Secured Creditor in the amount of \$299,543.40. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make further advances for property taxes, insurance and related matters.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises, together with such other, further and different relief as the Court may deem just in this matter.

/s/ Dory Goebel

Dory Goebel Default Services Junior Officer

Subscribed and sworn to before me
this 1st day of June, 2007.

/s/ Paris Y. Jackson

Paris Y. Jackson
Notary Public-Minnesota
My Commission
Expires Jan 31, 2011

Who is FIS/LPS?

FIS INFORMATION

FIS Foreclosure Solutions, Inc.

A Division of Fidelity National Default Solutions

NAME CHANGES AND URL CHANGES

In conjunction with the rebranding of the FIS Loan Portfolio Solutions' (FIS LPS) technology applications in January 2007 to the FIS Desktop suite of products, the URLs of these applications have been updated to reflect the new names as of December 2, 2007.

In addition to the FIS Desktop changes, Fidelity National Foreclosure Solutions, Inc. also recently changed our name to FIS Foreclosure Solutions, Inc.

<u>Application</u>	<u>Previous URL</u>	<u>New URL</u>
Process Management (f.k.a. <i>NewTrak</i>)	Newtrak.com	pm.fisdesktop.com
Invoice Management (f.k.a. <i>NewInvoice</i>)	Fndsonline.com	im.fisdesktop.com
Document Management (f.k.a. <i>NewImageExpress</i>)	Newimageexpress.com	dmc.fisdesktop.com

FIS Foreclosure Solutions, Inc. provides loan servicers with single-source solutions for managing foreclosures, bankruptcies and related matters on a nationwide basis.

FIS Foreclosure Solutions, Inc. possesses the expertise to help clients manage diverse loan procedures and credit types, enabling clients to realize consistent pricing for default management services and reductions in the cost per loan serviced.

When clients refer a loan to local counsel through FIS Foreclosure Solutions, Inc., the loan timeline is managed until resolution. Clients identify the unique requirements of their portfolios and the loans are processed through FIS Foreclosure Solutions, Inc. to ensure the most efficient outcome. Internal time limitations for key events are set and active monitoring is conducted to minimize the overall timeframe from referral to resolution. The loan-level data is reported to Fidelity National Information Services, Inc. (FIS) partners on a daily basis using FIS Desktop, a Web-based default management technology.

FIS Desktop is an industry-changing proprietary enterprise application that provides users with a single point of contact into technology-driven solutions, enabling clients to streamline their processes and manage document and invoicing needs online. This reduces timelines, mitigates risk and saves resources.

FIS Desktop Process Management (previously NewTrak) allows users to efficiently direct and deliver all relevant information, images and services from one secure, real-time platform. Reconciliation of third-party information is simplified by utilizing a single, Web-based access point

that bridges a client's third-party service providers and FIS. This means quicker processing and cost savings, as well as the virtual elimination of the risk of error.

Document Management (previously NewImage Express), FIS Desktop's end-to-end document imaging solution, essentially omits the need for paper by capturing, indexing, routing, archiving and retrieving documents through secure, Web-based connections. This customized enterprise application manages a document's life cycle, from data extraction and electronic generation through preset routing protocols, ultimately automating a company's unique document structure.

FIS Desktop Invoice Management (previously NewInvoice) uses real-time, online services with specialized modules to automate every aspect of the billing and invoicing processes. From

presentment and processing to postpayment activities, Invoice Management's automation saves time and eliminates errors.

From referral to invoice, FIS Foreclosure Solutions, Inc. and FIS Desktop provide unique, money-saving solutions for the mortgage community.

FIS' FIVE FUNDAMENTAL PRECEPTS

Autonomy and Entrepreneurship
Bias for Action
Employee Ownership
Minimize Bureaucracy
Close Customer Relationships

FLORIDA OFFICE

601 Riverside Ave.
Building 5, Floor 3
Jacksonville, FL 32204
904.470.7700
904.470.7800 fax

MINNESOTA OFFICE

1270 Northland Drive
Suite 200
Mendota Heights, MN 55120
651.234.3500
651.234.3600 fax

Fidelity National Information Services, Inc. Timeline

1962	2000	2002	2006
Computer Power, Inc . (CPI) founded; offers Mortgage Servicing Platform (MSP)	iDLX Technology Partners, another Deluxe unit, combined with eFunds Corporation in January	MIS acquires ISDI	A division of FNF and Certegy merge to form Fidelity National Information Services (FIS)
1968	AIS acquires Benchmark Consulting, Inc.	MIS launches Transaction Point and Agent Desktop product lines	FIS becomes a publicly traded company FIS named to S&P 500
Systematics founded	eFunds Corporation held its initial public offering on the NASDAQ national market and later that year completed its separation from Deluxe	FNF acquires Eastern Software Empower	FIS ranked #1 bank tech firm
1990		2003	MSP mortgage platform reaches 28 million loans
Systematics acquired by Alltel Information Services (AIS)		FNF acquires Lender's Service, Inc. (LSI)	
CPI's MSP mortgage platform reaches 10 million loans	2001	FNF acquires the financial services division of ALLTEL Information Services (AIS) renamed Fidelity Information Services; moves its HQ to Jacksonville	2007
1992	Certegy founded		FIS acquires EFD eFunds
AIS acquires CPI	AIS acquires PMG Systems	FNF acquires Hamilton & Sullivan	FIS acquires Marketing Solutions, Inc.
1998	Fidelity National Financial and VISTAinfo close transaction creating FIS' Mortgage Information Services (MIS) division	FNF acquires WebTone	FIS acquires Applied Financial Technology
MSP mortgage platform reaches 20 million loans	MIS and LexisNexis announce joint ownership of leading national real estate database	2004	2008
1999	MIS introduces "best in industry" MLS system and IDX framing solution	FNF acquires Kordoba GmbH & Co.	FIS completes spin-off of Lender Processing Services, Inc.
Deluxe Corporation (NYSE: DLX) first announced the formation of eFunds Corporation in April	MIS acquires HomeSeekers' XMLSweb™ division	FNF acquires InterCept	2009
		FNF acquires Aurum Technology	FIS acquires Metavante Technologies, Inc.
		FNF acquires BankWare	
		FNF acquires Sanchez Computer Associates	

LENDER PROCESSING SERVICES (LPS)

Who exactly is “Lender Processing Services”? Googling “Lender Processing Services, will produce approximately 580,000 results. The LPS Corporate Headquarters is located at 601 Riverside Avenue, Jacksonville, FL 32204. The LPS Asset Management Solutions office is located at 10385 Westmoor Dr., Suite 100, Westminster, CO 80021. Other offices are located throughout the United States, including Minnesota, Texas, New York, Pennsylvania, Michigan, Illinois, Tennessee, Washington, Arizona, Louisiana and California.

Let’s look at LPS’ time line as published on their website (www.lpsvcs.com):

- 1962** Computer Power Inc. (CPI) founded; offers Mortgage Servicing Package (MSP)
- 1985** Processed 5 million loans on MSP
- 1990** ALLTEL Information Services (AIS) acquires CPI
Processed 10 million loans on MSP
- 1998** Topped \$1 billion in revenue
Processed 20 million loans on MSP
- 1999** Acquired CSI, AIR, Southern Data Systems, MaxMilion mortgage software
- 2000** Fidelity National Financial (FNF) acquires Chicago Title
- 2001** FNF and VISTAinfo close transaction creating Fidelity National Information Services (FNIS)
- 2002** FNIS acquires Eastern Software's Empower
- 2003** FNF acquires Lender's Service, Inc. (LSI)
FNF acquires the financial services division of AIS, renames it Fidelity Information Services and relocates corporate headquarters to Jacksonville, Fla.
- 2006** A division of FNF and Certegy merge to form Fidelity National Information Services (FIS)
FIS becomes a publicly traded company

FIS named to S&P 500

2007 FIS launches Loan Portfolio Solutions division

FIS acquires Applied Financial Technology

FIS is ranked the #1 financial services provider in the world in the FinTech 100

2008 FIS acquires McDash Analytics

Lender Processing Services is formed as an independent, publicly traded company, as a result of FIS' spin off of its mortgage business segment of the same name

2009 FNRES becomes a division of LPS

Using LPS' own words, LPS "is transforming how lenders and servicers are doing business by providing integrated mortgage solutions for origination, servicing, risk management and capital markets." LPS provides "solutions" to the top 25 lenders.

What is the "LPS Total Mortgage Solution"? LPS is the nation's leading provider of mortgage processing services, settlement services, mortgage performance analytics and default solutions. LPS offers "high-performance technology" to lenders and servicers. "More than 1,000 financial institutions, including 30 of the top 50 largest banks, rely on LPS' comprehensive offerings and award-winning services and support to power their businesses and sharpen their competitive edge."

Just when you think you may have figured out "who" LPS is and what they do, you find another "division," "partner," or "affiliate", such as:

1. Empower®, "an enterprisewide loan origination system that enables mortgage lenders to exceed their business growth and profitability objectives." Empower accommodates every aspect of lending – point of sale through loan funding and post-closing, and interfaces with LPS' servicing, flood, appraisal, tax, title and compliance services. (Note in the timeline on page 1, FNF purchased CTIC, acquired Lender's Services, Inc. (LSI), etc.) Empower is available in the

following time-to-market options (each available in-house, or via LPS' data center, or in a per-loan pricing model):

- “Empower Express – LPS’ turnkey origination system to completely process a loan based on predefined rules, workflow and screens;
- Empower Express Plus – LPS’ complete origination system with a modifiable rules engine, enabling lenders to customize the predefined screens, workflow and rules to meet unique business rules;
- Empower End to End – LPS’ end-to-end solution is built on a toolkit approach that enables complete customization.”

Empower is integrated with LPS’ suite of mortgage solutions, including LSI settlement services; RealEC; MSP; and property tax, flood, valuation, imaging and document solutions.

In July 2009, LPS named Don Covey as the managing director of the Empower Division.

2. DecisionStream™ “gives lenders automated decision data at the point-of-sale within seconds, including instant title decisions, property tax and valuation, consumer credit, flood hazard compliance and GFE fee information” enabling lenders to make “informed origination decisions, increasing loan closing rates and enhancing the *customer experience*.”

In a nutshell, DecisionStream “facilitates real-time refinance and home-equity lending decisions and helps lenders determine whether or not to proceed with a loan application prior to investing in full-scale mortgage settlement services.”

3. RealEC Technologies Inc. collaborative partner network (B2B exchange) “enables lenders and business partners to electronically connect, collaborate and automate their business processes to eliminate paper, manual processing and other sources of friction in the origination and servicing of mortgage loans.” (Does this elimination of paper and manual processing also eliminate critical documentation?)

On March 16 2009, RealEC announced that it surpassed a “historic milestone of more than 42 million real estate orders processed through its network since the company was founded in 1998.” **The RealEC Collaborative Partner Network**

processes more than 880,000 orders, 3.6 million documents and 10 million unique loan fulfillment events PER MONTH!

The RealEC Appraisal Management platform allows lenders to “effectively manage appraisal management companies.”

RealEC Technologies provide “supply-chain-management software, integration services, intelligent product-decision tools and vendor-sourcing tools.”

RealEC Technologies is majority owned by LPS, Inc. Dan Sogorka is the president of RealEC Technologies.

4. Origination Services – LPS boasts that it provides mortgage lenders “a single source solution for complete, integrated services that span the entire mortgage origination process, including:

- Largest database of flood information quickly identifying properties in a flood zone;
- One of the largest and most powerful real-time property tax databases, state-of-the-art automated auditing, real-time exception processing and fully-integrated workflow management tools for escrow servicing;
- Risk management solutions, including fraud detection and prevention, due diligence, data, and analytics that mitigate the risks facing originators;
- Highest quality appraisal and collateral risk management solutions that reduce costs and improve cycle times;
- Powerful lead generation tools that enable originators to target quality mortgage prospects and close more loans.”

5. Being the nation’s largest provider of title and closing services, LPS helps lenders close loans faster through their services:

- AQUA™ Title Solution “provides automated title decisions instantly at the point-of-sale” **allowing lenders to make immediate loan decisions and go directly to final documentation.** The AQUA decision is delivered to the lender *within seconds* and can include an AVM value, credit score, flood zone determination and preliminary legal and vesting information. Commitments or Preliminary title reports are issued showing ownership vesting, legal description, exceptions from coverage, encumbrances (rights of way), easements, restrictions and liens (mortgages, judgments, taxes).

Full ALTA title insurance coverage is provided for single family and 2-4 units.

- HELP™ (Home Equity Loan Policy) offers instant property legal descriptions and a home equity loan title policy that covers unknown mortgages, liens and judgments of record, as well as tax record data. (Does this eliminate the need for an attorney title search and opinion?)
- ClosingStream™ enables streamlined Web-based closings and other document signings.

6. LPS' "integrated technology automates the entire servicing process...." LPS boasts that through its automated servicing process, mortgage lenders (LPS clients) are more efficient and closing costs are reduced. (Is this comprehensive loan servicing technology detrimental to borrowers because of the "automation" and quick turnaround? Are closing costs decreased because all services are provided by LPS and its affiliates?)

7. LPS' MSP "is the mortgage banking industry's most widely used loan servicing system." MSP supports multiple loan types, including home equity lines of credit (HELOCs). **"MSP processes more than 50 percent of all outstanding mortgage loans in the U.S.,"** with balances exceeding \$4.5 trillion! The services cover "all areas of loan setup and maintenance, customer service, cashiering, escrow administration, investor accounting, default management and federal regulatory reporting," but it doesn't end there. LPS also has a system "that enables servicers to board loans and HELOCs from MSP, non-MSP and correspondents' origination systems; flow-servicing arrangements and minibulk acquisitions of servicing."

8. LPS Desktop™ "provides process, invoice and imaging management for use throughout the mortgage lifecycle." This process automation tool fully integrates with any servicing system and creates a bridge between the servicing system and disparate vendor wrap systems" for improved efficiencies, reduction in costs and faster turnaround times. LPS also provides **"comprehensive document management services,** including document recording, tracking and lien release."

Desktop's Loss Mitigation application offers a suite of loss mitigation options and features including:

- Complete workflow, queuing and loan allocation

- Comprehensive rules engine
- Automated approvals
- Generates and delivers documents, letters and reports
- Document, letter and report generation and delivery
- Configurable by client, investor, portfolio and loan type
- Integrates with servicing systems, FNMA HSSN and Wolters Kluwer's nationwide modification document library
- Document and modification package generation
- e-Delivery of documents
- e-Signature capability
- Document recording services

LPS' Applied Analytics **Desktop Valuation™** delivers LPS' certified appraiser's valuation estimate with a review of the recent local market comparable sales and can be combined with a review of an existing valuation or combined with a drive-by or interior property condition report.

Field Expert™ combines a drive-by or interior broker price opinion (provided by a licensed real estate broker or agent) with the accuracy and consistency of LPS' "expert quality control process and exclusive valuation module, to deliver the most accurate, detailed field valuation available." Field Expert allegedly provides the property condition and valuation information the lender or servicer needs to make better loss mitigation decisions.

9. Magnifide® Web Services, another LPS entity, enables MSP clients and their business partners to access loan-level data directly from MSP and third-party systems on demand.

10. LPS' ClosingStream™ provides a "Web-based closing solution that servicers can use to streamline the loan modification and loss mitigation processes. With ClosingStream, **workout agreements and loan modifications that formerly averaged seven to 10 days are signed the same day 50 percent of the time and within two days 80 percent of the time.**" ClosingStream has been used to complete *more than 40,000 successful online closing transactions, with 98 percent borrower satisfaction.*" (Is the "98 percent customer satisfaction" measured at the time of closing? Of these loan closings and/or modifications, how many customers are able to stay on track with their payments?)

11. LPS Document Solutions enables mortgage lenders “to handle all document search, assignment, recordation and lien release requirements in-house, with maximum efficiency.” If the mortgage lender chooses to outsource its document and lien release process, LPS also manages that process for the mortgage lender. (The mortgage lender may have its name on the closing documents, but everything is being handled by LPS – behind the scenes.)

12. PowerCell® is LPS’ “award-winning customer service organization.” A PowerCell team is assigned to each mortgage lender (customer). This team “has expertise in every functional area of the mortgage servicing industry, as well as in-depth knowledge of MSP” providing “unparalleled, expert, one-source support.” (Who are these “experts”? What is their education? What is their work experience prior to their employment with LPS?)

13. Risk management solutions (valuations, due diligence, deed, assessment and mortgage performance data, property and portfolio retention data, benchmark report, and loan analytics) help servicers mitigate risk. ***“LPS offers access to loan-level data for more than 39 million active first and second mortgage loans, including portfolios serviced by nine of the top 10 mortgage servicers in the nation.”***

“LPS Foreclosure Solutions, Inc. provides loan services with single-source solutions for managing foreclosures, bankruptcies and related matters, on a nationwide basis.” “When clients refer a loan to local counsel through LPS Foreclosure Solutions, Inc., the loan timeline is managed until resolution. Clients identify the unique requirements of their portfolios, and the loans are processed through LPS Foreclosure Solutions, Inc. to ensure the most efficient outcome. Internal time limitations for key events are set, and active monitoring is conducted to minimize the overall timeframe from referral to resolution. The loan-level data is reported to LPS partners on a daily basis using LPS Desktop....”

LPS emphasizes that lenders and servicers are inundated and overwhelmed with the sheer volume of foreclosures and the time-consuming tasks associated with each individual property. That’s where **LPS Agency Sales and posting (ASAP)** comes to the rescue! “ASAP is the leader when it comes to comprehensive

publication, posting and auctioneer services for trustee sales.” LPS Foreclosure Solutions streamlines the foreclosure process:

- Posting – coordinate physical posting or service of notice as required by local statutes
- Publishing – single point of contact for thousands of newspapers across the US; formatting, proofreading and transmission of your notices for the best combination of price and timeliness; confirmation of notice publication with newspapers
- Auctioneering – implementation of foreclosure sales at designated sales locations or from a centralized public place; act as client representative at foreclosure sales; collection and receipting of funds; issuance of Declarations of Postponement and of Sale
- Marketing Tools – interactive web site offers bidders a convenient, online tool to research upcoming sales and locate maps of the sales and property locations; strong advertising leads to higher sale day turnout and higher bids.

ASAP claims to reduce costs based upon the business it generates for multiple clients. ASAP claims to provide its clients with considerable savings and shortened timelines through its large publication volume and established relationships with newspapers throughout the nation.

ASAP claims to reduce processing time with 24/7 access to their services and information allowing its clients to follow up on properties; request services; submit and cancel orders; view images; retrieve sales results; view billing summaries; and submit bidding instructions.

ASAP claims to reduce risks as it “remains up-to-date and has a detailed understanding of statutory requirements by city, county or jurisdiction.”

14. Allegedly having the “largest database of flood information,” LPS boasts that it is the leading provider of flood determinations in the U.S.! (Obviously, the “flood determination fee” in the lender fees section of the HUD-1 Settlement Statement is paid to LPS or its affiliate.)

15. Another service provided by LPS is Desktop™ Property Tax Management Solution, a “comprehensive property tax delinquency reporting and disbursement

processing services and real-time Web-based access to one of the largest and “most powerful property tax databases.” According to LPS, servicers can establish more accurate escrow accounts with tax-line integration, reducing post-close work, ensuring that property tax obligations are met on time AND protecting servicers from penalties due to delinquent tax payments. (Again, the “tax service fee” in the lender fees section of the HUD-1 Settlement Statement is paid to LPS or its affiliate.)

16. LPS’ default management solutions “help increase efficiency, reduce loss severities and better control internal and third-party costs” by:

- providing “fast, efficient handling of foreclosure and bankruptcy processes and procedures” including “monitoring the performance of attorneys and evictions.” LPS also provides “centralized billing, customized accounting and up-to-date reporting, delivered directly to the client’s servicing system.”
- providing “complete, comprehensive foreclosure posting and publication services and dependable trustee sales and foreclosure auctions.”
- maintaining “a nationwide network of more than 3,500 experienced and reliable independent contractors who provide prompt and comprehensive inspection and preservation services across the U.S.”
- managing “REO assets efficiently and swiftly to expedite their removal from clients’ balance sheets, reducing overhead and loss severities.”
- offering “easy-to-use, cost-effective default title and closing solutions available through a single point of contact.”

17. According to LPS, it has “the industry’s most robust, accurate, up-to-date deed and assessment database,” enabling the mortgage lender to instantly and accurately fill property information needs.” LPS directly “collects, converts, updates, expands and verifies each piece of data, so you know you are getting accurate data from the aggregation source, not a third-party distributor.”

18. McDash Online is LPS’ means of providing access to the industry’s “largest loan-level database of mortgage assets, to help mortgage participants analyze their portfolios and benchmark loan performance” and “represents nearly 70 percent of the mortgage market, including data from nine of the top 10 servicers, and spans the entire credit spectrum of agency, non-agency and portfolio products.” McDash provides mortgage servicers with a “complete and accurate

picture of their portfolios and compares it to aggregated industry data.” LPS also “delivers valuation, analytics and fraud services” to limit its clients’ exposure to risk.

19. LPS claims to be the “nation’s number one provider of collateral risk and valuation services.” By combining nationwide property and appraisal databases with LPS’ desk, field and automated valuations, LPS alleges to deliver “precise information on property values, as well as accurate reviews of existing valuations.”

“Knowing the current value of a property and having insight into that property’s future value is critical to the lender’s loss mitigation strategy” and provides the information necessary for the lender or servicer to make an informed decision as to what to offer the borrower. “For example, approving a short sale today might make more sense if the property value is expected to dramatically decrease in the next six months; however, if the value is expected to remain static and the loan to value ratio is less than 100 percent, based on the current property value, a modification or refinance could be a better option. **LPS Applied Analytics’** valuation solutions provide the valuation estimates, trends and forecasts that you need to make these critical decisions.”

LPS Applied Analytics’ **Neighborhood Outlook™** report provides area price trends and forecasts, absorption rates, and days on market, as well as estimated foreclosure and REO timelines and costs for the subject property and helps to identify potential high-loss areas and determine the appropriate loss mitigation strategy.

20. How does LPS handle fraud detection and prevention? Those mortgage lenders working with LPS’ programs are able to scan every loan into their portfolio “for potential collateral risk, including risks associated with identity, occupancy, valuation, and sales transactions and flips.”

21. LPS’ “industry-dominant prepayment and default models” are used to “identify loan- and portfolio-level prepayment, delinquency, default and loss propensities.” The “model” uses loan, borrower, property and external data to (as described by LPS) create “a uniquely powerful solution for the mortgage industry.” (LPS doesn’t disclose this “uniquely powerful ‘solution’” is.)

22. Market participants can utilize the LPS mortgage-investment decision tools and services to monitor loan portfolios. “LPS can evaluate and track individual loan and property-level detail, from origination to securitization and over the life of the asset, further enhancing mortgage loan portfolio transparency at any level of analysis.”

23. The ECM Data Validation Module assists companies with data validation including: importing of documents and data, review and validation of data to source documents, storage of documents and related “scrubbed” data, export of data to client’s servicing system.

- Captures, classifies, extracts, validates, and delivers information and documents
- Manages association of documents and their data elements
- Automates notification of document availability
- Provides seamless “one screen” view of data and associated document(s)
- Presentation of documents and their data in real time queue structure
- Reduces dependency on multiple systems, users login to a single system
- Secure application available online 24/7

24. What else does LPS do? According to its website:

- ✚ LPS is the leading provider of innovative technology systems for county governments, including county recording and workflow management, document management, tax deed filing and court case management.
- ✚ LPS’ SiteXdata suite of solutions and tools are industry veterans and are essential for lender and servicer credit and collection needs.
- ✚ LPS’ exclusive list generation solutions allow lenders and servicers to create highly-targeted lists over the Internet, quickly and efficiently, with up-to-the-minute accuracy.
- ✚ LPS National Flood is the leading provider of flood data and related products for insurance professionals.
- ✚ LPS’ wide variety of attributes allows lenders and servicers to select exactly the right records to create customized, precision-targeted lists, which can be downloaded in a number of formats or can generate and deliver lists to the lender and servicer, custom-tailored to meet their specifications.

- ✚ Private investors can target their potential investment property by reviewing property appraisals, sales-comparable reports, even foreclosures and tax delinquent property reports.
- ✚ LPS is a leading provider of data and software to the title insurance market.

Executive Management:

Lee A. Kennedy – Chairman of the Board of Directors, LPS, Inc.

Jeffrey S. Carbiener – President and CEO, LPS, Inc.

Parag Bhansali – Executive VP, Corporate Development, LPS, Inc.

Christopher P. Breakiron – Sr. VP and CFO, LPS, Inc.

Francis K. Chan – Executive VP and CFO, LPS, Inc.

Todd C. Johnson – Executive VP, General Counsel and Corporate Secretary, LPS, Inc.

Michelle Kersch – Sr. VP, Marketing & Corporate Communications, LPS, Inc.

Joseph M. Nackashi – Executive VP and CIO, LPS, Inc.

Daniel T. Scheuble – Executive VP and Co-COO, LPS, Inc.

Eric D. Swenson – Executive VP and Co-COO, LPS, Inc.

Greg Williamson – Sr. VP, Human Resources, LPS, Inc.

Thought Leaders:

Al Bartello – Sr. VP, Sales, Empower Division

Gary Beckenbaugh – Sr. VP, Product Development, Mortgage Servicing Division

Grace Brasington – Executive VP, Strategic Consulting Services

Lori Brown – President, Document Solution Division

Clay Cornett – President, Default Solutions

Bill Cary – Director, Strategic Consulting Services, LPS, Inc.

Don Covey – Managing Director, Origination Technology

Jon Davis – President, Valuation Solutions

Joel Farrand – Sr. VP, Strategic Consulting Services

Cynthia FitzGerald – Executive VP, Customer Support & Services, Mortgage Servicing Division

George FitzGerald – Sr. VP, Product Strategy, Mortgage Servicing Division

Ronald Frazier – President, LSI Division

Lynn Hatfield – Sr. VP, Professional Services, Mortgage Servicing Division

Ted Jadlos – Managing Director, LPS Applied Analytics

Rod Hatfield – Sr. VP, Information Management, Mortgage Servicing Division

Kyle Lundstedt – Managing Director, Applied Analytics Division

Jeff Mouhalis – Executive VP, Product Delivery, Mortgage Servicing Division

Joe Nackashi – Executive VP and Chief Information Officer

Laura MacIntyre – Chief Operating Officer, LPS Desktop

Jerry Rowell – Sr. VP and Director of Operations, Field Services

Nima Nattagh – Sr. VP of Valuation Analytics

Chad Neel – President, Asset Management Solutions and Field Services Divisions

James Rowe – Sr. VP & GM, Risk Management Division

Eric Swenson – Co-Chief Operating Officer, LPS

Dan Scheuble – Co-Chief Operating Officer, LPS

David Spies – Sr. VP and Chief Software Architect, Empower Division

Darlene Strickland – Sr. VP, Implementations, Mortgage Servicing Division

Al Verkuylen – Chief Strategy Officer, LSI Division

Bruce Watterson – Managing Director for LPS Applied Analytics

Gregory Whitworth – President, Loan Portfolio Solutions Division

The following is taken from the LPS website “Industry Expertise”:

LPS Professionals can provide expertise in the following topics:

- 1031 exchanges
- Achieving efficiencies through technology
- Appraisal management
- Assessing valuation risk at point of origination
- Asset management and REO disposition
- Automating the real estate process
- AVMs and alternative valuations
- Bridging real estate and mortgage transactions
- Business continuity
- Centralized title and closing for mortgage industry
- Collections
- Customer retention
- Customer service
- Data conversions
- Data management
- Data security
- Default solutions
- Encryption
- Field services
- Flood zone determinations
- Foreclosure and bankruptcy solutions
- Fraud and risk management
- HELOC servicing
- Implementations
- Information management
- Information technology
- Loan origination technology
- Mitigating valuation risk
- Mortgage servicing solutions
- MLS systems and technology
- Mortgage fulfillment
- Mortgage technology
- Origination solutions
- Origination technology
- Paperless workflow for real estate industry
- Private label servicing
- Professional services
- Public records data
- Real-time processing
- Regulatory compliance
- Security
- Servicing solutions
- Setting technology priorities
- Supply chain management
- The value of customer relationships
- Title insurance
- Valuation and appraisal services
- Web Services

To speak with an LPS expert on one of these topics, please contact Michelle Kersch at michelle.kersch@lpsvcs.com or 904.854.5043.

“The New Momentum” is LPS’ quarterly newsletter. Issues are accessible on the LPS website. The latest volume is (copy and paste):

http://www.lpsvcs.com/NewsRoom/ClientPublications/Momentum/Documents/Momentum09_V2ISS4.pdf

LSI has a separate website that is worth viewing: <http://www.lendersservice.com>. The website has a demonstration of ClosingStream.

Lender Processing Services, Inc. has capitalized on the mortgage loan industry from all angles – new loans, refis, title insurance, flood determination, credit reporting, tax services, flips, monitoring loans, foreclosures, bankruptcies, etc., etc. LPS reported revenues of \$1.9 billion in 2008 with 2009 looking even better. Its 2009 third quarter showed an increase of 32.7% over the same period in 2008. Lee A. Kennedy, Executive Chairman of LPS, forecasts continued gains.

LPS’ selling points are streamlining the mortgage loan processes; enforcing deadlines; eliminating paper; and “managing” the mortgage loan process from start to finish and beyond.

LPS no longer utilizes the “document execution teams” of its predecessor, Fidelity National Information Services, Inc. With the documents readily accessible online, what prevents a document from being e-signed by someone other than the borrower? What is to prevent increasing fraud practices? If the majority of the fees are ultimately paid to LPS or to an LPS division or affiliate, what protection does the borrower have that the services are, in fact, actually provided – especially without any documentation?

From the standpoint of litigation, will LPS be able to produce any documentation in response to discovery requests? Will LPS produce documentation that is maintained in their system?

Sorting out who was doing what for Fidelity National may have been a mystery, but it seems that LPS has deepened the mystery.

Report: Meeting with LPS Network Attorney

Date: Sunday, July 11, 2010

The subjects were covered in no particular order and here are my notes in chronological order:

1. All Network attorneys are now employed by LPS Default Solutions, LLC. They are also required to sign an Agreement with the Servicers. Each Servicer has a separate Agreement drafted by LPS. The Servicer Agreements authorize the attorneys to communicate exclusively with LPS on behalf of the default services out-sourced to LPS. However, if the Network attorneys try to contact the actual Servicers and in fact reach someone the standard response is “why don’t you call LPS.” Also, the Network attorneys are not provided a list of Servicer contacts, employees, email addresses, numbers, etc.

2. The First American National Network (FANDO)(now CreditLogic) is the number one competitor for LPS. FANDO communicates with attorneys and servicers through a communication platform called Vendorscape. Vendorscape is a secured communication system but is used solely for this purpose (e.g., communication). Although Vendorscape can track timelines, milestones, etc., FANDO does not monitor or grade or rate these issues. Also, FANDO does not rate or rank law firms and requires no contracts between FANDO and local firms. CitiMortgage is a big user of FANDO and Vendorscape. Citi

primarily uses Vendorscape as a communication system for sending emails to and from local attorneys. The local attorney would have to instruct a mortgage servicer to add Vendorscape communications emails to the collections notes as they are not automatically added as is the case with LPS Desktop. The Vendorscape communications have a box that is checked if a response is required. However, it is rarely checked. Vendorscape is not used for an “escalated” or problem matters. The local firm would go to Stage 2 which would be a direct contact with the servicer. FANDO does not manage attorneys or refer cases to attorneys except to the extent servicers use the Vendorscape program to email assignments to local counsel.

3. Escalated Events are covered in the LPS Desktop System provided by LPS Default Solutions, LLC. You have a 1st, 2nd and 3rd tier level of “escalation events.” With a 3rd tier escalation event, the case is going to be removed from the LPS system and the network attorney and referred to national or regional counsel (TBL) who works directly for the servicer. LPS Desktop may still be used for communications between the TBL and the servicer but that all Desktop will be used for with a 3rd level Escalation situation. When this happens, it means that your case or claim has gotten the attention of the servicer’s General Counsel and further indicates the desire of the servicer to either settle the matter or try and shut it down with adverse legal actions.

4. The LPS Collection Notes are still one of the more important discovery sources of data and information. You would also want all open and closed issues, all communiqués, all documents reviewed or

downloaded, all documents transmitted for signature required, all re-projections, all holds, all requests for exceptions on the APR ratings. You also want the MSP collection notes as they may or may not be included in the LPS Desktop Notes. All Desktop Notes on the other hand are most always included in the MSP Collection notes. You also want to get complete copy of the corporate collection history (the raw MSP transaction history) and the summary pages for all of the subsidiary accounts (escrow, debtor suspense, trustee suspense, attorney fees, property inspections, broker price opinions, appraisals, statutory expenses, miscellaneous expenses, restricted advances, non-restricted advances, etc.).

5. Brice Vander Linden has been terminated by Wells Fargo as a mortgage default vendor. Brice operates through a back office operation called National Default Solutions, LLC. NDS is owned by a third-party investor and the stock may go public soon. NDS provides almost all services for Litton and some for CitiMortgage. Brice has a very bad reputation for not paying sub-vendors and for providing erroneous data and information. NDS is located right beside the Litton Default Processing Center in Texas and not far from the big Texas Citi default operations center.

6. The IndyMac (now OneWest) PSAs are some of the very few PSAs that do NOT permit any voluntary modifications and thus no HAMPS. They are doing mods but in response to legal leverage through litigation. Litigation includes objections to POCs, objections to MFRS, and of course adversary proceedings.

7. LPS controls about 40% of the market as a sub-servicer for primary and default servicers and about 60% of the servicers use MSP. The biggest competitor for MPS right now is proprietary servicing platforms such as those developed by Ocwen and Countrywide (now BAC Home Loans). BAC elected to stay with the CWHL platform in lieu of switching to MSP. This was a major financial blow for LPS as LPS was counting on BAC switching to MSP. MSP now has a rather efficient and seamless software program that will convert any other servicing platform to the standard MSP format. Also, MSP has developed another software program that will automatically “scrape” all of the data from the MSP life of loan transactional history and populate and create the XSL worksheets.

8. The LPS servicers do not allow their attorneys to collect fees for HAMP mods except in Bankruptcy cases. In those cases, all HAMP mods must be approved by the Bankruptcy court and the fixed fee is \$360.00. These fees are probably added to the principal balance as you will never see them as a corporate advance on a contractual life of loan transactional history or any other accounts. The same situation occurs when the servicers send the monthly remittance requests to the Master Servicers to be reimbursed for all corporate advances. The reimbursements never show up as a “credit” on the debtor’s account. Also, the servicers have almost universally entered into factoring agreements for all of the advances so they normally collect around 90% of the advance from the factoring company the same day the advance is “booked-in” as a receivable on the debtor’s history. So much for the “we are just keeping up with our expenses defense.”

9. As to Trial Period Payments under HAMP, all of these funds are normally placed into the debtors' suspense account until the temporary modification becomes approved as a Permanent HAMP Modification. The Loss Mitigation Department of each servicer would have to perform a "manual override" of the MSP system in order to stop all of the built-in default triggers during the trial HAMP period for late fees, BPO fees, etc. If the "manual override" is not performed, then these "trigger fees" will be added and the regular servicing functions will return the loan to "foreclosure" once the contractual payments are 60 days in default. This is why many HAMP consumers who are in trial mods get the 45 day default letters and are then served with the foreclosure complaints or notices.

10. Why do servicers need relief from stay for a HAMP modification in a bankruptcy case? Many servicers cannot enter a code to "manually override" the system without first entering a relief from stay code to show the case is no longer in bankruptcy. The manual override can be entered without a bankruptcy case but the servicer would need to take the loan out of bankruptcy servicing to do this during a 13 or 7 case and the only way this can be done with most platforms (including MSP) is with the relief from stay code. The relief from stay code allows the "unlock" codes to be entered that takes the loan out of bankruptcy servicing. Servicers just do not want to enter these "codes" without a relief from stay as the removal of the codes triggers all of the automatic default functions. Also, some servicers are asking attorneys to dismiss the case for the exact same reasons that others are asking for relief

form stay. This has NOTHING to do with fear of liability for stay violations but has everything to do with the MSP default servicing issues related to the “human” intervention with the software.

11. LPS does charge ALL of the Network law firms various fees for referred cases. LPS refers to these fees as “technology fees” and “document processing fees” and “document access fees” but they are really and truly nothing more than case referral fees. The “technology” charge for the referral of case is \$125.00 to \$150.00 depending on the market; the document review fee is .25 per page; the document download fee is \$2.00 per page plus the page review fee; the document execution fee can range from \$25.00 to \$75.00 per document (e.g., an affidavit of default, lost note affidavit, note with endorsement, assignment of mortgage, assignment of deed of trust, substitution of trustee in a deed of trust, etc.). Also, even if the Network Attorney can get the note and deed of trust or mortgage on line from the local land registry for free, they still must pay LPS to review and download the same documents. In other words, they cannot get the documents from outside of the Desktop system. As for intercoms (emails), there is a minimum “key stroke” fee (a fee for each letter or number or space) designed to keep the communications short and to the point. The fee varies per jurisdiction. There is no fee to check a box on an intercom or communiqué and hit the reply key.

12. All Network Computers must be “registered” with the LPS system. If a non-registered unit is used, then this sends off bells and whistles in the LPS security center. This individual relayed a situation where he

decided to work at home one Sunday back in 2006 and logged into the system (then NewTrak) using his user name and password. He had been working for about 15 minutes when he received a telephone call at his home to identify himself and why he was logged in. Fidelity (at that time, before LPS) did not know his home number but traced the IP name and address back to his home. Also, all LPS intercoms, communiqués and documents are embedded with “smart tags” so that the LPS security system can determine if they have been emailed or transmitted to a non-registered server, laptop, smart phone, I-Pad, or any other similar device.

13. Wells Fargo has started a new program with LPS network attorneys that basically provides that they will be paid fees and expenses only to the extent they can actually recover the fees from the consumer/debtor. This is referred to as the “you can eat what you can kill model.” Now, you do not actually have to collect the fees and charges from the consumer/debtors but you must get an order entered providing that the fees and expenses are allowed, approved and recoverable. The network attorneys are all up in arms over this new program but BAC is looking hard at it. Here is one problem—the current fee for a MFRS is \$550.00 plus the \$150.00 court filing fee. However, in the WDNC our court will only approve, if requested, a fee of \$450.00 for a MFRS and then only if the motion is granted by court order or by consent. So, the Wells Fargo LPS attorneys in the WDNC are dropping \$100.00 right now since \$450.00 is the maximum allowed fee. After they pay the LPS technology fees of about \$200.00 per case, then their net fee if they prevail is only about \$250.00. And, if the motion is withdrawn or dismissed then they get nothing but a net loss

of \$350.00 (the filing fee and the LPS “technology” fees). This new model presents big financial trouble for the network attorneys.

14. The type off fees that LPS charges servicers are as follows:

- a. Attorney referral fees;
- b. Fax and communiqué and intercom fees;
- c. Payoff fees;
- d. Reinstatement fees;
- e. On-Site LPS employee fees and extras;
- f. BPO fees;
- g. Property Inspection fees;
- h. Appraisal fees;
- i. Property Preservation fees;
- J. LPS Desktop usage fees;
- K. Technology fees;
- l. Processing fees;
- m. Attorney monitoring and rating fees;
- n. Process management fees;
- o. Document processing fees;
- p. Document uploading fees; and

q. New case boarding fees.

LPS has maintained under oath in various depositions that they do not charge the mortgage servicers any fees for their servicing work. So, I guess it is a matter of how you ask the questions or how you characterize the fees. LPS is collecting money from both sides of the deal—no doubt about it.

O. Max Gardner III

Shelby NC

July 12, 2010

**Deposition of Christian S. Hymer
LPS
First VP of Operations
Site Manager for Minnesota Operations
Bankruptcy and Customer Support Functions**

January 13, 2010

LPS, formerly known as Fidelity National Foreclosure Solutions, today its LPS Default Solutions, we -- we serve -- we monitor a technology system called LPS Desktop and monitor the keystone, or milestone actions in a legal process and report the information back to the servicer. We also service a liaison and facilitate communication between the law firms selected by the servicer to manage their legal action. We service the liaison between them as far as communication and assisting with resolution of certain problems of a non-servicing nature that come up during the course of the legal action.

LPS is a middleman, that's a -- a good description. We are not a servicer and we're not a law firm. We don't practice servicing. We don't do servicing activities involving collecting payments from debtors. We have no interaction with debtors at all. We also do not practice law. We merely serve as a liaison, as you said, between the law firm who was selected to receive that legal action and the servicer to ensure that the milestone steps are updated appropriately and the servicer understands the status of their legal action.

I don't know if I would characterize the law firms as members of LPS. They are a part of our LPS Default Solutions attorney network, which is essentially an open network that any law firm selected by a servicer is entitled to join, and as part of that network they would be eligible to receive referrals directed to them by the servicer. They basically sign a -- what we call a network agreement with LPS Default Solutions, which contains, you know, information about what their expectations are. LPS and the law firms are the only parties to the network agreements. They would agree to the client's specific procedures and fee structure, and they would sign a technology agreement with the LPS Desktop, which is a separate agreement, again, which is privacy protection, et cetera. The law firms and LPS are again the only

parties to the technology agreements. LPS Desktop exactly and the law firms.

LPS provides ancillary support services to the law firm, services related to assisting them to resolve problems that happen during the legal action that are non-legal in nature. The law firm in the course of a legal action is required to -- to draft a Complaint, a document of some sort. They would draft the document. They would submit it through our technology, and we would provide a support service to print that document, review the document to ensure that it was within the bounds of our signing authority. If within the bounds of our signing authority, we would be permitted to execute that document. If any verbiage within it or content or the document itself is a type that we were not permitted to sign, we would forward that document to the client or, in some cases, to the investor for signature, and we would use our technology and steps within the process to track that document throughout the life cycle from the time it was uploaded until the time it was returned.

We have extensive reporting that helps us understand turn time, know where documents are. We do that across the board in the variety of support services that we offer.

How are we paid? Well it depends on the service. For many services, they are -- the model that we operate under is a vendor supportive model, "vendor" meaning the attorney office would pay for that service. There are some support services that the servicer pays for directly. The document execution function would be an example of one of the vendor services paid for by the network firm. There are also payments made for using the software and the LPS Desktop platform. That's part of the technology agreement. There is a technology fee assessed for each, we call it a referral, but it, essentially, would be a legal action of some sort or an action. It's not always a legal action. But for every referral type there is a fee, and that fee ranges between \$5 and \$75, depending on the activity to be performed and the technology in play or processes in play to track it. For example, LPS would be paid by the law firm vendor when a servicer makes a referral to a network law firm.

We're paid for our support services up front at the time of referral. By that, it -- The reason why we do that is because we -- regardless of the life of that legal action, we're going to continue to provide support services. We have no interest in seeing, for example, that a foreclosure were to go to foreclosure sale. In fact, that would probably argue it's -- its counter to that, that, actually, we would prefer that it reaches successful resolution with the borrower prior to sale, because we have to manage it for less time.

The agreements between LPS and our servicing customers are typically called a default servicing agreement, and they consist of basically a legal contract for -- that includes the contractual relationship between the servicer and LPS. Typically it includes a schedule of services and provisions for confidentiality, identification for error, and the typical contract pieces.

We do keep track of vendor or attorney milestones. The technology system itself is a data aggregator, it collects data. We utilize that data to create a variety of reports on the loans that we monitor for our customers, and our customers being either, again, the servicer or the law firm. We can use that data on what we consider, let's say, a stage in the process to determine a timeline for completion of that process, whether it be -- for example, a fee and cost request, if a loss mitigator at a servicer is on the phone with a debtor and trying to get a payoff or reinstatement quote, we -- that activity takes place in our technology system to ask all attorneys who may have an action pending or an action that they just completed for a fee and cost quote and return that information back.

We track the time from the time that quote was requested to the time it gets back, and we use that information to help provide both the servicers, as well as the attorneys' understanding of what their peers are doing and what their network firms are doing. That helps them from a coaching aspect and a consulting aspect.

So it's kind of an exciting use of that. We've seen that turn time go from four hours to under 15 minutes nationwide, which has real benefit, I think, to loss mitigators on the phone trying to get a

workout, or a deal done. We do not rank the attorney vendors. We don't rank them. What we do is we display -- In one version of our reporting, for example, we might display their timeline for completion of certain stages. And what we're doing is saying there's no subjective measurements. It just says from the time that this stage started to the time this stage ended, how much time elapsed during that period of time, allowing carve-outs for certain activities such as a bankruptcy filing or other activity. So we wouldn't rank them, but we would display where they -- where they sit. We would then group them by color code as being, essentially, above average, average, or below average performance as far as a timeline performance. And service activities, like I had mentioned, like fees and costs turn time, stop/hold turn time, how fast you can acknowledge or you respond to a request for a service or to stop a foreclosure, put a foreclosure on hold, those are also things we measure. They're important to understand responsiveness of the vendors selected by the servicer.

There are no deadlines for attorneys to complete assignments or tasks. We don't institute any deadlines, any timelines upon the law firms. All we do is measure what's possible in the legal environment today. And maybe I'll clarify that for you. We don't establish a time frame where you have to get, for example, your Complaint filed. We merely measure the time from when it was referred until the actual Complaint was filed. So we don't establish the time frame.

There are some, for example, GSEs, investors that say, we expect the foreclosure to last this long. Obviously, the regulatory and legal environment changes, and therefore our model and our scorecard changes with that. It's simply measuring what's possible at this point in time. But, we do not set deadlines. We monitor how -- when the attorneys are performing the work, if they have exceeded, let's say, the state average for completion of what we call a stage, we would typically, as part of our role, be a contact and ask them, "It looks like you exceeded the time frame that's typically being done for this. Is there something you need? Is there some help we can offer? Can we get some help for you from the client on something? Are you missing something?" That's our role.

The law firms, from our perspective, and the data we gather, that information is in templates in the Desktop system. Those templates

are established by the servicer. And the due date for the -- those steps is determined by the servicer, not by LPS. If the attorney cannot complete a step of the process, a milestone step, they would request a re-projection or an extension for that step and explain the reason why they couldn't complete the step at that time. We would have responsibility to review that and either approve it, deny it, in which case the step just remains due in the system.

We are absolutely not the only communication link between the law firm and the servicer. The law firm always has a direct relationship and direct connection with the servicer. They are both encouraged and provided with contacts by LPS and by the servicer for service or contacts. But there should be an understanding, there are certain non-servicing functions, like I described earlier, that the servicer has asked LPS to assist with on their behalf. So typically the law firms would go to us first before they would contact a servicer, if those are things we're participating in, to see if we can help them first.

I am not privy to the back office relationships that any law firm has with another party. Our network agreement is between us and the law firm who receives the referral work. If they outsource that work that they were assigned to do to another firm or to another vendor of some sort for a portion of that, they are still responsible, per our network agreement, as far as we're concerned, for communicating directly to the client, so -- and to us. We would not be going to their back office support; we would be going to personnel that worked for that law office. If the -- if they have subcontracted legal work in some case to another law firm that's not part of our network, we would have no interaction, nor would that subcontracted firm be authorized to access our technology systems and input information. It's a secure system.

All of our vendor law firms have passwords and a contract with us. And it's -- it's a violation of our technology agreement, I believe, for them to provide access to that technology to employees that are not employees of their firm.

The -- the services vary customer by customer, so it would be hard for me to give you a laundry list across the board, but I can give you some examples of the typical services we would perform on behalf of

a servicer. One service would be to monitor bankruptcy filings on loans within a customer's portfolio. We use technology systems such as Acer or reporting from the client through technology systems like Banko to give notification of a new bankruptcy filing.

We would then validate that bankruptcy by accessing the court docket and ensuring that it affected the servicer's loan and it is their debtor. And then we would typically suspend the foreclosure workstation in the client's servicing system and activate the bankruptcy workstation per the client-directed procedure. That would be an example of a support service that we provide to a servicer.

LPS Desktop is a technology system. You could call it an overlay, but it's -- it's not truly an overlay over their system of record. The servicer maintains a system of record. There are several large systems of record out there that are in use. Our own MSP is the largest such system in use today. It is a separate system from LPS Desktop. We do map information from LPS Desktop to the client system, and in some cases vice versa, in order to transfer data and information about status of a -- of any individual process or loan between the systems. However, the actual system of record, the system that is considered the master system, would be the client's servicing system or servicing platform.

LPS Desktop can communicate or talk to the servicer's computer or master system. The network attorneys typically use case management software of their own to monitor the legal cases they've been referred. And there's a variety of case management software out there that are in use today. There are some homegrown ones, and there's some that are, you know, marketed out to law firms, like Vendorscape. We built the LPS Desktop to serve as a portal in order for that law firm to be able to electronically transfer information directly from their case management system into the LPS Desktop, and then certain types of steps and completions are then transmitted to the client's system. So it serves -- In that way, it's kind of a uni-directional flow of information from the law firm so their employees can work in their own system and not have to access multiple systems to report back-status of the legal action. Our job is, you know, the technology company that helps figure out how to bring all the parties together and make sure the information is transmitted.

LPS doesn't initiate a referral for a foreclosure or a bankruptcy. We don't -- we don't have any decision-making power as to -- or knowledge whether or not or how a servicer decides to foreclose on a loan. They trigger the referral from their system directly to us, and then that data, that -- that referral, or that -- the data associated with the loan, along with images of documents that they store in their system pertaining to the loan, would then transmit electronically to us. We consider that an initiation of a referral. They wouldn't -- they probably wouldn't say "hi" when they do a referral. It does not work like that. They would flag their system typically by inserting some code or something else that we would then pick up in a data file that comes to us. Yes, and that's what puts us on notice. And a support source we would provide would be if for some reason that referral failed to load in our system, typically it's because there's a missing piece of data, for example, an investor code was not available in the client's system in the data file, that loan would not be able to actually refer to their vendor.

Our job would be to review the loans where a piece of missing -- critical data was missing, and we would then try to either contact the client or look in their servicing system to determine what's missing and fix that so that the referral could then go to counsel.

In some cases the clients designate the vendor in their system. We consider that a vendor model of what we call vendor -- vendor selection. So they actually put a code in their system that says, this is the firm that this referral should go to. In other cases they've told us ahead of time, here are all the firms I want my work referred to and the business rules and process rules by which each gets work, and they trigger the referral. And we have a system called New Refs which reviews that, what we call attorney matrix and the business rules attached therein, and determines which firm it should go to. They are preset, in some cases, where it's loaded into New Refs into, like, a table. In other cases we just read directly off the data file and the vendor code the client puts in, and they make that determination. How they make their determination who to send it to I am not privy to. They will share with us their network or who they want to refer files to. And the reason we keep that is to make sure that any communications they need to send to their chosen network are sent to those firms. So we have to have kind of a general idea of who

they're sending work to. But I'm not privy as to why, in those cases of a -- a vendor -- of a client who chooses -- who sets the vendor themselves in their system. I don't know why they chose one firm over another.

Well, let me explain it a different way -- and I'll use an attorney matrix. For a given client they would have a list of attorneys by every state -- and they would designate based upon, in some cases it might be a check digit split, certain loan numbers ending in a certain digit. It might be based upon a certain investor. For example, maybe all Fannie Mae loans go to one specific firm in the state, or they might have other business rules in play related to other investors in their portfolio or something else. Maybe an investor wants their work only to go to this firm in the state. All that information is loaded, like I said, into a table. Our system would accept the data from the client in the model where we would use New Refs as determining the vendor selection. It would consult that table to determine where it was supposed to go and apply the business rules.

And there are some other -- When I say business rules, there are rules for, for example, connectivity. If an action is started with one firm and a subsequent action is later referred years later, many clients would want that work to go to the same firm because they already have a file, and it would keep things moving a little bit smoother. So rules like that are built in to maintain connectivity, for example.

A couple of other typical ones would be a missing document. A referral package is triggered by the servicer and sent to their vendor, their attorney, or trustee in some cases, in a given state, depending on the requirements of that state for the action. And if a required document, for example, a note or a mortgage or something else that's necessary for the action, an assignment is missing, the attorney would raise what we call an issue or launch a process, or basically flag us in some way, flag our LPS Desktop system to alert us that they needed help. So that's a support service that we're kind of providing for both entities.

We're going on behalf of that law firm and typically accessing the client's servicing system, typically their imaging systems, if we have access to that, looking for that document. It's possible the document

exists and it was imaged, but it was indexed incorrectly. So we're looking to see, can we find this document that they need? If we can't find it, we're typically raising a task for the client in that case to notify them to ask their collateral department, for example, to try to retrieve that document that's necessary. And we track that process of asking for it, following up on it, and getting the document back.

So it's all kind of, again, as you had said, middleman to try to facilitate the process and keep things running efficiently. No, we don't have access to all of the imaging systems. We have access to many of our clients' imaging systems, and typically not all their imaging service. Servicers typically have more than one imaging platform, some have several, and it depends on their business model and what they store on each platform. We would typically have access to systems that would store general documents that – associated with the action that they -- that they're trying to refer. But it's not an absolute that we would always have access. In the event we don't have access, then our job is to alert the client and, like I said, either raise a task or notify them in some manner that this document's missing and we need help from them to – to retrieve that. And, no, we wouldn't be privy to the contracts or authorizations they have with their investors.

Yes, within the loan information screen of LPS Desktop, and typically, also, sometimes within process information screens, those are kind of back screens to the processor loan in question, the investor associated with the loan, the name of that investor, the English language name, is included on that screen. The code would not be included on that general screen. Should the investor change-- as you know, these, you know, loans are bought and sold--an investor change process would be launched and would thereby update that information in the LPS Desktop. But we are relying upon the client to notify us that there's been an investor change. We would not know that otherwise. So, normally, in every case, LPS would know the name of the investor or trust for any loan in the LPS Desktop system. But, our instructions come from the servicers and not from the investors.

I wouldn't say that LPS has policies for foreclosures in every state. We have templates within the technology, determined by the client, of

what milestone steps that they would want to track in the legal action, and they would have sub processes to track other relevant processes necessary to support the legal action. Those would be in the system. And they would vary typically by state based upon whether you have a state where you have a judicial or non-judicial process, or on the regulatory environment today maybe you have to track certain other notices or other activity like mediation or things like that and the court might have to be required as part of the action. So, yes, typically that date is in the system -- they track, like I said, the milestone steps to make sure they're all complied with, whether it be filing the Complaint or the service or judgment, just to ensure that each thing is tracked and that the servicer knows when they were completed.

With respect to bankruptcy cases, we would refer a Motion for Relief from Stay based upon the client procedure and the client, again, flagging their system to ask us to refer that Motion for Relief from Stay. But, we would never see a performing Chapter 13 bankruptcy case. It would -- it would not hit our world. We would, for some clients, monitor their bankruptcy portfolio, like I said, through a technology like Acer, looking to make sure there's no bankruptcy filing. And in some cases, like a support service who would handle it, we would monitor the mail they received from the bankruptcy court to see that if any mail item was received that pertained to one of their loans, whether it be a performing loan or a loan that's -- at that point it would probably be a loan where a motion might have been filed, we're flagging that for the clients that someone takes action upon it.

Maybe I should clarify the -- the bankruptcy processes in the Desktop that might be tracked in association with the bankruptcy to help you. In the event that borrower files bankruptcy, they're going to file a plan. There's a plan review involved in that typically, where either the servicer or they may have a vendor reviewing the plan. We would track that referral, if it were going to vendor, within the technology, or the servicer may use steps in the technology, again, to track their review of the plan, whether or not the plan should be objected to or whether it's -- it's good to go. And, also, if they were to refer to a Proof of Claim to a vendor, to file a Proof of Claim on their behalf, I would, again, track that activity.

So those would all be, again, performing bankruptcies. But there would not be a Motion for relief filed unless the borrower, for example, for some reason were delinquent on their plan payments. In that event, the servicer would trigger a Motion for Relief release to us, and we would send it to counsel and track it there -- therein. We do not draft or file Proofs of Claim.

We do not draft any documents or determine the content of any documents. We just sign documents drafted by our vendors. It's not typically the servicer in the case of documents that we're being asked to sign, because in that event the servicer can sign it themselves in their shop. They wouldn't need our -- the signing authority they've extended to us to be in play. We typically would operate -- For some - some servicers where we're granted signing authority, it's usually under a power of attorney -- a limited power of attorney or it's under a corporate resolution, and it's, again, a limited scope corporate resolution naming certain individuals at LPS to be officers of the company for the strict purpose of executing specific documents related to the default action. So, again, it's very limited as far as what our -- what our authority as officers of that company would be.

I would think it's virtually a hundred percent of the time the documents we sign come from the network attorneys. I don't know why it would be beneficial for a servicer to submit a document through our technology system to us, because, like I said, it would be far more efficient for them to sign it themselves in-house. They would be drafting it. And, yes, most of the assignments of mortgage are drafted, in my experience, by an attorney firm or trustee shop typically upon review of, for example, title to determine, you know, who might have outstanding liens and what the chain of assignments that are out there, whether or not assignment is necessary, and they would draft it and submit it. I know of some servicers that perform the activity perhaps in-house or use vendors other than, for example, a -- the law firm that they're choosing for their default work.

As to how the network attorney knows who the mortgage must be assigned to, the name of the assignee, they would review the loan documents provided them in the referral package by the servicer. So there, like I said, in that referral there are image documents, including the note, the mortgage assignments, whatever loan documents the

servicer specifies should go with that referral. They would be transmitted to the law firm, and the law firm would review those, would review the data coming to them that's presented both from the LPS Desktop and, in some cases, actual images from the servicing system of the servicer to review what information they need. And based upon the state or jurisdictional requirements, they would review and determine whether or not an additional assignment was needed that wasn't present, for example.

The network attorney could go back to the servicer to get the assignment of mortgage signed. They certainly can do that. Typically it's not as efficient a process. And let me explain why I say that. If you were to go back ten years, the typical method of submitting documents might be e-mail, or if you go back 15 years, it might be fax. So e-mail is notoriously difficult for being able to track documents. It's very easy to lose them, to store them someplace where you don't know where they are, and you don't know exactly what's going on with the document.

By using a secure platform, like LPS Desktop, you avoid two things; number one, privacy issues, such as a Gramm-Leach-Bliley or other requirements that are out there in the industry as far as privacy and data sharing. So you -- When you transmit things through e-mail, for example, you always run the risk, unless you have a secure e-mail delivery system, of those --that information, that data, that -- those images being accessed by parties that shouldn't. So, again, by having a secure system, you're able to avoid that.

So can the attorney send a document directly to the servicer? Yes. And does it happen? Yes. Typically it might happen with an escalated document required for a hearing. If there's a hearing tomorrow, it may be faster, rather than tracking every step of the process, for someone to pick up the phone and e-mail the document that's needed to be signed directly to the servicer and get it done that way. So it does happen from time to time, but the vast majority of documents, and I mean the vast majority, go through the LPS Desktop system -- the tracking process that I described earlier.

We're not paid anything on a per-document basis. It's part of the administrative support fee that we would -- that I described earlier that

the law firm would pay. The -- the fee, it varies by state. Typically, because of -- Again, there's been matrix placed on how long do we have to manage that action -- on a typical action in a given state. So one state in the typical foreclosure action might take 365 days and another state it might be 35 days. So typically our fee would vary state by state. I don't know what our fee is in Washington. I can tell what you a typical fee might be. We talked about the \$75 technology fee. Typically a firm might pay 75 or a hundred dollars for administrative support during the life of that legal action to us, and that's due to those things that we talked about for document retrieval and doc execution and trying to, you know, get answers to them for issues they might have. So that's what they would be paying for.

The fees would be different for bankruptcy cases. The fees the network attorneys must pay. It would be different. For example, Motions for Relief are a different fee. Proofs of Claim are a different fee. Everything's a -- The bicor x referral type would be different. I believe its \$60 for a Motion for Relief, but I'm not positive. We would refer Proofs of Claim --- to the attorneys. We would ensure that the -- again, that all the necessary documentation, the client system information, the images of the documents were transmitted to that law firm. And then we would resolve the same kinds of problems that might crop up on a foreclosure or bankruptcy, missing documents, a question about something that they see in the records that they were sent. Those are the kinds of things we would interface with them and provide support services for. Again, I don't know the exact fee for a Proof of Claim in Washington. Typically our fee is around -- I believe its \$55 for the administrative support piece of that. It might be 60. That is made up of \$25 dollars for the technology fee and either \$30 or \$35 for the administrative support fee for the services we provide the vendors on that matter.

One other thing on the -- on the fees. We talked about when a law firm is invoiced, and then we talked about that it's invoiced at time of initiation of the legal action when we transmit that information to them that they've been, essentially, referred a case, but they're not paying us for a referral or to get a referral; they're paying us for the support services we're going to provide during the course of the legal action.

if they choose not to pay us, and there are some law firms out there that do that, then the client has to provide those services and support and complete all the follow-up and tracking on anything that's going on with that law firm in that action. And it's up to the client what they do with that.

And, some investors have fee caps, some servicers, like I said, but you're getting into what fees the attorney has paid by the servicer for managing the legal action, not -- not us. But they do impose fee caps for various actions and what they're willing to reimburse the servicer for, and the servicer, thereby, inputs fee caps on what they're going to pay their law firm. These caps do not apply to our technology and administrative fees. These are caps on the vendor fees for specified services per state. We are not in privy on all fee caps. They are not set by LPS. These are set by the investors like Fannie and the other GSEs.

Yes, there's a fee schedule by state. Again, you're talking LPS fees, not any fees associated that the attorney might be charging? You're talking about what -- LPS is charging for the services we're providing. There is a schedule by state, like we talked about earlier, and it's typically a flat fee. One of the things we're exploring, as well, is kind of a varied fee, kind of an a la carte pricing system as well. But that's not currently in place today.

The servicer would specify the legal fees for any service in the pricing exhibit that would be sent along with the default -- excuse me, the network agreement when they contract a law firm to receive their work, and the law firm would respond back and -- and either accept that pricing that the client has specified, or I guess they wouldn't work for that client.

As for MERS -- outside of a signing authority granted by MERS, we have no business or professional relationship with MERS. The signing authority for MERS is typical of the signing authorities granted to LPS, and that is a limited, I believe, corporate resolution allowing specific personnel, typically management at LPS Default Solutions, to act in a signing capacity only on behalf of MERS as they transfer assignments and loans essentially back to the servicer for the purposes of foreclosure. And to clarify, it's not really servicing.

MERS isn't a servicer. MERS I believe essentially holds the note for the servicer, and they would continue to do that until such time that the default action was necessary, and then it would have to transfer that back to the servicer for the purposes of foreclosure.

LPS never gets involved with the Notes. Nope. Never touch it. Don't see it. We don't handle any original documents at all. However, we have a process to track the sending in of those original docs when they're received back. That's our -- that's the only thing we would do. And, that would be with LPS Desktop. The servicer always sends the original documents.

The servicer might have to send the original documents to the law firm, for example. They might have to send the law firm original documents for the action necessary to be used in the action in court --and then -- so we would have a process to track that they were sent to the law firm, the law firm received them. And that upon the appropriate time in the legal action, whether -- hopefully that action doesn't go to sale and it stops someplace in between, or if at the completion of, for example, a sale, that those documents are returned back to the servicer for their purposes to go back in their files.

MSP is a servicer system of record. Like I referred to earlier, it is the primary system in which the servicer keeps loan information, information about the servicing activities they're conducting on that loans, for example, payments they've received, insurance proceeds disbursed, for example, and information that's relevant to the loan.

Typically LPS employees can enter information into the MSP system. Typically the access that we have to MSP is limited to certain MSP screens, screens in MSP upon which there's some relevant service that we are providing. For example, we talked earlier about a bankruptcy setup. Upon notification of that bankruptcy we have to have access to relevant MSP bankruptcy screens to set up that workstation, and we'd have to be able to suspend -- when I say "workstation," the active template in MSP for the foreclosure, put that on a hold and activate the correct one now for the bankruptcy to track those steps that the client has designed at MSP to track what they want to track. And in some cases with clients we perform that activity. In other cases client personnel perform the activity, and in

other cases there are models out there where clients have other vendors who perform that activity.

As I said earlier, typically we are restricted to access only certain MSP screens as far as the ability to change information or edit. And clients have different servicing systems, so -- although, your questions right now are specific to MSP, so I'll keep my answers relevant to that one. We would typically have access to be able to view many screens. Some we would not have access to view, and we would not be able to change information on every screen and every field. There are security templates set up and established with that client. We monitor the staff within LPS who have access to a client servicing system, and we audit those accounts on a regular basis to ensure that only specific personnel who have a functional requirement to work in that servicing system have access. The general rules would be the same for all clients. There are differences with respect to what you can access on different servicing systems. But generally speaking, if we're being asked to provide support service, we've got to have access to that relevant screen or be able to perform that activity to alter, change and access data. LPS owns MSP. LPS owns LPS Desktop. Same parent but different subs. LPS Desktop is the company that owns the technology and that is what I am referring to when I talk about the Desktop that we typically used with Process Management. LPS owns MPS, and there are other competing software solutions like Fiserv and other things out there. Fiserv is also commonly referred to as MortgageServ. Like I said, it's another competing technology with MPS. It's a servicing system like we referred to earlier. We can interface and read Fiserv systems with the Desktop. We do have interfaces to all servicing platforms.

As for referrals for things like appraisals, or drive-by BPO's or title work, typically a servicer would require a BPO, or a valuation, at various stages. They may require it prior to a foreclosure, for example, to determine whether to foreclose or not, or whether, perhaps, to write off the property if the value were not sufficient for it to make sense for the cost of foreclosure. Or they may require it at certain stages perhaps prior to sale or, in some cases, at a post-sale step prior to marketing the property. So there are times they would trigger what we call a BPO, or valuation.

Those BPOs usually -- can be triggered through the Desktop; they are not always. But by triggering them, we interface with a variety of systems for BPO vendors to place the order and then retrieve the information back, including data and images relevant to the BPO. We then take that information and we electronically, and in some cases manually, it depends on the technology that's in play, but we would update whatever client system they would need. That's an example of another support service that we might be providing. LPS Default Solutions does not charge for a BPO. We don't -- It wouldn't be going to an attorney, it would be going to a BPO provider. And servicers have a variety of BPO providers. So they determine what they want to pay and who they want to send those to.

Typically we use outside systems for BPOs. They don't typically access Process Management uploaded BPO. For example, there's a technology called Mortgage PhD, which is like an interface between a BPO provider system, or valuation system and the Desktop. I am not aware of any BPO provider having access to the Desktop to input information about a BPO. Typically they might be ordered, I hate to say, old school, but it might be done, in a lot of cases, through e-mail. It might be done by accessing a BPO's vendor's Web site to place the order, and then once the order comes back, then taking the information it's gathered and putting it in the system.

For Title Insurance -- title -- Really what you're checking -- You're validating title at the time of foreclosure. It's one of the first steps, typically, that happens, is to ensure that the title is clear. There are several ways that gets done. It can be done automated through the LPS Desktop. In other words, at the time the referral is initiated or triggered by the client through their servicing system to LPS, the title order can be placed systemically with the title vendor. That title vendor might be a -- it might be an LPS title company, it could be another title company like First American, it could be a law office that has a title shop. But that can typically happen automatically at the time of referral.

And then typically in an automated situation, when title were to be run and completed, the status of that completed title order would then be updated into LPS Desktop to indicate that the title order was complete. And typically the vendor would upload that title to the

imaging system. And then, like I said, we have -- that imaging system is tied to the client's imaging system and would -- would feed that information back to the client.

There is a part of LPS, not LPS Default Solutions, the company I work for, but there's a portion of LPS that also does title insurance, LPS Default Title. They're a separate company to LPS Default Solutions. We don't have a contract with them, but a servicer could typically contract them, and they would work directly with that title company as far as requirements, SLAs, service-level agreements, things like that. It wouldn't be done through us. Again, in some cases the through the platform, and the return of the information would be provided through the platform.

The Title Insurance could or would have access to the platform, but in some cases, if they're going to manually input the information, and in some cases they get set up to do that, the servicer would authorize them to have access to the system on their behalf to input information and upload things. More typically, like I mentioned earlier, we built the LPS Desktop to be able to interface to a broad spectrum of technologies. So there's a system called DIS. Don't ask me what the acronym stands for, because I don't actually know. But it serves as an interface of data exchange between pretty much any technologies system, case management software for law firms, the tracking systems that an individual title vendor might use, and the client servicing system. So it helps to, basically, translate that and feed the information back and forth.

Process Management is the workflow management software that we use at LPS Default Solutions. When I first joined the company, we didn't have our own software solution, so we used whatever the client had in place. The vision for LPS was if we can create a centralized system to track the workflow and then develop it to communicate with the various client systems, it would significantly help us from a business standpoint, from both scalability and efficiency, because you wouldn't have to have people trained on a variety of systems; you would be trained on your system, and that system would then communicate directly with the various other systems that were in place in the default arena.

Communicate with each other? I would say yes. It's tracking the default process. And information from the attorneys, either that they input in their case management system that they transmit electronically through DIS to LPS Desktop, that's how that information would get there, or they may have staff that would actually key the information into the Desktop. It then goes from the Desktop into the client servicing system. So in most cases the attorneys are not working directly in the client's servicing system. And there are confidentiality reasons for that, where – and attorney-client privilege reasons that they wouldn't want the attorneys working directly in their servicing system.

An intercom -- is a secure messaging system internal to the Desktop - that allows communication on that loan only. It is loan specific. So it segregates the communication, and it allows an individual working on that loan, either at the servicer, at LPS, or at the law firm, or any other vendor assigned a process relevant to that loan, to communicate with others about that loan. It works a lot like e-mail --that was the intent, but it's secure. And they didn't want to redo Outlook, so it doesn't have all the same features, but it's, essentially -- you can look at it as an e-mail system that tracks and saves everything. So, with the Intercom you'll see everything that's done in the LPS Desktop is extremely auditable and trackable. It's all time and date stamped. We know exactly who said and did and acted on what. That's the value of that system, it has very solid audit trail.

NewTrak is the system that I referred to earlier today as process management. Process management, and to clarify for you on that, is the workflow tracking system within the LPS Desktop.

There are other modules in the LPS Desktop. That's the one used to manage workflow. Today we use it -- our company uses it to track defaulted legal actions -- or legal actions pertaining to defaulted loans. But it's just workflow tracking. It could be used for anything. If you wanted to build a process to track the steps of baking a case, you can track those steps in there.

NewImage Express is the former name of the system I referred to earlier as document management. It is the imaging system associated with the LPS Desktop. Fidelity National Default Solutions

is the former name of LPS Default Solutions. The office in Tustin, California, that I'm aware of, is the Fidelity National -- excuse me, today it's called the LPS Default Title. It is not LPS Default Solutions. It's a sister company within the LPS umbrella. They're the ones who provide the -- they do the title work.

ASAP is a -- what we call a post and pub company, which is, for certain states, typically judicial states, where it's a requirement to post notice or publicize the pending foreclosure action. They're the ones contracted by the servicer to place those notices, as appropriate, in publications, in newspapers or wherever it's necessary to place them. It is another LPS company. It is not part of LPS Default Solutions, my company. It is a separate, independent company, as far as my understanding, to LPS Default Title, but they are, also, I believe, located in California.

Land Records of America, sometimes I think it is also referred to as Land Records of Texas, I believe, the new name would be LPS Land Records of America, is a company similar to that of LPS Default Title. I believe they do title work as well. They're located in, I believe, Dallas, Texas. Again, a separate company, another vendor. Part of the LPS umbrella of companies.

Nationwide we have approximately 37 clients, with two more clients that are going live in the next two weeks. So 39. I don't know the exact percentage of all the services who are our clients. Ballpark figure would be roughly, I would say, 35 to 40 percent. This is for LPS Default Solutions and not for MSP.

How would an Assignment of Deed of Trust and the Appointment of a Successor Trustee get to LPS? To answer that requires me to make some guesses, but I would assume that they were submitted to LPS through the LPS Desktop we talked about earlier, through a module within it called Signature Required, in which the attorneys upload the documents that they need for legal action that they drafted. They upload it -- They basically upload an image of it into our system, and they would then be delivered that way. They print in -- here in ²⁵ Minnesota, actually. They automatically print on a bank of the printers, essentially, and then that's how they would be received. It's possible they could be submitted -- we could have received them in

another fashion, there's an e-mail box and things, but the majority would go through the system. LPS's system, meaning the LPS Desktop.

By signing the document, Ms. Hood, in this case, she's essentially attesting that the information on this appears to be accurate. However, again, we rely upon the law firm to draft the document. So we're looking specifically for verbiage that would exclude us from being able to sign it. Ms. Hood is not required to look at any underlying documents to verify anything in the assignment. I don't think Ms. Hood would even have access to, for example, the note or mortgage. Again, we don't house those documents. I don't have them. So she's not privy to where they might be or where they might be stored. She would have access to the imaging system in the LPS Desktop. It's possible that an image of document would be in the Desktop; it's possible that it wouldn't. She typically would not have imaging access to our clients and typically would just verify the document was one we could sign and how she would sign it. It's her job to review the document and determine whether or not it appears to comply with all the requirements of documents that we can sign to make sure that it -- for example, is it really what it's supposed to be? Did the attorney upload the document that they said they drafted? Or if they submitted an Assignment of Deed of Trust, did they submit an affidavit instead; it's the wrong document? And then to review the content within it and ensure that there is no verbiage within it that prohibits us from being able to sign it.

She's not a MERS employee. She would know whether or not we have a signing authority for MERS --- so if the law firm that drafted it understood that MERS needs to transfer that from MERS to the servicer and draft the document therein. But she's not in the head of somebody at MERS to know whether or not they should be doing that. A signing of a loan from MERS back to the servicer is a common event during a legal action. It's not an uncommon event at all. So when you say she wouldn't know whether or not MERS needed to do that, I don't know that anybody other than a MERS employee would be able to answer that question. Even a servicing employee would know that it's typically required on that loan, but it's just a de facto part of the process.

She actually signs this document and, essentially, it's notarized. The notary that – I don't know who the notary is on this. Okay. Paris Jackson. So she validates she knows that, you know, Bethany signs the document. And it then gets the -- She would complete steps in the Desktop to indicate that she had signed it, and then she would complete a step that indicates it's being sent to the attorney. That document then makes its way to the mailroom, in which case it then goes in an overnight envelope back to the law firm. Ms. Jackson, the notary, is also an LPS employee. She's part of the document execution area, and her primary role would be, it appears to be, a notary. I don't know that she's still an employee. Bethany Hood is the manager for document execution within LPS Default Solutions. Documents that are uploaded through our system have to be -- they print like we mentioned earlier. They have to be routed to the appropriate reviewer, who is familiar with the signing authority of that client. Signing authorities vary by client, so people are trained, not specific clients. The review is performed. They then either sign the document or don't sign the document and launch the relevant processes to track it, if it has to go to a client or investor. They follow up with those clients and investors to make sure that they are completing the steps, that they've received the document, that it's moving where it's supposed to go. And they ensure that the documents return back to the law firm. They manage reporting that helps us, again, track the document, it helps us understand whether documents are stuck or missing or need to be reprinted.

Whether or not a filed document is uploaded in the Desktop would depend on the client. I don't know that every client requires its law firms to upload copies of recorded -- Some documents they would, but others they would not. Typically, like, for example for example, assignments, I would expect those to see uploaded back into the imaging system once recorded because they become a part of the record. Other documents they would, probably from a cost standpoint, not worry about, they don't necessarily have to have in their imaging systems and they can always access them in the court records.

Hansen Quality is an FIS BPO and Property Inspection valuation company. Fidelity Information Services. It is the previous iteration of

what is now LPS. It was one of the spinoffs from Fidelity National Financial.



LPS® DOCUMENT MANAGEMENT SERVICES

Efficiently extract data from virtually any paper or electronic source for access to data – when, where and how you need it.

In today's environment of mounting mortgage defaults and foreclosures, servicers are increasingly faced with the challenge of avoiding dramatic mortgage portfolio losses. In fact, some estimates place the potential foreclosure costs to financial institutions at an average of 30 to 60 percent of the original loan value. To avoid such losses, mortgage servicers must aggressively manage delinquencies to minimize potential downside risk, while seeking to gain efficiencies in servicing costs. Proactive management, business process improvement, automation and decisioning innovation are key strategies to meet the challenges of the current economic state.

Loss Mitigation Challenges

Managing high default volumes, while ensuring consistency within the loss mitigation process, requires quick access to accurate data. In the loss mitigation process, servicers receive documents in both paper and electronic format, but the specific data required for each loss mitigation process is often trapped within those documents. As a result, when specific information is needed, each person in the process must review an entire source document to manually extract specific items of needed data. Unfortunately, manual data retrieval can be time-consuming, manual data storage can potentially compromise data accuracy and its storage for subsequent use may not be possible. Untimely data retrieval, or reliance upon incomplete and/or inaccurate data, can negatively impact a servicer's loss mitigation efforts.

Data Capture for Loss Mitigation

Data capture services provided by LPS Document Management Services enable servicers to efficiently extract data elements from documents. Servicers have access to the data they need when, where and how they need it. The sophisticated data-capture software systems of LPS Document Management Services extract data from virtually any paper or electronic source. That technology, combined with experienced data entry staff, enables LPS Document Management Services to validate and deliver specific data in nearly any desired format.

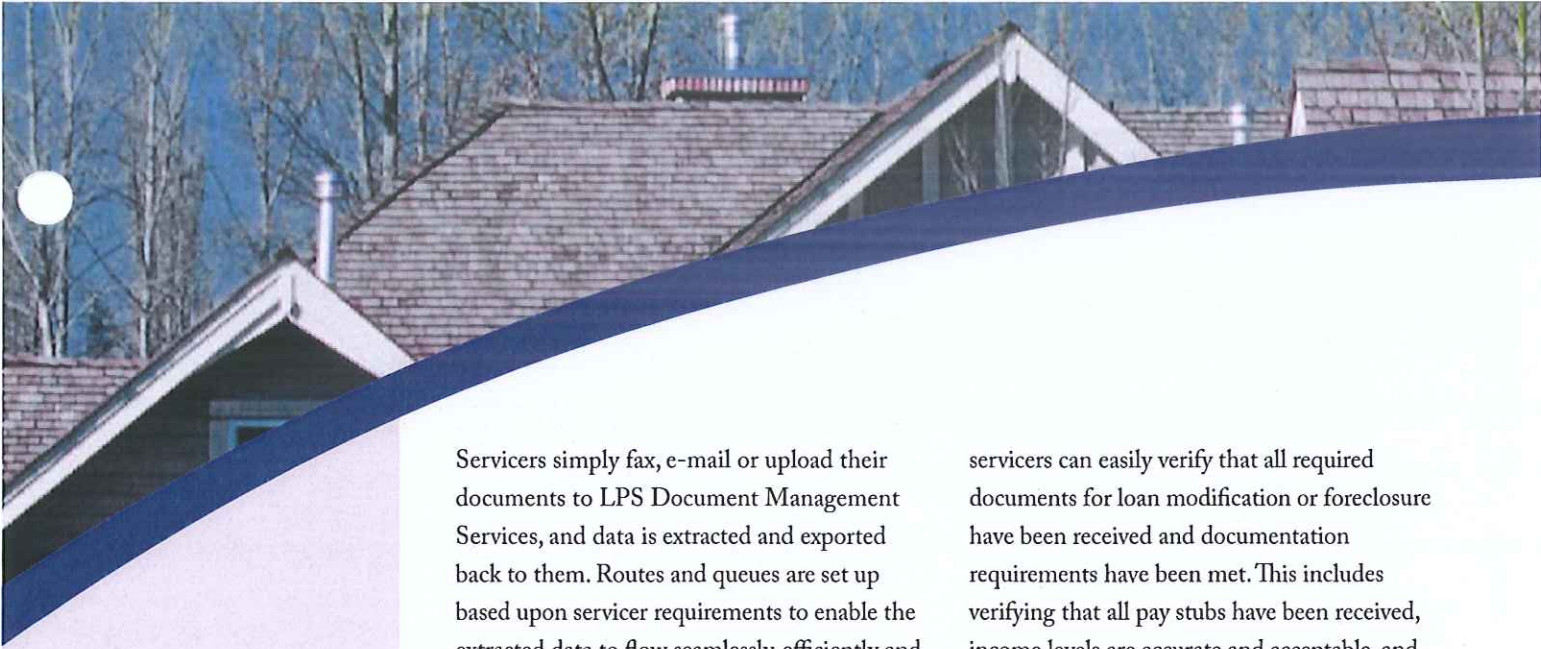
Loss Mitigation Efficiencies Made Possible with Data Capture

By affording servicers flexible data access, LPS Document Management Services enables servicers to boost efficiencies in their default, loan modification and foreclosure processes. Such operational efficiencies include:

Enhanced Workflow

LPS Document Management Services' end-to-end workflow solution enables servicers to extract data from incoming loss mitigation documents, including loan modification applications, work-out documents, client correspondence, attorney correspondence, pay stubs, recording information, appraisal reports, and mortgage and employment verifications.





Servicers simply fax, e-mail or upload their documents to LPS Document Management Services, and data is extracted and exported back to them. Routes and queues are set up based upon servicer requirements to enable the extracted data to flow seamlessly, efficiently and simultaneously to its loss mitigation department and vendor partners.

Better Tracking

LPS Document Management Services enables servicers to efficiently track and account for their loss mitigation documents, whether received via mail, fax, or e-mail. When servicer documents are sent to LPS Document Management Services, the necessary data is extracted. The documents are then automatically linked to a corresponding loan number or other unique identifier using the latest Optical Character Recognition (OCR) technology, and then routed into the servicer's document management solution. This enables servicers to quickly locate all relevant data associated with a given loan file or group.

Expedited Processes

By significantly reducing data retrieval time, LPS Document Management Services enables servicers to quickly decide whether a customer qualifies for a loan modification. Whether a servicer is proceeding with a loan modification or foreclosure, LPS Document Management Services' loss mitigation data extraction and classification ensure faster turnaround times.

Improved Accuracy

With LPS Document Management Services' ability to capture and validate documents according to client-established business rules,

servicers can easily verify that all required documents for loan modification or foreclosure have been received and documentation requirements have been met. This includes verifying that all pay stubs have been received, income levels are accurate and acceptable, and appraisal information is correct. LPS Document Management Services carefully validates all documents to ensure a 98 percent and higher accuracy rate. First the documents are scanned using state-of-the-art OCR technology, and then a quality assurance team confirms document accuracy. This two-step process ensures that servicers receive the most accurate data back from LPS Document Management Services to make informed and precise loss mitigation decisions.

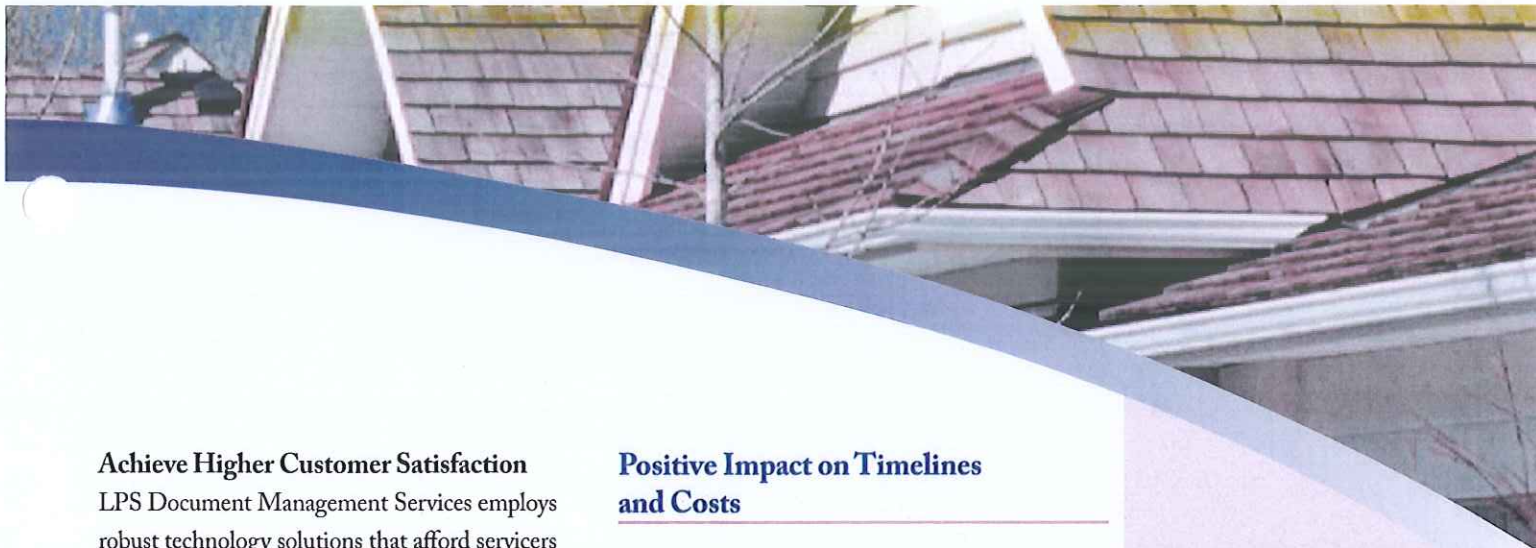
A Valuable Tool to Assist Servicers in Meeting Their Compliance Requirements

LPS Document Management Services' fully-automated workflow and instant data-sharing capabilities enables servicers to better prepare and respond to compliance and audit requirements. Every detail concerning a document's history is at a servicer's fingertips, from time/date stamp to document content.

Added Security

LPS Desktop Document Management Services' secure file repository option ensures that servicer loss mitigation information is safe and available when needed. With redundant data centers, information is uploaded to one server and immediately copied through a dedicated point-to-point connection to a backup server. This provides servicers with a solid disaster recovery plan that ensures business continuity.





Achieve Higher Customer Satisfaction

LPS Document Management Services employs robust technology solutions that afford servicers the ability to fully automate their loss mitigation process and provide a better borrower experience. With the LPS Document Management Services solution, you will be able to:

- Reduce lost or misplaced mail or files
- Improve response times and customer service
- Speed processing time by automatically extracting borrower data
 - Borrower names and addresses
 - Income
 - Reason for default
 - HMDA information
- Make more informed decisions
- Increase your loss mitigation process efficiency with flexible data exchange options
- Receive documents in multiple formats
 - Electronic images
 - Hard copy
 - Electronic media
- Accept many document types
 - W-2s
 - Bank statements
 - Borrower financials
 - Loan modification applications
 - 4506T forms
 - Pay stubs
- Leverage flexible data delivery options
 - XML
 - PDF
 - Microsoft® Office Excel
 - Text
- Smooth the process with ancillary services
- Validation to ensure that all documents are present and signed
- Identification of consecutive pay stubs
- Identify transactions that fail the edit level

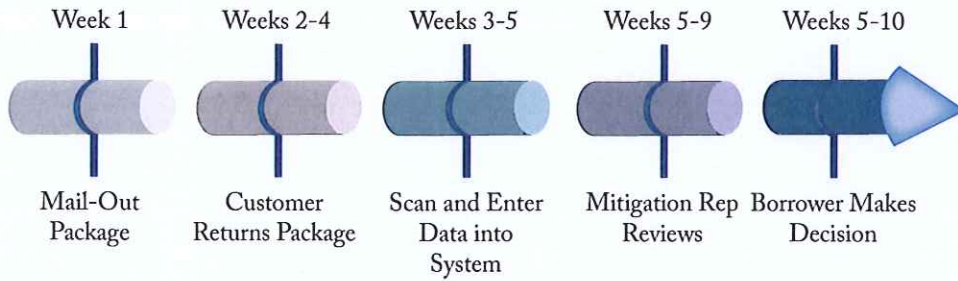
Positive Impact on Timelines and Costs

The longer a loan is in default, the greater the costs to all parties involved. LPS Document Management Services is a valuable tool that assists servicers in their efforts to significantly reduce the time it takes to complete the loss mitigation process, thereby enabling servicers to realize significant cost savings. By employing technology to automatically extract information from documents used in a mortgage transaction, and then feeding that information to the appropriate step in the loss mitigation process with automated workflow, servicers are able to process loss mitigation applications more effectively and efficiently.

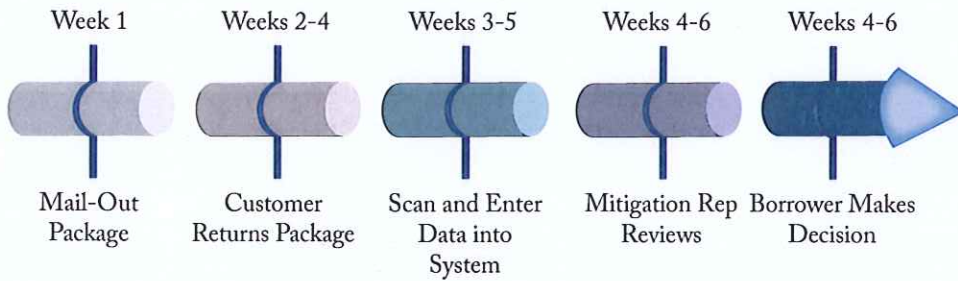
The LPS Document Management Services Difference

LPS Document Management Services combines advanced data capture and workflow technology with the expertise of outstanding IT professionals, business analysts, quality assurance and implementation specialists. Its products and services are supported with world-class training, documentation and customer service teams. LPS Document Management Services enables servicers to realize efficiencies in the loss mitigation process that are needed to tackle today's market challenges head on. To put LPS Document Management Services to work for you, please call 800.991.1274.

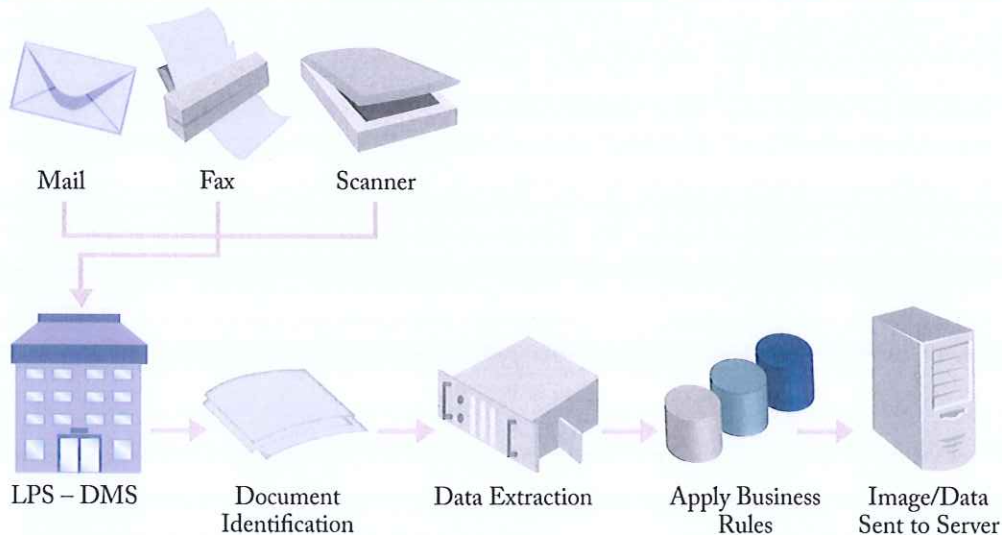
Average Loss Mitigation Timeline



When Using DCS Services



Automated Workflow



DOCUMENT SOLUTIONS
A LENDER PROCESSING SERVICES COMPANY

mortgage.marketing@lpsvcs.com

800.990.1274

www.LPSVCS.com



LPS Attorney Roundtable

The LPS Attorney Roundtable held an in-person conference on **Monday, August 10th at the CMBA in Las Vegas, NV.** The attorney members of the Roundtable include the following firms:

**Law Offices of John Clunk [OH]
Potestivo & Associates [MI]
Shapiro and Fishman [FL]
Zucker, Goldberg & Ackerman [NJ]
Cohn, Goldberg & Deutsch [MD]
Dunakey & Klatt [IA]
Goldbeck McCafferty & McKeever [PA]
Martin, Leigh, Laws & Fritzlen [MO]**

The next meeting will be held on October 12th at the MBA in San Diego, CA. If you have any comments or items of concern you would like added to the agenda for discussion, please contact any member of the Attorney Roundtable who you are comfortable reaching out to, or contact LPS Attorney Relations at AttyFeedback@lpsdefaultsolutions.com.



Attorney Roundtable Meeting Monday, August 10, 2009

TOPICS OF DISCUSSION

1) Document Revision Queue Request

(Greg Allen)

OVERVIEW: The firm asked to add an extra column to the workload on document revision steps that shows the name of the person who opened the original signature required process. If the document type is not able to be displayed in the workload, having the name of the originator may help firms to assign the items in the queue.

DELIVERABLE: Although this is not a change that can be made in the workload, LPS will create a report showing this information, along with the document type, Client Name, RID and the revision comments. LPS will create this report and send it to the Roundtable members for review and approval.

2) Timeframes for Action in the Name of Issues

(Martin, Leigh, Laws & Fritzlen)

OVERVIEW: A large percentage of the Foreclosure files for one of this firm's clients are being referred without an Action in the Name of. They are immediately opening an Action in the Name of Issue. However, they are concerned about delays in response to this Issue type. The firm is concerned about an uneven disadvantage caused by these delays for this specific client.

RESPONSE: Amy Weis' team works the aging "Action in the Name of" issues report, so there should not be many outstanding ones. LPS is working with the clients on making sure these issues get worked quickly and nearly 90% of the Action in the Name of Issues are resolved in 1 business day or less, on average.

3) Files requiring multiple Document Requests

(Goldbeck McCafferty & McKeever)

OVERVIEW: The firm requested a more efficient option for requesting multiple documents needed for a single file. The firm mentioned that contested cases or title claim processes usually result in the need for multiple docs. In addition to a more efficient way to request these documents, the firm would also like a way to escalate these or identify them as being required for a contested matter or title claim.

DISCUSSION: LPS proposed the creation of a "Multiple Documents Request" process that will have a ddf that allows firms to select all of the documents needed for the file. This process would then, in turn, launch the individual processes for those document types so they may be tracked accordingly. There may be a few document types that would not be able to be requested in this manner. An assignment is one example of a document type that would still need to be launched individually. With regard to a way for identifying documents needed or contested matters or title claims, LPS will review to see what options there may be for identifying this.

DELIVERABLE: Bill Newland will meet with Tara Engle and James Richards to discuss the possibility of making this change to the document processes and to identify documents needed for contested matters or title claims. This topic will be discussed more before any changes are made, either at the next Roundtable meeting or via email.

4) Assignment Carve-out Updates for client-specific variances

(Lindsey Lesch)

OVERVIEW: LPS recently identified additional client-specific variances that were needed in the assignment carve-out. An updated assignment carve-out explanation will be sent to firms to outline these changes.

DELIVERABLE: Lindsey Lesch will send out an updated assignment carve-out update to the Roundtable members to advise of more changes to the carve-out process. The updated assignment explanation will also be placed in Business Objects in the "Attorney Training" folder.



5) Creation of Close Report

(John D. Clunk)

OVERVIEW: The firm requested a report that would identify when a client has identified in the notes that a file should be closed, but did not launch a stop process or stop Issue in Desktop.

RESPONSE: Bill Newland advised that a system sweep of the Process Management notes, to look for where clients request a stop via notes instead of a process would be very difficult to do. Additionally, and more importantly, servicers using Desktop are required to follow the procedure for requesting files to be closed. LPS cannot be responsible for identifying when the correct procedure was not followed to make this request to LPS and the attorneys. Bill asked the firm to use the Connectivity Detail report to review stop processes and to also bring any examples where the clients are requesting stops via notes to the attention of LPS, so these may be addressed as training issues.

STATUS UPDATES

1) Recent/Upcoming APR Enhancements

(Attorney Relations)

Description: LPS will send a Network Update regarding the new APR enhancements prior to the release of these changes. These changes include updating the minimum percentages for delinquent events and compliance averages to 90%.

Resolution: The Roundtable members did not have any questions or concerns regarding this change. A Network Update regarding the new APR enhancements for delinquent events and compliance percentages will be sent out before the changes are put into place.

2) Quality Reports

(Attorney Relations)

Description: LPS has created attorney version of quality reports for contested foreclosures, first legal prior to title, MFR quality, and POC quality. Complete descriptions of these reports are available in the guides for these on Business Objects.

Resolution: The HD ticket for this has been closed and the Quality Reports are available to the attorney firms on Business Objects, under the 9000 Reports. The guides to these reports have been sent to the Attorney Roundtable members and will be sent out via Network Update.

3) Reprojections

(Bill Newland/Chris Hymer)

Description: Bill and Chris are developing a matrix that outlines the allowable days for reprojections on each step for LPS staff to reference. All staff members that handle reprojections will have access to this matrix to make reprojection approvals and denials more standard.

Update: Bill Newland is working on the matrix for FC and Chris Hymer is working on the BK matrix. Bill and Chris asked the firms not to request needed items using reprojections. This is expected to be completed in the next 60 days.

4) Issues/Holds

(Bill Newland/Chris Hymer)

Description: LPS will collect the necessary information to make a hold/issue matrix available on Business Objects.

Update: Bill and Chris are continuing to review the information for the creation of this matrix. Attorney Relations will provide status to all Roundtable firms before or at the next meeting.

5) Business Objects Reporting Feedback – Detail Reports

(Attorney Relations)

Description: A roundtable firm requested that the Vendor Reference ID be added to the Connectivity Detail and Service Detail Reports.

Resolution: The requested information has been added to the Connectivity and Service Detail reports.



6) Firm request to close processes (FC/BK Attorney Management)

Description: Firms requested the ability to close processes in LPS Desktop when they have opened them in error. The current process is that they have to intercom their rep to ask them to close the process. LPS is identifying the best way to handle these requests. The current plan is to create an Issue. More review is necessary to determine if these should be process-specific. LPS will advise when the Issue for closing a process has been created.

Update: Bill Newland's team is working on this item for completion in Q3.

7) Create a Referral Volume report for firms (Attorney Relations)

Description: LPS will review the concerns regarding this report and identify if adjustments are needed.

Resolution: The requesting firm has confirmed that the Volume report is working correctly. No adjustments are needed. When running the Volume report, firms need to make sure and export to Excel (data only).

8) Workgroups Guide (Attorney Relations)

Description: LPS will send the guide to creating workgroups to the Roundtable firms when completed.

Resolution: The guide for creating a Stop/Hold workgroup has been completed and sent to the Roundtable.

9) Vendor File Number for Fees/Costs (Attorney Relations)

Description: LPS will find out if it is possible to add the Vendor File Number and loan number to each fees/costs popup window.

Update: The suggestion was sent to the Attorney User Group for prioritization. As soon as an ETA for when this will be incorporated is provided, the Roundtable will be updated. This item will stay on the agenda until resolution.

OPEN DISCUSSION

1) Character Limit for canned messages (Goldbeck McCafferty & McKeever)

Description: The firm requested that the character limit for canned messages in Issues, reprojections, and intercoms be increased from what it is currently. The limit for canned messages is currently 50. The firm requested to increase to 400.

Deliverable: LPS will review to determine if this limit can be increased. If it is, it will most likely not be increased all the way to 400 characters, as that is too large of a limit for canned messages.

Attorney Reporting Project List – Top Priorities

Item	Description	Status
Add Vendor Reference Number to Connectivity Detail Report	A column for Vendor Reference number will be added to the connectivity detail report in the same way it is listed on the event level detail report.	ETA end of August.

Deliverables

Item Description	Active Tasks	Tasks Assigned to
Document Revision Queue Request	LPS will create a report showing requestor name, document type, Client Name, NTRID and the revision comments. Once created, the report will be sent to the Roundtable for review and approval.	Attorney Relations



Files requiring multiple Document Requests	Bill Newland will meet with Tara Engle and James Richards to discuss the possibility of making this change. This topic will be discussed more before any changes are made, either at the next Roundtable meeting or via email.	Bill Newland
Assignment Carve-out Updates for client-specific variances	Lindsey Lesch will send out an updated assignment carve-out update to the Roundtable members to advise of more changes to the carve-out process	Attorney Relations
Issues/Holds	Bill and Chris are continuing to review the information for the creation of this matrix. Attorney Relations will provide status to all Roundtable firms before or at the next meeting.	Attorney Relations
Firm request to close processes	Bill Newland's team is working on this item for completion in Q3.	Bill Newland
Vendor File Number for Fees/Costs	The suggestion was sent to the Attorney User Group for prioritization. As soon as an ETA for when this will be incorporated is provided, the Roundtable will be updated. This item will stay on the agenda until resolution.	Attorney Relations
Request to expand character limit for issues, reprojections and intercom canned messages.	LPS will look into the possible expansion of characters for these items.	Attorney Relations



LPS Attorney Roundtable

The LPS Attorney Roundtable held an in-person conference on **Thursday, June 11th at the Eight Annual LPS Attorney Summit in Minneapolis, MN, at the Marriott City Center**. The attorney members of the Roundtable include the following firms:

**Aronowitz & Mecklenburg [CO]
Baxter & Schwartz [TX]
Shapiro & Swertfeger [GA]
Wilson and Associates [AR]
Law Offices of John Clunk [OH]
Potestivo & Associates [MI]
Shapiro and Fishman [FL]
Zucker, Goldberg & Ackerman [NJ]
Cohn, Goldberg & Deutsch [MD]
Dunakey & Klatt [IA]
Goldbeck McCafferty & McKeever [PA]
Martin, Leigh, Laws & Fritzlen [MO]**

The next meeting will be held on August 10th at the CMBA in Las Vegas, NV. If you have any comments or items of concern you would like added to the agenda for discussion, please contact any member of the Attorney Roundtable who you are comfortable reaching out to, or contact LPS Attorney Relations at AttyFeedback@lpsdefaultsolutions.com.



**Attorney Roundtable Meeting
Thursday, June 11, 2009**

TOPICS OF DISCUSSION

1) Welcome New Firms / Thank Exiting Firms

(Lindsey Lesch)

Exiting:

Aronowitz & Mecklenburg
Baxter & Schwartz
Shapiro & Swertfeger
Wilson and Associates

New:

Cohn, Goldberg & Deutsch
Dunakey & Klatt
Goldbeck McCafferty & McKeeever
Martin, Leigh, Laws & Fritzlen

2) Recent/Upcoming APR Enhancements

(Lindsey Lesch)

- a) Compliance %
- b) Delinquent Events
- c) Foreclosure weighting adjustments
- d) Post Sale to 3rd Party Funds weighting

OVERVIEW: LPS went over the upcoming APR enhancements, due to come out July 7th. The weightings and additional details on changes are outlined in Network Update 2009-335. For the new delinquent events measurement, LPS advised that when acquisition files come in, they are reprojected so the firms have time to complete the events coming due. LPS asks that firms look at which events are coming due soonest and work those first.

DELIVERABLE: LPS will send a Network Update regarding the new APR enhancements prior to the release of these changes. (Network Update 2009-335 was sent.)

3) Quality Reports

(Matt Rogina)

- a) MFR Objections
- b) POC Objections
- c) First Legal Filed Prior to Title Received
- d) Contested Foreclosures

OVERVIEW: Matt went over the new Quality Reports LPS is developing for the attorney firms and asked for feedback. The Roundtable advised that for the MFR Objection report, they would like to have a dropdown for objection types or reasons and in-depth details for identifying the holds or issues. All firms agreed that detail reports would be helpful for each report, in addition to these new reports.

DELIVERABLE: LPS will provide an ETA on these reports to the roundtable firms as soon as it is available.



4) Reprojections

(Bill Newland and Chris Hymer)

OVERVIEW: Bill and Chris are developing a matrix that outlines the allowable days for reprojections on each step for LPS staff to reference. All staff members that handle reprojections will have access to this matrix to make reprojection approvals and denials more standard. The Roundtable suggested putting a matrix of holds/issues descriptions out under the main screen tutorial in LPS Desktop for all firms to be able to access. LPS can add this to Business Objects as a reference document.

DELIVERABLE: LPS will let the Roundtable members know when this reprojection matrix has been completed.

DELIVERABLE: LPS will collect the necessary information to make a hold/issue matrix available on Business Objects and provide an ETA for the completion of this project.

5) Business Objects Reporting Feedback

(Justin Paden)

OVERVIEW: The Roundtable members advised that it should be easier to distinguish one report from another in Business Objects. Either additional lines are needed in between the different report titles or possibly a deeper shade of blue should be utilized. LPS advised that this is an enhancement that is already being worked on and should go through with the next upgrade. LPS also advised that the information that was presented in the Business Objects breakout session will be added to the Help folder in Business Objects reporting, so all firms can access the provided information.

One Roundtable member requested that the detail reports in Business Objects be updated to include the vendor ID for loans on these reports. LPS reviewed the reports and they do contain a column for Vendor Reference number.

DELIVERABLE: LPS will follow up with the Roundtable firm to get further information on what data they would like to see added to the detail reports.

6) Firm request to close processes

(Potestivo & Associates)

OVERVIEW: It was requested that the firms have the access to close out a process opened in error as opposed to having to send an intercom to LPS and wait for it to be closed. LPS advised that firms cannot be granted access to close processes, but an Issue will be created to help expedite the process. Firms will be able to raise this Issue when they need a process closed, instead of sending an intercom. In the Issue, the attorneys will be responsible for identifying the process to be closed and why it needs to be closed. These Issues will be easily tracked, so the turn time in closing these processes should be quick.

DELIVERABLE: LPS will identify the best way to handle these requests. The current plan is to create an Issue. More review is necessary to determine if these should be process-specific.

STATUS UPDATES

1) Client Specific APR Summary Report

(Lindsey Lesch)

Description: LPS created a firm version of the new Client Specific APR Summary Report.

Resolution: LPS sent the Client Specific APR Summary Report guide to the Roundtable members, conducted training on this report with all Roundtable firms and put the Client Specific APR Summary Report guide on Business Objects where it is now accessible to all firms.

2) Create a Referral Volume report for firms (HD# 03926)

(Lindsey Lesch)

Description: LPS has received requests from firms to have a report that shows all of the referrals they have received within a given timeframe. LPS management agreed that it would be useful for the firms to have a report



that shows how many referrals each firm receives per month and from which clients. This report has now been completed.

LPS sent the Referral Volume Report guide to the Roundtable members and also placed the Referral Volume Report guide on Business Objects where it is now accessible to all firms.

Comment: Some Roundtable members said that they have not be able to successfully pull this new report.

DELIVERABLE: LPS will review the concerns regarding this report and identify if adjustments are needed.

3) Create report showing number of issues open for a firm (HD# 04554) (Barrett Daffin Frappier)

Description: The firm requested a Report that will allow a person to choose by type, client, and date, what holds/issues have been requested, approved, denied and closed. This was suggested because the firm wanted to use this to see the number of a specific Issue that had been processed by individuals at their firm in a certain time period.

Resolution: This ticket was completed and Attorney Relations put together a guide and sent it to the Roundtable members. This guide was also put out on Business Objects where it is accessible to all firms.

4) LPS Adding Stop/Holds to Process Management main menu (Bendett & McHugh)

Description: The firm has requested for a stop/holds queue to be added to the main menu in Desktop, similar to how the fees and costs appear. This can actually be accomplished by creating a workgroup for stop/hold/postponement events.

Update: A ticket has been opened to create the Stop/Hold workgroup for firms. Also, a guide is being created to show firms how to set up a workgroup in general, in case there are other items firms way want to create a workgroup for. Once this guide is created, firms will be able to create their own workgroups in Desktop.

DELIVERABLE: LPS will send the guide to creating workgroups to the Roundtable firms when completed.

5) Document name Included in Document Revision process (Shapiro & Fishman)

Description: Request for the name of workload items to include name of the document that is uploaded for revision. The Roundtable asked if it would be possible for a notification to be sent to the user that opened the particular process, when a signature required process is closed for that document.

Resolution: Currently a process launches that notifies the firm they have a revision that is needed. That functionality provides the necessary notification to the user that a work item has been created for their office and action is needed. The notification via intercom would be an additional feature that at this time is not going to be implemented.

Attorney Reporting Project List – Top Priorities

Item	Description	Status
Delinquent Events Compliance %	This stage will measure the percentage of events that came due during the APR period that were completed or reprojected without becoming delinquent.	Scheduled for 7/6
Compliance Percentage Stage	This stage will measure the percentage of files with scheduled sale dates and files taken to sale in the current month that are/were in compliance with FNMA timelines.	Scheduled for 7/6
Post Sale to Third Party Funds Received	Weighting will be applied to this stage.	Scheduled for 7/6



Item Description	Active Tasks	Tasks Assigned to
Recent/Upcoming APR Enhancements	LPS will send a Network Update regarding the new APR enhancements prior to the release of these changes.	Attorney Relations
Quality Reports	LPS will provide an ETA on these reports to the roundtable firms as soon as it is available.	Attorney Relations
Reprojections	LPS will let the Roundtable members know when this reprojection matrix has been completed.	Bill Newland/Chris Hymer
Issues/Holds	LPS will collect the necessary information to make a hold/issue matrix available on Business Objects and provide an ETA for the completion of this project.	Bill Newland/Chris Hymer
Business Objects Reporting Feedback – Detail Reports	LPS will follow up with the Roundtable firm to get further information on what data they would like to see added to the detail reports.	Attorney Relations
Firm request to close processes	LPS will advise when the Issue for closing a process has been created.	FC Atty Management
Create a Referral Volume report for firms	LPS will review the concerns regarding this report and identify if adjustments are needed.	Attorney Relations
Workgroups Guide	LPS will send the guide to creating workgroups to the Roundtable firms when completed.	Attorney Relations

LPS Asset Management Solutions (LPSAMS)
www.lpsvcs.com

LPS Default Title & Closing and LPS Agency Sales &
Posting (ASAP) www.lpsvsc.com

LPS Default Solutions (Foreclosure & Bankruptcy)
(LSPDS) www.lpsvcs.com

LPS Field Services (LPSFS) www.lpsvcs.com

FIDELITY LPS EMPLOYEES

Acosta, Deana	Attorney Auditor, QC	
Adams, Chalonda		
Adams, Lakesha	Customer/Attorney Relations	904.470.7744
Afilleje, Bradley		
Akdeniz, Gina		
Allotey, Liquenda	FNFS Foreclosure Manager	
Altenbach, Beth		
Alvarado, Edwin		
Alvarado, Joseph		
Amenumey, Felix		
Amyotte, Tela		
Anderson, Christine	Asst. VP, Special Assets	651.234.3500
Anderson, Damein		
Anderson, Pam	Mgr., New Invoice	
Angulo, Vivian		
Anoka, Kimberly	Review & QC	
Anselmo, Elizabeth	Staff Auditor, QC	
Anthony, Jennifer	Manager, QC	
Armstrong, Cindy		
Asif, Rebecca		
Austin, Nora		

Axelson, Matt	Referral Team	
Bailey, Teslyn	F/C Associate	904.470.7700
Baker, Rhonden	Breakdowns & JFIGs	
Balsavich, Dana	BK Specialist	
Banaszewski, Jillian		
Banaszewski, Matthew		
Bardunias, Leesa	Sales Results	
Barnes, Scott	President, COO	904.470.7703
Barrett, Dameyan	BK POC/Plan Review Team	904.470.7700
Bauder, Katy		
Belinskaya, Polina	Customer/Attorney Relations	904.470.7881
Beltz, Sidra		
Benesh, Maria		
Bennett, Sherry		
Bewley, Brett	Sales Results	
Biersack, Gregory		
Bigelow, Leonora		
Black, Christopher		
Blackley, Shanna	Breakdowns & JFIGs	
Blessing, Lucille	FC Attorney Mgmt. Associate	
Block, Sarah		
Boatman, Janette		
Bodnar, Lee		
Bondgien, Laura		

Bongaarts, Sheri		
Bottoms, Marinda		
Bougie, Jinni	Customer/Attorney Relations	651.234.3821
Bowen, Margaret	Staff Photographer	
Bowen, Margie	Referral Team	
Bowling, Natalie		
Bowman, Michael		
Box, Angela	Supr., BK POC & Plans Dept.	
Boyesen, Clark		
Boyette, Terri	Customer/Attorney Relations	904.470.7766
Bradjich, Jennifer		
Branum, Carlos	Manager, Financial Support	
Bray, Christopher		
Britten, Brian		
Broich, John	BK Audit	651.234.3500
Brooks-Saleh, Tammy		
Brown, Jacqueline	Breakdowns & JFIGs	
Brown, Thomas		
Bruce, Emily	Customer/Attorney Relations	904.470.7850
Bruha, Paul		
Brull, Evan		
Bryan-Withers, Angela		
Bryant, Kurtiss		

Buchy, Peter	
Cadwell, Rodney	VP Business Dev. & Client Imp.
Cardenas, Mark	Operations/IT Liaison
Carlson, Donald	
Carlson, Nateira	
Carstensen, Susan	Post Imp/Testing Manager
Cassano, Gwin	
Casey, Mathew	
Chambers, Tiffany	
Charagundla, Hari	
Chernick, Erin	
Chisholm, Carl	
Chowdhury, Frances	
Chua, Orenda	
Chute, Amy	Client Document Execution Supr. 651.234.3500
Ciccaglione, Darin	
Citizen, Lacresa	Breakdowns & JFIGs
Cloin, Michael	VP, Bus. Analytics/Financial Support
Coad, Jim	
Cobb, Scott	
Cody, John	
Colburn, Robyn	BK Specialist
Collingwood, Mitch	
Combs, Amanda	

Combs, Douglas		
Conrin, Rebecca (Becky)	Referral Team	
Coon, Frank	AVP BK Support	
Coon, Julie		
Coppens, Laura		
Cox, Jeremy		
Crawford, Angie	Sales Results	
Crawford, Valarie	Referral Team	
Cunningham, Marsha	Payoffs & Reinstatements	
Curran, Carrie	F/C Specialist	
Davis, Nicholas		
Daw, Diana		
Daw, Nathan		
Dawson, Dava	Client Reports, QC	
Day, Yvette		
DeBaker, Teresa		
Dedolchow, Karon		
Derynck, Kimberly		
Ding, Ming		
Dingmann, Larry	SVP Division Counsel	651.234.3506
Djikounou, Mensah		
Do, Paul		
Downing, Jason		

Doyscher, Lynn	Attorney Auditor, QC	
Dreher, Jason	Accounting Manager	
Driscoll, Sarah		
Duncan, Kimbretta		
Duncan, Nancy	F/C Attorney Mgmt. Associate	904.470.7700
Dysart, Connie		
Easton, Dawn		
Edwards, Angel		
Edwards, Selena	Customer/Attorney Relations	904.470.7837
Emmrich, John		
Engle, Kimberly		
Engle, Tara	AVP, Special Assets	
Ezell, Juli		
Fairbanks, Danielle		
Fairchild, Desiree		
Faltesek, Laurie		
Farley, Holly	Supervisor, Review & QC	
Farley, Richard		
Feaster, John		
Fernandez, Adolfo	EC Purchasing Team ¹	
Fete, Gwen		
Fleetwood, Jonathan		
Floyd, Yari	Sales Results	
Folley, Norma		

Fondungallah, Fedelis		
Ford, Catherine		
Freeman, Jackie		
Friedman, Andre	Route & Enter	
Froggatte, Karen	Referral Team	
Frost, Wesley		
Fuller, Bridgette		
Fuller, Fanessa	AVP Imp. & Tech. Support	
Funk, Dave		
Fyhr, Christopher	Review & QC	
Gaber, Keri		
Garcia, Araceli		
Gardner, Cheryl		
Gaspard, Pam		
Geary, Bill	AVP Jacksonville Operations	904.470.7700
Geir, Brian		
Geretschlaeger, Elizabeth		
Gerlin, Pam	EC Purchasing Team ¹	
Gerths, Steve	SVP Business Development	651.234.3504
Gibson, Jasmine		
Giddings, Kathy		
Glass, Peggy		
Goebel, Dory	Mgr., Document Execution	904.470.7700

Goff, Edmond		
Gomber, Leena		
Gooden, Jamie		
Gooden, Majie	Lead, Breakdowns & JFIGs	
Goodwin, Dimitra	Supr., Sales Results	
Gordon, Chris		
Gorsche, Jill		
Goss, Leah		
Gover, Jaime	Operations	
Graham, Carlton	Sales Results	
Grant-Steadman, Luciana		
Gray, Jeanelle		
Green, Nancy	Supervisor, Stop/Hold; Fees/Costs	904.470.7700
Green, Theron		
Greene, Alfonzo	Review & QC	
Grinnell, Kari		
Grotjohn, Katy	Staff Auditor, QC	
Grout, Steven		
Grover, Jaime	Supervisor, Title Management	651.234.3500
Guibord, Amy	Referral Team	
Gullie, Courtney		
Hagstrom, Cathy	Stop Holds Specialist	
Hall, Kim	Referral Team	
Halpern, Susan		

Halverson, Barb	FNFS Executive Assistant	904.470.7700
Halyard, Michelle		
Hamilton, Kevin		
Hang, Kenji	Referral Team	
Hanlon, Craig		
Hansen, Jeffrey		
Harkins, Quincy	Payoffs & Reinstatements	
Harrison, Karen		
Harvick, Kristopher	Manager, Customer Relations	904.470.7879
Hawley, Crystal		
Helberg, Joyce	Loss Analyst	
Hendrickson, Chuck		
Hennessy, Mary		
Her, Pangfua		
Her, Thaoke		
Hescott, Laura	Lead, Review & QC	
Hewitt, Christian		
Hill, Ed	SVP Process Management	281.827.2676
Hinson, Craig	F/C Supervisor	
Hladin, Christina	Customer/Attorney Relations	904.470.7980
Holloway, Jermaine	F/C Specialist	651.234.3500
Holt, Denton		
Hood, Bethany	Supervisor, Mail Team	651.234.3500

Hood, Jim	Referral Team	
Hopkins, Tonya		
Houston, Chrys	Asst. VP, Customer Relations F/C	904.470.7712
Houston, Eric		
Houston, Paula		
Howenstine, Holly	Foreclosures	
Hughes, Bobbi		
Hughes, Valestine	Client Reports, QC	
Hui, Macy		
Hunt, Paul	VP IT Core Development	
Hunter, Jacqueline		
Huot, Abby		
Hux, Faith		
Hymer, Chris	First VP, Operations	651.234.3500
Irby, Sean		
Iredale, James	SVP, Chief Tech. Officer	904.470.7704
Jackson, Barbara		
Jackson, Paris	Route & Enter	
James, Shannon	Route & Enter	
Jayaraman, Vatsan		
Jiang, Xiao		
Johns, Jane	Customer/Attorney Relations	904.470.7766
Johnson, Carrie	F/C Associate	651.234.3500
Johnson, Susan		

Jones, Donnett

Jones, Larissa

Customer/Attorney Relations

904.470.7931

Joyner, Shandela

Juitt, Stracey

Junier, Jack

Kabeya, Etsuko

Kafura, Andrea

Kahin, Jamal

New Invoice Developer

Kaiser, Amber

Route & Enter

Kalandya, Valerij

Kalb, Donna

Kammerer, Pam

New Invoice Auditor

Karau, Gloria

Kelcey, Matt

Kelehan, Michael

Keller, Scott

Kiel, Brandon

Kim, Hak

Kispert, Gregg

Knie, Jessica

Knoll, Tanya

Knowles, Tonya

Koontz, Michelle

Kortz, Devon		
Krautbauer, Kevin		
Kriesel, Mary	Staff Auditor, QC	
Lade, Joshua		
Lagarile, Carmela	Review & QC	
Lancaster, Brandon		
Lang, Cornell		
Langhann, Peggy		
Langlois, Nicholas		
Lauby, Shawn		
LaValle, Marc		
Lawrence, Shamera		
Lawton, Kyurstina		
Lee, Tou		
Leeber, Shannon		
Lehman-Meggison, Jaqueline	Breakdowns & JFIGs	
Leichner, Austin		
Lesch, Lindsey	Customer/Attorney Relations	904.470.7831
LeTourneau, Allen	Review & QC	
Lewis, Richard		
Lewis, Whitney		
Lindback, Tanya	Sales Auditor, QC	
Lindholm, Tara		
Link, Brett	Supervisor, Bidding Team	904.470.7700

Lo, Maly		
Lofton, Adrian	Payoffs & Reinstatements	
Lombardi, Rebecca		
Lopez, Angelica	Customer/Attorney Relations	818.257.5530
Love, Topako		
Loyd, Melinda	Customer/Attorney Relations	903.355.0199
Lucas, Seth		
Lucero, Dino		
Lucero, Melissa		
Lundell, Frances (Frankie)		
Lynch, Reginald		
Lyon, Jennifer		
MacIntyre, Laura	SVP New Invoice Operations	651.234.3511
Martin, Brock		
Martin, Denise	Customer/Attorney Relations	904.470.7863
Martin, Monica		
Martinson, Joel	New Invoice Developer	
Martisek, Chuck		
Mathisen, Catrina		
Mattox, Angela		
McBain, Amy	Review and QC	
McCoy, Theresa		
McDonald, Laurel	Referral Team	

McGarr, Joe	Supervisor, Cash Support	904.470.7700
McGraw, Tara	Sales Auditor, QC	
McKinnon, Alexis		
McMillen, Nathan		
McNamee, Lynn	F/C Attorney Management Dept.	
McNaught, Donna		
McShee, Billie	Special Assets team	904.470.7700
Menon, Seema	Review & QC	
Menza, Marissa		
Metzger, Carol		
Michael, John		
Michelin, Bill		
Milburn, Elizabeth	Review & QC	
Miller, Nate	Operations	
Miller, Omar		
Milligan, Annette		
Milsow, Kathleen		
Mirtica, Mikelynn		
Mizes, Steve	President, EC Purchasing ⁱ	
Moe, Steve		
Mooney, Amy		
Moore, Taylor		
Morcomb, Andy	Mail Team	
Morgan, Berry		

Morris, Angela Morris, Hilton	Mgr., Production Coordination	
Morris, Jim	Route & Enter, Operations	
Morrison, Annmarie		
Morrison, Eric		
Mosloski, Melissa		
Muehlbauer, Barbara		
Mukandwa, Gabby	Customer/Attorney Relations	904.470.7788
Mullins, Kim	New Invoice Lead Auditor	
Mulloy, Elanda		
Muratore, Mary	Sales Results	
Murphy, Joshua		
Murphy, Kory		
Murr, Deidra	New Invoice Auditor	
Murvartian-Carstensen, Susan		
Neal, Anne	Sales Auditor, QC	
Nelson, Christine		
Newland, Bill	First VP	904.470.7700
Nickel, Barb	SVP Controller	651.234.3587
Nightingale, Susan	Supervisor, Bidding Team	904.470.7700
Nkeze, Theresa		
Noisette, Maria		
North, Rebecca		
Notch, Jackie	Sales Auditor, QC	

O'Donnell, Melinda	Breakdowns & JFIGs
Ockwig, James	
Odom, Jasmine	
Ogechi, Eric	
Olansande, Jay	Referral Team
Olansande, Richard	
Onsinyo, Rachel	Client Reconciliation Specialist
Ostoski, Ryan	
Overstreet, Owen	Sales Results
Owens, Christopher	
Padgett, Barbara	
Palacios-Wooten, Christina	
Palmer, Gina	
Paris, Jason	EC Purchasing Team ¹
Pastor, Hector	
Peltier, Andrew	
Penella, Jackie	EC Purchasing Team ¹
Perrin, Kelly	
Peters, Chauncy	
Peterson, Angie	
Peterson, Rashal	
Petsch, Traci	Sales Auditor, QC
Pham, Tran	

Pittman, Ingrid	Supr., Payoffs & Reinstatements	
Prescott, Shannon		
Prince, Raynette	BK High Risk Resolution	651.234.3500
Pruitt, Christine	Customer/Attorney Relations	262.255.1604
Puckett, Danielle		
Purcell, Benjamin		
Quinones, Maria		
Ramos, Rona		
Ramseur, Kimyetta		
Randazzo, Stephen		
Read, Peter	F/C Supervisor	651.234.3500
Reap, Michael	Financial Support Specialist	904.470.7700
Reddick, Shawyn		
Reed, Erica	Breakdowns & JFIGs	
Reichow, Brent	Title Mgmt. Associate	651.234.3500
Richmond, Eileen	Client Relations Manager Title Division of FIS Default Sol.	
Rieck, James		
Rigdon, Debra		
Rivera, Kelly		
Rivera, Silena	Payoffs & Reinstatements	
Roberson, Rashad		
Robertson, Marques		
Robles, Esmeralda	Breakdowns & JFIGs	

Roehrer, Sandi		
Rogina, Matthew	Customer/Attorney Relations	904.470.7731
Rojo, Patricia		
Roundtree, Loranzo	Lead, Payoffs & Reinstatements	
Rubbelke, Stacey		
Rubenstein, Alex	Assistant, BK Attorney Mgt.	651.234.3500
Ryan, Tim		
Sahr, Paige		
Salkiewicz, Thomas		
Salsman, Aaron		
Sandborg, Michael		
Sanford, Kimberly		
Saunders, Cathryn		
Saycocie, Sandra		
Schmitt, Lauren	Payoffs & Reinstatements	
Schroeder, Sandra	Sales Results	
Schwickerath, Glen		
Schwieger, Gay		
Seabright, Christina	Route & Enter, Lead	
Seabrook, Haley	Customer/Attorney Relations	904.470.7935
Seenath, Priya		
Segers, Carl		
Segers, Mason	Sales Results	
Sheire, Joe		

Shelley, Vicki		
Sickler, Steve	Customer/Attorney Relations	904.470.7914
Simmons, Juanita		
Skinner, Stephen		
Smith, Angela		
Smith, Bridgette	Customer/Attorney Relations	904.470.7894
Smith, Christopher	Sales Results	
Smith, Delza	Sales Results	
Smith, Robin		
Smith, Stacy	EC Purchasing Team ¹	
Soderberg, Katy	Referral Team	
Spence, Christopher		
Spencer, Ella		
Spencer, Erika		
Spiridonovic, Dragan		
Stanfield, David	Supervisor, Financial Support	904.470.7700
Stanfield, Leo	Sales Results	
Stanton, Renae	BK Supervisor	
Stemmle, Dennis	SVP Technology Solutions	904.470.7705
Stenson, Mary	Staff Auditor, QC	
Stevenson, Maya		
Steverson, Rita		
Stockdale, Robert		

Stoudemire, September

Stoutenburg, Kevin	Manager, Financial Support	904.470.7700
--------------------	----------------------------	--------------

Strader, Jennifer

Suriano, Brock	Breakdowns & JFIGs	
----------------	--------------------	--

Swanner, Brian	BK POC/Plan Review Team	904.470.7700
----------------	-------------------------	--------------

Tabot, Emmanuel

Tate, Eric	Manager, Referral Team	
------------	------------------------	--

Temple, Thor

Terrill, Matthew

Thalin, Paul	BK Attorney Management Assoc.	651.234.3500
--------------	-------------------------------	--------------

Thomas, Michael	Review & QC	
-----------------	-------------	--

Thomas, Sylvia

Thompson, Kathy	Customer/Attorney Relations	832.559.3989
-----------------	-----------------------------	--------------

Thor, Lisa	Referral Team	
------------	---------------	--

Thursam, Linda

Timm, Johnnie

Topel, Scott

Tran, Lisa

Trautner, Deb

Trueblood, Kriston

Tucker, Sonika

Tuka, Mickey

Turner, Janice

Ugaro, Edna	Manager, Special Assets Title Mgt.	
-------------	------------------------------------	--

Vaith, Angela	New Invoice Lead Auditor	
Vallecillo, Sofia	Breaddowns & JFIGs	
Vang, Chang	Referral Team	
Vang, Elizabeth		
Vang, Keo Maney Kue		
Vang, Ker		
Verdeja, Rebecca	Sales Auditor, QC	
Vickers, Michelle		
Villalpando, Carlos		
Vinar, Jeremy		
Vogt, Ryan	Customer/Attorney Relations	904.470.7851
Vujaklija, Vesna		
Vulisetti, Krishna		
Wagner, Wendi		
Wainright, Greg		
Waldroff, Kim		
Walker, Terri	Lead, Payoffs & Reinstatements	
Walmsley, Dan		
Walter, Scott	AVP, BK Attorney Management	651.234.3500
Wangler, Richard		
Washington, Michelle		
Weide, Layla	Mail Team	
Weis, Amy	Manager, Special Assets Title Mgt.	

Welch, Melynda		
Wersal, Jennifer	Sales/Staff Auditor, QC	
Westphal, Kim	IT	
Wheeless, Caitlin		
Whitaker, Yollanda		
White, Sharolyn		
Whitfield-Bailey, Katrina		
Whitworth, Greg	President & COO	904.470.7701
Wilcher, Wonza		
Wilde, Wendi	Sales Auditor, QC	
Wilken, Rick		
Williams, Eboni	CS Lead, Special Assets	904.470.7700
Williams, Linda		
Williams, Tia	Breakdowns & JFIGs	
Williams-Hall, Angela		
Willie, Cynetress		
Willis, Shandra		
Willy, Gerald		
Winn, Barbara	BK Attorney Mgmt. Associate	651.234.3500
Wilson, Heidi		
Wolfe, Zach		
Woodring, Brian		
Woody, Mie		
Wright, Barry		

Wright, Lanaya

Wright, Sabrina

Yang, Blong

Review & QC

Yang, Houawa

Yang, Jerry

Yang, Shoua Thao

Ziertman, Mellisa

Special Assets Lead

Zorn, Katherine

Customer/Attorney Relations

651.234.3723

Zrust, Kathleen (Katie)

BK Specialist

ⁱ EC Purchasing is a subsidiary of Fidelity National Financial.

Moss Codilis

Not Really a Law Firm

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

CARRIE MARIE CROWDER

Debtor(s)

§
§
§
§
§

CASE NO. 06-36030-H4-13

CHAPTER 13

**MOSS CODILIS' RESPONSE TO ORDER TO SHOW CAUSE
WHY SANCTIONS SHOULD NOT BE IMPOSED**

TO THE HONORABLE COURT:

Moss Codilis, L.L.P. ("Moss Codilis") files this Response to the Court's April 29, 2009 Order to Show Cause Why Sanctions Should Not Be Imposed, and respectfully states the following:

SUMMARY OF RESPONSE

This is a Chapter 13 bankruptcy case. Saxon Mortgage Company ("Saxon") is a servicer for the mortgage of Debtor Carrie Marie Crowder ("Debtor"). Pursuant to a servicing agreement with the holder of the Debtor's mortgage, Saxon has the right to enforce the mortgage in its own name. In that regard, Saxon has sought an adjustment to the mortgage on Debtor's home, which Debtor disputes. More than two years ago, Moss Codilis was engaged by Saxon to provide only "non-legal" mortgage servicing services limited to filing a proof of claim on behalf of Saxon and registering Saxon's contact information with the Court so that Saxon could receive notices. Beyond the filing of the proof of claims and registration of Saxon's contact information, Moss Codilis has had no ongoing responsibilities to Saxon in this case since 2006 and was not in any way involved with the proposed mortgage adjustment.

Moreover, Moss Codilis does not have an attorney-client relationship with Saxon. In fact, Michael S. Margolf – the person who signed the proof of claim and request for service as

"authorized agent/entity" for Saxon – is not an attorney. Moss Codilis apologizes if, through some inadvertence, it has left the Court with the misimpression that Moss Codilis is or was the attorney for Saxon in this case. However, Moss Codilis is not Saxon's attorney in this case for any purpose, including the mortgage adjustment at issue.

A hearing was held on Trustee's motion for court review of the proposed mortgage adjustment. However, Saxon failed to appear. Moss Codilis did not appear at the hearing because it is not Saxon's attorney in this case, and therefore, did not receive notice of the hearing. As a result, the Court entered a show cause order requiring, among other things, that Michael S. Margolf, now a former employee of Moss Codilis, appear on May 21, 2009 at 9 a.m. to show cause why sanctions should not be imposed.

Due to the fact that Michael S. Margolf is no longer employed by or under the control of Moss Codilis, Moss Codilis requested a short continuance and modification of the Order to Show Cause to allow another Moss Codilis representative to appear before the Court to address any concerns that the Court may have regarding the relationship between Moss Codilis and Saxon. That request was granted by the Court on May 19, 2009, and the hearing is currently scheduled to take place on June 12, 2009 at 2:30 p.m. Moss Codilis will attend the hearing with the undersigned local counsel, Moss' Codilis' national outside counsel, and Stefanie Jeffries, the person who took over Mr. Margolf's position when he left.

FACTUAL BACKGROUND

Moss Codilis is a Colorado limited liability partnership. Each of its limited partners are, or are affiliated with, law firms that specialize in representing mortgage servicers in connection with mortgage defaults, including residential mortgage foreclosures and related bankruptcy work. (See Declaration of Stefanie Jeffries, attached hereto as Exhibit A.)

The partners formed Moss Codilis to meet the specific default processing needs of mortgage servicers that can be handled efficiently and most appropriately by replicable processes which are often aided by electronic information technology. Over the past several years, Moss Codilis has focused on providing four main default servicing products, none of which involve a significant amount of legal work, if any. When attorneys are needed, a mortgage default law firm is retained by the mortgage servicer. The four non-legal functions which Moss Codilis provide follow. First, Moss Codilis has contracts with many mortgage servicers to draft the default notices that are legally (or contractually) required in most, if not all, states prior to initiating foreclosures. Moss Codilis creates these letters through a centralized function which sends them out to borrowers nationwide. Moss Codilis employs an in-house attorney to review the form of these notices to make sure they comply with all applicable laws and regulations, so that no attorney is required to review each of the thousands of default notices sent out each month. (*Id.*)

Second, with respect to borrowers in bankruptcy, Moss Codilis has contracts with mortgage servicers to perform certain bankruptcy-related functions, including filing proofs of claims, and initial reviews of bankruptcy plans to see if the plans meet with standards and parameters that the servicers have established, so that if those standards are not met, then Moss Codilis can alert the servicer, and a mortgage default law firm can be engaged. (*Id.*)

Third, for certain mortgage servicing clients, Moss Codilis runs a small call center to deal with delinquent borrowers and to help them resolve their defaults and, in applicable cases, document those resolutions. Finally, for a limited number of mortgage servicers, Moss Codilis monitors the work of mortgage default law firms retained by the servicers and reports on their

timing and cost efficiency, gathers documents for the law firms engaged by the servicer, and hosts access to the servicer's loan information system. (*Id.*)

On November 6, 2006, Debtor filed this case.

On November 9, 2006, Moss Codilis filed a proof of claim on behalf of Saxon and registered Saxon's contact information with the Court so that Saxon could receive notices. This was the extent of Moss Codilis' role in this case. Moreover, Moss Codilis did not provide legal services to Saxon in connection with this matter, and therefore, does not have an attorney-client relationship with Saxon.¹ (*Id.*)

Thereafter, in September 2008, Michael S. Margolf, a former manager of bankruptcy operations and the individual whose name appears on the proof of claim and request for notice filed on behalf of Saxon as the individual authorized to file the claim, left Moss Codilis' employ. (*Id.*)

During early 2009, unbeknownst to and without the participation of Moss Codilis, Saxon proposed to raise the Debtor's monthly mortgage payment. (*Id.*)

In response, again unbeknownst to Moss Codilis, the Trustee filed a motion seeking review of the proposed adjustment to Debtor's mortgage payment.

On April 27, 2009, the Trustee's motion was heard by the Court. However, Saxon failed to appear at the hearing. Moss Codilis did not appear at the hearing because it is not Saxon's attorney in this case, and in fact, had no notice of the hearing. (*Id.*)

¹ It is hornbook law, of course, that a creditor can file a proof of claim and request for notice under its own or a non-attorney agent's signature. See FED. R. BANKR. PROC. 9010(a), (c); *State Unauthorized Practice of Law Comm. v. Paul Mason & Assocs., Inc.*, 46 F.3d 469, 470, 472 (5th Cir. 1995) (filing creditor's proof of claim, monitoring status of case, and negotiating reaffirmation agreement "long ... recognized by the bankruptcy courts as administrative functions that can be performed by authorized non-lawyer agents without offending rule 9010(a)'s prohibition against the unauthorized practice of law").

On April 29, 2009, the Court signed an Order to Show Cause Why Sanctions Should Not Be Imposed, ordering, among other things:

[T]hat Michael S. Margolf of the Law Firm of Moss Codilis, L.L.P., 1270 Northland Drive, Suite 200, Mendota Heights, MN 55120 (additional mailing address: Michael S. Margolf, c/o Moss Codilis, LLP6560 Greenwood Plaza Blvd., Suite 100, Englewood, CO 80111) shall appear at a Show Cause Hearing before this court and show cause why sanctions should not be imposed at the following place and time: May 21, 2009 at 9:00 a.m., in courtroom 600, 515 Rusk, Houston, Texas 77002.

See ORDER TO SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED (emphasis in original) (Docket No. 62).

On May 18, 2009, Moss Codilis filed a motion for continuance and request for modification of the Court's Order to Show Cause to allow a current Moss Codilis representative to appear before the Court on behalf of Moss Codilis in lieu of Mr. Margolf to address any concerns that the Court may have regarding the relationship between Moss Codilis and Saxon.

On May 19, 2009, the Court continued the show cause hearing as to Moss Codilis to June 12, 2009 and ordered that Moss Codilis' current bankruptcy operations manager or another representative with knowledge of the relationship between Moss Codilis and Saxon be allowed to appear at this hearing.

On May 21, 2009, at the show cause hearing as to Saxon, Saxon appeared and provided information regarding Debtor's mortgage, purportedly including the basis for the adjustment sought. Debtor requested a continuance in order to have an opportunity to digest this information and potentially work out an arrangement with Saxon. The Court continued all pending matters between Debtor and Saxon to June 12, 2009. The Court also set a teleconference for June 9, 2009 in order to determine the status of the pending issues between Debtor and Saxon as well as determine whether it will be necessary for Ms. Jeffries to travel from Colorado to Texas for the show cause hearing.

RESPONSE TO ORDER TO SHOW CAUSE

As demonstrated above, neither Moss Codilis nor any of its current or former employees had anything to do with the events leading to this Court issuing its Order to Show Cause. Moss Codilis is not Saxon's attorney in this matter and has not represented itself to be so (or at least has not done so purposely). Instead, Moss Codilis simply filed a proof of claim and request for notices to be sent directly to Saxon over two years ago as servicing agent for Saxon, and has had no role in this case since. Moss Codilis did not receive notice of the mortgage adjustment or of the Trustee's motion for court review of the adjustment. As a non-attorney, Moss Codilis was not required to receive said notices, and Moss Codilis should not be required to appear with regard to such issues, either on its own behalf or on behalf of Saxon (for which it does not act as an attorney in this case).

Moss Codilis sincerely regrets any inadvertent role it may have played in leading the Court or the parties to conclude that it acts as counsel for Saxon in this case. Moss Codilis hopes that its presentation herein will establish that Moss Codilis made no contribution to the situation at hand – or at worst any contribution was inadvertent – and that the Court will decline to impose sanctions on Moss Codilis. Moss Codilis stands ready to answer any further questions that the Court may have regarding its business or its participation in this matter.

CONCLUSION

Based upon the foregoing, Moss Codilis, L.L.P. requests the Court to decline to impose sanctions and withdraw its Motion to Show Cause as to Moss Codilis and any of its current or former employees, and for any further relief to which it is justly entitled.

Respectfully submitted,

**CHAMBERLAIN, HRDLICKA, WHITE
WILLIAMS & MARTIN**

By: _____

Laura J. Coe (Attorney-in-Charge)

State Bar No. 00793524

Southern District Bar No. 19400

R. Kyle Hawes

State Bar No. 00796725

1200 Smith Street, Suite 1400

Houston, Texas 77002

Telephone: (713) 658-1818

Telecopier: (713) 658-2553

OF COUNSEL:

David Chizewer

State Bar No. 06206747

GOLDBERG KOHN

55 East Monroe, Suite 330

Chicago, Illinois 60603

Telephone: (312) 201-4000

Telecopier: (312) 332-2196

**ATTORNEYS FOR DEFENDANT
MOSS CODILIS, L.L.P.**

CERTIFICATE OF SERVICE

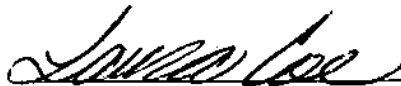
I hereby certify that on this 8th day of June 2009, I sent a true and correct copy of the above and foregoing **Moss Codilis' Response to Order to Show Cause Why Sanctions Should Not Be Imposed** to the following parties by the following means:

1. Counsel for Debtor, Carrie Marie Crowder via facsimile:

J. Thomas Black
Attorney in Charge for Debtor
2600 S. Gessner, Suite 110
Houston, Texas 77063
Via Facsimile No.: (713) 772-5058

2. Counsel for Creditor, Saxon Mortgage via facsimile:

David O'Dens
Michael P. Menton
SettlePou
Attorneys and Counselors
3333 Lee Parkway
Eighth Floor
Dallas, Texas 75219
Via Facsimile No.: (214) 526-4145



Laura Coe

0735016.01
000001-002263:6/8/2009

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

CARRIE MARIE CROWDER

Debtor(s)

§
§
§
§
§

CASE NO. 06-36030-H4-13

CHAPTER 13

DECLARATION OF STEFANIE JEFFRIES

STATE OF COLORADO

COUNTY OF ARAPAHOE

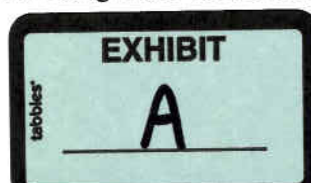
§
§
§

Stefanie Jeffries, pursuant to 28 U.S.C. 1746, avers and states under penalty of perjury that the following is true and correct:

1. I am employed by Moss Codilis, L.L.P. ("Moss Codilis") as manager of bankruptcy operations. I work out of Moss Codilis' Colorado headquarters located at 6560 Greenwood Plaza Blvd., Suite 100, Englewood, Colorado, 80111. I have personal knowledge of the facts set forth in this Declaration and they are true and correct. Further, I am authorized to make this Declaration on behalf of Moss Codilis in support of its Response to Order to Show Cause Why Sanctions Should Not Be Imposed.

2. Moss Codilis is a Colorado limited liability partnership. Each of its limited partners are, or are affiliated with, law firms that specialize in representing mortgage servicers in connection with mortgage defaults, including residential mortgage foreclosures and related bankruptcy work.

3. The partners formed Moss Codilis to meet the specific default processing needs of mortgage servicers that can be handled efficiently and most appropriately by replicable processes which are often aided by electronic information technology. Over the past several years, Moss Codilis has focused on providing four main default servicing products, none of



which involve a significant amount of legal work, if any. When attorneys are needed, a mortgage default law firm is retained by the mortgage servicer.

4. The four non-legal functions which Moss Codilis provide follow. First, Moss Codilis has contracts with many mortgage servicers to draft the default notices that are legally (or contractually) required in most, if not all, states prior to initiating foreclosures. Moss Codilis creates these letters through a centralized function which sends them out to borrowers nationwide. Moss Codilis employs an in-house attorney to review the form of these notices to make sure they comply with all applicable laws and regulations, so that no attorney is required to review each of the thousands of default notices sent out each month.

5. Second, with respect to borrowers in bankruptcy, Moss Codilis has contracts with mortgage servicers to perform certain bankruptcy-related functions, including filing proofs of claims, and initial reviews of bankruptcy plans to see if the plans meet with standards and parameters that the servicers have established, so that if those standards are not met, then Moss Codilis can alert the servicer, and a mortgage default law firm can be engaged.

6. Third, for certain mortgage servicing clients, Moss Codilis runs a small call center to deal with delinquent borrowers and to help them resolve their defaults and, in applicable cases, document those resolutions.

7. Finally, for a limited number of mortgage servicers, Moss Codilis monitors the work of mortgage default law firms retained by the servicers and reports on their timing and cost efficiency, gathers documents for the law firms engaged by the servicer, and hosts access to the servicer's loan information system.

8. On November 6, 2006, Debtor Carrie Marie Crowder ("Debtor") filed this case.

9. Moss Codilis was engaged by Saxon Mortgage Company ("Saxon"), a servicer for the mortgage of Debtor, to provide only "non-legal" mortgage servicing services limited to filing a proof of claim on behalf of Saxon and registering Saxon's contact information with the Court so that Saxon could receive notices. Beyond the filing of the proof of claims and registration of Saxon's contact information, Moss Codilis has had no ongoing responsibilities to Saxon in this case since 2006 and was not in any way involved with the proposed mortgage adjustment at issue.

10. On November 9, 2006, Moss Codilis filed a proof of claim on behalf of Saxon and registered Saxon's contact information with the Court so that Saxon could receive notices. This was the extent of Moss Codilis' role in this case. Moreover, Moss Codilis did not provide legal services to Saxon in connection with this matter, and therefore, does not have an attorney-client relationship with Saxon.

11. Thereafter, in September 2008, Michael S. Margolf, vice president of bankruptcy operations and loss mitigation, and the individual whose name appears on the proof of claim and request for notice filed on behalf of Saxon as the individual authorized to file the claim, left Moss Codilis' employ. I am responsible for Mr. Margolf's former responsibilities for bankruptcy operations at Moss Codilis since he vacated his position.

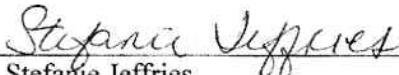
12. During early 2009, unbeknownst to and without the participation of Moss Codilis, Saxon proposed to raise the Debtor's monthly mortgage payment.

13. In response, again unbeknownst to Mostt Codilis, the Trustee apparently filed a motion seeking review of the proposed adjustment to Debtor's mortgage payment.

14. On April 27, 2009, the Trustee's motion was apparently heard by the Court. However, Saxon apparently failed to appear at the hearing. Moss Codilis did not appear

at the hearing because it is not Saxon's attorney in this case, and in fact, had no notice of the hearing.

15. I and Moss Codilis sincerely regret any inadvertent role Moss Codilis may have played in leading the Court or the parties to conclude that it acts as counsel for Saxon in this case. We hope that our presentation herein will establish that Moss Codilis made no contribution to the situation at hand – or at worst any contribution was inadvertent – and that the Court will decline to impose sanctions on Moss Codilis. I and Moss Codilis stand ready to answer any further questions that the Court may have regarding its business or its participation in this matter.


Stefanie Jeffries

Prommis Solutions

PROMMIS SOLUTIONS



Providing efficient, reliable and scalable solutions to mortgage servicers, investors, insurers and law firms.

NATIONAL BANKRUPTCY SERVICES



Prommis® Solutions is one of the principal providers of nationwide non-legal business process outsourcing in bankruptcy matters.

We take pride in providing flexible, customized offerings to meet the needs of all national and regional mortgage servicers and investors.

Our products and services available nationwide include, but are not limited to:

- ✓ Proof of Claim processing
- ✓ Motion for Relief processing
- ✓ Reaffirmation Agreements
- ✓ Objection processing
- ✓ Assignment preparation, filing and recording
- ✓ Case monitoring for the entire duration of matter

Through our strategic partnerships with industry-recognized law firms,* we process over 100,000 consumer bankruptcy cases per year. Our experienced team of bankruptcy specialists work within each of the 92 jurisdictions to ensure your bankruptcy cases are handled efficiently and effectively, with 100% regulatory compliance in mind.

For more information on all of Prommis Solutions' products and services . . .

please visit www.prommis.com or email us at info@prommis.com



* Prommis Solutions is not a law firm and does not provide legal representation services to their clients.




The bankruptcy operations teams at Prommis process all referrals from a centralized location and can provide our clients with detailed reporting throughout the duration of the case.

Our bankruptcy specialists have several years of experience in working with all major loan servicing platforms, case management systems and various other proprietary applications, to be able to provide status updates directly in the client systems for real time reporting.

Our dedicated teams of technology professionals support all forms of system integrations. We are currently integrated with LPS Desktop™, VendorScape™, LenStar, and NetDirector. Clients requiring custom direct integration can rely on our IT staff who are equipped to build custom interfaces with loan processing systems within short timeframes.



 Prommis Bankruptcy Operations

Our bi-coastal bankruptcy operations offices provide fully redundant locations for disaster recovery and business continuity planning for our IT infrastructure as well as our operational units.

Prommis consistently exceeds our clients' expectations due to our commitment to quality and exceptional customer service.





Prommis Solutions Holding Corp

Sec Form: S-1

Filing Date

2010-04-23

Accepted

2010-04-23 17:21:32

Documents

20

CIK: **0001489802**

SEC:

<http://www.sec.gov/Archives/edgar/data/1489802/000104746910004126/0001047469-10-004126-index.htm>

We are a leading provider of technology-enabled processing services for the default resolution sector of the residential mortgage industry in the United States. We combine the people, processes and technologies necessary to quickly and accurately process default resolution transactions in large volumes. Our solutions support the full lifecycle of mortgage loans in default and include foreclosure, bankruptcy, loss mitigation and loan settlement processing, as well as posting and publication, tax examination, title search and other related document management and production services. We earn processing fees on a per transaction basis for these services. In 2009, we generated \$254.9 million of revenue, an increase of 32.1% from 2008.

We currently provide foreclosure processing services in 18 U.S. states and bankruptcy and loss mitigation processing services in all 50 states. Our customers include the top ten mortgage servicers in the United States and law firms with large mortgage default resolution practices. We have long-standing relationships with our mortgage servicer customers and, through our acquired operations, have worked with our top ten mortgage servicer customers for an average of over

15 years. We have 20-year contracts with our law firm customers under which we serve as their exclusive provider of processing services for their mortgage default transactions.

Our proprietary and highly configurable technology platform automates many of the administrative and compliance requirements involved in the default resolution process. It enables compliance with the vast array of legal requirements of different federal, state and local jurisdictions, supports custom document production capabilities and incorporates much of our extensive industry knowledge. Our skilled and experienced workforce manages exceptions to standard processes to ensure the delivery of accurate results in a timely manner. Together, our people and technology streamline the processing of large volumes of complex mortgage default resolution transactions and provide our customers with improved speed, accuracy, two-way data integration and real-time reporting across the full lifecycle of mortgage loans in default.

We began operating as a stand-alone business in February 2006 when we acquired the mortgage default resolution processing operations of McCalla Raymer, LLC ("McCalla Raymer"), a real estate law firm based in Atlanta, Georgia. In 2007, we acquired certain default resolution processing operations of two law firms operating in the southeastern United States and one law firm operating in the western United States. In connection with each of these four acquisitions, we entered into 20-year contracts with these law firms under which we serve as their exclusive provider of processing services for their mortgage default transactions. In addition, in November 2007, we acquired Cal-Western Reconveyance Corporation ("Cal-Western"), a trustee company headquartered in San Diego, California, and certain related subsidiaries. Through Cal-Western, we provide, among other things, foreclosure services directly to mortgage servicers in the western United States. As a stand-alone business and through our acquired operations, we have been providing mortgage default resolution services for 28 years.

As a stand-alone business and through our acquired operations, we have been providing mortgage default resolution services for 28 years. We began our operations as a stand-alone business on February 24, 2006 when we acquired the mortgage default resolution processing operations of McCalla Raymer, a real estate law firm based in Atlanta, Georgia. At the time of the acquisition, these operations were providing foreclosure and REO loan settlement services in Georgia and bankruptcy processing services nationally. This acquisition provided the core case

management and document production capabilities upon which we have built our technology platform. Since that time, we have expanded our geographic footprint, operations, technology platform and suite of solutions both organically and through the following four acquisitions in 2007.

- On February 2, 2007, we acquired the foreclosure and bankruptcy processing operations of Morris, Schneider & Prior LLC, now known as Johnson & Freedman, LLC ("Johnson & Freedman"), which expanded our geographic reach into Alabama, Mississippi, North Carolina, South Carolina, Tennessee and Virginia and increased our leading market position in Georgia.
- On February 2, 2007, we acquired a portion of the REO loan settlement processing operations of Morris, Hardwick & Schneider, LLC ("Morris Hardwick"). This acquisition increased our presence in Georgia and expanded our geographic reach into Alabama, Mississippi, North Carolina, South Carolina and Tennessee.
- On November 14, 2007, we acquired the bankruptcy processing operations of Pite Duncan, LLP ("Pite Duncan"), which expanded our geographic presence into Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Texas, Utah and Washington.
- On November 14, 2007, we acquired Cal-Western, a trustee company, and certain related subsidiaries, through which we provide foreclosure services directly to mortgage servicers in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Texas, Utah and Washington. In addition to geographic expansion, this acquisition provided the core technology for providing foreclosure processing in trustee states that further enhanced our proprietary technology platform.

In connection with each of the law firm asset acquisitions, we entered into 20-year contracts with each of these law firms pursuant to which we serve as their exclusive provider of processing services for their mortgage default transactions. Revenue generated through our law firm customers accounted for 61.0% of our total revenue in 2009. Revenue generated by Cal-Western accounted for 38.3% of our total revenue in 2009.

Leading market position. We are a leading provider of services to the residential mortgage default resolution processing market. We provide foreclosure processing services in 18 states and bankruptcy and loss mitigation processing services in all 50 states. We provide default resolution processing services to all of the top ten mortgage servicers in the United States. We believe that being a market leader positions us well to gain market share.

Comprehensive service offerings. Our services support the full lifecycle of mortgage loans in default and include foreclosure and bankruptcy processing services and loss mitigation and loan settlement services, as well as posting and publication, tax examination, title search and other related document management and production services. We believe that our comprehensive service offerings provide us with an advantage over our competitors as many mortgage servicers seek to increase their efficiency and reduce the number of providers with whom they work.

Proprietary technology platform. We have developed a core technology platform that allows us to efficiently support the mortgage default resolution process and encapsulates much of our institutional knowledge of the default resolution sector. Our platform is integrated with our customers' systems, and in 2009, over 80% of the orders we received from our law firm and servicer customers came to us electronically. Our platform allows us to efficiently handle increases in transaction volume as we expand our operations.

Extensive knowledge of the default sector. As a result of our long operating history, the large volumes of transactions we process and our default resolution experience in numerous jurisdictions, we have developed considerable mortgage default industry knowledge. Much of this knowledge has been embedded in our technology platform, which has resulted in the automation of services that many of our competitors perform manually. Our skilled and experienced workforce is led by operations managers who have an average of seven years experience working for us and our acquired operations.

Established and long-standing relationships. We have extensive long-term relationships with many of the leading mortgage servicers, mortgage investors and law firms within the residential mortgage default resolution sector, as well as with Fannie Mae and Freddie Mac. We have entered into exclusive 20-year contracts

with four real estate law firms, and, through our acquired operations, our top ten mortgage servicer customers have worked with us for an average of more than 15 years. We believe that these relationships provide us with a strong platform from which to grow our business.

Strong and experienced management team. We have a highly experienced management team with deep industry and product knowledge and extensive industry relationships with mortgage servicers, government sponsored entities such as Fannie Mae and Freddie Mac and real estate law firms.

We plan to use our leading market position to pursue growth in the following ways:

Grow market share within our core service offerings in our current geographies. In the states in which we operate, other than Georgia, we have a relatively limited market share. Accordingly, a substantial opportunity exists for us to grow our business by increasing our transaction volume with existing customers and attracting new customers in states in which we currently operate. We believe that our reputation and leading market position will benefit us as new and existing customers continue to look for solutions that can process large volumes and improve efficiency, reliability, speed and accuracy.

Expand our core service offerings into new jurisdictions. We plan to draw upon the capabilities of our current technology platform, extensive knowledge of the residential mortgage industry and strong customer relationships to offer our core default processing services in new jurisdictions. We believe that our ability to understand and adapt to state and local legal requirements and incorporate them into our proprietary technology platform provides us with an advantage when seeking to penetrate new geographies.

Continue to innovate and enhance the value of our proprietary technology platform by increasing processing automation and efficiency. By further building upon our industry experience and significant investments in developing data integration, process automation and document production technologies, we believe we can continue to enhance the speed and efficiency with which we provide services to our customers, while reducing our costs of providing those services. We believe that our ability to innovate will continue to make our offerings more attractive to new and existing customers.

Market and sell new service offerings within the mortgage loan life cycle. As mortgage servicers and mortgage investors become more familiar with our services and capabilities, we believe we can use the extensive knowledge of our skilled workforce and our track record of innovation to expand our service offerings across additional aspects of the mortgage loan life cycle. For example, we recently worked with a mortgage servicer customer to develop a short sale service offering, and we plan to offer this service to additional customers. In a similar fashion, we intend to participate in the loan origination segment of the mortgage life cycle by leveraging our real estate owned ("REO") loan settlement services platform and our tax examination and title search capabilities.

Pursue selective acquisitions and strategic partnerships. We completed four acquisitions in 2007 and have since successfully integrated them into our operations. We intend to evaluate and consider potential acquisitions and strategic partnerships to supplement our organic growth. We believe that acquisitions and strategic partnerships will allow us to enhance or extend our service offerings, enter new geographies, increase our market share and diversify beyond the mortgage default resolution market.

Summary Risk Factors

We are subject to a number of risks, including risks that may prevent us from achieving our business objectives or may adversely affect our business, financial condition, results of operations, cash flows and prospects. You should carefully consider these risks, including those highlighted in the section entitled "Risk Factors," before investing in our common stock. Risks relating to our business include, among others:

- changes in macroeconomic factors that affect the number of delinquent mortgages and defaults, which may adversely affect our results of operations;

-

- concentration of a large portion of the foreclosure and bankruptcy transactions we process among a limited number of mortgage servicers and law firms, the loss of any of which could adversely affect our results of operations;

- government programs aimed at reducing the number of foreclosures and other new rules and regulations that, if enacted, would reduce our revenue and adversely affect our results of operations;
- disruptions or failures of our technology platform through which we provide our services that may result in our inability to process transactions accurately or on a timely basis; and
- significant strains on our management and operations resulting from pursuit of our growth strategy.

Our Equity Sponsor

Great Hill Partners LLC (together with its affiliates, "Great Hill") is a Boston-based private equity investment firm providing capital and strategic support to growth companies. Great Hill has approximately \$2.7 billion of capital under management. The principals of Great Hill have over 20 years of history investing with management teams across a wide range of industries, including business services, financial technology, consumer services, online services, media and communications. In addition to our company, Great Hill has previously invested in numerous processing-oriented businesses, including BillMatrix Corporation, CAM Commerce Solutions, Inc., Custom House, Ltd., Freightquote.com, Inc., GMT Group, Inc., PAI Group, Inc. (d/b/a PayChoice) and SecureWorks, Inc.

Corporate Information

Prommis Solutions Holding Corp., the issuer of the common stock in this offering, is a Delaware corporation. Our corporate headquarters are located at 400 Northridge Road, Atlanta, Georgia 30350. Our telephone number is (877) 685-3453 (877) 685-3453. Our website address is www.prommis.com. The information on our website is not deemed, and you should not consider such information, to be part of this prospectus.

McCalla Raymer Agreements

Certain of our stockholders who were affiliated with McCalla Raymer at the time of the Great Hill acquisition (the "MR Stockholders") and optionholders are partners, equityholders, former partners, managers and employees of McCalla Raymer, including our Chairman, Mr. Phelan, who served as a member of the management committee of McCalla Raymer. Collectively, the MR Stockholders hold shares of our Preferred Stock and, in the case of Mr. Phelan, options exercisable for shares of our common stock representing in the aggregate more than 15% of our common stock on an as converted fully-diluted basis before giving effect to this offering. The following summarizes certain agreements we have entered into with McCalla Raymer.

McCalla Raymer acquisition agreement

On February 24, 2006, we entered into a Contribution Agreement (the "MR Acquisition Agreement") with McCalla Raymer and certain of its affiliates, pursuant to which we acquired certain non-legal bankruptcy, foreclosure and REO business processing assets from McCalla Raymer and such affiliates for approximately \$137.0 million in cash and the issuance of shares representing 19.1% of our then outstanding preferred stock, which shares were transferred immediately upon closing to the MR Stockholders. The MR Acquisition Agreement contains customary representations, warranties and covenants, as well as customary indemnification provisions. The representations and warranties of the parties have expired other than certain fundamental representations and warranties made to us concerning organization, authorization, certain tax matters, affiliate transactions and brokers. The MR Acquisition Agreement includes a covenant by McCalla Raymer and its affiliates that are parties to the agreement that they will not compete with the business that we acquired from McCalla Raymer for a period of five years.

McCalla Raymer services agreement

On January 12, 2010, one of our wholly-owned subsidiaries, Prommis Solutions, LLC, entered into an Amended and Restated Services Agreement (the "MR Services Agreement") with McCalla Raymer. The MR Services Agreement amended and restated a Services Agreement that was entered into between the parties in connection with the MR Acquisition Agreement. Pursuant to the MR Services Agreement, we serve as the exclusive provider of non-legal foreclosure and bankruptcy processing, REO settlement and certain other support services to McCalla Raymer. The MR Services Agreement includes a fee schedule for our

services, which is subject to annual negotiations to consider any changes that are appropriate to reflect changes in circumstances regarding the provision of services and to annual increases based upon the consumer price index. The term of the MR Services Agreement expires on February 24, 2026. We may terminate the MR Services Agreement in the event that a material breach by McCalla Raymer has occurred and such breach has not been cured within 180 days after written notice. McCalla Raymer may terminate the MR Services Agreement in the event that (i) we materially breach the agreement and do not cure such breach within 180 days after written notice and (ii) a nationally recognized legal counsel approved by us advises McCalla Raymer in writing that such breach will have a material adverse effect on McCalla Raymer's ability to continue its business.

Noncompetition agreements

In connection with the MR Acquisition Agreement, we entered into noncompetition agreements with certain of the MR Stockholders, including Mr. Phelan, which restrict such individuals from competing with the business we acquired from McCalla Raymer for a period of five years.

Great Hill Investors

Includes 134,040 shares held by Great Hill Investors, LLC ("GHI"), 305,160 shares held by Great Hill Affiliate II, L.P. ("GHAP II"), 8,010,160 shares held by Great Hill Equity Partners II, Limited Partnership ("GHEP II"), 12,880,440 shares held by Great Hill Equity Partners III, L.P. ("GHEP III", and together with GHI, GHAP II and GHEP II, the "Great Hill Funds"). Each of the Great Hill Funds is an investment fund, principally engaged in the business of making private equity and other investments. Great Hill Partners GP II, LLC ("GP II") is the sole general partner of GHEP II and GHAP II and as such may be deemed to have indirect beneficial ownership of the shares held by GHEP II and GHAP II. Great Hill Partners GP III, L.P. ("GHEP III GP") is the sole general partner of GHEP III and as such may be deemed to have indirect beneficial ownership of the shares held by GHEP III. GHP III, LLC ("GHP III", and together with GP II and GHEP III GP, the "General Partners") is the sole general partner of GHEP III GP and as such may be deemed to have beneficial ownership of the shares held by GHEP III. Christopher S. Gaffney and John G. Hayes are managers of GHI and the General Partners and as such may be deemed to have indirect beneficial ownership of the shares held by the Great Hill Funds, and each of them

disclaims beneficial ownership of the shares held by the Great Hill Funds except to the extent of his pecuniary interests in such shares. Stephen F. Gormley is a manager of GHI and GP II and as such may be deemed to have indirect beneficial ownership of the shares held by GHI, GHEP II and GHAP II, and disclaims beneficial ownership of the shares held by GHI, GHEP II and GHAP II except to the extent of his pecuniary interests in such shares. Matthew T. Vettel, a member of our board of directors, is a manager of GHP III and a partner of GHI and as such may be deemed to have indirect beneficial ownership of the shares held by the Great Hill Funds, and disclaims beneficial ownership of the shares held by the Great Hill Funds except to the extent of his pecuniary interests in such shares. The principal business office of the Great Hill Funds, the General Partners and Messrs. Gaffney, Gormley, Hayes and Vettel is c/o Great Hill Partners, LLC, One Liberty Square, Boston, Massachusetts 02109.

Name	<u>Shares Beneficially Owned</u>	<u>Before the Offering</u>	<u>After the Offering</u>
5% Stockholder			
Great Hill Funds ⁽¹⁾	21,329,800	66.7%	
Daniel D. Phelan	3,182,840	9.4	
Executive Officers and Directors			
Denis A. Brosnan, Jr. ⁽²⁾	276,510	*	*
Jennifer H. Dorris ⁽³⁾	590,340	1.8	
George W. Dunaway	—	—	—
Brandon J. Barnett ⁽⁴⁾	91,830	*	*
Jay M. Duff ⁽⁵⁾	91,830	*	*
Daniel D. Phelan ⁽⁶⁾	3,182,840	8.3	
Matthew T. Vettel ⁽¹⁾	21,329,800	66.7	
Philip G. Yates	—	—	—
J. Larry Stevens	—	—	—
William P. Anderson	—	—	—
All executive officers and directors as a group (10 persons)⁽⁷⁾	25,379,490	79.3%	

*

Below is a list of the names and ages, as of March 31, 2010, of our directors and executive officers and a brief account of their business experience.

Name	Age	Position
Denis A. Brosnan, Jr.	39	Chief Executive Officer, Director
Jennifer H. Dorris	41	President
George W. Dunaway	49	Chief Financial Officer, Secretary
Brandon J. Barnett	42	Chief Operations Officer
Jay M. Duff	48	Chief Information Officer
Daniel D. Phelan	61	Chairman, Director
Matthew T. Vettel	42	Director
Philip G. Yates	33	Director
J. Larry Stevens	62	Director
William P. Anderson	61	Director

Competition

Competition in the mortgage default resolution processing services market exists predominantly at the state level because foreclosure laws are governed by state statutes and bankruptcy rules vary among the one or more federal districts that exist in each state. Therefore, service providers in this market traditionally have operated on a regional basis. We estimate that the outsourced mortgage default processing services market in the United States is made up primarily of the in-house operations of several hundred local and regional law firms. Mortgage lending and mortgage loan servicing firms demand high service levels from providers of mortgage default processing services, with their primary concerns being the efficiency and accuracy by which counsel and the provider of processing services can complete the file and the precision with which loss mitigation efforts are pursued. Accordingly, we compete primarily on the quality and efficiency of our services, our ability to accurately handle a large volume of transactions and our customer service. Prices for our mortgage servicer customers are largely determined by GSE schedules, making price a less important competitive factor, although we independently negotiate our fee schedules with our law firm customers. There are a number of private company business process outsourcing providers that serve a single state or region and a number of trustee companies serving certain trustee jurisdictions. Three publicly traded competitors, Altisource Portfolio Solutions S.A., DJSP Enterprises, Inc. and Dolan Media Company, offer foreclosure and bankruptcy processing services and two others, Wolters Kluwer N.V. and Lender Processing Services, Inc., provide services that compete

with our other loan services. We also face significant competition from mortgage servicers' in-house operations.

Technology

We have developed a proprietary technology platform embedded with our extensive knowledge and experience that allows us to streamline and automate many aspects of the default resolution process. We believe that our technology platform provides us with key advantages over many of our competitors. Our platform includes the following key features.

Two-way data interface with customer and vendor systems. Our platform interfaces directly with the systems of our customers and vendors through our integration hub. The integration hub enables us to receive orders electronically from our mortgage servicer and law firm customers and exchange data electronically with customers and vendors. Our two-way data interface allows us to reduce costs and limit error-prone data re-entry and allows our customers to conduct real-time monitoring, analysis and performance evaluation. Through our integration hub, we can readily connect to new customers without significantly reconfiguring our systems or having to establish new physical network connections.

Automated workflows. Our systems use automated workflows to process transactions through the numerous steps in the default resolution process and among the various separate services that we offer, eliminating manual input where possible.

Automated document production capabilities. Our automated document production systems assist in the selection and creation of the required court filings, publications, notices and other documents required for our default resolution services. For example, we maintain nearly 1,000 document templates for our various bankruptcy processes.

Configurable processes. Our proprietary rules-based software engine is designed to readily support customized processes for each customer, process and jurisdiction to facilitate the addition of new process permutations.

Scalability. Our system is designed to process large volumes of default resolution transactions efficiently and accurately.

Our technology platform operates in a secure data center on systems designed for maximum scalability and availability. Physical and logical security is verified on a routine basis. Virtualization and clustering ensures that computing capacity can be quickly adjusted to meet production demands and provides failover protection. An integrated infrastructure facilitates collaboration across all locations.

Law firm services agreements

We have long-term services agreements with our law firm customers under which we serve as their exclusive provider of processing services for their mortgage default transactions. Each services agreement delineates the particular services to be provided to the law firm customer. The services agreements provide that the customer law firm is required to use our company on an exclusive basis with respect to the specified services. Each of these agreements includes a fee schedule for our services, which is subject to annual negotiations to consider any changes that are appropriate to reflect changes in circumstances regarding the provision of services. The fees under the agreement with McCalla Raymer are subject also to annual increases based upon the consumer price index.

Each services agreement has an initial term of 20 years and may be renewed by mutual agreement of the parties for successive five-year terms. The initial terms of the services agreements will expire according to the following schedule: McCalla Raymer on February 24, 2026; Morris Hardwick on February 2, 2027; Johnson & Freedman on February 2, 2027; and Pite Duncan on November 14, 2027. The services agreements are not terminable prior to the end of the initial term except that (i) we may terminate the agreement in the event that a material breach of the agreement by the law firm has occurred and has not been cured within 180 days (or 90 days in the case of Morris Hardwick) after receipt of written notice from us and (ii) the law firm may terminate the agreement in the event that (1) we materially breach the agreement and fail to cure such breach within 180 days (or 90 days in the case of Morris Hardwick) after receipt of written notice from the law firm and (2) a nationally recognized legal counsel approved by us has advised the law firm in writing that such breach will have a material adverse effect on the law firm's ability to continue its business or, in the case of Morris Hardwick,

that such breach will have a material adverse effect on Morris Hardwick's ability to obtain from us the services we are obligated to provide under the agreement.

Customers

General

We provide our services to the leading mortgage loan servicers in the United States. There has been significant consolidation within the mortgage servicing industry in recent years. According to Inside Mortgage Finance, the top ten servicers by loan dollar volume in 2009 manage approximately 67% of the mortgage loans outstanding. We provide services to all of the top fifteen mortgage servicers. None of our mortgage servicer customers provided revenue directly to us that represented more than 7% of our 2009 revenue.

Our relationship with the mortgage servicers varies depending on the states in which we operate. In certain states in the western United States, we provide our foreclosure services directly to mortgage servicers through our Cal-Western trustee subsidiary. Revenue generated through these directly provided services accounted for 38.3% of our total revenue in 2009.

In other states, primarily in the southeastern United States, mortgage servicers are required to process foreclosures through law firms. Consequently, our relationship with servicers in these states is derived through our law firm customers. Additionally, all of our bankruptcy services are provided through law firms. Revenue generated through our law firm customers accounted for 61.0% of our total revenue in 2009.

Our law firm relationships include McCalla Raymer, which operates primarily in Georgia accounted for 39.1% of our revenue in 2009, and Johnson & Freedman, which operates in all of the southeastern states that we currently operate in and accounted for 13.1% of our revenue in 2009.

Our services

We have developed a broad suite of solutions that span the entire lifecycle of mortgage loans in default. We generally provide these services to our customers on a per transaction basis. The following is a list and brief description of our primary services.

Foreclosure services. We provide foreclosure processing services to our law firm customers in judicial and non-judicial states and to mortgage servicers in trustee states through our Cal-Western trustee subsidiary. Our foreclosure processing services include electronic order intake and file creation, title and tax service order placement, document and publication generation, notifications and mailings coordination, loan reinstatement and payoff processing, coordination of foreclosure sales and auctions and deed recordings.

Bankruptcy services. We provide bankruptcy processing services to our law firm customers in all 50 states. Our bankruptcy processing services include electronic order intake and file creation, automatic retrieval of court and loan documents, document generation of motions for relief and proofs of claim for attorney review and electronic filing of approved versions with the bankruptcy court. Our bankruptcy services also generate additional filings and documents for attorney review such as default letters, financial reorganization plan reviews, objections to Chapter 13 bankruptcy plans and coordinate serving interested parties with pleadings and documents.

Loss mitigation services. We provide mortgage servicers, our law firm customers, GSEs, other mortgage investors and mortgage insurers with services relating to a wide range of loss mitigation alternatives. Our loss mitigation team works directly with our customers and their borrowers to solicit, facilitate and execute many types of non-foreclosure default resolution programs. These programs include loan modifications, forbearance agreements, short sales, and revised payment plans. We provide services in support of these programs, including contacting targeted home owners, analyzing debtor financial information, recommending loss mitigation actions, preparing and coordinating the execution of documents, handling recordation of documents, providing call center support, coordinating short sales and managing overall process workflow.

REO loan settlement services. We provide services to assist lenders in the sale of REO properties in an expeditious manner, including ordering title examinations, coordinating communication with all parties to the sale, handling title curative actions, preparing settlement statements and other documents, reviewing fees with all parties, attending closings and providing disbursement of proceeds, deed recording and providing customized milestone reporting throughout the sale process.

Other loan services. We provide a number of related services to our customers in conjunction with our foreclosure and loan settlement processing services. These offerings are linked to our workflow processes through our integration hub, thereby automating order placement, exchange of data and status reporting. These services include the following.

-

Title searches and tax record examinations. We determine the existence and ownership of publicly-recorded liens, tax assessments, encumbrances or other issues that may relate to the perfection of title to the property. Among other things, we engage independent contractors through our proprietary vendor management website to obtain title records and information, perform federal tax lien searches and prepare title examination reports.

-

Posting and publication services. In most instances, the details of a foreclosure sale must be posted in a public place and advertised in a qualified publication. Our posting and publication services include gathering property specific information through our Internet-based order and tracking platform, submitting electronic publication information directly to newspapers in order to reduce error and processing time, reducing advertisement size to reduce costs, detailed invoicing and real-time order tracking.

Automated mail services. We provide comprehensive, secure mail management and mail processing services for certified, first-class and other mission-critical mass mailings. Our automated mail services include designing comprehensive customer-specific mail management solutions, providing encrypted data transfer interfaces to preserve data confidentiality and integrity, providing real-time online tracking and notification of critical events, imaging and cataloguing returned mail and online access to delivery and non-delivery information.

-

Collateral repossession processing services. We offer processing services to our law firm customers in connection with administrative aspects of the repossession of property, including preparing documents and making filings with courts on behalf of our law firm customers and mortgage servicers.

Customer administrative services. We provide our law firm customers with accounting, billing and cash processing services, human resource, information

technology and marketing support services and other consulting services for the default resolution components of their practices. Our technology platform is integrated with mortgage servicers' vendor platforms, facilitating the billing process and accelerating the cash collection and application process.

We provide our bankruptcy processing, loss mitigation and many other services in all 50 states. We provide our foreclosure processing services in the following 18 states:

Judicial foreclosure states	Non-judicial foreclosure states	Trustee states
Florida	Alabama	Alaska
South Carolina	Georgia	Arizona
	Mississippi	California
	North Carolina	Hawaii
	Tennessee	Idaho
	Texas	Nevada
	Virginia	Oregon
		Utah
		Washington

Results of Operations

The following table summarizes our consolidated results of operations from selected items in our financial statements for the periods indicated.

	Year Ended December 31,		
	2007	2008	2009
	(In thousands)		
Revenue	\$128,068	\$192,973	\$254,917
Cost of revenue	68,130	112,671	153,563
Selling, general and administrative expenses	24,495	30,991	46,621
Depreciation and amortization expense	19,685	25,351	25,625
Total operating expenses	112,310	169,013	225,809

Operating income	15,758	23,960	29,108
Loss on disposal of assets	—	1,988	—
Interest expense, net	20,633	24,997	20,393
Income (loss) before income tax provision	(4,875)	(3,025)	8,715
Income tax expense (benefit)	1,028	(1,079)	847
Net income (loss)	\$ (5,903)	\$ (1,946)	\$ 7,868

The following table sets forth, for the periods presented, our consolidated statements of operations as a percentage of total revenues.

	Year Ended December 31,		
	2007	2008	2009
Revenue	100.0%	100.0%	100.0%
Cost of revenue	53.2	58.4	60.2
Selling, general and administrative expenses	19.1	16.1	18.3
Depreciation and amortization expense	15.4	13.1	10.1
Total operating expenses	87.7	87.6	88.6
Operating income	12.3	12.4	11.4
Loss on disposal of assets	—	1.0	—
Interest expense, net	16.1	13.0	8.0
Income (loss) before income tax provision	(3.8)	(1.6)	3.4
Income tax expense (benefit)	0.8	(0.6)	0.3
Net income (loss)	(4.6)	(1.0)	3.1

Year ended December 31, 2009 compared to year ended December 31, 2008

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, together with the financial and other information contained in this prospectus, before you decide to purchase shares of our common stock. If any of the following risks actually occurs, our business, financial condition, results of operations, cash flow and prospects could be materially and adversely affected. As a result, the trading price of our common stock could decline and you could lose all or part of your investment in our common stock.

Regulation of the legal profession may constrain the operations of our business, and could impair our ability to provide services to our customers and adversely affect our revenue and results of operations.

Each state has adopted laws, regulations and codes of ethics that grant attorneys licensed by the state the exclusive right to practice law. The practice of law other than by a licensed attorney is referred to as the unauthorized practice of law. What constitutes or defines the boundaries of the "practice of law," however, is not necessarily clearly established, varies from state to state and depends on authorities such as state law, bar associations, ethics committees and constitutional law formulated by the U.S. Supreme Court. Many states define the practice of law to include the giving of advice and opinions regarding another person's legal rights, the preparation of legal documents or the preparation of court documents for another person. In addition, all states and the American Bar Association prohibit attorneys from sharing fees for legal services with non-attorneys.

Pursuant to services agreements between us and our law firm customers, we provide mortgage default processing services, including foreclosure- and bankruptcy-related processing services, to law firms, and in trustee states we provide foreclosure processing services directly to mortgage lenders and loan servicers through our trustee subsidiary, Cal-Western. Current laws, regulations and codes of ethics related to the practice of law pose the following principal risks:

-

State or local bar associations, state or local prosecutors or other persons may challenge the services provided by us as constituting the unauthorized practice of law. Any allegation regarding the unauthorized practice of law could have a disruptive effect upon the operations of our business, including the diversion of significant time and attention of our senior management. We may also incur significant expenses in connection with a claim regarding the unauthorized practice of law, including substantial fees for attorneys and other professional advisors. If this type of claim were successful, we may need to materially modify our operations in a manner that could adversely affect our revenue and profitability and we could be subject to a range of penalties that could damage our reputation in the markets we serve. In addition, any similar challenge to the operations of our law firm customers could adversely impact their mortgage default business, which would in turn adversely affect our revenue and results of operations;

- **the services agreements to which we are a party with our law firm customers could be deemed to be unenforceable if a court were to determine that our agreements constituted an impermissible fee sharing arrangement between the law firm and us; and**
- applicable laws, regulations and codes of ethics, including their interpretation and enforcement by courts and state bar associations, could change in a manner that restricts our operations.

Any changes in these laws, policies or practices or adverse determinations could increase our cost of doing business or adversely affect our revenue and results of operations.

Fannie Mae New Attorney Network, Fees & Costs

Announcement SVC-2010-18**December 20, 2010****Technology Fees and Foreclosure and Bankruptcy Referrals****Introduction**

This Announcement amends Fannie Mae requirements regarding technology usage and electronic invoice submission charges to attorneys and trustees and foreclosure and bankruptcy referrals.

***Servicing Guide*, Part VII, Section 501.03: Allowable Attorneys Fees, and Part VIII, Section 104.04: Attorney (or Trustee) Fees**

As compensation for servicing mortgages for Fannie Mae, Fannie Mae pays the servicer servicing fees and allows it to retain late charges, fees charged for special services, yield differential adjustments, and, in some cases, either a share or all of any applicable prepayment premiums that Fannie Mae permits under the terms of a negotiated contract. The cost of servicing must be borne by the servicer unless the *Selling Guide* and *Servicing Guide* expressly provide otherwise.

Some servicers have chosen to use technology provided by outsourcing companies or third-party vendors to assist in carrying out their servicing responsibilities. The technology is used to, among other things:

- refer foreclosure and bankruptcy matters to attorneys and trustees,
- exchange documents and information with attorneys and trustees,
- monitor the progress of foreclosure and bankruptcy matters, and
- facilitate the submission and payment of invoices from the attorneys and trustees for fees and expenses incurred as part of the default process.

In addition, under certain arrangements, attorneys and trustees are required to input information directly into the servicer's systems and may be charged fees for data entry or access to those systems. Fannie Mae has required that the fees charged to any attorney or trustee for technology usage or electronic invoice submission in connection with a Fannie Mae loan be reasonable in relation to the benefit received by the attorney or trustee.

In Announcement SVC-2010-10, *Miscellaneous Servicing Policy Changes*, Fannie Mae:

- defined "reasonable" fees that could be charged to and paid by attorneys and trustees;
- provided that any fees for technology usage or electronic invoice submission in excess of the limitations imposed would be the responsibility of the servicer, could not be charged to or paid by the attorneys and trustees, and would not be reimbursed by Fannie Mae; and
- provided that the fees could not to be charged as a cost to the borrower.

Technology charges to attorneys and trustees were limited to \$25.00 per loan for the life of a default (including all portions of the foreclosure and bankruptcy process). Fees for the submission of electronic invoices were limited to \$10.00 for the life of the loan, regardless of the number of reinstatements, foreclosure referrals, bankruptcy filings or invoices submitted. The maximum fee was \$5.00 for the submission of electronic invoices relating to a foreclosure (regardless of the number of invoices) and an additional \$5.00 for the submission of electronic invoices if a bankruptcy is filed on the same loan (regardless of the number of invoices).

Amended Requirements and Effective Dates

- In order to avoid any disruption of the processing of Fannie Mae cases, **effective immediately**, servicers must either:
 - ensure that the outsourcing companies or third-party vendors they utilize continue to permit attorneys and trustees to integrate their systems with those of the outsourcing companies or third-party vendors at no additional cost to the attorneys or trustees over and above the \$25.00 Fannie Mae limitation, or
 - make arrangements to pay directly any new costs imposed by the outsourcing companies or third-party vendors for integration that exceed the \$25.00 Fannie Mae limitation.
- **Effective for charges incurred on or after February 1, 2011**, with respect to mortgage loans previously referred to attorneys or trustees as well as mortgage loans referred to attorneys or trustees on or after that date, attorneys and trustees handling Fannie Mae mortgage loans may no longer directly or indirectly be charged any technology or electronic invoice submission fees by the servicer or any outsourcing companies or third-party vendors utilized by the servicer. These charges include, without limitation, any fees charged on a per loan basis, any fees charged on a “click charge” basis, and any fees for entering data into the servicer’s systems or any other systems or for accessing data in the servicer’s systems or any other systems.

Servicers must directly pay any outsourcing companies or third-party vendors utilized by the servicer for any technology or electronic invoice submission fees. Servicers must also ensure that attorneys and trustees are permitted to integrate the systems used by the attorneys and trustees with those of the outsourcer or third-party vendor utilized by the servicer without any cost to the attorney or trustee.

- **For new foreclosure or bankruptcy referrals on or after February 1, 2011**, Fannie Mae will reimburse servicers for technology and electronic invoice submission fees paid by the servicer to an outsourcing company or a third-party vendor up to the amount of the limitations set forth in Announcement SVC-2010-10 and restated above. Any fees paid by the servicer that exceed these limitations must be borne by the servicer. In addition, no portion of the fees for technology usage or electronic invoice submission may be charged as a cost to the borrower or be charged to the attorney or trustee.

Reimbursement Submission

To obtain reimbursement for any technology usage and electronic invoice submission charges paid by the servicer to an outsourcing company or third-party vendor with respect to new foreclosure or bankruptcy referrals on or after February 1, 2011, the servicer should submit a

Cash Disbursement Request ([Form 571](#)) to Fannie Mae in accordance with existing reimbursement guidelines.

Servicers must report such charges by using the Form 571 Reimbursement Line Item "33: Workout Fee" for reimbursement for the technology usage and electronic invoice submission charges. Servicers must note in the comments that reimbursement is sought for "Technology Usage and/or Electronic Invoice Submission Charges" and must identify the outsourcing company or third-party vendor the servicer has paid for such charges. In addition, servicers are required to submit copies of the invoice for each technology usage or electronic invoice submission charge in accordance with the new procedures for submitting Form 571 back-up documentation (effective March 5, 2010, and described in the [Form 571 Reference Guide dated November 2010](#)). Fannie Mae will not reimburse the technology usage and electronic invoice submission charges without the submission of the invoice.

Servicers will only be reimbursed for the maximum fees noted above and in Announcement SVC-2010-10.

Servicing Guide, Part VII, Section 501: Selection of Bankruptcy Attorneys and Avoiding Delays in Case Processing, and Part VIII, Section 104: Referral to Foreclosure Attorney/Trustee

Servicers may not enter into or participate in any arrangements with an outsourcing company or third-party vendor pursuant to which the servicer receives a direct or indirect benefit of any kind (e.g., a lower charge for services or a payment) for referring a foreclosure or bankruptcy matter relating to a Fannie Mae mortgage loan to a particular attorney or trustee. Outsourcing companies or third party vendors must not be permitted to directly or indirectly select (or influence the selection of) the attorneys and trustees to be used on Fannie Mae mortgage loans.

Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

Gwen Muse-Evans
Vice President
Chief Risk Officer for Credit Portfolio Management

Announcement SVC-2010-10**August 2, 2010****Miscellaneous Servicing Policy Changes****Introduction**

This Announcement describes updates, clarifications, and reminders to several servicing policies, including:

- Retirement of HomeSaver Advance™
- Technology Usage and Electronic Invoice Submission Charges to Attorneys and Trustees
- Prohibition against Servicer-Specified Vendors for Fannie Mae Referrals
- Prohibition on Outsourcing Fees, Referral Fees, Packaging Fees, and Similar Fees
- Attorney or Trustee File Transfers
- New Documentation Aging Requirements for Loss Mitigation Options
- Mandatory Nature of Retained Attorney Network
- Deeds-in-Lieu of Foreclosure
- Clarification Regarding Foreclosure Actions in the Name of MERS®
- Monitoring Pooled from Portfolio (PFP) Mortgage Loans
- Servicer Responsibilities for Non-Escrow Mortgage Loans
- Audit Confirmation Request Process Changes

Retirement of HomeSaver Advance***Servicing Guide*, Part VII, Section 609: HomeSaver Advance**

HomeSaver Advance (HSA), introduced in 2008, was designed to bring delinquent first lien mortgage loans current when a repayment plan was not feasible. HSA was the preferred option to a capitalization-only modification. As the number of other loan workouts has increased, the number of HSA loans purchased by Fannie Mae has been substantially reduced.

Effective September 30, 2010, the HSA option will be retired. As such, all HSA loans must be processed, completed, and delivered on or before that date. Servicers should use the other foreclosure prevention options available, as indicated in the *Servicing Guide*, Part VII, Chapter 6: Foreclosure Prevention Alternatives, and as updated by subsequent announcements.

Technology Usage and Electronic Invoice Submission Charges to Attorneys and Trustees

***Servicing Guide*, Part VII, Section 501.03: Allowable Attorney Fees, and Part VIII, Section 104.04: Attorney (or Trustee) Fees**

Fannie Mae's current policy indicates that the amount of any fee charged to any attorney or trustee for technology usage or electronic invoice submission must be reasonable in relation to the benefit received by the attorney. Fannie Mae has been asked to define a "reasonable" fee in connection with technology usage.

Effective September 1, 2010, Fannie Mae is imposing a limit of \$25.00 per loan for the life of a default (including all portions of the foreclosure and bankruptcy process) that any attorney or trustee handling a Fannie Mae mortgage loan may pay for technology charges. This amount is not to be charged as a cost to the borrower and will not be reimbursed by Fannie Mae.

In addition, effective September 1, 2010, the maximum amount any attorney or trustee handling a Fannie Mae mortgage loan may pay for the submission of electronic invoices is limited to \$10.00 for the life of the loan, regardless of the number of reinstatements, foreclosure referrals, bankruptcy filings or invoices submitted. The maximum fee is \$5.00 for the submission of electronic invoices relating to a foreclosure (regardless of the number of invoices) and an additional \$5.00 for the submission of electronic invoices if a bankruptcy is filed on the same loan (regardless of the number of invoices). These fees are not to be charged as a cost to the borrower and will not be reimbursed by Fannie Mae.

Any amounts charged by third-party vendors for technology charges or electronic invoice submission in excess of these limitations are the responsibility of the servicer and will not be reimbursed by Fannie Mae.

Prohibition Against Servicer-Specified Vendors for Fannie Mae Referrals

Servicing Guide, Part VII, Section 501.03: Allowable Attorney Fees, and Part VIII, Section 104.04: Attorney (or Trustee) Fees

Effective September 1, 2010, Fannie Mae is prohibiting servicers from directly or indirectly requiring or encouraging attorneys or trustees to use specified vendors in connection with Fannie Mae referrals, including, but not limited to, title companies, posting and publication vendors, and service of process vendors. Attorneys and trustees must be allowed to select vendors of their choice based on their assessment of factors such as the cost efficiency, quality, reliability, and timeliness of the services provided by the vendor.

Fannie Mae is also reminding servicers that their arrangements with vendors and other service providers, particularly affiliates, must not be tainted with an actual or perceived conflict of interest. Fannie Mae requires servicers, attorneys, and trustees to use the most cost-efficient and effective vendors to assist in processing Fannie Mae foreclosures and bankruptcy cases without regard to arrangements that could provide a financial benefit directly or indirectly to servicers.

If an attorney or trustee wishes to use a vendor that is either the servicer itself, an outsourcing company, or other third-party vendor utilized by the servicer to assist in servicing defaulted mortgage loans, or an affiliate of the servicer, outsourcing company, or third-party vendor, the attorney or trustee must obtain Fannie Mae's prior written approval. Requests for approval must be directed to retained_attorney@fanniemae.com.

Prohibition on Outsourcing Fees, Referral Fees, Packaging Fees, and Similar Fees

Servicing Guide, Part VII, Section 501.03: Allowable Attorney Fees, and Part VIII, Section 104.04: Attorney (or Trustee) Fees

Servicers are reminded that Fannie Mae prohibits the servicer, its agents, and any outsourcing firm it employs from charging (either directly or indirectly) any outsourcing fee, referral fee, packaging fee, or similar fee to any attorney or trustee in connection with any Fannie Mae mortgage loan. This requirement is in place, in part, to deter actual and potential conflicts of interest that may arise and compromise the overall effectiveness of service provided to Fannie Mae.

To help ensure compliance with this requirement, Fannie Mae explicitly prohibits:

- the servicer;
- any outsourcing company or other third-party vendor utilized by the servicer to assist in servicing defaulted mortgage loans (for example, referring loans to foreclosure or bankruptcy, monitoring attorney or trustee performance, or providing administrative support services); and
- any affiliate of the servicer, outsourcing company, or third-party vendor

from directly or indirectly charging any amounts to or receiving any payments or any benefits from attorneys or trustees or their affiliates in connection with any Fannie Mae mortgage loan or service provided directly or indirectly with respect to any Fannie Mae mortgage loan except as Fannie Mae may expressly permit.

Fannie Mae expressly permits:

- servicers to refer Fannie Mae mortgage loans to affiliated foreclosure trustees (in Arizona, California, Washington, and in jurisdictions not covered by the retained attorney network where the use of trustees to conduct foreclosures is not prohibited by law) and those trustees to be paid the allowable fees and reimbursed expenses in accordance with Fannie Mae's guidelines;
- outsourcing companies or third-party vendors utilized by the servicer to assist in servicing defaulted mortgage loans to be paid fees by attorneys or trustees for actual and necessary technology usage and electronic invoice submission as described elsewhere in this Announcement; and
- the benefit that servicers may receive from attorneys and trustees having access to and utilizing data obtained from the servicer's systems through "direct sourcing" arrangements.

Any other charges, payments, or benefits from attorneys or trustees or their affiliates in connection with Fannie Mae mortgage loans will require Fannie Mae's prior written approval.

The servicer is responsible for ensuring compliance with these requirements. Further, if the servicer utilizes an outsourcing company or other third-party vendor to assist it in servicing defaulted loans, the servicer must diligently monitor and manage its outsourcing company or vendor to ensure all Fannie Mae servicing guidelines are fully met in a timely and cost-effective manner.

Attorney or Trustee File Transfers

***Servicing Guide*, Part VII, Section 501: Selection of Bankruptcy Attorneys and Avoiding Delays in Case Processing, and Part VIII, Section 104: Referral to Foreclosure Attorney/Trustee**

Effective immediately, Fannie Mae's prior written approval is required for the transfer of any files from one law firm or trustee to another. Fannie Mae reserves the right to assess compensatory fees for delays caused by unauthorized file transfers and to deny reimbursement of fees and expenses with respect to mortgage loans that are the subject of unauthorized file transfers. Requests for authority to transfer files must be sent via e-mail to retained_attorney@fanniemae.com.

New Documentation Aging Requirements Established for Loss Mitigation Options

***Servicing Guide*, Part VII, Section 601.01: Requesting Preliminary Financial Information**

Fannie Mae is introducing new aging requirements for documentation supporting borrower financial data when determining eligibility for loss mitigation options.

The financial documentation supporting income, expenses, assets, and liabilities may not be more than 90 days old as of the date the servicer is determining the loss mitigation eligibility and structure. These supporting documentation aging requirements must be followed by servicers for loss mitigation options entered into on or after September 1, 2010.

Mandatory Nature of Retained Attorney Network

***Servicing Guide*, Part VII, Section 501.01: Fannie Mae-Retained Attorneys, and Part VIII, Section 104.01: Fannie Mae-Retained Attorneys**

Fannie Mae reminds servicers that the use of Fannie Mae-retained attorneys in the 31 jurisdictions covered by the attorney network is mandatory for foreclosure and bankruptcy referrals on or after October 1, 2008, with two exceptions:

- Special guidelines apply for foreclosures in the states of Arizona, California, and Washington, as described in Part VIII, Section 104.02: *Special Rules for Arizona, California, and Washington Foreclosures*.
- If a foreclosure referral was made prior to the time Fannie Mae identified retained attorneys for a jurisdiction, the referral may remain with the original attorney to whom it was referred. This attorney may handle any subsequent bankruptcy case that is filed before completion of the foreclosure or reinstatement of the mortgage loan if the servicer concludes that the attorney has the necessary qualifications.

The 31 jurisdictions covered by the retained attorney network are: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland,

Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin.

Fannie Mae may deny reimbursement of fees and out-of-pocket expenses for referrals to non-retained attorneys in jurisdictions covered by the attorney network. In addition, Fannie Mae may impose compensatory fees or sanctions for referrals to non-retained attorneys in jurisdictions covered by the attorney network. Finally, Fannie Mae will require the servicer to reimburse Fannie Mae for any losses that may occur because a non-retained attorney failed to meet his or her responsibilities diligently. If a servicer believes special circumstance, such as pending or threatened litigation, warrant the referral of a foreclosure or bankruptcy matter to an attorney outside the network, the servicer must contact the Fannie Mae legal department at nonroutine_litigation@fanniemae.com to seek prior written approval for a non-network referral.

Deeds-in-Lieu of Foreclosure

Servicing Guide, Part VII, Section 606: Deeds-in-Lieu of Foreclosure

Current policy states that the servicer may not recommend a voluntary deed-in-lieu of foreclosure on a property until it has been listed for sale at market value for three months or more without a reasonable sales offer.

Effective immediately, Fannie Mae is no longer imposing a mandatory listing period before the servicer may recommend a deed-in-lieu as long as all other requirements set out in Part VII, Section 606 are met.

Clarification Regarding Foreclosure Actions in the Name of Mortgage Electronic Registration System (MERS)

Announcement SVC-2010-05, *Miscellaneous Servicing Policy Changes*, provided that effective with foreclosures referred on or after May 1, 2010, MERS must not be named as a plaintiff in any foreclosure action, whether judicial or non-judicial, on a mortgage loan owned or securitized by Fannie Mae. The Announcement further stated that the assignment from MERS to either the servicer or Fannie Mae must be recorded before the foreclosure begins.

Fannie Mae is clarifying the requirement that the assignment from MERS to the servicer or Fannie Mae be recorded before the foreclosure begins in certain circumstances as set forth below. This revised guidance replaces in its entirety that set forth in Announcement SVC-2010-05.

Effective May 1, 2010, MERS must not be named as a plaintiff or foreclosing party in any foreclosure action, whether judicial or non-judicial, on a mortgage loan owned or securitized by Fannie Mae. When MERS is the mortgagee of record, the servicer must prepare an assignment from MERS to the servicer and bring the foreclosure in its own name unless Fannie Mae specifically allows the foreclosure to be brought in the name of Fannie Mae. In that event, the assignment must be from MERS to Fannie Mae, in care of the servicer at the servicer's address for receipt of notices. The assignment must be prepared and executed before the foreclosure begins.

If the property is located in a jurisdiction that recognizes the effectiveness of executed, but unrecorded, assignments, the foreclosure may be initiated prior to recordation of the assignment. In these cases, the assignments should be recorded as soon as possible, in compliance with the laws of the jurisdiction where the property is located. If the jurisdiction requires the assignment to the servicer or Fannie Mae be recorded before proceeding with the foreclosure in the servicer or Fannie Mae's name, the assignment must be recorded before the foreclosure begins.

If an assignment from MERS to either the servicer or Fannie Mae has been recorded from MERS to either the servicer or Fannie Mae and the borrower reinstates the mortgage loan prior to completion of the foreclosure proceedings, the servicer need not re-assign the mortgage to MERS and re-register the mortgage with MERS. Re-assigning and re-registering the mortgage with MERS is not required by Fannie Mae and any such action will be at the discretion and expense of the servicer. If the assignment is executed but not recorded at the time the borrower reinstates the mortgage loan, and the servicer decides to re-register the mortgage with MERS, the servicer should prepare an assignment back to MERS. If the servicer decides not to re-register the loan with MERS, the servicer must make sure the assignment from MERS to the servicer or Fannie Mae is recorded.

Fannie Mae will not reimburse the servicer for any expense incurred in preparing or recording an assignment of the mortgage loan from MERS to the servicer or to Fannie Mae.

The servicer should consult its foreclosure attorney to determine if any other legal requirements apply when conducting foreclosures of mortgage loans in which MERS is the prior mortgagee of record.

Monitoring Pooled from Portfolio (PFP) Mortgage Loans

Announcement 08-31, Fannie Mae 2009 Single-Family Master Trust Agreement, the Amended and Restated 2007 Single-Family Master Trust Agreement, and Certain Servicing Clarifications and Changes, Including Expanded Loss Mitigation Flexibility, and Announcement 07-03R, Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement

Periodically, Fannie Mae will securitize mortgage loans that were purchased for its investment portfolio (whole loan deliveries). All mortgage loans that have been (or may be in the future) sold to Fannie Mae for cash and subsequently securitized into MBS pools (known as Pooled from Portfolio or PFP mortgage loans) must be serviced as MBS mortgage loans though the remittance type remains Actual/Actual or Scheduled/Scheduled Cash.

Servicers are reminded that PFP mortgage loans must be appropriately identified in their records and systems, as well as monitored and serviced according to the appropriate MBS work rules, specifically the management of delinquent loans and general servicing requirements. Fannie Mae provides the MBS pool issue date for each PFP mortgage loan on the PFP-related reports provided through the Servicer's Reconciliation Facility (SURF™). This enables servicers to identify the MBS issue dates and the applicable MBS trust documents for PFP mortgage loans.

Servicer Responsibilities for Non-Escrow Mortgage Loans

Servicing Guide, Part III, Section 103: Escrow Deposit Accounts

Servicers are reminded that even when the escrow deposit account requirement has been waived, the servicer remains responsible for the timely payment of the taxes and insurance premiums.

If the borrower fails to pay the taxes or does not keep the insurance in force, the servicer must advance its own funds to pay any outstanding bills. The servicer is then required to revoke the waiver, establish an escrow account for the borrower, and begin collecting deposits for an escrow account to pay future bills. The *Servicing Guide*, Part VI, Section 304: Reimbursement of Servicer's Advances provides guidance for obtaining reimbursement from Fannie Mae.

Audit Confirmation Request Process Changes

Servicing Guide, Part X, Section 106: Audit Confirmations

Fannie Mae currently requires that requests for audit confirmations be mailed to Fannie Mae. Effective immediately, all such requests are to be e-mailed to investor_reporting_group_mailbox@fanniemae.com. This process change applies to both servicers and auditors submitting requests on behalf of the servicer.

To avoid delays, each audit confirmation request must include all of the following information:

- the servicer's name and address,
- an authorized signature of an officer of the financial institution,
- the servicer's 9-digit Fannie Mae servicer number,
- the name and telephone number of a contact person (either with the servicer's institution or auditor), and
- the effective date of the data for the confirmation.

There can be a delay of one month in the availability of data, however, requests are usually completed and returned within 10 business days.

Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

Gwen Muse-Evans
Vice President
Chief Risk Officer for Credit Portfolio Management



3500 Wisconsin Avenue, NW
Washington, DC 20016-2092

Announcement 08-19

August 6, 2008

Amends these Guides: Servicing

New Foreclosure and Bankruptcy Attorney Network and Attorneys' Fees and Costs

Introduction

From time to time, Fannie Mae reviews its default-related procedures to evaluate their effectiveness and to identify changes that may be appropriate. Based upon the latest review, Fannie Mae is creating a new network of retained attorneys to handle all Fannie Mae foreclosure and bankruptcy matters (as well as post-foreclosure legal proceedings and activities). The new network will initially include 31 jurisdictions, with the expectation that additional jurisdictions will be added over time. The new network will foster a more disciplined, end-to-end approach to default management; facilitate more effective management of fees, costs, quality, and reporting to Fannie Mae; and facilitate enhanced loss mitigation efforts by network attorneys. To achieve these objectives, Fannie Mae will now require that servicers refer foreclosures and bankruptcy cases only to attorneys included in our network (in applicable jurisdictions). Fannie Mae is also updating the provisions of the *Servicing Guide* governing foreclosure and bankruptcy attorneys' fees.

New Mandatory Network Structure

Servicing Guide, Part VIII, Section 104.02: Fannie Mae-Retained Attorneys/Trustees; and Announcement 07-09: Fannie Mae-Retained Bankruptcy Attorneys

Affected Jurisdictions

Fannie Mae is creating a new mandatory network of retained attorneys to handle all foreclosure and bankruptcy matters relating to conventional or government mortgages held in its portfolio or that are part of an MBS pool that has the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property.

Under the new structure, Fannie Mae will post on eFannieMae.com a list of attorneys in each jurisdiction who are eligible to receive foreclosure and bankruptcy referrals relating to Fannie Mae loans (the "Retained Attorney List") and an effective date for the mandatory use of the attorneys. The initial Retained Attorney List includes attorneys for the first 31 jurisdictions, and is effective for mandatory use on October 1, 2008 (the "effective date"). The Retained Attorney List will be updated with additional jurisdictions, and attorneys may be added or removed from the list from time to time. Servicers are responsible for checking the Retained Attorney List on the Web site to ensure they are using the most current list.

Initial Retained Attorney Jurisdictions

Alabama	Hawaii	Minnesota	Oklahoma	Washington
Arizona	Illinois	Missouri	Pennsylvania	Wisconsin
California	Indiana	New Hampshire	Puerto Rico	Virginia
Colorado	Louisiana	New Jersey	Rhode Island	
Connecticut	Maryland	New York	South Carolina	
Florida	Massachusetts	North Carolina	Tennessee	
Georgia	Michigan	Ohio	Texas	

Referral Requirements

For jurisdictions that are identified on the Retained Attorney List, servicers are required to direct all new Fannie Mae foreclosure and bankruptcy referrals to a retained attorney on or after the posted effective date with the exception of the two scenarios noted below.

Exceptions:

- Special guidelines apply for foreclosures in the states of Arizona, California, and Washington (see section below).
- If a foreclosure referral is made before the effective date to an attorney that is not on the Retained Attorney List, that attorney may handle any subsequent bankruptcy that arises before completion of the foreclosure or reinstatement of the loan if the attorney has the necessary qualifications.

Foreclosure and bankruptcy referrals made prior to the effective date for the applicable jurisdictions may remain with the original attorneys to whom they were referred.

In all cases, servicers must advise the attorney to whom the referral is made that Fannie Mae owns or securitizes the mortgage being referred. The attorney to whom a foreclosure referral is made will handle any resulting bankruptcy case, and the attorney to whom a

bankruptcy referral is made will handle any foreclosure following resolution of the bankruptcy case, unless Fannie Mae approves a deviation from this policy.

Diversification of Retained Attorneys

In order to limit risks arising from the concentration of the legal work relating to Fannie Mae's delinquent loans in a single law firm in a jurisdiction, Fannie Mae urges servicers to diversify their referrals of Fannie Mae matters among two or more law firms in each jurisdiction. Fannie Mae will monitor the concentration of its legal work and reserves the right to suspend the referral of new cases to attorneys (or to reassign previously referred cases) in order to regulate concentration, capacity, performance, or for other reasons.

Special Guidelines for Arizona, California, and Washington

For nonjudicial foreclosures in Arizona, California, and Washington, servicers may continue to employ trustees of their choice. The Retained Attorney List will not include corporations that are authorized to conduct foreclosures as trustees in these states. To facilitate continuity in the transition of files from foreclosure through REO closing, when a referral is made to a trustee in one of these three states, the servicer must require that the trustee obtain evidence of title for the foreclosure from a Fannie Mae-approved title company, which will subsequently represent Fannie Mae's interests as seller in connection with the REO closing. The list of Fannie Mae-approved title companies is posted on FannieMae.com. All legal matters in Arizona, California, and Washington, including *judicial* foreclosure proceedings, bankruptcy cases, and litigation, must be referred to attorneys on the Retained Attorney List.

Jurisdictions Not on the Retained Attorney List

For jurisdictions that are not included on the Retained Attorney List, Fannie Mae will continue to rely upon servicers to select and retain qualified attorneys of their choice to handle Fannie Mae foreclosure and bankruptcy matters in accordance with our *Servicing Guide* requirements.

Special Guidelines for Nevada

Although Fannie Mae is not yet identifying retained attorneys for Nevada, servicers that refer nonjudicial foreclosures to trustees in Nevada must require that the trustee obtain evidence of title for the foreclosure from a Fannie Mae-approved title company, which will subsequently represent Fannie Mae's interests as seller in connection with the REO closing. Until Fannie Mae identifies retained attorneys for Nevada, Fannie Mae will continue to rely upon servicers to select and retain qualified attorneys of their choice to handle Fannie Mae foreclosure and bankruptcy matters in Nevada in accordance with our *Servicing Guide* requirements.

Servicer Responsibility for Monitoring Retained Attorneys

The servicer is responsible for monitoring all aspects of the performance of any retained attorney to whom it makes a referral, including loss mitigation activities, cure rates, and timeline performance. The servicer will not be required to reimburse Fannie Mae for any losses incurred because the retained attorney failed to properly meet his or her responsibilities, nor will the servicer be subject to the imposition of compensatory fees related to deficiencies in the performance of the retained attorney. This applies as long as the losses or deficiencies are unrelated to any failure by the servicer to monitor or manage the performance of the retained attorney or failure of the servicer to timely provide required or requested documents, information, or signatures to the retained attorney.

Relationship with Retained Attorneys

Each retained attorney will execute an engagement letter with Fannie Mae which will, among other things:

- document the existence of an attorney-client relationship with Fannie Mae;
- acknowledge Fannie Mae's right to communicate directly with the attorneys and monitor and/or audit the attorneys' handling of its cases;
- specify the attorney's fees, impose limits on costs, and prohibit the payment of outsourcing or referral fees; and
- require attorneys to directly notify Fannie Mae of nonroutine litigation and certain other matters.

In most cases, the retained attorney will also represent the servicer (and may have signed a separate engagement letter with the servicer). Fannie Mae's engagement letter with the attorney will provide that in the event a conflict of interest arises during the course of representing both the servicer and Fannie Mae, the attorney must notify both the servicer and Fannie Mae of the conflict, and Fannie Mae and the servicer will work together to resolve the conflict.

Provisions Applicable to All Fannie Mae Foreclosure and Bankruptcy Referrals (Mandatory Retained and Servicer-Retained Referrals)

Nonroutine Litigation

***Servicing Guide*, Part III, Section 503: Nonroutine Legal Actions; and Part VIII, Section 101: Routine vs. Nonroutine Litigation**

Fannie Mae is modifying the notification requirements related to nonroutine litigation. Refer to the *Servicing Guide*, Part VIII, Section 101 for examples of nonroutine litigation. (Additional examples include "show cause orders" or proceedings and motions for sanctions.)

When a servicer receives notice of a nonroutine action that involves a Fannie Mae-owned or Fannie Mae-securitized mortgage or that will otherwise affect our interests -- regardless of whether Fannie Mae is also named as a party to the action -- the servicer must immediately contact Fannie Mae's Regional Counsel via e-mail to nonroutine_litigation@fanniemae.com. Fannie Mae reserves the right to select counsel to handle nonroutine litigation and may select attorneys who are not on the Retained Attorney List.

Attorneys' Fees and Expenses

***Servicing Guide*, Part VII, Section 401.03: Allowable Attorney Fees; Part VIII, Section 104.03: Attorney (or Trustee) Fees, and Chapter 1, Exhibit 3: Attorney's and Trustee's Fees**

Servicers' Duties

All attorneys must submit their statements for all fees and expenses directly to the servicer. Fannie Mae reminds servicers of the *Servicing Guide's* requirements governing attorneys' fees, including the requirements that fees charged to borrowers be permitted under the terms of the note, security instrument, and applicable laws and be prorated to reasonably relate to the amount of work actually performed.

Before requesting that Fannie Mae reimburse the servicer for fees paid to an attorney, the servicer must review and approve the attorneys' fees and costs to ensure that they are in compliance with the guidelines. Servicers must have appropriate policies, procedures, and controls to ensure compliance with our requirements, and Fannie Mae will monitor the effectiveness of the servicers' policies, procedures, and controls.

The servicer, its agents, or any outsourcing firm it employs may not charge (either directly or indirectly) any outsourcing fee, referral fee, packaging fee, or similar fee to any attorney or trustee in connection with any Fannie Mae loan. Moreover, the amount of any fee charged to any attorney or trustee for technology usage or electronic invoice submission must be reasonable in relation to the benefit received by the attorney.

Updated Maximum Allowable Foreclosure Fees

Attachment 1 to this Announcement, which replaces the current exhibit in the *Servicing Guide*, reflects the maximum allowable attorney/trustee fees that Fannie Mae will reimburse for work related to foreclosures of whole mortgages, participation pool mortgages, and MBS pool mortgages serviced under the special servicing option for matters referred on or after October 1, 2008.

Services Included in Maximum Allowable Foreclosure Fees

Fannie Mae is revising Part VIII, Section 104.03 of the *Servicing Guide* to clarify what services are included within the scope of the maximum allowable foreclosure fee in each jurisdiction.

Judicial Foreclosures: In general, the maximum allowable foreclosure fee is intended to cover all services that are typically required to be performed by foreclosure counsel in the prosecution of a judicial foreclosure in accordance with local law. These steps include:

1. Ordering title
2. Reviewing title reports and exceptions
3. Drafting Complaint, Summons, Lis Pendens, and other papers necessary to initiate the foreclosure action
4. Filing the foreclosure Complaint and Lis Pendens
5. Executing all steps necessary to obtain service of process on all defendants, including review of process server affidavits, obtaining court permission to serve by publication, and referral and tracking of published notices
6. Preparing legal papers for entry of foreclosure judgment, whether by default or through summary judgment process
7. Obtaining judgment of foreclosure, including one court appearance
8. Preparing all legal papers to conduct the foreclosure sale
9. Conducting, or arranging for sheriff or other third party to conduct, the foreclosure sale
10. Obtaining judicial confirmation of foreclosure sale, where required by local law
11. Preparing all legal papers necessary to convey title to Fannie Mae or a successful third-party bidder

Nonjudicial Foreclosures: As with judicial foreclosures, the maximum allowable foreclosure fee for nonjudicial foreclosures is intended to cover all services that are typically required to be performed by foreclosure trustee or counsel in the completion of a nonjudicial foreclosure resulting in title transferring from the borrower to the highest bidder at the foreclosure sale, in accordance with local law. These steps include:

1. Ordering title
2. Reviewing title reports and exceptions
3. Preparing all necessary legal papers to initiate the nonjudicial foreclosure process, including Substitution of Trustee, Notice of Default, and Notice of Sale
4. Recording the necessary documents in the appropriate county recorder's office
5. Executing all steps necessary to obtain service of process on all persons entitled to notice, including review of process server affidavits and referral and tracking of published notices
6. Publishing and posting the requisite notices as required by local foreclosure law
7. Preparing all legal papers to conduct the foreclosure sale
8. Conducting, or arranging for sheriff or other third party to conduct, the foreclosure sale

9. Preparing and filing a report of sale with the local court or recorder's office, where required by local law
10. Preparing all legal papers necessary to convey title to Fannie Mae or a successful third-party bidder

For both judicial and nonjudicial foreclosure actions, the maximum allowable attorney or trustee fee for nonjudicial foreclosure proceedings does not include the *costs* involved in such a proceeding, such as title charges, filing fees, recordation fees, process server expenses, and publication costs, as applicable.

Additional Legal Services

Fannie Mae will reimburse the servicer for reasonable attorneys' fees necessary to resolve issues caused by unexpected events, unless they are due to (1) a breach or alleged breach of selling warranties or representations or origination or selling activities; (2) the lender's failure or alleged failure to satisfy its duties and responsibilities as a servicer; or (3) actual or alleged error or lack of diligence on the part of a non-network counsel or a trustee retained by the servicer. Events which may require additional legal services include, but are not limited to, the following:

- additional court appearances due to borrower delay or court-initiated continuances;
- motions to shorten redemption periods (for instance, when a property has been abandoned);
- litigation activities, including discovery practice, motions, trial, and appeal, engendered by borrower defenses not related to origination or servicing of the loan or the acts or omissions of a counsel or trustee selected and retained by the servicer;
- probate court practice required due to the death of the borrower or co-borrower;
- intervention by other claimants, including taxing authorities or homeowners or condominium associations; and
- conducting a closing to complete a sale to a third-party bidder.

All requests for approval of excess fees by Fannie Mae must be submitted via e-mail to excess_fee_request@fanniemae.com.

If additional legal or trustee services are required to protect Fannie Mae's interest and these legal or trustee services are not within the scope of services contemplated by the maximum allowable foreclosure fee and are required due to a breach or alleged breach of selling warranties or representations or origination or selling activities or to the lender's failure or alleged failure to satisfy its duties and responsibilities as a servicer, Fannie Mae requires the servicer to pay counsel or the trustee a reasonable fee for their services. Some of these events may include, but are not limited to:

- Title curative work, including judicial proceedings to eliminate recorded liens that are prior in time; judicial proceedings to account for missing intervening assignments; and legal analysis and communications with prior lien holders and title companies.

- Litigation activities, including discovery practice, motions, trial, and appeal, caused by borrower defenses related to origination or servicing of the mortgage loan, including payment dispute allegations.

Updated Maximum Allowable Bankruptcy Fees

Servicing Guide, Part VII, Section 401.03: Allowable Attorney Fees

Attachment 2 to this Announcement outlines the maximum attorneys' fees that Fannie Mae will reimburse for routine services provided by counsel in connection with bankruptcy matters referred on or after October 1, 2008.

As a reminder, the following Fannie Mae policies continue to apply:

- The schedule of maximum allowable attorney fees for bankruptcy actions applies to all attorneys, whether or not the attorney is a Fannie Mae-retained attorney or servicer-retained attorney.
- The bankruptcy fee schedule covers the customary and routine legal services performed in each type of legal service. Generally, Fannie Mae will not reimburse the servicer for any attorneys' fees that exceed the scheduled amounts unless prior approval was obtained before incurring the fee. To obtain Fannie Mae's prior approval, a written request must be submitted by e-mail to excess_fee_request@fanniemae.com.

Note

When legally permissible, the servicer must preserve the borrower's obligation to reimburse the servicer for attorneys' fees paid for bankruptcy actions in a way that is in accordance with local bankruptcy rules and all applicable law (particularly since local bankruptcy rules and procedures for approval of attorneys' fees and other applicable law may vary from one jurisdiction to another). One way of preserving the borrower's obligation might be to make sure that the borrower's proposed bankruptcy plan provides for the payment of all legal fees. Another way of preserving the borrower's obligation might be to include the fees as part of the total indebtedness (if applicable law allows that to be done without obtaining approval from the bankruptcy court). If it is not legally permissible to collect bankruptcy attorneys' fees and costs from the borrower, Fannie Mae will reimburse the servicer for such fees and costs to the extent that services to protect Fannie Mae's interests were actually rendered and the fees and costs charged for them are reasonable and necessary and comply with our guidelines.

Existing *Servicing Guide* Provisions

All of the provisions of the *Servicing Guide* that relate to foreclosure and bankruptcy attorneys and trustees will continue to apply under the new structure, unless expressly modified by this Announcement.

Effective Dates

As previously stated, servicers must refer foreclosure or bankruptcy matters to attorneys that appear on the Retained Attorney List for the initial jurisdictions on or after October 1, 2008. The new foreclosure and bankruptcy fee schedules are effective for cases referred for foreclosure or bankruptcy services on and after October 1, 2008. (Fees for cases referred prior to October 1, 2008 will be based on the current fee schedules in the *Servicing Guide* effective as of the date of referral.)

Servicers should contact their Servicing Consultant, Portfolio Manager, or our National Servicing Organization's Solution Center at 1-888-326-6438 if they have any questions about Announcement 08-19.

Michael A. Quinn
Senior Vice President
Single-Family Risk Officer

Attachment 1

Servicing Guide, Part VIII, Chapter 1, Exhibit 3: Attorney's and Trustee's Fees (Effective October 1, 2008)

State	Nonjudicial Foreclosure	Judicial Foreclosure
Alabama	\$600 ¹	On Approval ²
Alaska	\$1,200	On Approval ²
Arizona	\$625	On Approval ²
Arkansas	\$600	\$750
California	\$650 ³	On Approval ²
Colorado	\$875	On Approval ²
Connecticut	N/A	\$1250 ^{4, 5}
Delaware	N/A	\$950
District of Columbia	\$600 ^{1, 6}	On Approval ²
Florida	N/A	\$1,300 ^{1, 7}
Georgia	\$600 ¹	On Approval ²
Guam	\$1,200	On Approval ²
Hawaii	\$1,100	On Approval ²
Idaho	\$600	On Approval ²
Illinois	N/A	\$1,300
Indiana	N/A	\$1,100
Iowa	\$550	\$850
Kansas	N/A	\$850
Kentucky	N/A	\$1,100
Louisiana	N/A	\$1,050
Maine	N/A	\$1,250
Maryland	\$950 ^{1, 6}	On Approval ²
Massachusetts	N/A	\$1,300 ⁴
Michigan	\$650	On Approval ²
Minnesota	\$700 ⁸	On Approval ²

State	Nonjudicial Foreclosure	Judicial Foreclosure
Mississippi	\$550 ¹	On Approval ²
Missouri	\$650	On Approval ²
Montana	\$600	On Approval ²
Nebraska	\$600	On Approval ²
Nevada	\$600	On Approval ²
New Hampshire	\$900	On Approval ²
New Jersey	N/A	\$1,300
New Mexico	\$600	\$900
New York	\$800 ⁹	\$1,400 ^{4, 9}
North Carolina	\$800	On Approval ²
North Dakota	N/A	\$950
Ohio	N/A	\$1,350
Oklahoma	N/A	\$1,100
Oregon	\$675	On Approval ²
Pennsylvania	N/A	\$1,300 ¹⁰
Puerto Rico	N/A	\$1,100 ^{4,11}
Rhode Island	\$900	On Approval ²
South Carolina	N/A	\$1,050 ¹
South Dakota	N/A	\$950
Tennessee	\$600	On Approval ²
Texas	\$600	On Approval ²
Utah	\$600	On Approval ²
Vermont	N/A	\$950 ¹²
Virgin Islands	N/A	\$1,100
Virginia	\$600	On Approval ²
Washington	\$675	On Approval ²
West Virginia	\$550 ^{1,6}	On Approval ²
Wisconsin	N/A	\$1,200
Wyoming	\$600	On Approval ²

Footnotes:

- ¹ This fee covers the combined attorney's and notary's fees.
- ² Because this is not the preferred method of foreclosure, Fannie Mae must approve its use prior to initiation. Fannie Mae will provide procedural instructions and applicable fees at the time approval is granted.
- ³ This fee applies to completed foreclosures. If the mortgage is reinstated after recordation of the Notice of Default (but before mailing of the Notice of Sale), the maximum fee is \$300 or the maximum allowed by statute, whichever is less. If the mortgage is reinstated after mailing of the Notice of Sale but before the Trustee's Sale, the maximum fee is \$500 or the maximum allowed by statute, whichever is less.
- ⁴ An additional \$200 will be permitted when the property is sold to a third party and the attorney must perform additional work to complete the transfer of title to the successful bidder.
- ⁵ This fee applies to Strict Foreclosures. If the court orders a Foreclosure by Sale, the fee will be \$1,500.
- ⁶ This fee covers both the attorney's fee and the trustee's commission (or statutory fee).
- ⁷ This fee includes reimbursement for any fee for the attorney's certificate of title.
- ⁸ This fee increases to \$1,100 for any case in which the attorney provides services for "proceedings subsequent" that involve registered land.
- ⁹ In New York, the nonjudicial foreclosure process is to be used only in connection with cooperative share loans. The fee includes all steps in the foreclosure process, including the transfer of the stock and the lease for an occupied cooperative unit. A fee of \$2,000 will be permitted for judicial foreclosures in the City of New York and on Long Island (Nassau and Suffolk Counties).
- ¹⁰ This fee covers all legal actions necessary to complete the standard foreclosure in Pennsylvania, including motions to postpone or relist a sale and motions to reassess damages.
- ¹¹ In addition to the allowable foreclosure fee, Fannie Mae will pay a notary fee of \$150 for completed foreclosures. However, if a deed of judicial sale cannot be executed contemporaneously with the judicial sale, a \$300 notary fee will be paid.
- ¹² This fee covers all cases in which strict foreclosure is allowed; generally, foreclosures in which the mortgagee can establish there is no equity in the property. For all other cases in which judicial foreclosure is required, a fee of \$1,200 will be permitted.

Attachment 2

Servicing Guide, Part VII, Chapter 4, Exhibit 5: Allowable Bankruptcy Attorney Fees (Effective October 1, 2008)

Bankruptcy Action	Maximum Fee Reimbursement
Chapter 7 Cases	
Motion for Relief from Stay, One or Two Hearings, and Order	\$550
Proof of Claim Preparation (if required) ¹	\$150
Notice of Appearance	\$0
Additional Hearings or Other Services	Excess fee request
Chapter 13 Cases	
Proof of Claim Preparation, Plan Review, and Plan Negotiations ¹	\$300
Objection to Plan and One or Two Hearings	\$400
Motion for Relief from Stay, One or Two Hearings, and Order	\$650
Agreed Order: Court Certification of Default/Stay Termination	\$150
Agreed Order: Notice of Default/Stay Termination	\$50
Notice of Appearance	\$0
Additional Hearings on Motions for Relief from Stay or Objections to Plans	Excess fee request
Second Motion for Relief from Stay or Objection to Plan	
Response to Proof of Claim Objection	
Actions Related to Serial Bankruptcy Filers	
Other Fees or Costs ²	

Footnotes:

¹ If a mortgage is not 60 days or more past due, then the servicer should prepare the Proof of Claim and/or review the plan (in a Chapter 13 case). If a mortgage is not 60 days past due and the servicer believes that an attorney should review a plan (in a Chapter 13 case) due to its potential effect on a borrower's obligations, then the attorney or servicer should submit an excess fee request for plan review.

² Fees for Chapter 11 or Chapter 12 cases, adversary proceedings, or any other fees not covered in the above schedule must be submitted as an excess fee request.

Additional Notes:

Fannie Mae will not reimburse bankruptcy fees or costs for the following without prior excess fee approval:

- mortgages referred when the borrower was less than 60 days past due per the terms of the mortgage (or less than 60 days past due under the bankruptcy plan);
- PACER and mailing (preparation and postage);
- loan document retrieval; or
- Motions for Relief from Stay in Chapter 7 cases when filed more than 60 days from the bankruptcy petition date.



Welcome to MBA.

Search for:

In:

GO

JOIN MBA

CONFERENCES & EVENTS

CAMPUSMBA

SHOP

ADVERTISE

LENDER CAREERS

Guide Announcement

[PRINT](#) | [E-Mail](#)

- Market Focus:
- ☒ Both Markets
 - ☐ Residential
 - ☐ Commercial/Multifamily

About MBA

News and Media

Speakers Bureau

Industry News

Press Center

MBA Executive Podcasts

MBA NewsLink

MBA Commercial/Multifamily Newslink

Mortgage Banking Magazine

Advertising with MBA

Research and Forecasts

Advocacy

Industry Resources

Professional Development

Membership

Title: Fannie Mae Establishes New Foreclosure and Bankruptcy Attorney Network

Source: Fannie Mae

Date: 8/7/2008

Summary:

Fannie Mae is creating a new network of retained attorneys to handle all Fannie Mae foreclosure and bankruptcy matters (as well as post-foreclosure legal proceedings and activities). The new network will initially include 31 jurisdictions, with the expectation that additional jurisdictions will be added over time. The new network will foster a more disciplined, end-to-end approach to default management; facilitate more effective management of fees, costs, quality, and reporting to Fannie Mae; and facilitate enhanced loss mitigation efforts by network attorneys. To achieve these objectives, Fannie Mae will now require that servicers refer foreclosures and bankruptcy cases only to attorneys included in our network (in applicable jurisdictions). Fannie Mae is also updating the provisions of the *Servicing Guide* governing foreclosure and bankruptcy attorneys' fees.

See Related Documents to view Announcement 08-19.

Standard & Poors Servicer Evaluations



Ratings Latest

1 of 3

Big Changes In Standard & Poor's Rating Criteria > [Learn More](#)


Search By: Entity

Find a Rating

FIND

Servicer Evaluation: HSBC Mortgage Corp. (USA)

Publication date: 26-Jul-2010 13:48:42 EST

[View Analyst Contact Information](#)
[Table of Contents](#)

Opinion

Standard & Poor's Ratings Services has ABOVE AVERAGE rankings on HSBC Mortgage Corp. USA (MC) as a residential mortgage loan servicer, subordinate-lien mortgage loan servicer, and residential subprime mortgage loan servicer. The outlook is stable in each category.

The overall rankings reflect our view of MC's experienced and tenured management team, automation, policies and procedures, training regimen, internal controls, and default management abilities. MC assigns some traditional mortgage servicing processes to the company's Group Service Centers (GSCs) in India and the Philippines. According to MC, it closely monitors and controls the tasks it assigns, which include service-level agreements and weekly reporting.

The rankings also reflect our opinion that the company's practice of running on two servicing platforms may be inefficient and may impede effective customer service and default management. While customer service's average speed to answer (ASA) has risen over prior periods, it is within the comparable range of other servicers we monitor. Collection statistics ASA and abandonment rates have risen above the median level of other servicers we monitor. We recognize that the company's decision to exit subprime lending generated by MC's sister company, HSBC Finance, may have contributed to the halt of the scheduled conversion/migration to one servicing platform. MC is a wholly owned subsidiary of HSBC Bank USA N.A. and part of U.K.-based HSBC Holdings plc. In addition, it is our understanding that the company has not fully implemented and retested the audit department's recommendations, which are based on reviews of the servicer.

MC has informed us that it is continuing with the strategic consolidation plan it formed in late-2008 to centralize servicing management across the U.S. and expects to complete this effort this year. The company has completed its alignment and centralization of its management activities according to function.

MC provides metrics through Standard & Poor's Servicer Evaluation Analytical Methodology (SEAM) questionnaire, and the company's statistics generally align with those of other similarly ranked mortgage servicers and other servicers we monitor.

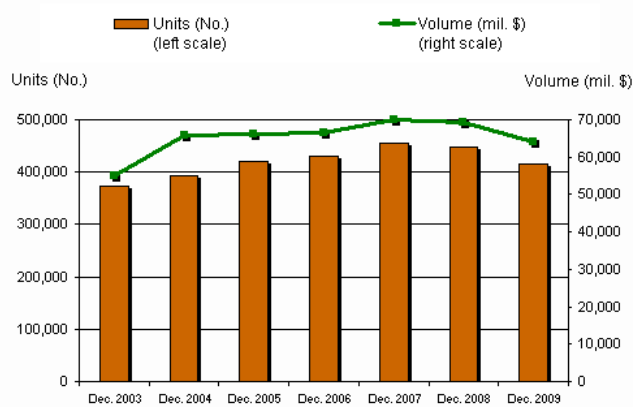
The levels of delinquencies in MC's prime loan servicing portfolio align with those reported in The Mortgage Bankers Association's fourth-quarter 2009 National Delinquency Survey, while its subprime delinquencies were marginally above them. Delinquencies for the subordinate-lien portfolio were also slightly above those in the fourth-quarter 2009 American Bankers Association Consumer Credit Delinquency report.

Outlook

The outlook is stable for each servicing asset type. Although the prime and subordinate-lien portfolio volumes have declined over the past two years, we believe stabilization in the financial markets may open up opportunities for the bank to offset this runoff with newly originated mortgage loans. We view the falling number of subprime loans as a negative ranking consideration, however, and we would consider revising our outlook to negative or lowering our ranking if the decline continues.

Chart 1

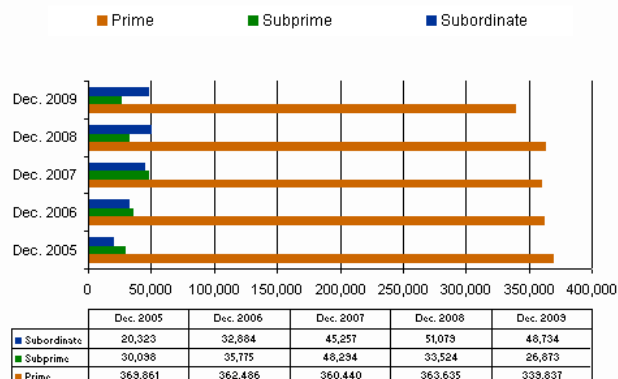
Portfolio UPB And Units—Prime, Subprime, And Subordinate



© Standard & Poor's 2010.

Chart 2

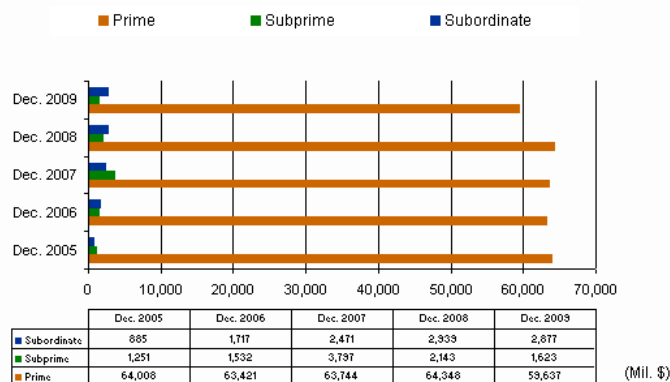
Units



© Standard & Poor's 2010.

Chart 3

Volume

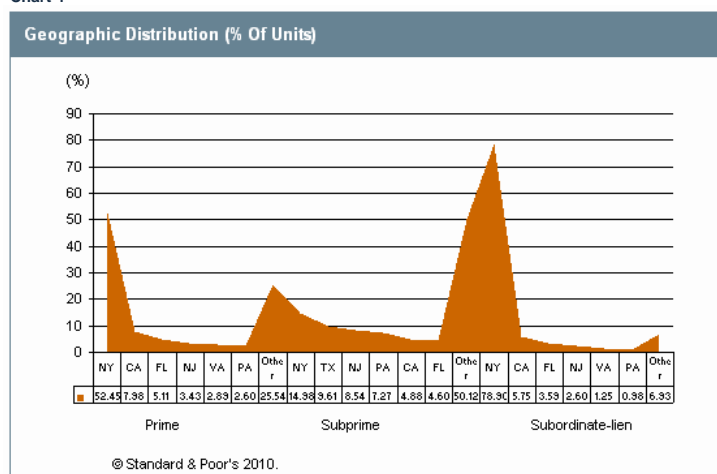


© Standard & Poor's 2010.

Table 1

Delinquency Statistics?Second-Half 2009

	30 days	60 days	90+ days	Total % of units	Foreclosure (%)	Bankruptcy (%)	REO (No.)
Prime	2.75	1.27	2.32	6.34	1.68	0.70	3,322
Subprime	9.49	4.83	17.61	31.93	3.72	3.41	301
Subordinate	1.12	0.57	2.64	4.33	0.45	0.59	14

Chart 4**Profile**

HSBC Holdings plc generally ranks among the largest and most diversified financial services groups in the world. It employs nearly 300,000 full- and part-time staff and serves more than 100 million customers across 88 countries and territories. It is managed through a matrix structure aligned with customer groups, global businesses, and regions.

In our opinion, MC is an experienced residential mortgage loan servicer. Its headquarters are in Depew, N.Y. (a suburb of Buffalo). MC was incorporated as a separate mortgage banking subsidiary in 1985, and the company formed a separate mortgage servicing unit with the 1997 acquisition of First Federal Savings and Loan of Rochester, N.Y. HSBC acquired Republic Bank of New York in 1999 and Household Finance in 2003. According to MC, the Household acquisition, combined with MC's mortgage servicing operations, provided the opportunity for the mortgage lending units to leverage each other's best practices and enhance vendor relationships. MC is the 18th-largest servicer by number of loans serviced according to the fourth-quarter 2009 National Mortgage News Quarterly Data Report and is an approved servicer for Freddie Mac, Fannie Mae, Ginnie Mae, FHA, VA, and SONYMA loans.

Management And Organization

Standard & Poor's subranking on MC for management and organization is ABOVE AVERAGE.

It is generally our opinion that servicing mortgage loans on two servicing platforms, despite core employees' experience on selected platforms, is not efficient. We believe this practice could delay the company's responses to its borrowers, lead to higher turnover (especially with employees of HSBC Finance servicing its subprime loans that are running off), possibly add additional pressure on existing employees, and may cause delays in providing reporting data. In our view, this offsetting factor is balanced by our generally positive assessment of the elements we discuss in this section.

Management and staff recruitment, development, and training

In our opinion, MC has a seasoned management team with turnover rates that are consistent with the subranking. According to the company, the management team maintains the following attributes:

- Senior managers average approximately 22 years of industry experience, including 18 years' company tenure;
- Middle managers average approximately 15 years of industry experience and 13 years of tenure;
- Reported annualized management and staff turnover rates for the second half of 2009 were 4.35% and 23.04%, respectively; and
- MC's cross-training of employees to perform other functions helps provide backup and also contributes to career-path opportunities, skill development, and promotion, in our view.

Management reports that it plans for capacity by forecasting six to 12 months ahead for essential metrics and activity volume, and three to six months ahead for staffing capacity.

In our opinion, MC's training environment is well-structured and effective. Dedicated trainers?the E.D.G.E. (educate, develop, guide, excel) training team?administer the training programs both domestically and to applicable GSC employees. The programs are comprehensive, in our view, and include curriculums designed for both new hires and existing staff, with course

offerings available on the company intranet site. Employees may register for various courses online, and the company tracks attendance and course completion in a central database. Some characteristics of the training program, as reported by MC, include:

- The employee orientation program includes a corporate overview, basic technical training, and a mortgage banking overview;
- Employees receive technical training for both existing and any newly installed and/or upgraded LPS applications, as well as for other ancillary software programs based on job-specific requirements;
- Employees participate in training workshops that cover skill practices, mortgage banking processes and terminology, call observation, and, in some instances, the successful completion of a final examination;
- All new customer service and collection employees enroll in up to 120 hours of classroom education and 200 hours of on-the-job training. Classroom instruction covers skill practices, mortgage banking processes and terminology, relevant regulations and acts, and call observation;
- Management training helps employees develop leadership skills, including coaching and counseling, defining goals, and refining interviewing skills;
- Training for new collectors features an extensive focus on the Fair Debt Collection Practices Act (FDCPA); and
- The company established "train-the-trainer" programs for GSC trainers who receive training in the U.S.

According to MC, selected GSC employees become subject matter experts (SMEs) by completing extensive training at MC for at least 10 weeks, and MC employees identified as SMEs travel to GSC sites for a minimum of eight weeks. In conjunction with training initiatives, the company provides dedicated coaching and process monitoring until the activity is declared "business as usual."

MC may also use outside vendors and industry organizations for additional training. We believe MC's combination of structured classroom instruction, on-the-job training and mentoring, and external seminars provides an excellent and varied methodology that contributes to MC's efforts to ensure all new and current MC staff are well-versed in company policies and procedures. In addition, MC represents that some employees have participated in FHLMC's Loss Mitigation and Investor Reporting program and received certification.

Internal controls

Since our last review, MC has informed us that the company's operational risk management (ORM) and communication group is responsible for the development and communication of policies and procedures (P&Ps). Some reported characteristics and methodologies of MC's P&P activities include:

- The company's general counsel and government relations teams identify regulatory changes and communicate them to the compliance group, which in turn partners with ORM to identify implementation requirements;
- There are various levels of oversight and approval processes that require signoff before any changes are made to P&Ps;
- ORM manages and maintains a central database of P&Ps; and
- The company uses electronic communication as well as department meetings to inform employees of P&P changes.

In our opinion, HSBC North America Holdings Inc., MC's parent, has a sound and in-depth multitiered audit and risk assessment methodology designed to identify and mitigate risk of loss to investors.

The internal audit department reports to the senior executive vice president of the audit department, who functionally reports to the directors of the audit committee, in an effort to provide for complete independence. The internal audit divides the mortgage servicing audit into separate "inherent risks" and "control risks," which combine to gauge the overall risk. The overall risk determines the frequency of the audit cycle, and servicing audits are performed annually. Reviews by the audit and independent compliance unit are designed to satisfy traditional risk-based methodologies and performance methodologies and include the following:

- The unit develops a flexible annual audit plan employing an appropriate risk-based methodology, covering any risks or control concerns management identifies, and submits that plan to the audit committee for review and approval;
- The department follows the Standards for the Professional Practice of Internal Auditing of The Institute of Internal Auditors;
- The overall risk assessment determines the frequency of the audit cycle, which ranges from nine to 48 months. Mortgage servicing audits are now conducted annually regardless of the risk level;
- All audit reports incorporate written feedback for management, as well as a methodology for management's response; and
- A database monitors the annual audit schedule and response dates.

An independent compliance unit provides support in identifying and managing compliance risk. Activities include the following:

- The unit partners with business units to understand new or revised regulatory requirements to develop and implement

compliance procedures;

- The unit performs monthly and quarterly audits of various loan servicing areas that are designed to comply with Department of Housing & Urban Development (HUD) requirements;
- Results of the compliance audits are distributed to senior management;
- Compliance training is mandatory and available to all employees; and
- An online compliance manual is available for all employees that includes both state and federal regulations.

MC reports that it maintains a quality control (QC) group that reports to the Credit Policy/Risk Management department. The group performs the required FHA and VA servicing reviews as well as reviews surrounding early payment defaults, investor repurchase requests, and mortgage fraud. MC senior management receives all QC reports, along with responses from the applicable area.

MC's audit reports are structured to ensure adherence with prudent loan servicing practices and to verify compliance with regulatory and investor guidelines. Standard & Poor's reviewed provided 2009 mortgage servicing internal audit reports and found the reports to be comprehensive and succinct. The reports did not reveal major findings for the functional areas reviewed; however, there were findings that were either addressed or are targeted for completion through August 2010. In order to address findings and remediate future occurrences, management has represented that it has assembled a team of risk managers within servicing operations, led by a senior vice president with over 20 years of mortgage industry experience. The team is responsible for timely resolutions and working with the audit department upon remediation of a finding. There were no 2009 USAP or Regulation A/B exceptions.

In addition, as a subsidiary of a national bank, MC is regulated by the Office of the Comptroller of the Currency (OCC), which frequently monitors the servicing operations. MC submits quarterly updates, including financial statements, delinquency information, and other key metrics, to the OCC. The OCC communicates to senior management during the review process, with an exit meeting that finalizes any findings or recommendations. Also, GSEs review MC to ensure that servicing is performed in accordance with agency guidelines.

Management has represented that pending legal matters are not likely to be material. For additional information, please refer to HSBC USA Inc.'s most recent Securities and Exchange Commission filing.

Vendor management

MC's administration of its vendors is centralized within HSBC North America (HNAH). HNAH's vendor management responsibilities include vendor due diligence; bids, contract terms, and service-level agreements (SLAs) (provided by servicing operations); ensuring vendor compliance with Regulation AB and USAP standards; assessing vendor safeguards to ensure data privacy; and vendor database management, including a vendor review process. The group uses scorecards to monitor vendors' performance to help ensure their adherence with SLAs, and provides MC with periodic updates.

Technology

In our view, MC operates in an efficient automated environment as a remote client of LPS (formerly Fidelity Information Services). Characteristics of the systems architecture for business operations and recovery are as follows:

- The present systems architecture is sufficient to support portfolio growth, in our view;
- MC uses a variety of LPS' ancillary applications and technology services, including Electronic Loan Interface (ELI), Passport, Director, and Customer CareNet;
- Imaging technology provides for easy access to certain documents and facilitates customer inquiries;
- The company uses various First American mortgage-related products;
- The company uses REKON software for processing mortgage reconveyance documents;
- An automated call management system allocates incoming calls, and a voice response unit (VRU) provides electronic responses to customer inquiries;
- A workforce management tool is used for telephone staffing;
- The company uses a call recording application to record 100% of customer service and collection calls;
- MC uses an autodialer to build, load, and track calling campaigns on delinquent loans;
- Freddie Mac's Early Indicator, along with internal behavior scores, help the company identify high-risk mortgage loans;
- NewTrak electronically refers and tracks bankruptcy and foreclosure cases sent to outside counsel; and
- Lexis Nexis Banko provides electronic access to foreclosure and bankruptcy filings, discharges, dismissals, and case conversions nationwide.

MC's disaster recovery and business continuity (DR/BC) plan consists of:

- A fully developed plan with a hierarchy of critical business functions and a calling tree;
- Redundancy of critical business functions between other company locations;
- Encrypted off-site storage of nightly backups and a daily mirror backup of production recorded at an off-site location; and
- Annual testing, which includes contingency plan reviews to ensure connectivity to servicing sites, and updated

document controls.

In addition to DR/BC connectivity, disaster simulation, validation, and remediation performed annually within the company, MC now tests connectivity and restoration of the host system (LPS/Fidelity) with one of the host's disaster facilities at least annually as part of the company's overall DR/BC plan. We believe validating connectivity at LPS/Fidelity's first, second, and third disaster recovery facilities over alternating testing periods may reduce corporate risk.

Residential Servicing?Loan Administration

Standard & Poor's subranking on MC is ABOVE AVERAGE for (prime) residential mortgage loan servicing administration.

Overview

MC's servicing operations leverage the company's infrastructure to service not only prime assets but also subprime and subordinate-lien assets. Although many of the servicing activities follow similar methodologies, the immediate mortgage loan servicing administrative section represents prime servicing. Please refer to the applicable asset sections for relevant information and selected charts and graphs.

Ms. Kathryn Madison, EVP and Chief Servicing Officer for HSBC's consumer and mortgage lending organization, is responsible for MC's servicing administration. The company reported as of Dec. 31, 2009, that it was servicing an aggregate portfolio of more than 416,000 loans with a total unpaid principal balance (UPB) exceeding \$64 billion. The prime and subordinate-lien portfolios are heavily concentrated in New York, which accounts for more than 52% and 78% of the number of loans, respectively, and nearly 44% and 72% of the corresponding total UPB, respectively.

Standard & Poor's reviewed all areas of loan servicing, including loan boarding, payment processing, investor accounting and reporting, customer relations, and default administration (including foreclosure and bankruptcy processing). In our opinion, the established controls are sound.

Chart 5

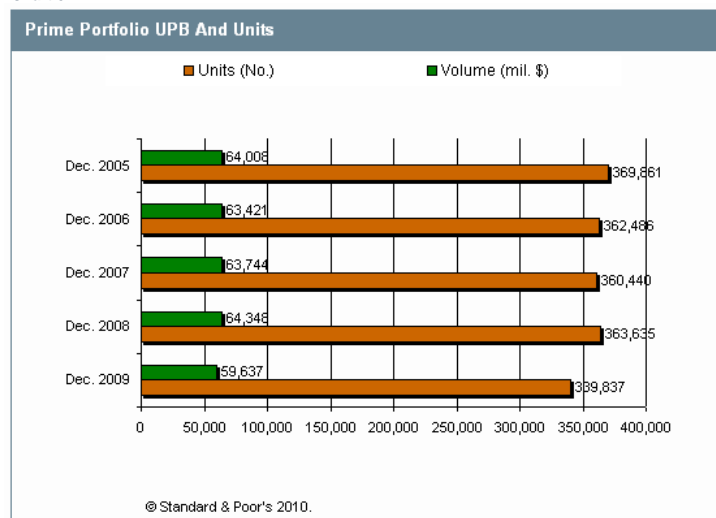
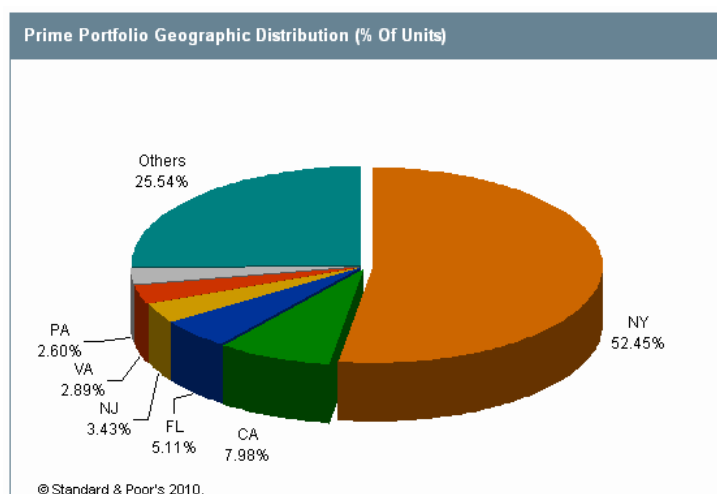


Chart 6



Loan boarding

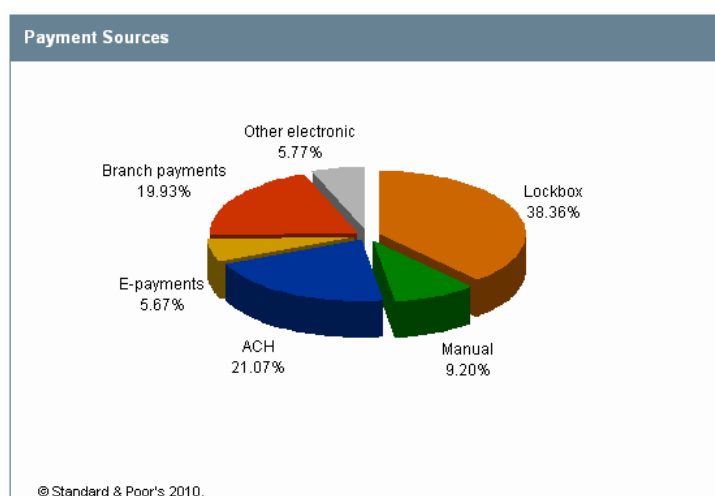
According to the company, new loan setup and loan boarding is a two-day process beginning with an interface from the origination system on the day of funding. Critical data integrity reports from the origination system validate the information prior to the interface. LPS generates edit reports on more than 100 checkpoints that provide guidance and identification of possible data boarding errors. Servicing acquisitions, which are fully automated, use either Electronic Loan Interface (ELI) or LPS' Acquisition Services consultants. Using loan document images, MC divides its verification activities between its servicing centers in Buffalo and India. In addition, the company conducts welcome call campaigns through the Manila call center. These calls confirm key borrower information and offer Automated Clearing House (ACH) and Internet banking alternatives.

Cash management and investor accounting

In our opinion, MC has an efficient cash management operation that incorporates good internal controls to minimize risk of loss from human error or fraud. The company uses multiple internal lockboxes as well as rules-based payment processing technology to process monthly mortgage payments. Approximately 91% of the payments are electronic. Mail sent directly to MC servicing centers or payments coded to reject during lockbox processing represent approximately 9% of payments. Based on our observations, along with MC's statements, we believe MC displays solid controls in the payment processing function, including:

- The payment posting area's level of security includes employee card key access;
- Check batches are subject to multiple levels of review and are system-reconciled;
- Unprocessed items require a 24-hour resolution, and management performs desk inspections periodically to ensure that all items have been processed within the specified period;
- Rejected checks and payment checks received through the mail are imaged and assigned to a functional workflow for identification and posting. Any check held overnight is stored in a fireproof cabinet;
- Payment stops are updated daily to mitigate additional delays and expenses associated with accounts in the process of foreclosure;
- A dedicated individual disassociated from the payment posting function reconciles the payment clearing account daily to ensure proper segregation of duties; and
- MC uses HSBC Bank's check-image archive system to expedite research of financial transactions and root-cause analysis of applications.

Chart 7



A separate and distinct department performs investor remitting, reporting, and account reconciliation activities. The company, in our view, has appropriate segregation of duties among staff handling these functions. Management has represented that there are no items aged more than 60 days and that the investor accounting department has the following risk management methodologies in place:

- Investors align workflow assignments to help the staff develop and maintain their expertise;
- The servicing system performs a daily reconciliation of the clearing account and generates exception reports, which investor accounting personnel review;
- An auto sweep of clearing account funds into the respective custodial accounts is in place;
- A dedicated staff disassociated from reporting and remitting functions reconciles custodial accounts monthly. Outstanding items are identified within 30 days and cleared within 45 days;
- Managers review investor reports and bank account reconciliations;
- The data gathering process for investors is fully automated with no manual data manipulation, thus preserving integrity of data reported to investors;
- The department performs investor reporting both electronically and in print; and
- As an added control, the accounting department is responsible for all wire transmissions.

Chart 8

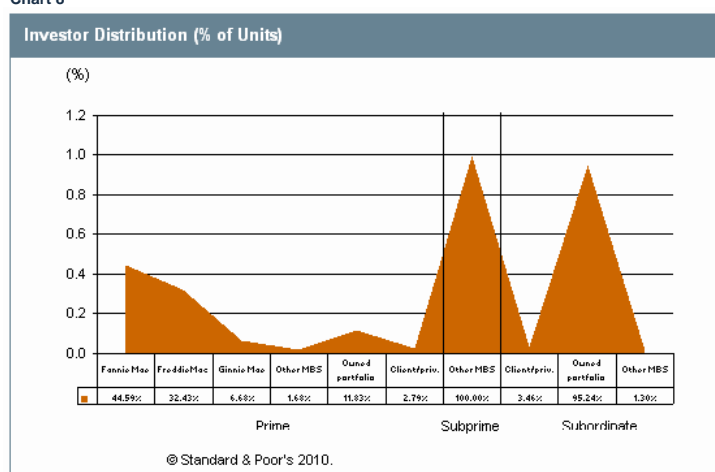
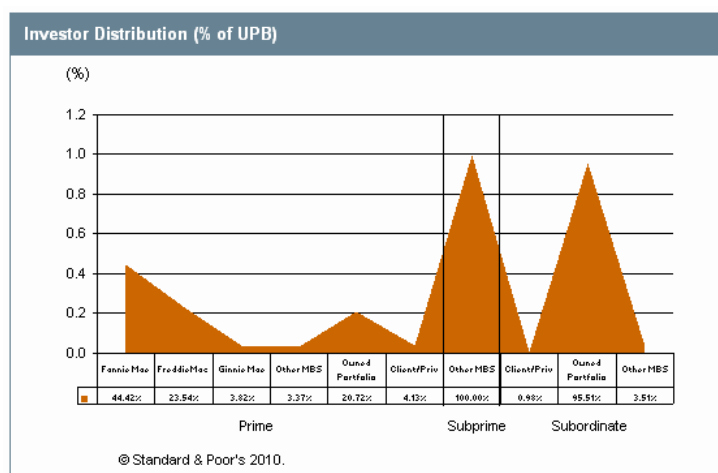


Chart 9



Customer relations

MC reports that it uses its global call centers in Depew, N.Y.; Bangalore, India; and Manila, Philippines, to respond to borrower telephone inquiries. Nearly 75% of incoming call volume is managed outside of MC's Depew call center. Service-level agreements (SLAs) are in place in an effort to closely align the off-shore operations with MC customer service matrixes, as referenced below. A VRU provides account-level data to customers, and an automated call distribution system (ACD) routes calls to the appropriate customer service representatives, including those who speak other languages, including Spanish, Mandarin, and Cantonese.

In addition to primary customer service representatives, a team of skilled "guest representatives" educated to assist with borrower inquiries supplements the telephony network during high-volume periods. A dedicated correspondence unit provides written responses to borrower inquiries when required and within regulatory guidelines. A Web site is also available for borrowers to obtain static loan information, make payments, and correspond with the company. Other reported factors of MC's customer relations are as follows:

- The company-reported VRU capture and Web usage rates of 56% and 62%, respectively, are better than the reported averages of other servicers we follow. However, the reported first-call resolution rate, at 76%, is lower than the average of other servicers we follow;
- Call centers operate from 7 a.m. to 11 p.m. EST Monday through Friday and from 8 a.m. to 5 p.m. Saturday and Sunday. In addition, customers may visit over 400 HSBC branch offices to obtain responses to their inquiries;
- Staff turnover rates at the Depew and off-shore call centers are 25% and 26%, respectively;
- The company's call monitoring of customer service staff falls within the median range of other mortgage servicers we monitor;
- Although the ASA and abandonment rates at both the Depew and off-shore centers are above the median range of mortgage servicers we monitor, we believe they are acceptable;
- Customer service handles borrowers who are less than 25 days delinquent, who can use various electronic payment vehicles to expedite a borrower-initiated payment;
- All calls are recorded and logged with a reason code and description, which enables management to identify trends and support communication matters;
- The company uses automatic number identification (ANI) technology to capture incoming numbers for future contact reference;
- Customer issues are tracked at the mortgage corporation and bank levels in a browser-based "Electronic Complaint Tracking System." The database is employed to detail and categorize borrower issues as well as ensure regulatory compliance;
- A dedicated research and correspondence team tracks and monitors written correspondence to ensure RESPA compliance. The team is also responsible for root-cause analysis and tracking to drive process improvements throughout the company;
- All calls are recorded, and 10% of the calls are video-captured; and
- The company has represented that a third-party vendor conducts weekly random customer satisfaction surveys based on the prior week's customer call.

The Manila team conducts welcome call campaigns to greet new customers, confirm key information, answer questions, and offer EFT and Internet banking. The company indicates that relationship customers are a key focus as well. Customer requests for product enhancements and other banking products are referred to the appropriate department for execution. In addition, the Manila group supplements collections activity by placing reminder calls and supporting outbound collection campaigns. Calling campaigns are structured using a risk-based approach to prioritize calling queues.

MC uses REKON and the image and workflow (IAW) system for processing mortgage reconveyance documents and managing timelines to ensure timely processing. The applications have built-in compliance calculators to track the expected completion date for each release in the processing pipeline. IAW monitors documents it receives and assigns a priority number to each loan paid based on the time remaining to maintain compliance with state timeline requirements. According to MC, the processing centers in Depew and Bangalore prepare lien releases. An aging report provides rates of compliance with reconveyance timelines, which MC reported as 99.17% for December 2009.

Special loans

A dedicated special loan team manages adjustable-rate mortgages (ARMs), home equity lines of credit (HELOCs), balloon mortgages, interest-only loans, and other loan products requiring special handling. Characteristics of the special loan team, according to MC, include the following:

- Administrative tasks and tracking are performed electronically;
- The area maintains daily ARM loan indices, with security controls requiring a processor and approver;
- Established risk-based borrower programs are designed to proactively address potential payment issues;
- MC reviews and approves a sample of customer billing statements daily to ensure that loans are accurately transmitted to the billing statement vendor;
- The company also reviews a sample of monthly HELOC statements to ensure the accuracy of transaction data;
- The team counsels HELOC borrowers on loan rate product options; and
- The team provides special loan workout alternatives that include assignments, CEMAs (consolidation, extension, and modification agreements), principal curtailment, HUD 235, and balloon payments. MC also administers private mortgage insurance (PMI) terminations in accordance with the Homeowner's Protection Act and state and investor guidelines.

Escrow administration

MC has advised us that approximately 73% of its prime and less than 10% of its subprime servicing portfolios maintain escrow accounts for tax, hazard, or flood insurance. MC uses the services of tax and insurance vendors to monitor tax and insurance payments. It is our understanding that MC uses the vendors' various applications to monitor payments. MC has informed us that recognition of failure to pay taxes (for a non-escrow loan) will initiate a series of letters to the borrower and may, after analysis, prompt MC to make the tax payment and establish an escrow account. In addition, non-escrow insurance cancellations may result in the initiation of a forced-placed insurance policy. As with delinquent tax payments, the company will initiate a series of letters and calls to borrowers, as well as calls to known insurance carriers. Borrower inquiries about tax and insurance are administered by customer service and, if necessary, the applicable tax and insurance group. We believe MC operates a well-controlled escrow administration area that benefits from its oversight of its third-party vendor relationships. Other attributes of escrow administration include the following:

- Electronic interfaces between MC and vendors are in place;
- Nonreimbursable tax penalties related to servicing were negligible during the past 12 months;
- MC communicates expired or cancelled policies for escrowed and non-escrowed accounts to the hazard and flood insurance vendors via an electronic data interchange (EDI);
- MC has access to the tax vendor's Web site, which contains lender-specific reports, agency disbursement calendars, links to online manuals, and taxing authority Web sites;
- The insurance vendor has EDI billing and remittance in place with all major insurance carriers;
- Management control reports and quarterly vendor visits help to ensure compliance with established service levels;
- MC tracks primary mortgage insurance (PMI) via escrow lines on the LPS servicing system; and
- Forced-placed insurance rates are low, in our opinion. Policies are placed at 60 days after expiration for hazard insurance and 45 days after expiration for flood insurance if there is no evidence of coverage.

Table 2

Insurance

	Placed	Cancelled	Renewed
Hazard (%)	1.06	14.40	5.25
Flood (%)	0.13	13.09	2.48

Default management

According to MC's management, the company aligns its default servicing (secured loans) across four "centers of excellence"? phone collections, lost mitigation, late-stage defaults, and recovery management. We describe these centers in more detail below.

The default management department handles collections, loss mitigation, foreclosures, bankruptcies, and REOs.

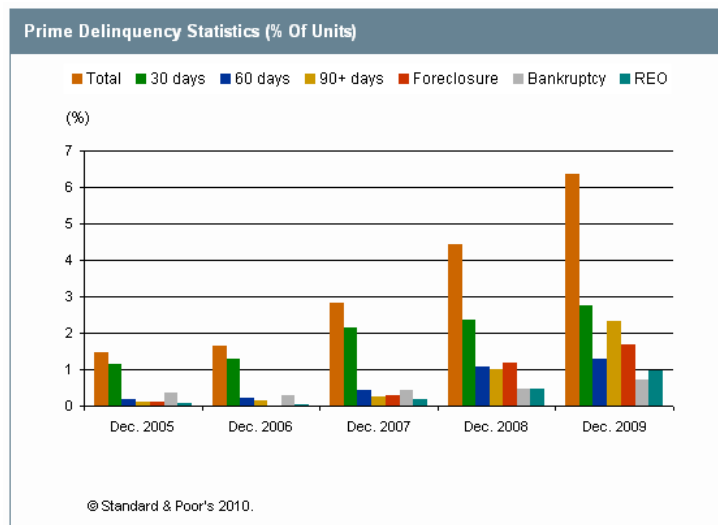
Table 3

Prime Loan Statistics

Dec. 2009 Dec. 2008 Dec. 2007 Dec. 2006 Dec. 2005

Units (No.)	339,837	363,635	360,440	362,486	369,861
Volume (mil. \$)	59,637	64,348	63,744	63,421	64,008
Total delinquency (% of loans)	6.34	4.44	2.81	1.65	1.45
30 days	2.75	2.36	2.13	1.29	1.15
60 days	1.27	1.07	0.42	0.22	0.19
90+ days	2.32	1.01	0.26	0.14	0.11
Foreclosure (%)	1.68	1.19	0.27	0.11	0.10
Bankruptcy (%)	0.70	0.45	0.42	0.27	0.37
REO Inventory (No.)	3,322	1,714	617	156	256

Chart 10



Phone collections are aligned into five distinct areas. Early-stage collections (from one to 59 days past due (DPD)); Mid-range collections (60 to 119 DPD); late-stage collections (120 DPD and greater); post-foreclosure review; and specialty calling (modification follow-up and performance management).

Early-stage collectors, including representatives from Bangalore, who complement the evening shift, use a predictive autodialer to administer calling campaigns. Early-stage inbound calls from borrowers less than 25 DPD may be channeled through customer service (less than 25% of such calls) or collections based on loan risk characteristics and past payment performance. MC reported the following aspects of its collection structure and controls:

- Collection employee turnover at the company's U.S. and non-U.S. centers were 25% and 18%, respectively, for the second half of 2009;
- MC bases its collection timelines on investor requirements and prudent loan servicing practices;
- The company uses data and voice recording technology for collector coaching;
- Global mail-tracking technology for payments helps to effectively manage calling campaigns;
- The predictive dialer aligns each connected call with an employee's skill set, according to the calling campaign;
- Early-stage collectors use the predictive dialer for outbound calls approximately 80%-90% of the time. Manual calling queues established by LPS' MSP are used for no-contact, no-number, and skip-tracing work;
- The U.S. call center statistics?ASA and abandonment rates?are high compared with those of other servicers we monitor. The non-U.S. statistics are consistent with the ranking level;
- Customer service employees are trained to respond to incoming calls from delinquent borrowers. Delinquent borrowers are automatically routed to a collection representative from the VRU at 25 days past due;
- A flip-chart desk guide assists collectors in responding to borrowers' questions;
- Collection representatives use Freddie Mac's Early Indicator and an internal behavior score to assess the portfolio and develop calling campaigns based on default risk;
- Extended evening and weekend hours are in place to canvass the portfolio; and
- The company uses data and voice recording for collector coaching.

According to company guidelines, early-stage collectors have discretionary authority to enter borrowers into short-term repayment plans (usually less than three months) according to an established tiered methodology and further authorization, as applicable. Repayment plans are tracked in the system, and accounts automatically revert to the collection queue if they break the plan. In addition, management represents that all servicing units are educated to identify borrowers who are likely to default and forward this information to specialized personnel in the default department.

Mid-range collectors (for accounts 60 to 119 DPD) and late-stage collectors (for accounts 120 DPD and greater) are responsible for inbound and outbound calls to and from borrowers. The company indicates that these teams attempt to secure payments from defaulted borrowers as well as provide limited loss mitigation options. The teams also perform skip tracing, review broken promises to pay, and manage calling campaigns and foreclosure referrals in accordance with investor and regulatory guidelines. Other characteristics of these teams include the following:

- They support early-stage collections as necessary;
- They review loss mitigation activities on loans in foreclosure at established contract parameters;
- Systematic calling campaigns are in place to allocate and queue loans; and
- The length of a repayment plan is dictated by the borrower's financial position and investor guidelines, with logic, rates, and options built and maintained in the applicable application system.

The late-stage collection team is responsible for loss mitigation options that include repayment plans, payment plans set for modifications, stipulation agreements, and partial claim reviews, according to MC. Management reports that the team is cross-trained on all product and investor guidelines

According to company guidelines, loss mitigation efforts may begin at any time during the collection process or when a borrower contacts MC, but no later than 45 days past due. The company reports that it continues to be involved with various outreach efforts, such as Hope Now, National Community Reinvestment Coalition, Neighbor Works America, Consumer Credit Counseling Services, local organizations, and its own homeownership initiatives, in an effort to provide borrowers who want to stay in their homes workable solutions to avoid foreclosure. In addition, the company represents that it actively participates in the State Foreclosure Prevention Working Group, which consists of state attorneys general, state banking regulators, and many of the 20 largest subprime mortgage servicing and lending organizations.

The loss mitigation department, which functions separately from the collection department, follows company and investor guidelines in its approach to loss mitigation and soliciting delinquent borrowers. Loans are referred to the department through the LPS MSP task referral process. Within 48 hours of a referral, a representative will attempt to contact the borrower to discuss workout options. The company reported the following other aspects of its loss mitigation area:

- The company added experienced internal underwriters from originations, as well as late-stage default processors;
- The system generates a formal loss mitigation solicitation letter when the foreclosure process commences, in accordance with investor guidelines or by the 45th day of delinquency;
- MC uses multiple loss mitigation templates (e.g., Fannie Mae short sale, Freddie Mac modifications, and SONYMA deed-in-lieu) to ensure compliance with investor guidelines and company processes;
- Borrowers working through "trial modification" periods receive a telephone reminder call three days prior to the payment due date;
- Web submission of financial packages is permitted, which enables employees to expedite an effective workout strategy;
- The department has delegated authority from GSEs and clients to approve workout plans in accordance with established guidelines;
- A tiered approval process is in place for repayment plans according to the length of the plan; and
- Loss mitigation activities continue throughout the foreclosure process, and follow a dual path that consists of pursuing loan workout activities designed to minimize risk of loss to investors while adhering to timelines critical to the foreclosure process.

Chart 11

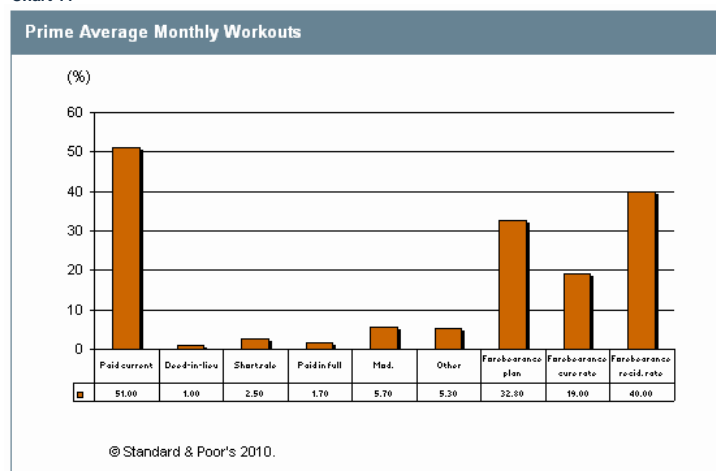
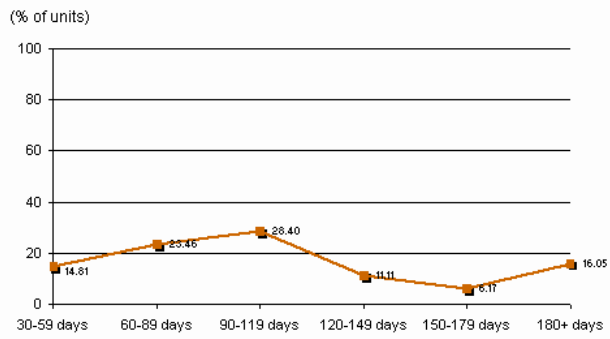
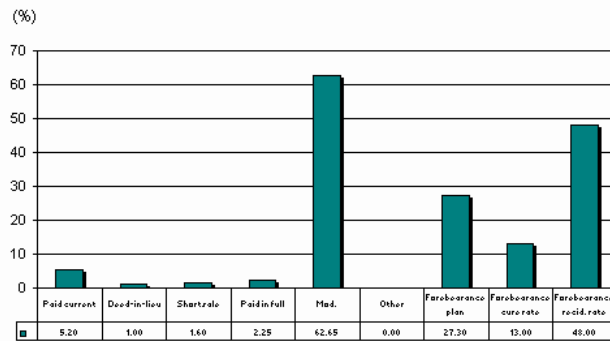


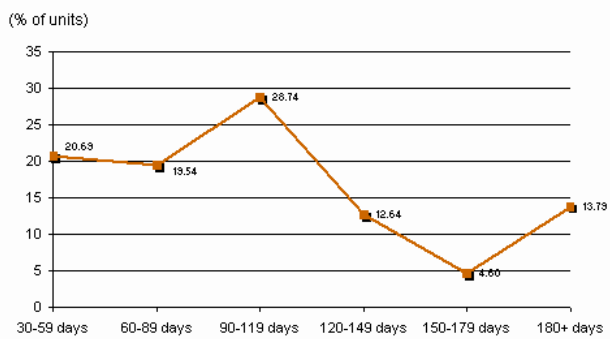
Chart 12

Prime Forbearance Break Rate

© Standard & Poor's 2010.

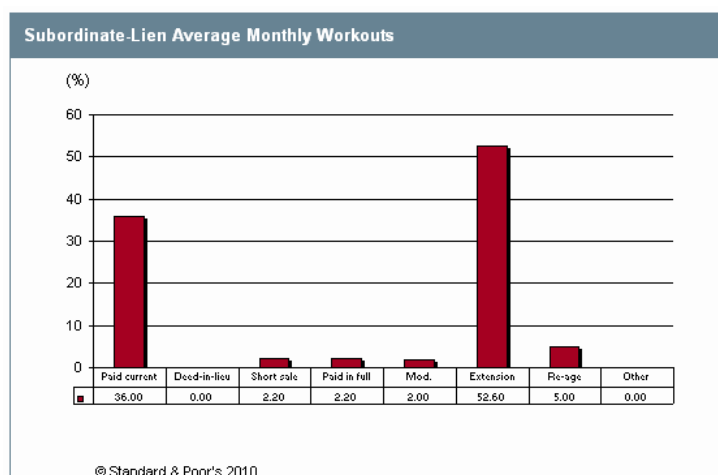
Chart 13**Subprime Average Monthly Workouts**

© Standard & Poor's 2010.

Chart 14**Subprime Forbearance Break Rate**

© Standard & Poor's 2010.

Chart 15



The company characterizes foreclosures, bankruptcies, REOs, and other specialized activities as "Late-Stage Default Servicing." According to management, an internal independent foreclosure approval team reviews each loan being considered for foreclosure. The team is tasked with ensuring that all appropriate attempts at loss mitigation have occurred prior to approving a loan for foreclosure and referring it to a foreclosure attorney. Management represents that the review process includes:

- A complete analysis of the loan at origination;
- A review of collection history and loss mitigation efforts;
- A review of adherence to company policies and procedures and investor guidelines; and
- Approval or disapproval of a loan referral to foreclosure.

MC continues to use the services of third-party vendors to administer to various default servicing activities, including foreclosure processing, property preservation, and senior-lien monitoring. The company uses LPS MSP, Desktop workstation, and Newinvoice to manage its foreclosure processes for legal and event tracking, bidirectional image transmissions, and an LPS reporting Web site.

MC has said it monitors its vendors, rates their quality (accuracy, responsiveness, and timeliness), and holds periodic meetings with them according to an established schedule.

MC maintains all customer contact and interaction, and according to MC, the following processes and controls are in place:

- MC proactively monitors its foreclosure and bankruptcy foreclosure timelines and cost schedules to ensure adherence with investor guidelines;
- Files are referred to foreclosure automatically according to investor timelines;
- The company maintains electronic file referral and communication with approved outside counsel;
- The foreclosure cure rates are 1% for the prime and subprime portfolios and 4% for the subordinate-lien portfolio. We believe these low cure rates are a positive reflection of MC's efforts to work with borrowers to secure workout arrangements to avoid foreclosure;
- LPS generates monthly attorney performance reports;
- Property inspections identify occupancy, condition, and whether the property is listed for sale. The company ensures that vacant properties are secured and files insurance claims if the inspection identifies property damage; and
- Global resources representatives support foreclosure functions, specifically payoff statements, reinstatement quotes, foreclosure referrals, workstation activation, and reporting.

According to company guidelines, MC manages claims and post-foreclosure liquidations through the LPS claims workstation. The workstation application incorporates processing templates that include investor and state-specific guidelines. The completion of each process automatically triggers related reporting. Claims are processed through the workstation via EDI activation to investors or the insurer Web site and/or through paper generation. MC reviews and reconciles all claim funds it receives to ensure the remittance of all funds due. If necessary, it files supplemental claims. MC has represented that no claims were denied or curtailed in the second half of 2009.

MC represents that for all loans except those guaranteed by Freddie Mac, the company adheres to Fannie Mae's bankruptcy timelines and follows the related cost schedule guidelines. MC's bankruptcy controls appear to adhere with company and regulatory policies, and include the following:

- MC receives bankruptcy notification electronically through PACER and Electronic Bankruptcy Notification and via the

U.S. mail;

- MC notifies attorneys electronically;
- The company uses the LPS MSP bankruptcy workstation to process, manage, and report applicable cases and employs processing templates and investor-specific work steps to administer each case action. The completion of steps within the template trigger default reporting, credit bureau reporting, tasks, letters, and system coding;
- Motions for relief are electronically referred to the applicable attorney in accordance with investor guidelines;
- In Chapter 7 cases, delinquency timelines are established in accordance with investor guidelines for automatic submission to the attorney of record to commence filing a motion for relief;
- In Chapter 13 cases, LPS Outsource (a third-party vendor) reviews the plan, files any objections to the plan, if applicable, and files all proofs of claims. MC monitors for post-petition delinquency through daily account reviews. In accordance with investor guidelines, a loan is referred to the attorney of record to file a motion for relief when the loan becomes delinquent (post-petition);
- Global resources representatives support bankruptcy functions; and
- Image workflows and procedures are in place to process bankruptcy documents and information electronically.

The REO department oversees the management, procurement, and review of all property valuation orders. The department monitors REO inventory and properties through the REO workstation and updates marketing plans to reflect all activity involving the property. Managerial approval is required on plans for properties that have been deemed to incur losses. MC has partnered with Habitat for Humanity and other charitable organizations as an additional sale/deeding conduit for truly challenged REO properties. The department reviews all applicable properties for possible eligibility for a charitable donation campaign. We believe the company has sound procedures in place for maximizing recoveries of REO properties, as supported by the following:

- MC requires two valuations—one appraisal and one broker price opinion (BPO)—throughout the course of REO servicing in order to accurately compare and apply necessary foreclosure sale bidding logic, future marketing strategy, and timely charge-off review and processing;
- Asset managers develop list prices based on sale agent conference calls and market analysis, which may include an actual site visit;
- An individual marketing plan that requires management approval is developed for each asset;
- The company selects brokers from an approved list and reviews brokers regularly through a scorecard rating methodology. Unacceptable performance results in removal from MC's approved broker list;
- MC requires its brokers to provide a digital photograph of the property, which it uses to activate MC's Web site listing all the company's REO serviced properties for sale;
- Hazard insurance coverage is obtained on all REO properties;
- The company offers "cash for keys" and "cash for deed" (a.k.a., relocation assistance) to borrowers for the majority of occupied properties it obtains through foreclosure to avoid costly and protracted eviction proceedings and to expedite REO marketing time;
- The company performs cost/benefit analysis when considering repairs;
- The average inventory turnaround time for prime and subprime borrower properties was approximately 260 days as of December 2009;
- The average eviction time for prime loans is 49 days, while the average for subprime loans is 90 days; and
- The gross and net sales-to-market value ratios are 97% and 89%, respectively, for originated prime loans and 94% and 84% for subprime loans.

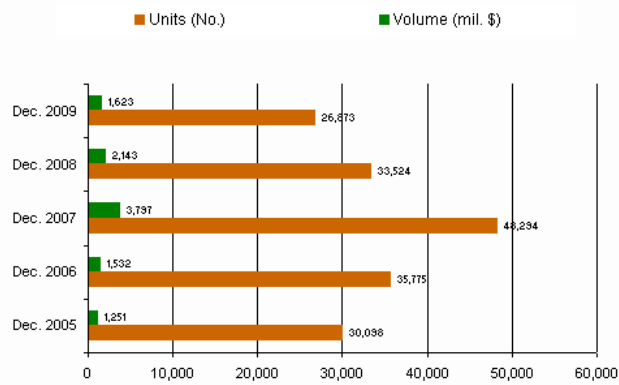
Loan Administration?Subprime

The subranking for subprime loan administration is ABOVE AVERAGE.

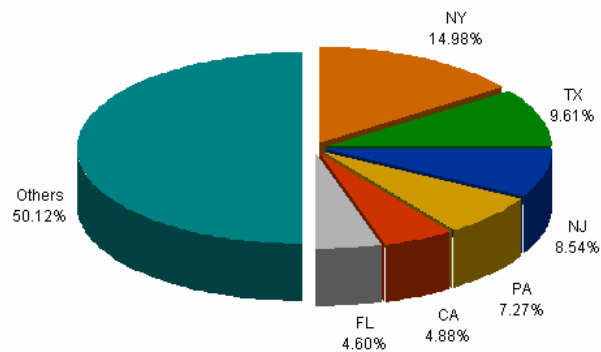
In our opinion, the rise in overall delinquencies reflects the current economic environment, as well as a 20% decline in the total number of subprime loan units and an increase in 120-plus DPD delinquencies due to foreclosure avoidance initiatives and state/county/GSE foreclosure moratoriums.

According to management, the collection group employs assertive collection practices using a risk-based scoring methodology as well as product-specific and/or investor guidelines to identify high-risk borrowers early in the collection cycle. The use of LPS collection workstation queues designed to align loans by risk, along with calling campaigns, are part of MC's efforts to focus on borrowers at high risk for default. We believe MC's loss mitigation efforts are proactive and attempt to prevent foreclosure and recidivism. Loan modifications will include escrow unless investor guidelines dictate otherwise.

Chart 16

Subprime Portfolio UPB And Units

© Standard & Poor's 2010.

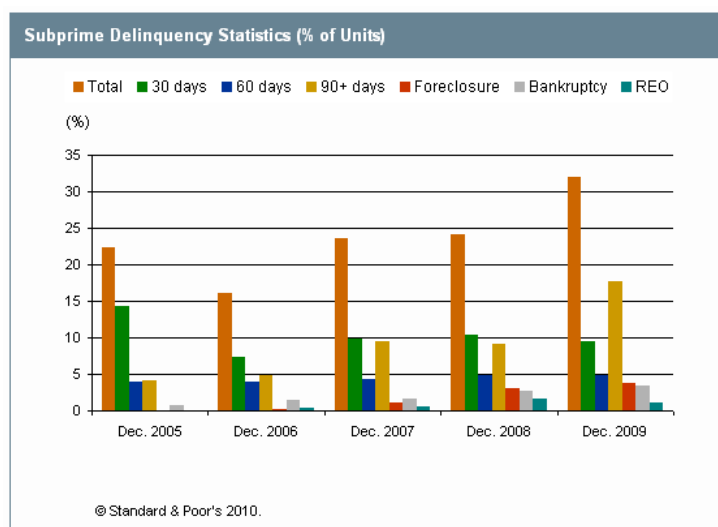
Chart 17**Subprime Portfolio Geographic Distribution**
(% of units)

© Standard & Poor's 2010.

Table 4**Subprime Loan Statistics**

	Dec. 2009	Dec. 2008	Dec. 2007	Dec. 2006	Dec. 2005
Units (No.)	26,873	33,524	48,294	35,775	30,098
Volume (mil. \$)	1,623	2,143	3,797	1,532	1,251
Total delinquency (% of loans)	31.93	24.12	23.53	16.01	22.31
30 days	9.49	10.27	9.76	7.32	14.28
60 days	4.83	4.79	4.22	3.89	3.85
90+ days	17.61	9.06	9.55	4.80	4.18
Foreclosure (%)	3.72	3.09	1.15	0.14	0.04
Bankruptcy (%)	3.41	2.72	1.67	1.38	0.63
REO Inventory (No.)	301	512	290	135	

Chart 18



Loan Administration?Subordinate-Lien

The ranking for subordinate-lien loan administration is ABOVE AVERAGE.

Management has represented that MC administers subordinate-lien loans either on LPS or on a First Data Resources (FDR) application. Loans originated before May 2005 reside on FDR, with the exception of loans in foreclosure or bankruptcy or those that are 180 days delinquent, which are transferred to LPS for control consistency. Although it is inefficient, in our view, to manage loans on two different systems, we believe MC maintains effective controls and managerial reports and has system transfer methodologies in place to minimize risk.

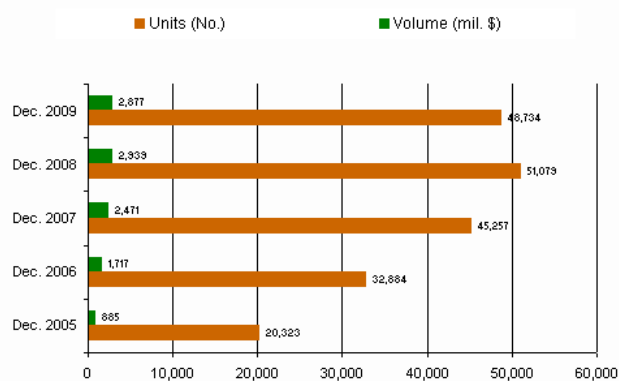
HSBC Bank's check-capturing department captures home equity line of credit (HELOC) drafts and transmits them to the appropriate application system. The check-capturing area follows MC guidelines by making some automated pay or return decisions, such as those affecting drafts that exceed the line of credit and signature review for those that exceed an established dollar amount. MC reported the following other aspects of its HELOC processes:

- The company's corporate security area monitors HELOC advances and payments electronically for suspicious activity. Address changes are reviewed for "hot" zip codes, and no HELOC drafts may be ordered for a specific period;
- The company performs scheduled credit reviews to uncover changes in the credit profile and/or declines in property value;
- MC suspends delinquent loans for six months at 30 DPD and terminates them at 60 DPD. Credit lines are reduced or suspended based on deterioration in the credit profile or declines in property value in relation to the current underwriting guidelines;
- The company accepts requests to block HELOC withdrawals from any authorized owner;
- Cancellation of a HELOC withdrawal restriction requires all joint parties to authorize the removal of the block. We view this process as a prudent control to avoid unnecessary expenses (legal and/or settlement) associated with joint borrowers' withdrawal disputes;
- Third-party wires are prohibited but HSBC will transfer funds to an HSBC account; and
- As an additional control, a service department representative reviews questionable withdrawal requests to validate the action to be administered.

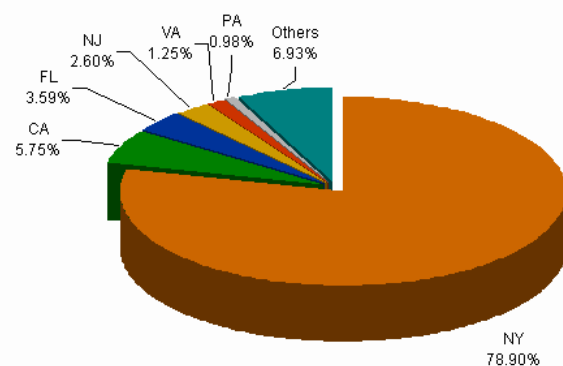
According to company guidelines, proof of real estate tax sufficiency and active insurance coverage at loan origination is a condition of loan funding. MC requests proof of payment from the borrower when it receives notification from the taxing authority of a delinquent tax payment. The company also uses the services of a contracted third-party vendor to monitor delinquent borrowers' tax payment status and report delinquent taxes, notice of senior-lien foreclosure actions, and bankruptcy filings. MC states that it will advance a tax payment and establish an escrow account if necessary.

Company guidelines require that its name is listed as the mortgagee on borrower insurance policies, and pertinent borrower insurance information is recorded into LPS for future reference, which MC's insurance department tracks. If MC receives an insurance cancellation notice, the loan enters into the company's lender-placed insurance letter cycle.

Chart 19

Subordinate-Lien Portfolio UPB And Units

© Standard & Poor's 2010.

Chart 20**Subordinate-Lien Portfolio Geographic Distribution**
(% of units)

© Standard & Poor's 2010.

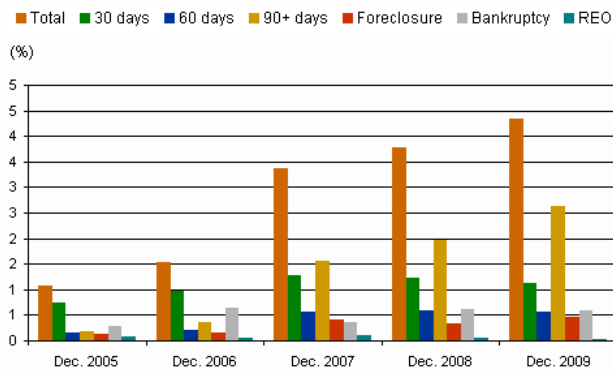
Table 5**Subordinate-Lien Statistics**

	Dec. 2009	Dec. 2008	Dec. 2007	Dec. 2006	Dec. 2005
Units (No.)	48,734	51,079	45,257	32,884	20,323
Volume (mil. \$)	2,877	2,939	2,471	1,717	885
Total delinquency (% of loans)	4.33	3.78	3.38	1.54	1.07
30 days	1.12	1.22	1.28	0.97	0.75
60 days	0.57	0.59	0.55	0.21	0.15
90+ days	2.64	1.97	1.55	0.36	0.17
Foreclosure (%)	0.45	0.34	0.42	0.15	0.14
Bankruptcy (%)	0.59	0.60	0.36	0.64	0.29
REO inventory (No.)	14	28	39	21	15

Chart 21

Contact Client

Subordinate-Lien Delinquency Statistics (% of units)



© Standard & Poor's 2010.

Services

1-877-SPCLIENT
1-877-772-5436
Call Tree Options
Contact Us

Resources

Inside the S&P 500

Financial Position

In accordance with Standard & Poor's criteria, we determined MC's financial position to be SUFFICIENT.

In our view, there is sufficient financial strength to sustain MC's servicing operations for the next 12 to 18 months. For additional information on HSBC Holdings plc, the ultimate parent of MC, please refer to RatingsDirect on the Global Credit Portal, at www.globalcreditportal.com.

Servicer Analyst: Edward Highland, New York (1) 212-438-1287;
edward_highland@standardandpoors.com

Primary Credit Analyst: Richard Barnes, London (44) 20-7176-7227;
richard_barnes@standardandpoors.com

No content (including ratings, credit-related analyses and data, model, software or other application or output therefrom) or any part thereof (Content) may be modified, reverse engineered, reproduced or distributed in any form by any means, or stored in a database or retrieval system, without the prior written permission of S&P. The Content shall not be used for any unlawful or unauthorized purposes. S&P, its affiliates, and any third-party providers, as well as their directors, officers, shareholders, employees or agents (collectively S&P Parties) do not guarantee the accuracy, completeness, timeliness or availability of the Content. S&P Parties are not responsible for any errors or omissions, regardless of the cause, for the results obtained from the use of the Content, or for the security or maintenance of any data input by the user. The Content is provided on an "as is" basis. S&P PARTIES DISCLAIM ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, FREEDOM FROM BUGS, SOFTWARE ERRORS OR DEFECTS, THAT THE CONTENT'S FUNCTIONING WILL BE UNINTERRUPTED OR THAT THE CONTENT WILL OPERATE WITH ANY SOFTWARE OR HARDWARE CONFIGURATION. In no event shall S&P Parties be liable to any party for any direct, indirect, incidental, exemplary, compensatory, punitive, special or consequential damages, costs, expenses, legal fees, or losses (including, without limitation, lost income or lost profits and opportunity costs) in connection with any use of the Content even if advised of the possibility of such damages.

Credit-related analyses, including ratings, and statements in the Content are statements of opinion as of the date they are expressed and not statements of fact or recommendations to purchase, hold, or sell any securities or to make any investment decisions. S&P assumes no obligation to update the Content following publication in any form or format. The Content should not be relied on and is not a substitute for the skill, judgment and experience of the user, its management, employees, advisors and/or clients when making investment and other business decisions. S&P's opinions and analyses do not address the suitability of any security. S&P does not act as a fiduciary or an investment advisor. While S&P has obtained information from sources it believes to be reliable, S&P does not perform an audit and undertakes no duty of due diligence or independent verification of any information it receives.

S&P keeps certain activities of its business units separate from each other in order to preserve the independence and objectivity of their respective activities. As a result, certain business units of S&P may have information that is not available to other S&P business units. S&P has established policies and procedures to maintain the confidentiality of certain non-public information received in connection with each analytical process.

S&P may receive compensation for its ratings and certain credit-related analyses, normally from issuers or underwriters of securities or from obligors. S&P reserves the right to disseminate its opinions and analyses. S&P's public ratings and analyses are made available on its Web sites, www.standardandpoors.com (free of charge), and www.ratingsdirect.com and www.globalcreditportal.com (subscription), and may be distributed through other means, including via S&P publications and third-party redistributors. Additional information about our ratings fees is available at www.standardandpoors.com/usratingsfees.

Any Passwords/user IDs issued by S&P to users are single user-dedicated and may ONLY be used by the individual to whom they have been assigned. No sharing of passwords/user IDs and no simultaneous access via the same password/user ID is permitted. To reprint, translate, or use the data or information other than as provided herein, contact Client Services, 55 Water Street, New York, NY 10041; (1) 212-438-7280 or by e-mail to: research_request@standardandpoors.com.

MERS Milestone Report And Milestone Plus

Mers Milestone Report

*EX 15
of Affidavit
as to RPI*



Process Loans, Not Paperwork™

www.mersonline.org
1000157

MIN SUMMARY



Summary

1000144-0000857977-7
225 SUMNER STREET
ELYRIA, OH 44035

Active (Registered)
Non-MOM
First Lien

Reg Date	12/07/2006		
County	Lorain	QR	N
Primary Borrower	FULLER, ROGER	SSN	XXX-XX-4837
Pool Number	N/A	Investor Loan Number	N/A
Note Amount	\$80,000.00	Note Date	03/12/1998
Servicer	1003477 - Natixis Real Estate Capital, Inc.		
Custodian	N/A		
Investor	1003477 - Natixis Real Estate Capital, Inc.		
Subservicer	1000157 - BAC Home Loans Servicing, LP		
Interim Funder	N/A		
Originating Organization	N/A		
Property Preservation Co.	N/A		

Pending Batches

Batch Number	Transfer Type	Status	Transfer Date	Sale Date
No Pending Batches!				

MILESTONES for 1000144-0000857977-7



Description	Date	Initiating Organization / User	Milestone Information
Transfer Beneficial Rights - Option 2	08/10/2007	<u>1000144</u> FDIC as Receiver of Netbank Batch	MIN Status: Active (Registered) New Investor: 1003477 Natixis Real Estate Capital, Inc. Old Investor: 1000144 FDIC as Receiver of Netbank Batch Number: 4840185 Transfer Date: 08/10/2007
MIN Information Update	08/10/2007	<u>1000144</u> FDIC as Receiver of Netbank Batch	MIN Status: Active (Registered) New Subservicer: 1000157 BAC Home Loans Servicing, LP Old Subservicer: 1000144 FDIC as Receiver of Netbank Quality Review: N
Transfer Seasoned Servicing Rights	12/08/2006	<u>1000144</u> FDIC as Receiver of Netbank Brenda Wilson	MIN Status: Active (Registered) New Servicer: 1003477 Natixis Real Estate Capital, Inc. Old Servicer: 1000144 FDIC as Receiver of Netbank New Subservicer: 1000144 FDIC as Receiver of Netbank Old Subservicer: Nona Batch Number: 4057105 Sale Date: 12/08/2006 Transfer Date: 12/08/2006
Seasoned Loan Registration	12/07/2006	<u>1000144</u> FDIC as Receiver of Netbank Brenda Wilson	MIN Status: Active (Registered) New Servicer: 1000144 FDIC as Receiver of Netbank

<https://www.mersonline.org/mers/mininfo/minviewmiles.jsp?aux=15B4ADD14FA5291E36...> 8/3/2009

This fax was received by GFI FAXmaker fax server. For more information, visit <http://www.gfi.com>

MIN SUMMARY**Summary**

1000109-8000701800-4

Active (Registered)

2808 GRAY FOX LN
ORLANDO, FL 32826

Foreclosure pending (Option 2), retained on MERS

Non-MOM

First Lien

Reg Date 06/11/2001

County Orange

QR

Y

Primary Borrower RUMBOUGH, LAWRENCE

SSN

266-85-8450

Pool Number N/A

Investor Loan Number

N/A

Note Amount \$57,349.00

Note Date

12/22/1993

Servicer 1002192 - MidFirst Bank

Custodian N/A

Investor 1002192 - MidFirst Bank

Subservicer N/A

Interim Funder N/A

Originating Organization N/A

Property Preservation Co. N/A

Pending Batches

Batch Number	Transfer Type	Status	Transfer Date	Sale Date
No Pending Batches!				

MILESTONES for 1000109-8000701800-4

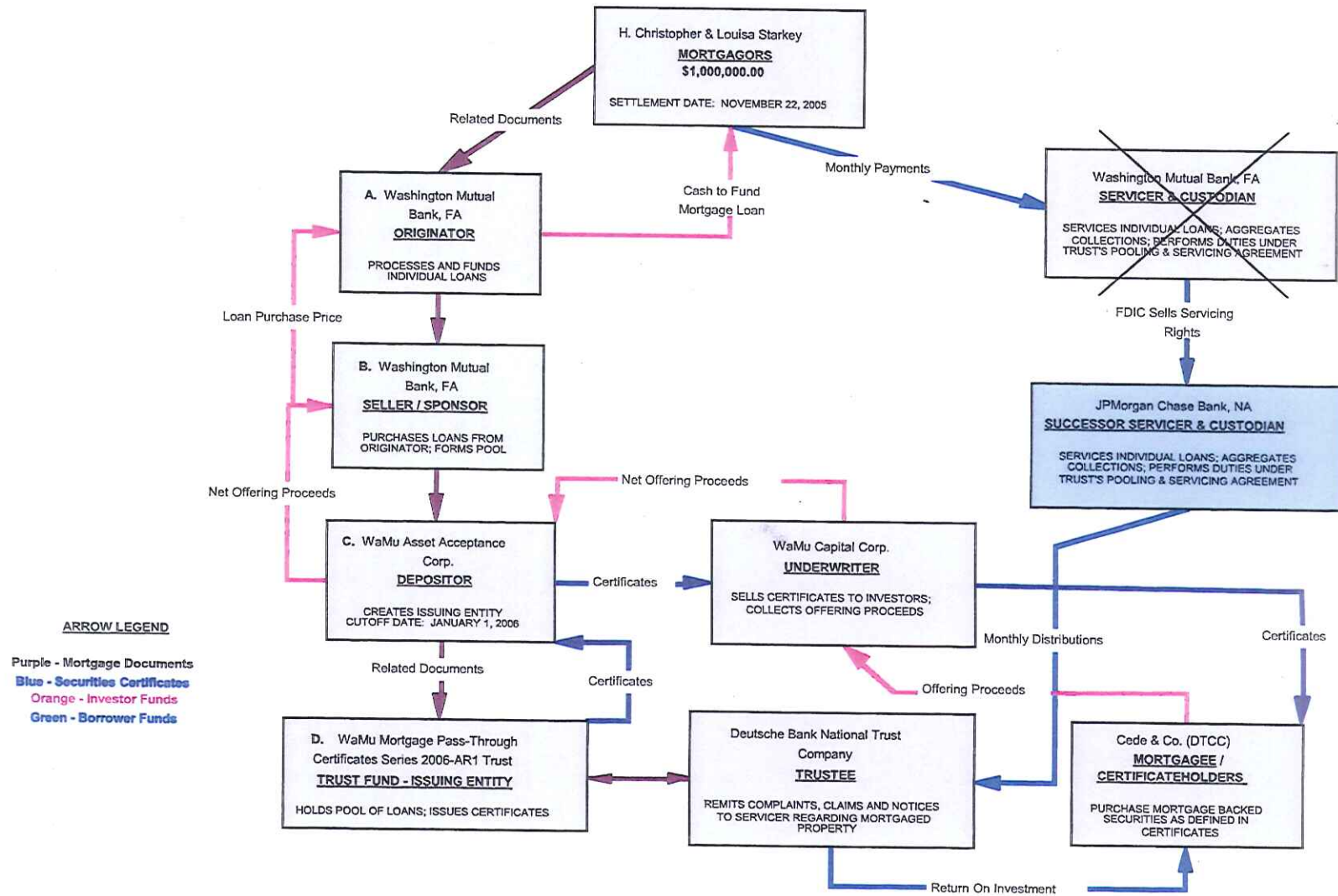


Description	Date	Initiating Organization / User	Milestone Information
Foreclosure Complete Reversal	07/23/2008	<u>1002192</u> MidFirst Bank Trish Romero	MIN Status: Active (Registered) Quality Review: Y
Foreclosure Complete	05/30/2008	<u>1002192</u> MidFirst Bank Tom Davidson	MIN Status: Foreclosure complete Servicer Liq. Date: 05/20/2008 Quality Review: Y
Transfer Beneficial Rights - Option 2	08/28/2003	<u>1002192</u> MidFirst Bank Batch	MIN Status: Active (Registered) New Investor: 1002192 MidFirst Bank Old Investor: 1000249 Government National Mortgage Association Batch Number: 1070831 Transfer Date: 08/18/2003
Transfer Seasoned Servicing Rights	12/10/2002	<u>1001568</u> WAMU Jacksonville (HomeSide Lending) Batch	MIN Status: Active (Registered) New Servicer: 1002192 MidFirst Bank Old Servicer: 1000109 National Americas Investment Inc. New Subservicer: None Old Subservicer: 1001568 WAMU Jacksonville (HomeSide Lending) Batch Number: 445375 Sale Date: 10/02/2002 Transfer Date: 11/07/2002
Foreclosure Status Update	07/24/2002	<u>1001568</u> WAMU Jacksonville (HomeSide Lending) Kim Brown	MIN Status: Active (Registered) Foreclosure Status: Foreclosure Pending (option 2), retained on MERS Quality Review: N
Seasoned Loan Registration	06/11/2001	<u>1000109</u> National Americas Investment Inc. Batch	MIN Status: Active (Registered) New Servicer: 1000109 National Americas Investment Inc.

Securitization Diagram

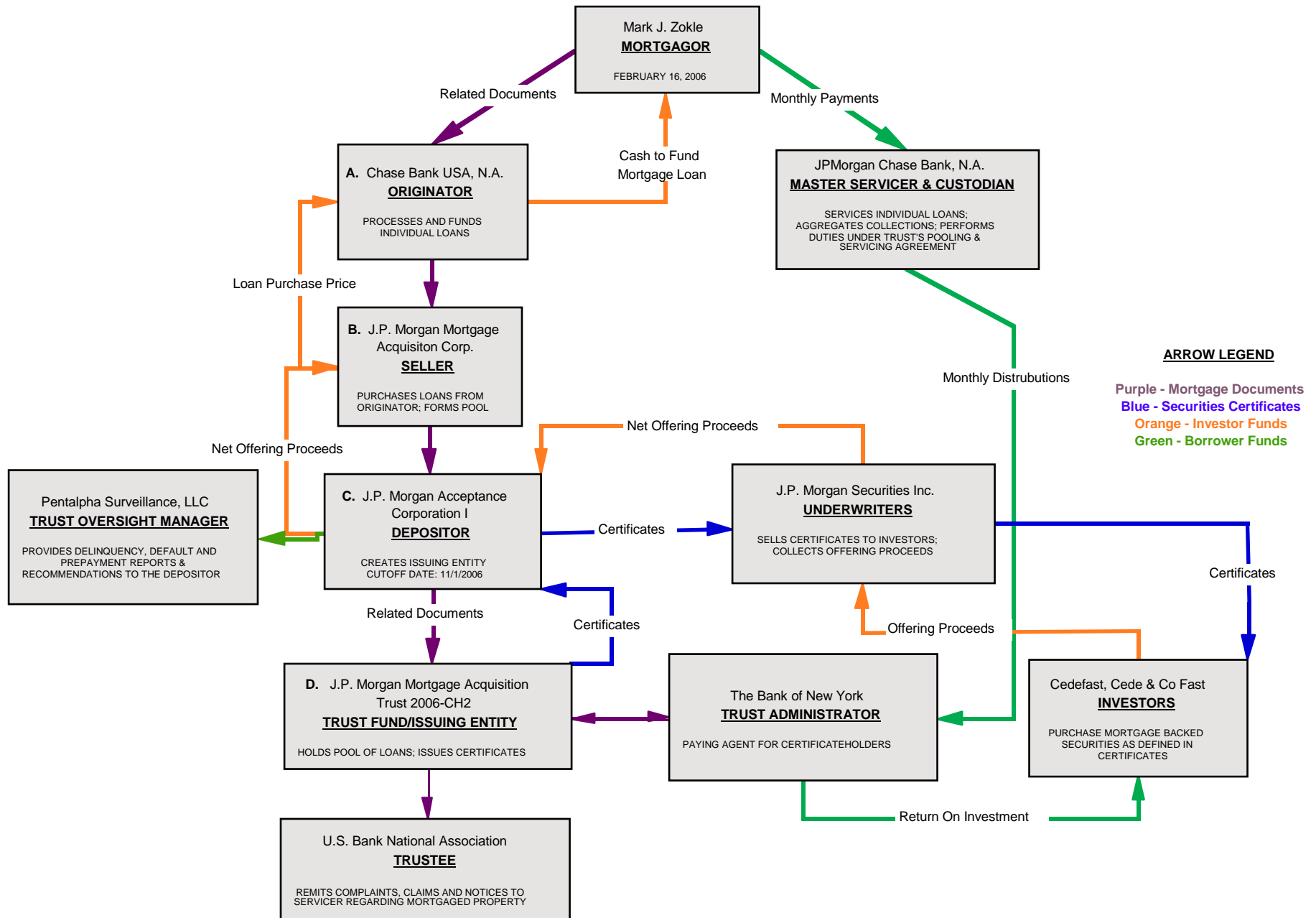
STARKEY SECURITIZATION FLOW CHART

WAMU Mortgage Pass-Through Certificates Series 2006-AR1 Trust



ZOKLE SECURITIZATION DIAGRAM

J.P. Morgan Mortgage Acquisition Trust 2006-CH1

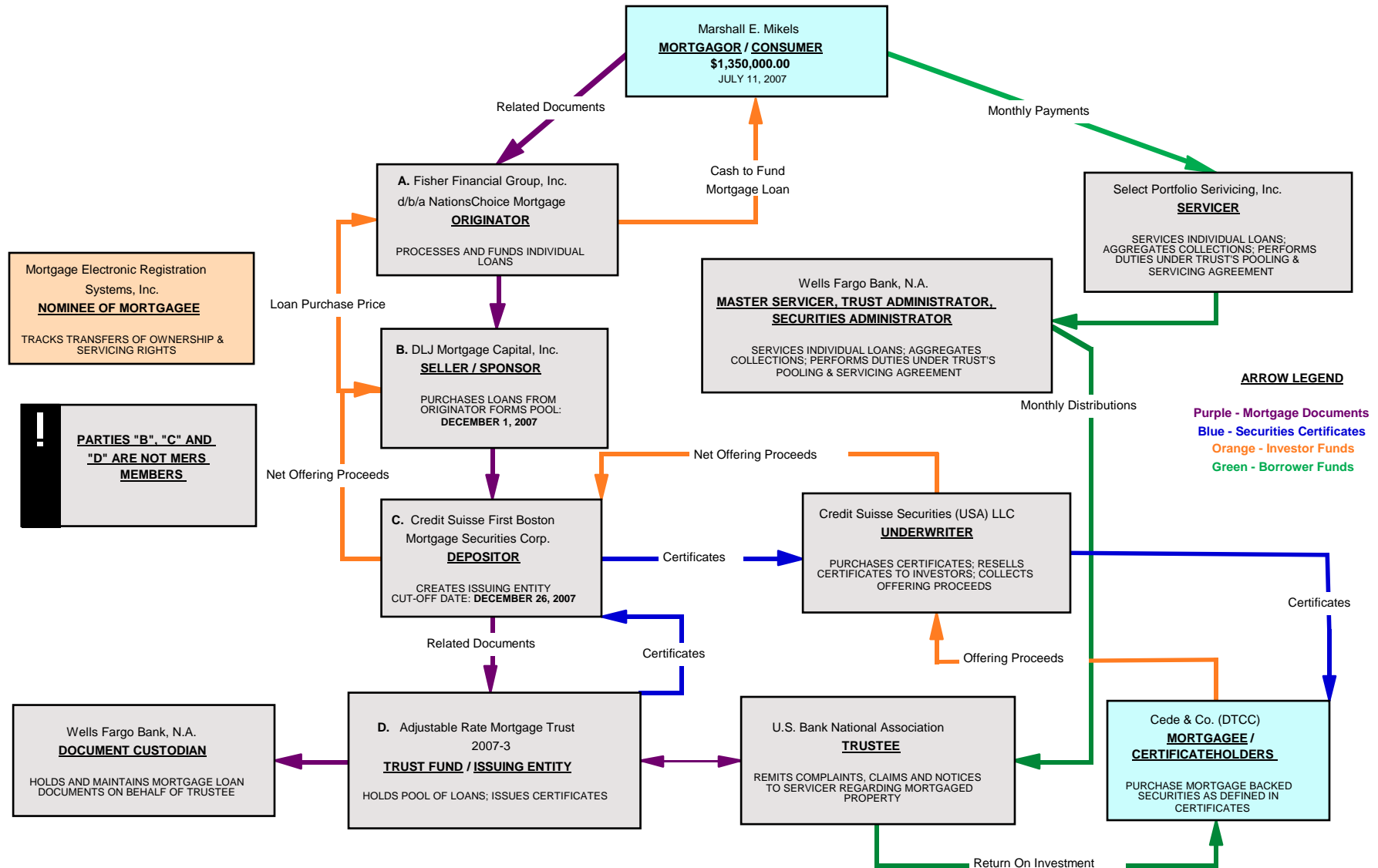


Truth In Lending Audit & Recovery Services, LLC

Copyright 2008

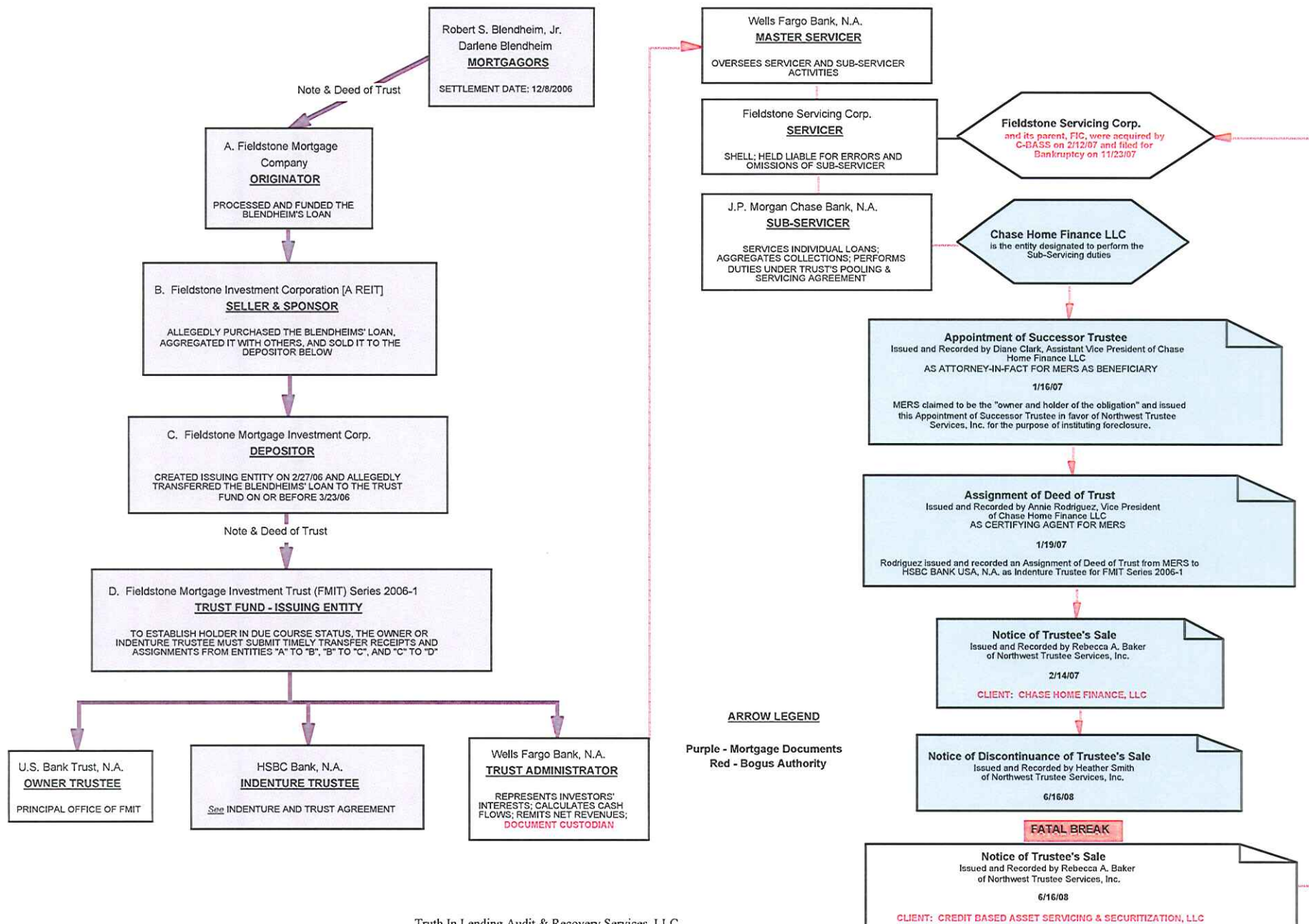
MIKELS SECURITIZATION FLOW CHART

Adjustable Rate Mortgage Trust 2007-3



HOLDER IN DUE COURSE & BOGUS HOLDERS

Fieldstone Mortgage Investment Trust (FMIT) Series 2006-1



[illegible]

Your Clients Securitized Mortgage

Your Client's Securitized Mortgage: A Basic Roadmap

The Parties and Their Roles

The first issue in reviewing a structured residential mortgage transaction is to differentiate between a private-label deal and an "Agency" (or "GSE") deal. An Agency (or GSE) deal is one involving Fannie Mae, Freddie Mac, or Ginnie Mae, the three Government Sponsored Enterprises (also known as the GSEs). This paper will review the parties, documents, and laws involved in a typical private-label securitization. We also address frequently-occurring practical considerations for counsel dealing with securitized mortgage loans that are applicable across-the-board to mortgages into both private-label and Agency securitizations.

The parties, in the order of their appearance are:

Originator. The "originator" is the lender that provided the funds to the borrower at the loan closing or close of escrow. Usually the originator is the lender named as "Lender" in the mortgage Note. Many originators securitize loans; many do not. The decision not to securitize loans may be due to lack of access to Wall Street capital markets, or this may simply reflect a business decision not to run the risks associated with future performance that necessarily go with sponsoring a securitization, or the originator obtains better return through another loan disposition strategy such as whole loan sales for cash.

Warehouse Lender. The Originator probably borrowed the funds on a line of credit from a short-term revolving warehouse credit facility (commonly referred to as a "warehouse lender"); nevertheless the money used to close the loan were technically and legally the Originator's funds. Warehouse lenders are either "wet" funders or "dry" funders. A wet funder will advance the funds to close the loan upon the receipt of an electronic request from the originator. A dry funder, on the other hand, will not advance funds until it actually receives the original loan documents duly executed by the borrower.

Responsible Party. Sometimes you may see another intermediate entity called a "Responsible Party," often a sister company to the lender. Loans appear to be transferred to this entity, typically named XXX Asset Corporation.

Sponsor. The Sponsor is the lender that securitizes the pool of mortgage loans. This means that it was the final aggregator of the loan pool and then sold the loans directly to the Depositor, which it then sold them to the securitization Trust. In order to obtain the desired ratings from the ratings agencies such as Moody's, Fitch and S&P, the Sponsor normally is required to retain some exposure to the future value and performance of the loans in the form of purchase of the most deeply subordinated classes of the securities issued by the Trust, i.e. the classes last in line for distributions and first in line to absorb losses (commonly referred to as the "first loss pieces" of the deal).

Depositor. The Depositor exists for the sole purpose of enabling the transaction to have the key elements that make it a securitization in the first place: a "true sale" of the mortgage loans to a "bankruptcy-remote" and "FDIC-remote" purchaser. The

Depositor purchases the loans from the Sponsor, sells the loans to the Trustee of the securitization Trust, and uses the proceeds received from the Trust to pay the Sponsor for the Depositor's own purchase of the loans. It all happens simultaneously, or as nearly so as theoretically possible. The length of time that the Depositor owns the loans has been described as "one nanosecond."

The Depositor has no other functions, so it needs no more than a handful of employees and officers. Nevertheless, it is essential for the "true sale" and "bankruptcy-remote"/"FDIC-remote" analysis that the Depositor maintains its own corporate existence separate from the Sponsor and the Trust and observes the formalities of this corporate separateness at all times. The "Elephant in the Room" in all structured financial transactions is the mandatory requirement to create at least two "true sales" of the notes and mortgages between the Originator and the Trustee for the Trust so as to make the assets of the Trust both "bankruptcy" and "FDIC" remote from the originator. And, these "true sales" will be documented by representations and attestations signed by the parties; by attorney opinion letters; by asset purchase and sale agreements; by proof of adequate and reasonably equivalent consideration for each purchase; by "true sale" reports from the three major "ratings agencies" (Standard & Poors, Moody's, and Fitch) and by transfer and delivery receipts for mortgage notes endorsed in blank.

Trustee. The Trustee is the owner of the loans on behalf of the certificate holders at the end of the securitization transaction. Like any trust, the Trustee's powers, rights, and duties are defined by the terms of the transactional documents that create the trust, and are subject to the terms of the trust laws of some particular state, as specified by the "Governing Law" provisions of the transaction document that created the trust. The vast majority of the residential mortgage backed securitized trusts are subject to the applicable trust laws of Delaware or New York. The "Pooling and Servicing Agreement" (or, in "Owner Trust" transactions as described below, the "Trust Indenture") is the legal document that creates these common law trusts and the rights and legal authority granted to the Trustee is no greater than the rights and duties specified in this Agreement. The Trustee is paid based on the terms of each structure. For example, the Trustee may be paid out of interest collections at a specified rate based on the outstanding balance of mortgage loans in the securitized pool; the Master Servicer may pay the Trustee out of funds designated for the Master Servicer; the Trustee may receive some on the interest earned on collections invested each month before the investor remittance date; or the Securities Administrator may pay the Trustee out of their fee with no charges assessed against the Trust earnings. Fee amounts range from as low as .0025% to as high as .009%.

Indenture Trustee and Owner Trustee. Most private-label securitizations are structured to meet the Internal Revenue Code requirements for tax treatment as a "Real Estate Mortgage Investment Conduit ("REMIC"). However some securitizations (both private-label and GSE) have a different, non-REMIC structure usually called an "Owner Trust." In an Owner Trust structure the Trustee roles are divided between an Owner Trustee and an Indenture Trustee. As the names suggest, the Owner Trustee owns the loans; the Indenture Trustee has the responsibility of making sure that all of the funds received by the Trust are properly disbursed to the investors (bond holders) and all other parties who have a financial interest in the securitized structure. These are

usually Delaware statutory trusts, in which case the Owner Trustee must be domiciled in Delaware.

Primary Servicer. The Primary Servicer services the loans on behalf of the Trust. Its rights and obligations are defined by a loan servicing contract, usually located in the Pooling and Servicing Agreement in a private-label (non-GSE) deal. The trust may have more than one servicer servicing portions of the total pool, or there may be "Secondary Servicers," "Default Servicers," and/or "Sub-Servicers" that service loans in particular categories (e.g., loans in default). Any or all of the Primary, Secondary, or Sub-Servicers may be a division or affiliate of the Sponsor; however under the servicing contract the Servicer is solely responsible to the Trust and the Master Servicer (see next paragraph). The Servicers are the legal entities that do all the day-to-day "heavy lifting" for the Trustee such as sending monthly bills to borrowers, collecting payments, keeping records of payments, liquidating assets for the Trustee, and remitting net payments to the Trustee.

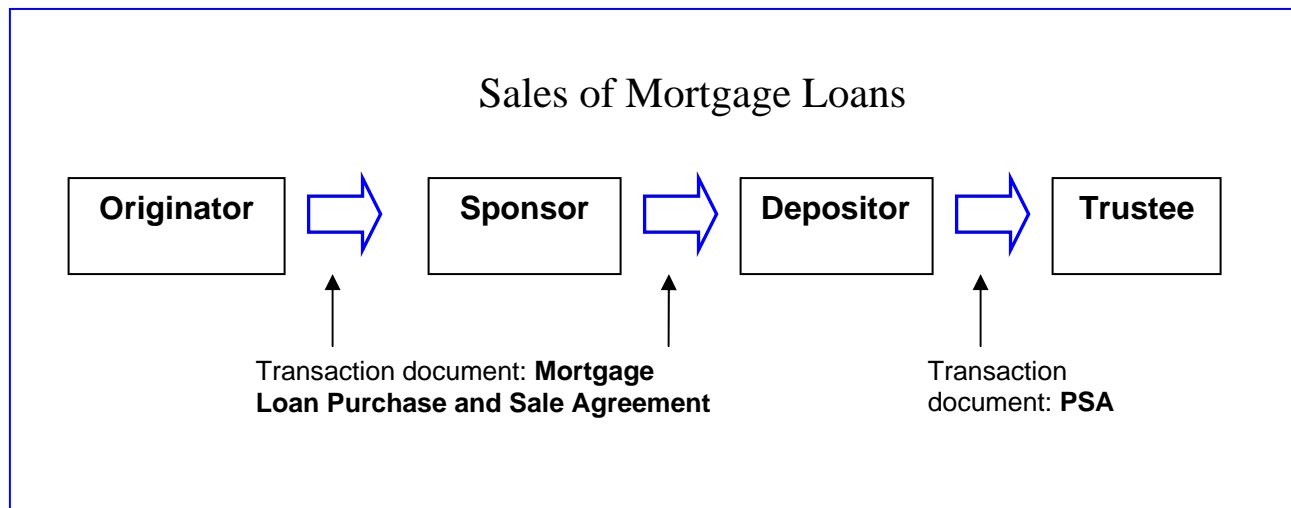
The Servicers are normally paid based on the type of loans in the Trust. For example, a typical annual servicing fee structure may be: .25% annually for a prime mortgage; .375% for an Alt-A or Option ARM; and .5% for a subprime loan. In this example, a subprime loan with an average balance over a given year of \$120,000 would generate a servicing fee of \$600.00 for that year. The Servicers are normally permitted to retain all "ancillary fees" such as late charges, check by phone fees, and the interest earned from investing all funds on hand in overnight US Treasury certificates (sometimes called "interest earned on the float").

Master Servicer. The Master Servicer is the Trustee's representative for assuring that the Servicer(s) abide by the terms of the servicing contracts. For trusts with more than one servicer, the Master Servicer has an important administrative role in consolidating the monthly reports and remittances of funds from the individual servicers into a single data package for the Trustee. If a Servicer fails to perform or goes out of business or suffers a major downgrade in its servicer rating, then the Master Servicer must step in, find a replacement and assure that no interruption of essential servicing functions occurs. Like all servicers, the Master Servicer may be a division or affiliate of the Sponsor but is solely responsible to the Trustee. The Master Servicer receives a fee, small compared to the Primary Servicer's fee, based on the average balance of all loans in the Trust.

Custodian. The *Master Document Custodian* takes and maintains physical possession of the original hard-copy Mortgage Notes, Mortgages, Deeds of Trust and certain other "key loan documents" that the parties deem essential for the enforcement of the mortgage loan in the event of default.

- This is done for safekeeping and also to accomplish the transfer and due negotiation of possession of the Notes that is essential under the Uniform Commercial Code for a valid transfer to the Trustee to occur.
- Like the Master Servicer, the Master Document Custodian is responsible by contract solely to the Trustee (e.g., the Master Document Custodial Agreement). However unlike the Master Servicer, the Master Document Custodian is an institution wholly independent from the Servicer and the Sponsor.

- There are exceptions to this rule in the world of Fannie Mae/Freddie Mac (“GSE”) securitizations. The GSE’s may allow selected large originators with great secure storage capabilities (in other words, large banks) to act as their own Master Document Custodians. But even in those cases, contracts make clear that the GSE Trustee, not the originator, is the owner of the Note and the mortgage loan.
- The Master Document Custodian must review all original documents submitted into its custody for strict compliance with the specifications set forth in the Custodial Agreement, and deliver exception reports to the Trustee and/or Master Servicer as to any required documents that are missing or fail to comply with those specifications.
- In so doing the Custodian must in effect confirm that for each loan in the Trust there is a “complete and unbroken chain of transfers and assignments of the Notes and Mortgages.”
- This does not necessarily require the Custodian to find assignments or endorsements naming the Depositor or the Trustee. The wording in the Master Document Custodial Agreement must be read closely. Defined terms such as “Last Endorsee” may technically allow the Custodian to approve files in which the last endorsement is from the Sponsor in blank, and no assignment to either the Depositor or the Trustee has been recorded in the local land records.
- In many private-label securitizations a single institution fulfills all of the functions related to document custody for the entire pool of loans. In these cases, the institution might be referred to simply as the “Custodian” and the governing document as the “Custodial Agreement.”



Typical transaction steps and documents (in private-label, non-GSE securitizations)

1. The Originator sells loans (one-by-one or in bundles) to the Securitizer (a/k/a the Sponsor) pursuant to a **Mortgage Loan Purchase and Sale Agreement** (MLPSA) or similarly-named document. The purpose of the MLPSA is to sell all right, title, claims, legal, equitable and any and all other interest in the loans to the Securitizer-Sponsor. For Notes endorsed in “blank” which are bearer instruments under the UCC, the MLPSA normally requires acceptance and delivery receipts for all such Notes in order to fully document the

"true sale." Frequently a form is prescribed for the acceptance and delivery receipt and attached as an exhibit to the MLPSA.

The MLPSA will contain representations, attestations and warranties as to the enforceability and marketability of each loan, and specify the purchaser's remedies for a breach of any "rep" or "warrant." The primary remedy is the purchaser's right to require the seller to repurchase any loan materially and adversely affected by a breach. Among the defects and events covered by "reps" and "warrants" are "Early Payment Defaults," commonly referred to as "EPD's." An EPD occurs if a loan becomes seriously (usually, 60 or more days) delinquent within a specified period of time after it has been sold to the Trust. The EPD covenants are always limited in time and normally only cover EPDs that occur within 12 to 18 months of the original sale. If an EPD occurs, then the Trust can force the originator to repurchase the EPD note and replace it with a note of similar static qualities (amount, term, type, etc.)

2. The Securitizer-Sponsor sells the loans to the Depositor. This takes place in another MLPSA very similar to the first one and the same documents are created and exchange with the same or similar terms. These are typically included as exhibits to the PSA.

3. Depositor, Trustee, Master Servicer and Servicer enter into a **Pooling and Servicing Agreement** ("PSA") in which:

--- the Depositor sells all right, title, legal, equitable and any other interest in the mortgage loans to the Trustee, with requirements for acceptance and delivery receipts, often including the prescribed form as an exhibit, in similar fashion to the MLPSA's;

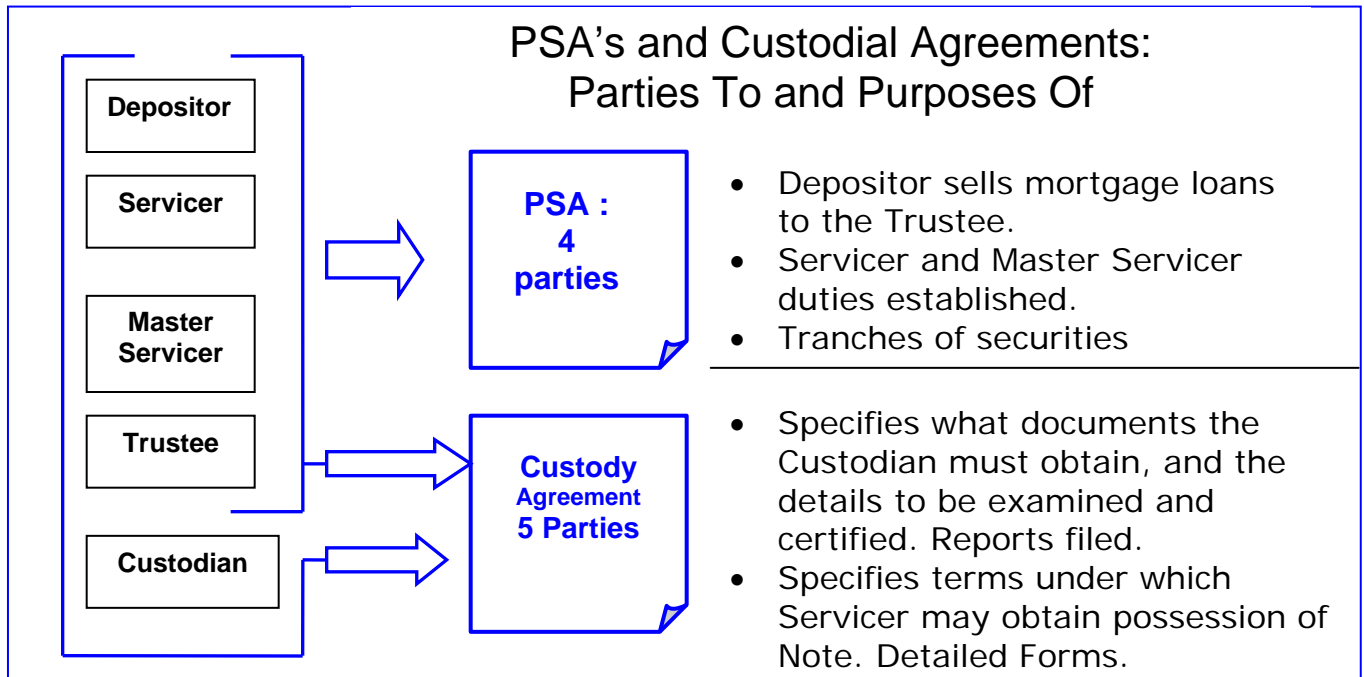
--- the PSA creates the trust, appoints the Trustee, and defines the classes of securities (often called "Certificates") that the trust will issue to investors and establishes the order of priority between classes of Certificates as to distributions of cash collected and losses realized with respect to the underlying loans (the highest rated Certificates are paid first and the lowest rated Certificates suffer the first losses-thus the basis for the term "structured finance"); and

--- the Servicer, Master Servicer and Trustee establish the Servicer's rights and duties, including limits and extent of a Servicer's right to deal with default, foreclosure, and Note modifications. Some PSA's include detailed loss mitigation or modification rules, and others limit any substantive modifications (such as changing the interest rate, reducing the principal debt, waiving default debt, extending the repayment term, etc.)

4. All parties including the Custodian enter into the **Custodial Agreement** in which:

- the Depositor agrees to cause the Notes and other specified key loan documents (usually including an unrecorded, recordable Assignment "in blank") (NB that several recent courts have raised serious legal questions about the assignment of a real estate instrument in blank under such theories as the statute of frauds and whether or not an assignment in blank is in fact a "recordable" legal real estate document) to be delivered to the Custodian (with the Securitizer to do the actual physical shipment);
- the Custodian agrees to inspect the Notes and other documents and to certify in designated written documents to the Trustee that the documents meet the required specifications and are in the Custodian's possession; and

- establishes a (supposedly exclusive) procedure and specified forms whereby the Servicer can obtain possession of any Note, Mortgage, Deed of Trust or other custodial document for foreclosure or payoff purposes.



Finding Documents on the S.E.C.'s website (the EDGAR filing system):

- If you know the name of the Depositor and the name of the Trust (e.g. "Time Bomb Mortgage Trust 2006-2") that contains the loan in question, then the PSA and Custodial Agreement probably can be found on the SEC's website (www.sec.gov):
- On the SEC home page look for a link to "Search for Company Filings" and then choose to search by "Company Name," using the name of the Depositor. (Alternatively, click on the "Contains" button on the search page and then search by the series, i.e. 2006-2 in the above example.)
- Hopefully, this will enable you to find the Trust in question. If so, the PSA and the Custodial Agreement should be available as **attachments** to one or more of the earliest-filed forms (normally the 8-K) shown on the list of available documents. Sometimes the PSA is listed as a named document but other times you just look for the largest document in terms of megabytes filed with the 8-K form.
- The available documents also should include the **Prospectus** and/or **Prospectus Supplement (Form 424B5)** and the **Free Writing Prospectus ("FWP")**. The latter documents (at least the sections written in English, as opposed to the many tables of financial data) can be very helpful in providing a concise and straightforward description of the parties, documents, and transaction steps and detailed transactional graphs and charts in the particular deal. And because these are SEC documents, the information serves as highly credible evidence on these points, and the Court can take judicial notice of any document filed with the SEC.

- For securitizations created after January 1, 2006, SEC "Regulation AB" requires the parties to file a considerable amount of detailed information about the individual loans included in the Trust. This information may be filed as an Exhibit to the PSA or to a Form 8-K. This loan-level data typically includes loan numbers, interest rates, principal amount of loan, origination date and (sometimes) property addresses and thus can be very useful in proving that a particular loan is in a particular Trust.

Dealing with Notes and Assignments:

There are two basic documents involved in a residential mortgage loan: the promissory note and the mortgage (or deed of trust). For brevity's sake these are referred to simply as the Note and the Mortgage.

A Note is: a contract to repay borrowed money. It is a negotiable instrument governed by Article 3 of the Uniform Commercial Code (UCC). The Note, by itself, is an unsecured debt. Notes are personal property. Notes are negotiated by endorsement or by transfer and delivery as provided for by the UCC. Notes are separate legal documents from the real estate instruments that secure the loans evidenced by the Notes by liens on real property.

A Mortgage is: a lien on, and an interest in, real estate. It is a security agreement. It creates a lien on the real estate as collateral for a debt, but it does not create the debt itself. The rights created by a Mortgage are classified as real property and these instruments are governed by local real estate law in each jurisdiction. The UCC has nothing to do with the creation, drafting, recording or assignment of these real estate instruments.

A Note can only be transferred by: an "Endorsement" if the Note is payable to a particular party; or by transfer of possession of the Note, if the Note is endorsed "in blank." Endorsements must be written or stamped on the face of the Note or on a piece of paper physically attached to the Note (the Allonge). See UCC §3-210 through §3-205. The UCC does not recognize an Assignment as a valid means of transferring a Note such that the transferee becomes a "holder", which is what the owners of securitized mortgage notes universally claim to be.

In most states, an Allonge cannot be used to endorse a note if there is sufficient room at the "foot of the note" for such endorsements. The "foot of the note" refers to the space immediately below the signatures of the borrowers. Also, if an Allonge is properly used, then it must describe the terms of the note and most importantly must be "permanently affixed" to the Note. Most jurisdictions hold that "staples" and "tape" do not constitute a "permanent" attachment. And, the Master Document Custodial Agreement may specify when an Allonge can be used and how it must be attached to the original Note.

Mortgage rights can only be transferred by: an Assignment recorded in the local land records. Mortgage rights are "estates in land" and therefore governed by the state's real property laws. These vary from state to state but in general Mortgage rights

can only be transferred by a recorded instrument (the Assignment) in order to be effective against third parties without notice.

In discussions of exactly what documents are required to transfer a “mortgage loan” confusion often arises between Notes versus Mortgages and the respective documents necessary to accomplish transfers of each. The issue often arises from the standpoint of proof: Has Party A proven that a transfer has occurred to it from Party B? Does Party A need to have an Assignment? The answer often depends on exactly what Party A is trying to prove.

Scenario 1: Party A is trying to prove that the Trustee “owns the loan.” Here the likely questions are, did the transaction steps actually occur as required by the PSA and as represented in the Prospectus Supplement, and are the Trustee’s ownership rights subject to challenge in a bankruptcy case?

The answers lie in the UCC and in documents such as:

- the MLPSA’s;
- conveyancing rules of the PSA (normally Section 2.01);
- transfer and delivery receipts (look for these to be described in the “Conditions to Closing” or similarly named section of MLPSA’s and the PSA);
- funds transfer records (canceled checks, wire transfers, etc);
- compliance and exception reports provided by the Custodian pursuant to the Master Document Custodial Agreement; and
- the “true sale” legal opinions.

Some of these documents may or may not be available on the SEC’s EDGAR system; some may be obtainable only through discovery in litigation. The primary inquiry is whether or not the documents, money and records that were required to have been produced and change hands actually do so as required, and at the times required, by the terms of the transaction documents.

Another question sometimes asked when examining the “validity” of a securitization (or in other words, the rights of a securitization Trustee versus a bankruptcy trustee) is, must the Note be endorsed **to the Trustee** at the time of the securitization? Here are some points to consider:

- Frequently the only endorsement on the Note is from the Securitizer-Sponsor “in blank” and the only Assignment that exists, pre-foreclosure, is from the Securitizer-Sponsor “in blank” (in other words, the name of the transferee is not inserted in the instrument and this space is blank).
- The concept widely accepted in the securitization world (the issuers and ratings agencies, and the law firms advising them) is that this form of documentation was sufficient for a valid and unbroken chain of transfers of the Notes and assignments of the Mortgages as long as everything was done consistently with the terms of the securitization documents. This article is not intended to validate or defend either this concept or this practice, nor is it intended to represent in any way that the terms of the securitization documents were actually followed to the letter in every real-world case. In fact, and unfortunately for the certificate holders and the securitized mortgage markets, there are many instances in

many reported cases where these mandatory rules of the securitization documents have not been followed but in fact, completely ignored.

- Often shortly before foreclosure (or in some cases afterwards) a mortgage assignment is produced from the Originator to the Trustee years after the Trust has closed out for the receipt of all mortgage loans. Such assignments are inconsistent with the mandatory conveyancing rules of the Trust Documents and are also inconsistent with the special tax rules that apply to these special trust structures. Most state law requires the chain of title not to include any mortgage assignments in blank, but assignments from A to B to C to D. Under most state statutes, an assignment in blank would be deemed an "incomplete real estate instrument." Even more frequent than A to D assignments are MERS to D assignments, which suffer from the same transfer problems noted herein plus what is commonly referred to as the "MERS problem."

Scenario 2: Party B seeks to prove standing to foreclose or to appear in court with the rights of a secured creditor under the Bankruptcy Code. OK, granted the UCC (§3-301) does provide that a negotiable instrument can be enforced either by "(i) the holder of the instrument, or (ii) a non-holder in possession of the instrument who has the rights of a holder."

- Servicers and foreclosure counsel have been known to contend that this is the end of the story and that the servicer can therefore do anything that the holder of the Note could do, anywhere, anytime.
- The Fannie Mae and Freddie Mac Guides contain many sections that appear to lend superficial support to this contention and frequently will be cited by Servicers and foreclosure counsel as though the Guides have the force of law, which of course they do not.
- There are many serious problems with this legal position, as recognized by an increasing number of reported court decisions.

Authors' General Conclusions and Observations:

- Servicers and foreclosure firms are either wrong, or at least not being cautious, if they attempt to foreclose, or appear in court, without having a valid pre-complaint or pre-motion Assignment of the Mortgage. Yet at the same time, Servicers and note holders place themselves at risk of preference and avoidable transfer issues in bankruptcy cases if, for example, endorsements and Assignments that they rely upon to support claims to secured status occur or are recorded after or soon before bankruptcy filing.
- In addition any Servicer, Lender, or Securitization Trustee is either wrong, or at least not being cautious, if it ever: (1) claims in any communications to a consumer or to the Court in a judicial proceeding that it is the Note holder unless they are, at the relevant point in time, actually the holder and owner of the Note as determined under UCC law; or (2) undertakes to enforce rights under a Mortgage without having and recording a valid Assignment.

- **The UCC deals only with enforcing the *Note*.** Enforcing the Mortgage on the other hand is governed by the state's real property and foreclosure laws, which generally contain crucial provisions regarding actions required to be taken by the "note holder" or "beneficiary." State law may or may not authorize particular actions to be taken by servicers or agents of the holder of the Note.
- **For the Servicer to have "the rights of the holder" under the UCC it must be acting in accordance with its contract.** For example, if the Servicer claims to have possession of the Note, did it follow the procedures contained in the "Release of Documents" section of the Custodial Agreement in obtaining possession? Does the Servicer really have "constitutional" standing under either Federal or State law to enforce the Note even if it is a "holder" if it does not have any "pecuniary" or economic interest in the Note? In short, the concept of constitutional standing involves some injury in fact and it is hard to see how a mere "place-holder" or "Nominee" could ever over-come such a hurdle unless it actually owned the Note or some real interest in the same.
- **The Servicer should have the burden of explaining the legal reasons supporting its standing and authority to act.** Sometimes Servicers have difficulty maintaining a consistent story in this regard. Is the Servicer claiming to be the actual holder, or the holder and the owner, or merely an authorized agent of the true holder? If it is claiming some agency, what proof does it have to support such a claim? What proof is required? Sometimes this is just academic legal hair-splitting but many times it involves serious issues of fact. For example, what if the attorney for the Servicer asserts to the court that his or her client actually owns the Note, but the Fannie Mae website reports that Fannie is the owner? What if the MERS website reports that the Plaintiff is just the "Servicer?" What if the pre-complaint correspondence to the borrower names some entirely different party as the holder and indicated that the current plaintiff is only the Servicer?
- **Finally, the Servicer always has an obligation to be factually accurate** in borrower communications and legal proceedings, and to supervise employees and vendors and attorneys to assure that Note endorsements, Assignments of Mortgage, and affidavits are executed by persons with valid corporate authority, and not falsified nor offered for any improper purpose.

The focus of the default servicing industry must move from "how fast we can get things done" to "how honestly and accurately can we be in presenting the proper documentation to the courts and to the borrowers". Judicial proceedings are not like NASCAR races where the fastest lawyer always wins. Judicial proceedings are all about finding the truth no matter how long it takes and regardless of the time and difficulties involved.

November 14, 2009

Richard D. Shepherd
The Law Office of Richard Shepherd
Troy, Virginia (W.D.VA)
richard@CentralVaLaw.com
www.CentralVaLaw.com

O. Max Gardner III
Gardner & Gardner PLLC
PO Box 1000
Shelby NC 238150
www.maxgardnerlaw.com
www.maxbankruptcybootcamp.com
www.maxinars.com
maxgardner@maxgardner.com
704.418.2628.

Mortgage Proof of Claim Checklist and Resources

MORTGAGE PROOF OF CLAIM CHECK LIST

Client's Name: _____ Case Number: _____

Date Case Filed: _____ IS there a previous case? ☐ Yes ☐ No

If yes, case number(s): _____

MORTGAGE COMPANY (on POC): _____ Date Proof of Claim filed: _____

☐ 1st Amended Proof of Claim filed: _____ ☐ 2nd Amended Proof of Claim filed: _____

☐ 3rd Amended Proof of Claim filed: _____ ☐ 4th Amended Proof of Claim filed: _____

<input type="checkbox"/> First Lien	<input type="checkbox"/> Refinance	<input type="checkbox"/> Fixed Rate
<input type="checkbox"/> Second Lien	<input type="checkbox"/> FHA	<input type="checkbox"/> Interest Only
<input type="checkbox"/> Third Lien	<input type="checkbox"/> VA	<input type="checkbox"/> Pick-a-Pay
<input type="checkbox"/> Fourth Lien	<input type="checkbox"/> Conventional	<input type="checkbox"/> Escrow Loan
<input type="checkbox"/> Home Equity Loan	<input type="checkbox"/> ARM	<input type="checkbox"/> Non-Escrow Loan
<input type="checkbox"/> Home Improvement Loan	<input type="checkbox"/> Balloon Note	
<input type="checkbox"/> HELOC loan	<input type="checkbox"/> Loan matured or loan will mature during Chapter 13	

NOTE INFORMATION:

Date of Note: _____ (Post 1994 - no interest on arrearages)

Date 1st payment due under the note: _____

Who is the payee on the note? _____ Does it differ from party filing POC? ☐ Yes ☐ No

If yes, request copies of the Assignment(s). Look at Note for any endorsements/allonges. If any endorsements/allonges - go to worksheet on last page of this form.

Are there any loan modifications? ☐ Yes ☐ No If yes, request copies of the loan modification.

Fixed Interest Rate: _____ % (ARM Loans go to next line) Loan Amount: \$ _____

ARM Loans: Initial Interest Rate: _____ % Margin _____ Index _____

(Add index + margin to get the fully indexed interest rate)

How often can loan reset? _____ ARM Interest Rate Cap: _____ %

Initial Payment Amount: _____ 1st change date: _____

1 st Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
2 nd Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
3 rd Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
4 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
5 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
6 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
7 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
8 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
9 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
10 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
11 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
12 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
13 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
14 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____
15 th Reset Date: _____	Int. Rate: _____ %	P&I \$ _____	Escrow \$ _____	Total \$ _____

(If there are additional reset dates, use separate page.)

Request rate adjustment letters.

Payment Analysis:

Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____
 Number of payments _____ X monthly mortgage payment \$ _____ = Total of Payments Due \$ _____

Does this agree with amount in Proof of Claim? ☐ Yes ☐ No

Did mortgagee calculate the arrears of principal/interest correctly? ☐ Yes ☐ No

Are any delinquent payments time barred? ☐ Yes ☐ No If yes, which ones: _____

LATE FEES:

_____ % allowed to charge = \$ _____ per month

Number of months late: _____ X \$ _____ late fee = Total Late fee. (Note: If ARM - will need to calculate for each adjustment period.)

Amount in Proof of Claim \$ _____ ☐ Late fee amount in Proof of Claim is incorrect

ESCROW:

Escrow includes:

☐ Taxes ☐ Insurance ☐ Homeowners Association

When did escrow payments begin? _____ Current monthly escrow payment: \$ _____

Does monthly payment in Proof of Claim include escrow? ☐ Yes ☐ No

Is there a separate escrow shortage amount included in Proof of Claim? ☐ Yes ☐ No

Is there a separate escrow advance amount included in Proof of Claim? ☐ Yes ☐ No

Is Proof of Claim collecting escrow twice (separate line item and in mortgage payments)? ☐ Yes ☐ No

INSURANCE:

Insurance paid by: ☐ Servicer ☐ Homeowner

If paid by servicer, is it forced place insurance? ☐ Yes ☐ No

If yes, did client have insurance while forced place insurance in effect? ☐ Yes ☐ No

If yes, request from client proof of insurance and proof of payment of premiums.

Amount paid (yearly amount) : \$ _____ Divide this amount by 12 then multiply by 14= \$ _____

This is the estimated amount to be included in monthly escrow payment for insurance.

TAXES:

Taxes paid by: ☐ Servicer ☐ Homeowner

If paid by Servicer, were they paid timely? ☐ Yes ☐ No

(If no, may have claim against Servicer for any penalties and interest charged)

☐ Request Tax Statements from Taxing Authority

☐ Request Tax Statements and canceled checks from servicer.

Amount paid for year for all taxing entities: \$ _____ Divide this amount by 12 then multiply by 14=

\$ _____ This is the estimated amount to be included in monthly escrow payment for taxes.

Add estimated monthly taxes and insurance together for estimated monthly escrow payment. \$ _____

Has loan been transferred at any time? ☐ Yes ☐ No If so, when? _____
If yes, request payment history from inception of loan. It could be the escrow account was not transferred to the new servicer.

Did mortgagee calculate escrow account shortage, if any, correctly? ☐ Yes ☐ No

Need RESPA request ☐ Yes ☐ No If yes, date sent: _____ 60 Business Day Date _____

LEGAL FEES AND COSTS:

Pre-Bankruptcy \$ _____

Post-Bankruptcy \$ _____

Prior Bankruptcy \$ _____

If there is a prior case - pull Trustee ledger and compare to payment history.

Were Trustee payments applied to loan or put in suspense? ☐ Yes ☐ No

If placed in suspense, were they used to pay other fees? ☐ Yes ☐ No

Were Trustee *interest* payments posted in payment history? ☐ Yes ☐ No

If no, how much was paid in interest by the Trustee? (Request copies of canceled checks from Trustee.)

Were the prior fees approved by the Court? ☐ Yes ☐ No (Check agreed orders and other documents in prior cases). (Verify the dollar amount requested in this case is the same agreed to in prior case, i.e., Agreed Order in previous case allowed \$650.00 for fees and costs but now they are claiming \$750.00 for the same Agreed Order).

☐ Request copies of invoices to support legal fees and costs. Do they match the amount in the proof of claim?
☐ Yes ☐ No

Do they match the amounts on the payment/transaction history? ☐ Yes ☐ No

MISC.

Property Inspections \$ _____ - Request copies of invoices and reports to support charges

BPO fees \$ _____ Request copies of invoices and reports to support charges.

If there was a previous bankruptcy filing, were any of the Inspection/BPO fees incurred during the previous case? ☐ Yes ☐ No ☐ If yes, were the fees disclosed to the court and approved by the court? ☐ Yes ☐ No
If no, object to fees.

Did mortgagee charge impermissible fees? Attorney fees, property preservation/inspection fees, foreclosure fees, other fees ☐ Yes ☐ No

Is the claim unsecured? ☐ Yes ☐ No If so, can loan be cram downed? ☐ Yes ☐ No

Is loan pooled? If so, name of trust _____

Check for Pooling and Servicing Agreement on EDGAR

Did Servicer offer all the options allowed by agreement to assist debtor with delinquency? ☐ Yes ☐ No

Are attorneys that filed Proof of Claim licensed in the Debtor's state? ☐ Yes ☐ No

Double check and triple check math in Proof of Claim for errors. For example, number of months for late fees vs. number of months charged. (Mtg. co. lists 4 late payments but only lists April, May & June for late payments due)
Does the P&I payment match the amount in the note and/or adjustment rate letters?

Name of law firm filing Proof of Claim _____ Is it different from firm filing Notice of Appearance? ☐ Yes ☐ No

Any forbearance agreements? If so, need copies.

Any fees for pay off statements? ☐ Yes ☐ No If yes, does it violate Texas Administrative Code? ☐ Yes ☐ No

Is any language in Proof of Claim objectionable? Need to object? ☐ Yes ☐ No

Object to Proof of Claim ☐ Yes ☐ No

File Adversary ☐ Yes ☐ No

Request following documents:

Note

Mortgage/Deed of Trust

Assignments

HUD-1 Settlement Statement

Truth-in-Lending Disclosure

Good Faith Estimate of Settlement Costs

Unedited Transaction/Payment History and Transaction Codes

Copies of Assignments

Forbearance Agreements/Loan Modifications

ARM Rider

*Home Equity Line of Credit Agreement

*Notice of Right to Cancel

*HOEPA Disclosures

* If Applicable.

NOTE ENDORSEMENT WORKSHEET*

Name of Original Holder of Note: _____

Original to A: Name of A _____ Date of endorsement _____

A to B: Name of B _____ Date of endorsement _____

B to C: Name of C _____ Date of endorsement _____

C to D: Name of D _____ Date of endorsement _____

D to E: Name of E _____ Date of endorsement _____

* Endorsements may be in blank and may not have a date. If it is endorsed in blank, it is probably MERS.

Do you have assignments for each endorsement? ☐ Yes ☐ No If not, need to object.

Are any of the assignments dated before the endorsement? ☐ Yes ☐ No

Are any of the assignments dated years after endorsement? (For example, endorsement is in 1995 but assignment is dated 2002) ☐ Yes ☐ No

Resources on Mortgage Servicing

Prof. Katherine Porter, Iowa College of Law

Tara Twomey, Esq.

- I. Relevant Causes of Action, Laws, or Rules (other than Bankruptcy Code)
 - a. Federal Rules of Bankruptcy Procedures 2016, 3001, and 9011
 - b. Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(b)-(e); 2609
 - c. Unfair or Deceptive Practices Act
 - d. State Debt Collection statute (maybe Federal Debt Collection Practices Act)
 - e. Breach of Contract
 - f. Duty/Covenant of Good Faith or Fair Dealing
 - g. Fraud or Misrepresentation
 - h. Negligent or Intentional Infliction of Emotional Distress
- II. New or Pending Legislation or Rules on Mortgage Servicing
 - a. Pub. L. No. 111-22, § 404 (May 20, 2009), *codified at* 15 U.S.C. § 1641(g). In May 2009, a new subsection was added to 15 U.S.C. § 1641 that requires creditors to provide notice to the borrowers when the ownership of their mortgage loans is transferred or assigned to another party.
 - b. Proposed Rules 3001 and 3002. The Bankruptcy Rules Committee has proposed amendments to the Federal Rules of Bankruptcy Procedure that address mortgage claims. The rules are open for public comment beginning in August 2009, with two public hearings scheduled for late 2009 and early 2010. The amendments would change Rule 3001(c) to require additional documentation to support claims, including mortgage claims of individual debtors, and would impose consequences for failing to support claims with documentation. New Rule 3002.1 would apply in claims secured by a chapter 13 debtor's principal residence, requiring the creditor to provide notices of payment changes, postpetition fees and charges, and notice of a final payment curing arrearages.
- III. Bankruptcy Court Cases
 - a. *In re Wells*, No. 08-17639, 2009 WL 1872401, (Bankr. N.D. Ohio June 19, 2009) (disallowing claim because purported creditor did not show the note was negotiated to claimant bank, either by endorsement of the note or by endorsement by an allonge, a paper affixed to the note).
 - b. *In re Collins*, No. 07-38246, 2009 WL 1607737, (Bankr. S.D. Tex. June 8, 2009) (denying all attorneys fees in cases in which lender filed intentionally inaccurate proofs of claim and denying recovery of lenders' attorneys fees in those cases in which the note was not accelerated on grounds that contract language did not permit recovery in such circumstances).
 - c. *Walton v. Countrywide (In re Sanchez)*, Case No. 1:08-cv-23337, Bankr. Case No. 01-042230, Adv. Case No. 08-1176 (D. Fla. June 6, 2009) (reversing bankruptcy court's decision that U.S. Trustee did not have standing to pursue sanctions for alleged bad faith conduct by mortgagee in filing motions for relief from stay).

- d. *In re Parker*, 403 B.R. 775 (Bankr. E.D. Ark. 2009) (breach of contract sufficiently pled when borrower alleged that servicer diverted payments to unauthorized escrow account and failed to send notice of rate adjustment).
- e. *In re Rangel*, No. 08-33200, 2009 WL 1531961, (Bankr. S.D. Tex. May 29, 2009) (denying some lenders' and servicers' fee applications because mortgage notes and deeds of trust did not contain language permitting recovery of requested expenses).
- f. *In re Clark*, No. 1:03-bk-25033, 2009 WL 1850322, (Bankr.E.D.Ark. May 21, 2009) (setting aside prior ex parte order of stay relief based on debtor's failure to comply with mortgage payment schedule and reimposing stay to stop eviction because mortgage creditor received and accepted full payment on claim from Chapter 13 trustee on claim).
- g. *In re Nosek*
 - i. *In re Nosek*, 4:08-cv-40095-WGY (D. Mass. May 26, 2009) (upholding bankruptcy court's sanctions against Ameriquest and its bankruptcy counsel but ruling that sanctions against Wells Fargo and Ameriquest's national counsel could not be imposed under Rule 9011 because latter parties did not have sufficient role in bankruptcy court filings).
 - ii. *In re Nosek*, 544 F.3d 34 (1st Cir. 2008) (remanding case to bankruptcy court for reconsideration, holding that substantive basis of sanctions and damages were inappropriate grounds for resolving dispute based on lender's misapplication of payments).
 - iii. *Nosek v. Ameriquest Mortgage Company, et al.*, (*In re Nosek*), 386 B.R. 374 (Bankr. D. Mass. 2008) (imposing monetary sanctions on Ameriquest, Wells Fargo, and several attorneys for misrepresenting the holder of the note).
- h. *McDermott v. Countrywide (In re O'Neal)*, Case No. 07-51027, Adv No. 08-5031, (Bankr. N.D. Ohio, May 1, 2009) (ruling that Countrywide had no reasonable basis for filing proof of claim or objection to confirmation when debtor sold property prepetition in short sale and setting hearing to determine amount of sanctions).
- i. *In re McKain*, Order Requiring Accounting Procedures, Case 08-10411 (Bankr. E.D. La. May 1, 2009) (imposing accounting procedures for postpetition charges related to debtors' mortgages on Ocwen in chapter 13 cases).
- j. *In re Taylor*, Case 07-15385-sr (Bankr. E.D. Pa. April 15, 2009) (providing extensive description of computerized preparation of proofs of claims in bankruptcy and role of LPS in such, and imposing non-monetary sanctions under Rule 9011 on attorneys who filed inaccurate proof of claim).
- k. *In re Mitchell*, No. 07-16226-LBR, 2009 WL 1044368 (Bankr. D. Nev. March 31, 2009) (holding that MERS lacked standing to pursue stay relief when it could not show that it was either holder of the mortgage note or a transferee in possession of the note, as required by Nevada law to pursue a foreclosure).
- l. *In re Jacobsen*, 2009 WL 567188 (Bankr. W.D. Wash. 2009) (denying motion for stay relief because movant had not established either identity of holder of note or movant's authority to act on behalf of that party)

- m. *In re Booth*, 2009 WL 81327 (Bankr. E.D. Ark. 2009) (sustaining in part creditor objection to plan language related to application of payments, post-petition fees, and notice of payment changes, and compliance with 524(i)).
- n. *McCarther-Morgan v. Asset Acceptance (In re McCarther-Morgan)*, Case: 08-1093 (B.A.P. 9th Cir. Jan. 15, 2009) (appealed to Ninth Circuit) (holding that mere filing of proof of claim (in this case for unsecured debt) cannot as matter of law give rise to claim under Fair Debt Collections Practices Act or its California state-law equivalent).
- o. *In re Hwang*, 396 B.R. 757 (Bankr. C.D. Cal. 2008) (servicer not real party in interest for purposes of pursuing motion for relief from stay).
- p. *In re Zunner*, 396 B.R. 265 (Bankr. W.D.N.Y. 2008) (holding that broker price opinion in preparation of foreclosure was not allowable charge to protect mortgagees' interest in property).
- q. *In re Hayes*, 393 B.R. 259 (Bankr. D. Mass. 2008) (denying motion for relief from stay when mortgagee failed to show proper chain of title from loan originator).
- r. *In re Haque*, 395 B.R. 799 (Bankr. S.D. Fla., Oct. 28, 2008) (imposing \$95,000 in sanctions under 11 U.S.C. §105 on law firm and creditor for filing false affidavits to support motions for relief from stay).
- s. *Campbell v. Countrywide Home Loans, Inc.*, 545 F.3d 348 (5th Cir. Aug. 26, 2008) (holding that unpaid monthly escrow payments must be included in proof of claim; missed escrow payments may not be recouped by performing a new post-petition escrow analysis).
- t. *In re Hight*, 393 B.R. 484 (Bankr. S.D. Tex. Aug. 13, 2008) (disallowing creditor's pre-petition attorney's fees for preparation of foreclosure sale when creditor failed to provide evidence pertaining to what work was done, who did the work, hourly rate and time spent).
- u. *Payne v. MERS*, 387 B.R. 614 (Bankr. D. Kan., May 6, 2008) (finding that creditor violated RESPA, which court held applies in bankruptcy and finding that creditors' misapplication of plan payments violated automatic stay).
- v. *In re Prevo*, 394 B.R. 847 (Bankr. S.D. Tex. 2008) (filing claim without supporting documents required by Rule 3001 resulted in loss of prima facie validity; disallowing all fees and costs and issuing show cause order to determine whether creditor must pay debtor's attorney's fee for objecting to claim).
- w. *In re Stewart*, 391 B.R. 327 (Bankr. E.D. La. 2008) (awarding damages and legal fees and sanctioning Wells Fargo for the abusive and negligent imposition of fees, and moreover, ordering Wells Fargo to conduct an audit of every proof of claim filed on its behalf in cases pending on or after April 13, 2007).
- x. *In re Schuessler*, 386 B.R. 458 (Bankr. S.D.N.Y. 2008) (ordering Chase Home Finance to pay attorneys fees and debtors' costs and barring recoupment of any costs to Chase of filing of unwarranted motion for relief from stay).
- y. *In re Parsley*, 384 B.R. 138 (Bankr. S.D. Tex. 2008) (ruling on order to show cause why sanctions were not warranted for motion for relief from stay allegedly filed without grounds that while Countrywide and its counsel engaged in poor practices that conduct did not rise to level of clear and convincing bad faith action).

- z. *In re Ezzell*, 07-34780 (Bankr. S.D. Tx. Jan. 14, 2008) (disallowing creditor's attorney's fees for failure to comply with Rule 2016)
- aa. *In re Maisel*, 378 B.R. 19 (Bankr. D. Mass. 2007) (standing/ownership of creditor)
- bb. *In re Waring*, No. 06-40614, Transcript of Hearing (Bankr. D. Mass. July 27, 2007) (requiring servicer to produce evidence that property inspections were conducted)
- cc. *In re Dominique*, 368 B.R. 913 (Bankr. S.D. Fla. 2007) (holding that lender that failed to give debtor annual escrow analysis required under RESPA waived its right to collect such amounts).
- dd. *In re Schwartz*, 366 B.R. 265 (Bankr. D. Mass. 2007) (creditor could not show it had right to undertake prepetition foreclosure)
- ee. *Jones v. Wells Fargo*, 366 B.R. 584 (Bankr. E.D. La. 2007) (challenge to creditor's accounting and application of plan payments)
- ff. *In re Allen*, 2007 WL 115182, No. 06-60121, (Bankr. S.D. Tex., Jan. 9, 2007) Mem. Op. re Sanction of Creditor's Attorneys (Jan. 9, 2007) (sanctions for erroneous objection to plan confirmation)
- gg. *In re Berghoff*, 2006 WL 1716299 (Bankr. N.D. Ohio 2006) (violation of Rule 9011 to include impermissible fees in claim)
- hh. *Litton Loan Servicing v. Garvida*, 347 B.R. 697 (9th Cir. BAP 2006) (servicer failed to comply with court order to provide accounting of loan balance)
- ii. *In re Nosek*, 363 B.R. 643 (Bankr. D. Mass. 2006) (misapplication of plan payments), *rev'd* 544 F.3d 34 (1st Cir. 2008).
- jj. *In re Rivera*, 342 B.R. 435 (Bankr. D.N.J. 2006) (pre-signature of pleadings by servicer without review)
- kk. *In re Thompson*, 350 B.R. 842 (Bankr. E.D. Wisc. 2006) (RESPA action for failure to respond to debtor's request for clarification of account balance)
- ll. *In re Gorshtein*, 285 B.R. 118 (Bankr. S.D.N.Y. 2002) (motions for relief from stay without adequate factual investigation or legal basis)
- mm. *Maxwell v. Fairbanks Capital Corp.*, 281 B.R. 101 (Bankr. D. Mass. 2002) (miscalculation of amount owing)
- nn. *In re Slick*, No. 98-14378, Adv. No. 99-1135 (Bankr. S.D. Ala. Nov. 22, 2002) (class action for failure to file applications with court for attorneys fees)
- oo. *Tate v. NationsBanc Mortgage Corp.*, 253 B.R. 653 (Bankr. W.D.N.C. 2000) (Rule 2016 applies to attorneys fees of mortgage creditor)
- pp. *In re Wines*, 239 B.R. 703 (Bankr. D.N.J. 1999) (inability to explain calculation of amount allegedly due)

IV. Other Relevant Cases

- a. *Calloway v. Green Tree Servicing, LLC*, 607 F. Supp. 2d. 669 (D. Del. 2009) (denying motion to dismiss Fair Credit Reporting Act claim premised on servicer incorrectly reporting two outstanding mortgages when borrowers had only one mortgage).
- b. *Wells Fargo v. Aponte*, Case No. 16-2005-CA-008625 (Fla. Cir. Ct. June 15, 2009) (denying motion for summary judgment in foreclosure on basis that material issues existed, including that plaintiffs' affidavits in support of foreclosure

contained factual mistakes about entities that employed affiants and plaintiff's insufficient showing of standing to pursue foreclosure).

- c. *Wells Fargo v. Jordan*, Case No. 91675 (Ohio App. March 12, 2009) (reversing grant of summary judgment and remanding to trial court to dismiss foreclosure suit because plaintiff Wells Fargo was not the real party in interest on date of foreclosure complaint and thus lacked standing).
- d. *Wells Fargo v. Byrd*, 897 N.E.2d 722 (Ohio Ct. App. 2008) (upholding dismissal of foreclosure action because Wells Fargo was not owner of mortgage but ruling that dismissal should have been without prejudice).
- e. *In re Foreclosure Cases*, 521 F. Supp. 2d 650 (S.D. Ohio 2007) (J. Rose) (lack of standing/proof of ownership of mortgage)
- f. *In re Foreclosure Cases*, No. 07CV2282, 2007 WL 3232430, (N.D. Ohio. Oct. 31, 2007) (J. Boyko) (lack of standing/proof of ownership of mortgage)
- g. *Islam v. Option One Mortgage Corp.*, 432 F.Supp.2d 181 (D. Mass. 2006) (action against former servicer when acts to collect continued after refinancing)
- h. *Rawlings v. Dovenmuehle Mortgage, Inc.*, 64 F. Supp. 2d 1156 (M.D. Ala. 1999) (action against servicer for applying borrower's payments to wrong account)

V. Pending Litigation to Watch

- a. *Hill v. Countrywide (In re Hill)*, No. 01-22574, Show Cause Order (Bankr. W.D. Pa. Dec. 21, 2007) ("recreated" escrow letters produced in post-discharge dispute; settlement requires Countrywide to pay \$100,000 damages (Aug. 11, 2008).
- b. Selected Cases in which the Chapter 13 Trustee, Ronda Winnecour, seeks relief against Countrywide Home Loans, Inc., No. 07-00203 (Bankr. W.D. Pa., Oct. 8, 2008) (allegations by Chapter 13 trustee that servicer failed to credit debtors' accounts with trustee payments); Order Approving Settlement (Bankr. W.D. Pa. Oct. 22, 2008). UST continuing to pursue sanctions
- c. *Trevino v. MERS, et al.*, 1:07-cv-00568, Complaint (D. Del. Nov. 6, 2007) (class action alleging MERS and lenders overcharge borrowers above actual costs); Memorandum Opinion (D. Del. Sept. 30, 2008) (denying MERS and Washington Mutual motion to dismiss; granting motion to dismiss of Freddie Mac, GMAC and shareholder defendants).
- d. *Harris v. Fidelity Nat'l Information Serv.*, No. 03-44826, Adv. No. 08-03014, Complaint (Bankr. S.D. Tx. Jan. 16, 2008) (class action suit alleging that default servicers has impermissible and undisclosed arrangements with attorneys to retain portion of fees). Reference withdrawn, now case no. 4:08cv01243 in U.S. District Court in S.D. of Tex. Stipulated Dismissal entered Dec. 3, 2008.
- e. *In re Ocwen Federal Bank FSB Mortgage Servicing Litigation*, 04-CV-2714, MDL-1604 (N.D. Ill.) (class action challenging "proof of claim" fee in mortgage claims)

VI. Scholarly Articles

- a. Larry Cordell, Karen Dynan, Andreas Lehnert, Nellie Liang & Eileen Mauskopf, *The Incentives of Mortgage Servicers: Myths and Realities* (Fed. Reserve Bd., Fin. and Econ. Discussion Series, Paper No. 2008-46, 2008), available at <http://www.federalreserve.gov/pubs/feds/2008/200846/200846pap.pdf>.

- b. Alan M. White, *Rewriting Contracts, Wholesale: Data on Voluntary Mortgage Modifications from 2007 and 2008 Remittance Reports* (Aug. 26, 2008), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1259538
- c. Kurt Eggert, *Limiting Abuse and Opportunism by Mortgage Servicers*, 15 HOUSING POLICY DEBATE No. 3 (2007), <http://ssrn.com/abstract=992095>
- d. Kurt Eggert, *Comment: What Prevents Loan Modifications*, 18 HOUSING POLICY DEBATE No. 2 (2007), <http://ssrn.com/abstract=1081479>.
- e. Henry Hildebrand III, *The Sad State of Mortgage Service Providers*, 22 AM. BANKR. INST. L. REV. 10 (2003).
- f. Anthony Pennington-Cross & Giang Ho, *Loan Servicer Heterogeneity and the Termination of Subprime Mortgages*, Fed. Res. Board of St. Louis Working Paper No. 2006-024A (2006), <http://ssrn.com/abstract=897277>.
- g. Katherine Porter, *Misbehavior and Mistake in Bankruptcy Mortgage Claims*, 83 TEX. L. REV. 121 (2008), <http://ssrn.com/abstract=1027961>.
- h. Michael Stegman et al., *Preventive Servicing is Good for Business and Affordable Homeownership Policy*, 18 HOUSING POLICY DEBATE No. 2 (2007), <http://www.mi.vt.edu/web/page/950/sectionid/580/pagelevel/3/interior.asp>.

VII. Industry Data

- a. U.S. FINANCIAL NETWORK, NATIONAL MORTGAGE SERVICER'S REFERENCE DIRECTORY (22ND ED. 2005)
- b. Freddie Mac Single-Family Servicing Guidelines (click on All Regs, then on Servicing Volume 2), <http://www.freddiemac.com/sell/guide/#>
- c. Fannie Mae Single-Family Servicing Guidelines (click on Access All Regs, then on Servicing Guides and Forms), <https://www.efanniemae.com/sf/guides/ssg/>
- d. Jay Brinkman, Mortgage Bankers Association, *An Examination of Mortgage Foreclosures, Modifications, Repayment Plans, and Other Loss Mitigation Activities in Third Quarter of 2007* (Jan. 2008), http://www.mortgagebankers.org/files/News/InternalResource/59454_LoanModificationsSurvey.pdf.
- e. Marina Walsh, Mortgage Bankers Association, *2007 Costs of Mortgage Servicing Study* (Sept. 2007), <http://www.mortgagebankers.org/files/ServingOperationsStudyWalsh9-07.pdf>

VIII. Government Reports and Congressional Hearings

- a. Cordell, et al., *The Incentives of Mortgage Servicers: Myths and Realities*, Finance and Economic Discussion Series, Federal Reserve Board, Washington, D.C., <http://www.federalreserve.gov/pubs/feds/2008/200846/200846pap.pdf>
- b. State Foreclosure Prevention Working Group, *Analysis of Subprime Mortgage Servicing Performance*, Data Report Nos. 1 (February 2008) and 2 (April 2008) http://www.mass.gov/Cago/docs/press/2008_02_07_foreclosure_report_attachme nt1.pdf and http://www.mass.gov/Cago/docs/press/2008_04_22_sfpwg_report2.pdf
- c. Hearing on *A Review of Mortgage Servicing Practices and Foreclosure Mitigation*, U.S. House of Representatives Committee on Financial Services,

110th Cong., July 25, 2008,

http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr072508.shtml

- d. Hearing on *Policing Lenders and Protecting Homeowners: Is Misconduct in Bankruptcy Fueling the Foreclosure Crisis?*, U.S. Senate Committee on the Judiciary, 110th Cong. May 6, 2008, <http://judiciary.senate.gov/hearing.cfm?id=3327>
- e. Hearing on *H.R. 5679, The Foreclosure Prevention and Sound Mortgage Servicing Act of 2008*, U.S. House of Representatives Committee on Financial Services, 110th Cong. April 16, 2008, http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr041608.shtml

IX. News Stories and Miscellaneous

- a. Emily Flitter, *JPM Units to Settle FTC Counts*, Vol. 173, No. 175 AMERICAN BANKER, 13, Sept. 10, 2008.
- b. Kimberly Blanton, *Suit Blames Loan Servicer for Pending Foreclosure*, BOSTON GLOBE, Aug. 5, 2008.
- c. Amir Efrati, *Wells Fargo Is Sanctioned for Role in Mortgage Woes*, WALL STREET J. C5, Apr. 30, 2008
- d. Carrie Teegardin, *Couple loses home in Countrywide dispute but may yet win*, ATLANTA JOURNAL-CONSTITUTION, Mar. 30, 2008, http://www.ajc.com/business/content/business/stories/2008/03/28/countrywide_0330.html
- e. Amir Efrati & Kara Scannell, *Countrywide Draws Ire of Judges*, WALL STREET J. A3, Jan. 14, 2008
- f. Gretchen Morgenson, *Dubious Fees Hit Borrowers in Foreclosure*, NEW YORK TIMES, A1, Nov. 6, 2007
- g. Sacha Pfeiffer, *Hidden Legal Fees Push Some Into Foreclosure*, BOSTON GLOBE (Jan. 18, 2007).
- h. Mara Der Hovanesian, *When Mortgage Firms Don't Play Fair*, BUSINESSWEEK.COM, http://realestate.msn.com/buying/article_busweek.aspx?cp-documentid=2133885.
- i. Jack Guttentag, *Why is Mortgage Servicing So Bad?* (Feb. 3, 2003; updated Dec. 13, 2004), http://www.mtgprofessor.com/A%20%20Servicing/why_is_servicing_so_bad.htm
- j. *Credit Slips* blog, postings on mortgages and home loans, http://www.creditslips.org/creditslips/mortgage_debt_home_equity/index.html
- k. *Mortgage Servicing News* website, <http://www.mortgageservicingnews.com/>
- l. John Rao, Odette Williamson, Tara Twomey, et. al, FORECLOSURES (Nat'l Consumer Law Center, 2d. ed. 2007) (Chapters 6, 7 & 8 address mortgage servicing abuse and are the best comprehensive resource for practitioners).

Deciphering Mortgage Proofs of Claim

by Tara Twomey, Esq.*

Most chapter 13 bankruptcy debtors are homeowners, and many of these homeowners are in default on their mortgage obligations when they seek bankruptcy relief. Sections 1322(b)(5) and 1322(c)(1) provide these debtors with the opportunity to cure defaults on long-term mortgage loans secured by their principal residence by paying, in full, any pre-petition arrearage amounts. Arrearage amounts consist of any missed regular payments, escrow account payments, late fees and other charges permitted under the mortgage note.

Mortgage creditors who wish to receive distributions from the chapter 13 trustee must file a proof of claim. Chapter 13 trustees pay the mortgage creditors any arrearage amounts that are established in a proof of claim.¹ A properly executed and timely proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim. Creditors who file claims are required to use Official Form 10 or a substantially similar document. Form 10 directs creditors to attach an itemized statement if their claim “includes interest or other charges” in addition to the principal amount. This requirement will apply to nearly all residential mortgage claims. Federal Rule of Bankruptcy Procedure 3001 imposes two additional evidentiary requirements for proofs of claim: a copy of the writing, if one evidences the claim, and evidence of perfection if the creditor asserts a security interest in the property of the debtor.[†] Applied to residential mortgage transactions, Rule 3001 requires the creditor to attach the promissory note and mortgage or deed of trust. This trio of documentation permits all parties in a bankruptcy case—debtor, trustee, other creditors, and courts—to ensure the accuracy and legality of the claim.²

Without this documentation, it is nearly impossible to verify that the claim is correctly calculated and that it only reflects amounts due under the terms of the note and mortgage and permitted by applicable law. Even when these documents are attached,

* Reprinted with author’s permission. Published in *American Bankruptcy Institute Journal*, Nov. 2008, at pp. cover, 52-54.

¹ In addition, over half of chapter 13 trustees also pay the ongoing mortgage payments (often called “conduit” districts).

[†] Since the publication of this piece, the Rules Committee has proposed amendments to Rule 3001 and a new Rule 3002.1. The new rules alter the supporting documentation required for claims filed in a bankruptcy case of an individual debtor and would require additional notices for claims secured by a security interest in the debtor’s principal residence.

² In a recent national study of mortgage claims in bankruptcy more than 50% of all claims filed by mortgagees were missing one or more of these documents. See Katherine M. Porter, *Misbehavior and Mistake in Bankruptcy Mortgage Claims*, 87 Tex. L. Rev. (forthcoming 2008).

deciphering mortgage claims can still be challenging. The information below is intended to help unravel the mysteries of mortgage proofs of claim.

Mystery #1: Who Is the Creditor?

In today's mortgage market, the identity of the mortgage creditor is not always apparent.³ Most mortgages are sold or otherwise transferred to another entity shortly after origination. As a result, the mortgage holder frequently will not be the bank or mortgage company that is listed on the note or mortgage. Instead, a majority of loans are securitized. The securitization process involves pooling mortgage loans, transferring those obligations to a trust, and then selling fractional interests in the trust's pool of mortgages to investors. The relationship of the parties to the securitization is typically governed by a pooling and servicing agreement (PSA). Securitized loans account for roughly 70 to 75 percent of all outstanding residential mortgages.⁴

The right to service mortgage loans may be sold or transferred independently of the loans themselves. Commonly, the originating lender retains the servicing rights when it sells a mortgage loan. Such a lender would be considered both the originator and servicer, but not the current creditor, or holder, of the loan. In these cases, however, borrowers may never know that the ownership of their mortgage loans has changed.⁵ The following section describes key players involved in most residential mortgages transactions. Understanding the role of each player will assist counsel in distinguishing the actual mortgage creditor from its agents.

Mortgage Loan Originator: The mortgage loan originator is the entity whose name appears as the lender on the loan note and mortgage.⁶

Mortgage Loan Holder: The mortgage holder is the entity that currently holds the borrower's note. This is the party that has the present right to receive payments on the note and to foreclose and should be listed as the "Creditor" on the proof of claim. If the loan has been securitized, the holder will be the trustee of the trust of the pooled loans

³ See *In re Hayes*, 2008 WL 3870820 (Bankr. D. Mass. 2008) ("The mortgage lender, its affiliates, assignees, and agents involved in this case, through the convoluted process of securitization, the submission of a 191-page, incomplete PSA, and reliance upon back-dated, unrecorded assignments, have confounded the identity of the current holder of the mortgage"); see also *In re Nosek*, 386 B.R. 374 (Bankr. D. Mass. 2008).

⁴ "Mortgage Liquidity du Jour: Underestimated No More," Credit Suisse, p. 28 (Mar. 13, 2007).

⁵ While the Real Estate Settlement Procedures Act requires that borrowers be notified when their loan servicer changes, there are no laws or regulations requiring disclosure to the borrower when a mortgage loan has been sold to another entity. However, the Truth In Lending Act contains a provision that requires the loan servicer to tell the borrower who the holder of the mortgage is. 15 U.S.C. § 1641(f).

⁶ For some loans, the Mortgage Electronic Registration System (MERS) appears as the mortgagee of record or beneficiary of the deed of trust as "nominee" for the loan originator.

(e.g., Deutsche Bank National Trust Company as Trustee for the MLMI Trust Series 2005-SL1 or JPMorgan Chase Bank, N.A. as trustee, C-Bass Mortgage Loan Asset Backed Certificates, Series 2004-CB).

Mortgage Servicer: In general, the servicer collects the monthly payments from homeowners and interacts with homeowners on the holder's behalf. It also holds funds in escrow to pay the property taxes and homeowner's insurance and remits these payments to the appropriate entities.

Securitized loan pools may have several layers of servicers. For example, the primary servicer will collect monthly payments and interact with the homeowner; the special servicer is often responsible for nonperforming loans and real estate owned assets; and, the master servicer oversees both the primary and special servicer, ensures a smooth transition between the two servicer when a transfer is necessary and is charged overall with protecting the interest of the investors.

In consumer bankruptcies, servicers are often responsible for filing a proof of claim on behalf of the holder.⁷ However, when the servicer files the proof of claim the holder of the mortgage loan should be listed as the creditor and the servicer should indicate that it is acting as agent for the creditor.

Mortgage Electronic Registration System (MERS): MERS is an electronic registry and clearinghouse established to track ownership and servicing rights in mortgages. MERS was developed by the lending industry to reduce the costs associated with the recordation of assignments in connection with the bulk transfer of mortgage loans on the secondary market. Sometimes MERS is designated the original mortgagee of record as the "nominee" for the originator. Other times the mortgage is assigned to MERS after the loan has closed.

Once MERS is the mortgagee of record, all subsequent assignments will not be recorded in the public records. Instead MERS will internally track all the changes in ownership and servicing rights. Borrowers can receive information about the servicer of their loan from MERS, but MERS generally will not disclose the name of the holder to the borrower. Because MERS generally has no legal or beneficial interest in the promissory note, courts have differed on whether MERS may prosecute a foreclosure or pursue a motion for relief from stay solely as "nominee" for the holder.⁸

Mystery #2: How much is owed?

Although the purpose of a proof of claim is to establish the amount of the debt, many mortgagees' claims are hard to decipher. Accurate and complete proofs of claim filed by mortgagees will provide a breakdown of both the total debt and the pre-petition arrearages. Many of the line items in the total debt and arrearage itemizations will be the

⁷A creditor is the person, corporation, or other entity owed a debt by the debtor. See 11 U.S.C. § 101(10). Rule 3001(b) permits an authorized agent of the creditor to execute a proof of claim.

⁸ Compare *In re Huggins*, 357 B.R. 180 (Bankr. D. Mass 2006) with *LaSalle Bank Nat. Ass'n v. Lamy*, 824 N.Y.S.2d 769 (N.Y. Sup. Ct. 2006)(unreported table decision).

same. The pre-petition arrearage amount is what must be paid, in full, through the chapter 13 plan to cure the default. The following is a glossary of terms commonly found on proofs of claim filed by mortgagees.

Total Debt: The total debt represents the entire amount of the creditor's claim at the time of the petition. The amount includes the outstanding principal, accrued interest, escrow deficiencies, late fees and any other charges to the account. This amount should be listed as the "Amount of Claim on Date Case Filed" (Box 1) on Official Form 10. This amount should correspond with the "Amount of Claim without deducting the Value of Collateral" on the debtor's Schedule D.

Arrearage: The arrearage amount includes all past due payments of principal and interest, all past due escrow account payments, and any reasonable costs and fees incurred by the holder and recoverable against the debtor. For secured mortgage loans, the arrearage amount is indicated as the "Amount of arrearage and other charges as of time case filed included in secured claim, if any \$" (Box 4) on Official Form 10.

Principal: The sum of money outstanding on the mortgage loan and upon which interest is payable. In many cases the principal amount of the loan will be less than the original amount of the note because some portion of the borrower's monthly payments have been applied to the principal. There are, however, some types of loans, such as interest-only loans and option adjustable rate mortgages, for which the principal balance will be the same or greater than the original note amount.

Accrued Interest: Interest earned for the period of time that has elapsed since interest was last paid.

Escrow Payments: The creditor's claim should include any missed pre-petition escrow payments for loans with established escrow accounts.⁹ Often the number of missed escrow payments is equal to the number of missed principal and interest payments. Servicers will frequently use the terms "escrow deficiency" or "escrow shortage" on proofs of claim. The two terms have distinct meaning under the Real Estate Settlement Procedures Act and neither is equivalent to the missed pre-petition escrow payments.¹⁰ A deficiency may appear in the total indebtedness section but not in the arrearage amounts because escrow amounts are already accounted for in the missed monthly payments. It is also possible, though less common, for the debtor to have an escrow surplus, which may be indicated as a negative number on the proof of claim.

⁹ Campbell v. Countrywide Home Loans, Inc., 2008 WL 3906382 (5th Cir. Tex. 2008)(debtor's escrow payments that were due pre-petition were part of the creditor's claim).

¹⁰ Regulation X defines a deficiency as the "amount of a negative balance in an escrow account." 24 C.F.R. § 3500.17(b). A "shortage" is defined as an "amount by which a current escrow account balance fall short of the target balance at the time of the escrow analysis." 24 C.F.R. § 3500.17(b). A debtor with an escrow shortage will still have a positive balance in their escrow account.

Escrow Advances: For mortgage loans without escrow accounts, the escrow advances or escrow deficiency is typically the amount of negative balance resulting from actual disbursements made on the debtor's behalf for taxes, insurance, etc.

Suspense Balance (Unapplied Funds): A suspense account is a catch-all account used to temporarily put funds that are in "suspense" until the servicer makes decision on how to permanently allocate or apply them. The suspense account is often used to hold any payments received from debtors that are for less than the full amount due or to hold payments received while account is in default. Suspense accounts must be authorized by the underlying mortgage documents. The suspense balance should appear as a negative number on the proof of claim. In bankruptcy cases, servicers may also create a trustee suspense account where payments from the trustee are held prior to being applied to the borrower's account.

Late Charge: Fee charged to borrower's account when the monthly payment is made after due date (usually ten to fifteen days after due date). The amount of the late charge is specified in the promissory note.¹¹ In some cases the late charge will be a percentage of the principal and interest payment (e.g., 5-10%), and in other cases the late charge may be a flat fee (e.g., \$35).

Appraisal: An estimate of the value of property made by a qualified professional called an "appraiser." Appraisals can vary in price depending upon whether it contains a full report with a market analysis involving comparable sales and a walk-through of the property or whether it is a simple "drive-by." Full appraisals for residential property generally range from \$350-\$550.

Broker's Price Opinion (BPO): Evaluation of property value typically based on drive-by exterior examination, public data sources, and recent comparable sales, obtained by a servicer after loan is placed in default status or upon loan modification, as an alternative to full appraisal. BPOs typically range in price from \$50 to \$100. While the standard mortgage loan documents generally permit lenders to recover costs of BPOs, courts have questioned the reasonableness and necessity of multiple BPOs where there is no evidence of any change in circumstances between them.¹²

Property Inspection Fee: Fee charged to the borrower for inspections (usually drive-by) to determine the physical condition or occupancy status of mortgage property. Borrowers are typically charged \$8 to \$15 per inspection. Often these fees are imposed repeatedly

¹¹ If a copy of the promissory note is not attached to the Proof of Claim as required by Rule 3001, it will be difficult, if not impossible, to determine whether the amount of late fees are correct.

¹² See *In re Stewart*, 391 B.R. 327 (Bankr. E.D. La. 2008)(disallowing fees for BPOs that were duplicative, that were allegedly conducted while the parish in which the property was located was under an evacuation order, or that were allegedly conducted after property was sold at foreclosure).

once account is placed in default status because they are automatically ordered by a servicer's software system. Some courts have found that such inspections are neither reasonable nor necessary or that such inspections without advance notice to the borrower do not comply with the underlying mortgage loan contract.¹³ Property inspection fees are distinguishable from property protection costs incurred to preserve the value of the property (e.g., winterizing, replacing or repairing locks, boarding or replacing windows).

Foreclosure Costs/Fees: Disbursement for attorney fees and other costs (e.g., publication, sheriff's costs, filing fees, service of process, etc.) associated with collection or foreclosure. A reasonable amount for foreclosure costs and fees will vary dramatically depending on the stage of foreclosure the property was in at the time the homeowner filed for bankruptcy. Foreclosure costs and fees also vary depending on whether a state is a judicial or non-judicial foreclosure state and on state law itself. Generally, foreclosure fees and costs must be reasonable and actually incurred before they are recoverable against the borrower.¹⁴

Bankruptcy Fee: A post-petition, pre-confirmation fee charged to the borrower by the servicer as a result of the bankruptcy filing by the borrower. This is often a flat fee included in the claim amount listed on proof of claim filed by servicer in chapter 13 or added to account as recoverable expense or corporate advance. These fees may also be called POC Fees, Bankruptcy Monitoring Fees, or Plan Review Fees. The range for these fees is \$150-\$550. Courts have differed on whether such fees are recoverable by the servicer.¹⁵ Where such fees are recoverable, some courts require servicers to file Rule 2016 disclosures.¹⁶

Force Placed Insurance: Hazard insurance purchased by servicer on borrower's home (typically covering only lender's interest) when policy purchased directly by borrower on non-escrow mortgage account has lapsed or when servicer contends that borrower has failed to provide proof of insurance coverage.

¹³ See *In re Stewart*, 391 B.R. 327 (Bankr. E.D. La. 2008)(finding that automatically generated property inspections conducted on wrong property, and even when conducted on correct property, were never reviewed by servicer).

¹⁴ See *Korea First Bank v. Lee*, 14 F. Supp. 2d 530 (S.D.N.Y. 1998)(lender not entitled to recover more than it paid its attorney or more than what was reasonable); *In re Riser*,

¹⁵ Compare *In re Marks*, 2005 WL 4799326 (Bankr. W.D. La. Nov. 30, 2005)(disallowing proof of claim fee because it was an administrative function not requiring an attorney) with *In re Moye*, 385 B.R. 885 (Bankr. S.D. Tex. 2008)(allowing \$200 fee for preparation of proof of claim) with *In re Conde-Dedonato*, 391 B.R. 247 (Bankr. E.D.N.Y. 2008)(permitting creditor to recover \$200 plan review fee and \$150 proof of claim fee).

¹⁶ See, e.g., *In re Sanchez*, 372 B.R. 289 (Bankr. S.D. Tex. 2007)(post-petition, pre-confirmation fees disallowed where creditor failed to disclose fees and file Rule 2016 applications).

Corporate Advance: Disbursement for servicing-related expenses (not escrow expenses) paid with servicer funds rather than escrow funds, to be recovered from borrower. Corporate advances may include foreclosure expenses, attorney fees, bankruptcy fees, force placed insurance, and so forth. It is preferable for corporate advance amounts to be itemized so that the debtor, trustee and court can determine whether such fees are appropriate.

Statutory Expense: Any tax, special assessment, or other charge imposed by federal, state, or local taxing authority or other governmental entity. Generally does not refer to taxes paid through escrow account but rather corporate advances to cover such charges when account is in default or property facing tax sale, or following a foreclosure.

Payoff Fee: Fee charged to borrower for providing statement of amount required to pay off loan.

Fax fee: Fee charged to borrower for faxing payoff statement or other information to the borrower. Other similar fees may include email fees and overnight delivery fees. As with other fees charged to the debtor's account these fees must be reasonable under the circumstances.

Examples of Daily Interest Mortgage

National City®

FIXED RATE CONSUMER NOTE AND SECURITY AGREEMENT – National Home Equity
 (Not to be Used for Texas Homestead Loans Unless Purchase Money or Refinance of Purchase Money)

1. DEBTOR(S) **THOMAS S DAVEY**
KEREN L DAVEY

Date 2/15/2007

Address **6022 CEMETERY RD**
ARLINGTON, Washington 98223

2. **DEFINITIONS AND GENERAL TERMS.** "You" or "your" means the undersigned Debtors. "We", "our" or "us" means National City Bank, 6750 Miller Road, Brecksville, Ohio 44141, and its successors and assigns. "Note" means this promissory note and security agreement and all related attachments and addenda. "Loan" means the loan evidenced by this Note. Property means the real estate securing the payment of this Note described in Section 4. "Disclosure Statement" means the separate federal truth-in-lending disclosure statement of even date provided to you, the terms of which are incorporated by reference in this Note. Disclosures in the Disclosure Statement are contract terms. You agree that we are making this Loan directly to you. The Section headings of this Note are a table of contents and not contract terms.

3. **PROMISSORY NOTE.** For value received, you, intending to be legally bound, jointly and severally promise to pay to our order the principal sum of \$ 108,810.00, which includes a prepaid finance charge of \$ 2232.80 plus interest from the date of this Note on the principal sum outstanding and other sums owed under this Note at the per annum rate of 10.125%, payable as described in the payment schedule in the Disclosure Statement. You agree that all past due and unpaid charges owed, including past due interest, may be capitalized and earn interest by adding them to the principal balance of this Note. Interest will be computed on a simple interest basis based upon a 365-day year, but calculated on actual days. Accordingly, your payment history could affect the amount you will pay under this Note.

4. **PROPERTY.** 6022 CEMETERY RD
ARLINGTON, Washington 98223

5. **DISBURSEMENT OF PROCEEDS.** You authorize us to disburse all proceeds of this Loan by check, draft, electronic transfer or in such other form or manner as we choose in our sole discretion.

6. **LATE CHARGE; RETURNED INSTRUMENT CHARGE; DEFERRAL CHARGE; DOCUMENT REQUEST CHARGE.** If all or any portion of any monthly payment is not received within 10 days after it is due and we do not accelerate the entire balance owing under this Note, you agree to pay a late charge. This late charge will be the greater of 10% of the unpaid monthly payment or \$40. If any check, draft, negotiable order of withdrawal, or other similar instrument is returned to us unpaid for any reason, you agree to pay a returned instrument charge. This returned instrument charge will be \$25. If we, in our sole discretion, permit you to defer any payment(s) you agree to pay a deferral charge for each payment deferred. If you request copies of any documents related to this Loan, you agree to pay a document request charge for the service of providing copies. This document request charge will be \$6 per copy. We will not charge you for documents we are required to provide you by law.

7. **INSURANCE.** You are required to insure the Property until this Loan is paid in full or we sell the Property. You have the risk of loss of the Property and will be responsible for its loss or damage. You agree to obtain primary insurance coverage (including furnishing existing coverage) from any insurer you want that is acceptable to us, provided that the insurer is authorized to do business in the state or jurisdiction where the Property is located or is an eligible surplus lines carrier, in the following types and amounts with us listed as loss payee: (a) fire, "all risk" perils and flood insurance required by law; and (b) all other insurance required by applicable law. You must keep the Property fully insured against loss or damage on terms which are acceptable to us to the extent permitted by law. All insurance proceeds we receive (including a refund of premium) may at our option reduce the indebtedness of this Note or be used to repair or replace the Property. If the Property is destroyed, you must still pay us whatever you owe under this Note. If you fail to maintain the required insurance, we may at our sole option obtain coverages at your expense which we believe are necessary to protect our interests in the Property. You agree to pay the expense of such insurance on demand or agree that we may add such expense to this Loan. You acknowledge that insurance we purchase may cost substantially more than insurance you could purchase. Failure of your insurer to pay a claim, or any part of a claim, will mean you do not have the insurance required by this Note. You also assign to us any other insurance proceeds related to the Note or our interest in the Property. You must promptly provide us with evidence of insurance and proof of payment of insurance premiums upon our request, and all policies must provide us with a minimum of 10 days prior notice of cancellation or material change in coverage. Our mailing address for purposes of this Section is: P.O. Box 91596, Cleveland, OH 44101-0351. You irrevocably authorize us as your agent and on your behalf, which authorization will survive your incompetence, to negotiate, settle and release any claim under your insurance or under any insurance with a third party insurer related to the Property, and to receive and sign all related papers and documents on your behalf including, checks, drafts and other items payable to you.

8. **PREPAYMENT.** You may voluntarily prepay the principal sum of this Note in part at any time. If you voluntarily prepay the principal sum of this Note in full, you agree to pay a voluntary prepayment charge which will be equal to the greater of 0% of the principal balance at the time of prepayment or \$ 0.00. You will only be charged this voluntary prepayment charge during the first 0 months of this Note. If we accelerate the entire balance owing under this Note due to your default, you agree to pay an involuntary prepayment charge which will be equal to \$ 150.00. No portion of the prepaid finance charge described in Section 3 will be refunded. Subject to Section 3, you authorize us to apply all prepaid sums to the indebtedness of this Note in any manner we elect.

9. **SECURITY AGREEMENT.** To the extent permitted by law you grant us a security interest and waive all applicable property exemptions and homestead rights (unless the Property is located in Texas) in the following property to secure performance of your obligations under this Note and (except for the Property if it is a principal residence) your obligations under any other agreement with us or our affiliates: (a) the Property including all equipment, parts, accessories and personal property which is a fixture of the Property except "household goods" as defined by 12 C.F.R. 227.12(d) unless purchased with the proceeds of this Loan. If we have a prior lien on your principal residence as security for future obligations, we waive such security as to this Note only; (b) proceeds and unearned premiums of any Property insurance; (c) all of your deposit accounts with us or our affiliates (except individual retirement accounts); and (d) substitutions, replacements, products and proceeds of the foregoing. Our security interest will be a purchase money security interest if any of the foregoing are purchased with the proceeds of this Loan. You agree that we are not a fiduciary with respect to our security interest. You further agree that we may at any time apply proceeds and unearned premiums and refunds of any Property insurance to reduce the indebtedness of this Note, even if you are not in default. Upon our request, you will deliver any documents that are necessary for us to perfect our security interest. You will defend at your expense our security interest in the Property. To the extent permitted by law, you agree to pay all actual costs imposed to release our interests in the Property.

10. **PROPERTY MAINTENANCE AND USE.** You will promptly pay all fees, fines, and taxes related to this Loan and the Property. You will maintain the Property in good condition except for ordinary wear and tear, and keep it free from all liens, encumbrances, fines and adverse claims. You will make all needed repairs. You will not make any changes to the Property that will decrease its value or decrease its functionality without our prior written consent. You will permit us to inspect the Property at a time which is reasonably convenient. If you do not do any of the foregoing, we may do so at our sole option and add the costs to this Loan or require you to provide us with additional collateral. You will not use, or permit others to use, the Property: (a) in violation of any law; (b) contrary to the provisions of any insurance policies covering the Property or in a manner that would invalidate any warranty or (c) for any business, commercial or agricultural purpose unless this Loan is explicitly for such a purpose.



11. **DEFAULT AND REMEDIES.** You will be in default under this Note if: (a) you fail to make any payment or pay other amount owing under this Note when due; (b) you fail to keep any of your agreements under this Note or under any other agreement with us or our affiliates; (c) a bankruptcy petition is filed by or against you; (d) you have provided false or misleading information to us; (e) you die or are declared incompetent or incapacitated; (f) the Property or any other property for which we or our affiliates possess a security interest is lost, stolen, destroyed, determined by us to be unsalable for use, seized, impounded or threatened with, or subject to, levy, attachment, condemnation, forfeiture or other administrative or judicial proceedings; or (g) you are in default on any obligation that is secured by a lien on the Property. If you are in default, in addition to any other rights and remedies we have under law and subject to any right you may have to cure your default, we may do any of the following: (aa) accelerate the entire balance owing under this Note after any demand or notice which is required by law, which entire balance will be immediately due and payable. You will pay us interest on this balance at the rate set forth in this Note including after default and acceleration and after any judgment; (bb) demand that you vacate the Property and make it available to us at a time which is reasonably convenient. You agree to comply with such demand; (cc) sell, lease, or otherwise dispose of the Property. Our disposal of the Property will not release you from any of your obligations and you will pay us any balance owing under this Note; (dd) recover all expenses related to retaking, holding, preparing for sale and selling the Property and reasonable collection costs, attorneys' fees (unless you are a resident of New Hampshire, in which case we may not recover our attorneys' fees from you) and legal expenses as permitted by 11 U.S.C. 506 and applicable state law; and/or (ee) setoff any of your deposit accounts with us or our affiliates (except individual retirement accounts) without demand or notice.
12. **PROPERTY CONDITION.** You agree that with respect to any Property: (a) it is free from all material defects, in proper operating order and fit for all intended purposes; (b) that our making this Loan was based in part upon the value and condition of them as represented by you; (c) we did not directly or indirectly offer, sell or provide it to you; and (d) we are not a seller, supplier, merchant or warrantor. Accordingly, except for specific rights afforded by state law, any claims relating to the Property, including any defect or warranty related to it, are not our responsibility.
13. **ADDITIONAL AGREEMENTS.** You agree that: (a) you may not sell or assign this Note, the Property or any of its benefits or obligations without our prior written consent. We own this Note and may assign this Note or any of its benefits or obligations at any time without your consent; (b) this Note is between you and us and except for successors or assigns as provided by this Note, this Note will not confer any rights upon any third party; (c) our rights and remedies in this Note are not exclusive; (d) we may waive or delay the enforcement of our rights under this Note without waiving or otherwise affecting such rights; (e) the provisions of this Note are only to the extent permitted by applicable law. Any part of this Note which cannot be enforced will be void, but the remaining parts will remain in effect; (f) you waive notice of dishonor, protest, presentment, demand for payment (subject to any right you may have to cure your default), waiver, delay and all other notices or demands in connection with this Note; (g) you waive all defenses relating to impairment of recourse or collateral, and we can change any term of this Note, release any collateral or release any obligor by agreeing with any one party without notifying or releasing any other party; (h) we can correct errors in this Note as provided in 15 U.S.C. 1640 upon notice to you even if they are contract terms and you agree to be bound by such corrections. Upon our request, you will promptly re-execute this Note to correct errors in the Note. You can change any term of this Note only in a writing signed by us; (i) the Bank is a national bank located in Ohio and Bank's decision to make this Loan to you was made in Ohio. Therefore, this Note shall be governed by and construed in accordance with (i) Federal laws and regulations including but not limited to 12 USC § 85 and (ii) the laws of Ohio, to the extent Ohio laws are not preempted by federal laws or regulations, and without regard to conflict of law principles; (j) this Note describes all agreements between you and us with respect to the Loan and there are no other agreements. An electronic or optically imaged reproduction of this Note or any other document related to your Loan constitutes an original document and may be relied on in full by all parties to the same extent as an original; (k) except as otherwise required by law, we are authorized to mail any notice or other correspondence to you by first class mail to your last known address indicated on our records; (l) you will provide us with 10 days prior written notice of any change in any information contained in your application including a change in your name or address. Except as otherwise specified, all notices and payments to us must be sent to P.O. Box 5700, Cleveland, OH 44101-0570, or such other place as we may designate. Our failure or delay in providing you billing statements or other payment instructions will not relieve you of your obligations under this Note; (m) all payments must be in lawful money of the United States; (n) if you are a natural person you are competent to enter into this Note and if you are other than a natural person, the person signing on behalf of you represents that they are authorized to enter into and execute this Note; (o) we will not be responsible for any personal items in or on vacated Property. We will make a reasonable effort to return such items to you or have you reclaim them from us provided you notify us within 5 business days of our taking possession and itemize such items. Even if you notify us, you abandon to us any personal items not reclaimed from us within 10 business days of our taking repossession; (p) we may accept late payments or partial payments without losing any of our rights. If your payment is marked with the words "Paid In Full" or similar language, you must send your payment to National City, 6750 Miller Road, Brecksville, Ohio 44141, Locator No. 7107. If your payment is made to any other address, we may accept the payment without losing any of our rights; (q) our application of your payments or other proceeds will be deemed reasonable unless another method is required by law, in which case that method will be deemed reasonable; (r) this Note will be binding and inure to the benefit of you and us and our respective successors and assigns; (s) except as otherwise prohibited by law, Bank may provide to others, including but not limited to, consumer credit reporting agencies, information about our transactions and experiences with you. Also, Bank and its affiliates (collectively "National City") may share with each other all information about you for the purposes, among other things, of evaluating credit applications or offering products and services that National City believes may be of interest to you. Under the Fair Credit Reporting Act there is certain credit information that cannot be shared about you (unless you are a business) if you tell National City by writing to National City Corporation, Attention: Office of Consumer Privacy, P.O. Box 4068, Kalamazoo, MI 49009. You must include your name, address, account number and social security number; (t) the annual IRS Form 1098 will be issued only to the first borrower listed on this Note at origination and the designation of a borrower as first cannot be changed subsequently; (u) we are authorized to sign on your behalf any document required to enforce our interests under this Note; (v) disclosures included in this Note but not required by law are not an admission or waiver of rights by us; (w) all actions under this Note requiring our consent are at our sole discretion, and such consent may be withheld for any reason; (x) our typewritten name in Section 2 will constitute our signature for purposes of this Note; (y) we have an established business relationship with you, and unless otherwise prohibited by law, National City may contact you to offer you products and services that National City thinks may be of interest to you. Such contacts are not unsolicited, and National City may contact you with an automated dialing and announcing device or by fax, email or other form of electronic communication and we may monitor telephone calls with you to assure quality service; (z) you will pay all fees we charge you in connection with this Loan including those indicated on any Good Faith Estimate or HUD1/HUD1A provided in connection with this Loan, which will be nonrefundable to the extent permitted by law; (aa) all amounts owed under this Note will be without relief from valuation and appraisal laws; (bb) if this Loan is not for a consumer purpose or you are not a natural person, you are not entitled to any rights afforded consumers under applicable law or regulations; and (cc) in this Note, the term "affiliates" means current and future affiliates of National City Bank, including, but not limited to, the following National City Corporation subsidiaries: National City Home Loan Services, Inc., First Franklin Financial Corporation, Madison Bank and Trust Company and National City Mortgage Co.
14. **ADDITIONAL NOTICES.** The following notices are given by Bank only to the extent not inconsistent with 12 U.S.C. Section 85 and related regulations and opinions, and/or the choice of law provision set forth herein (with respect to which Bank expressly reserves all rights). You acknowledge receipt of the following notices before becoming obligated. For purposes of the immediately following *Notice to Cosigner*, "bank" means us.



NOTICE TO COSIGNER

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility. You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount. The bank can collect this debt from you without first trying to collect from the borrower (and after proper notice to you if you are a "cosigner" as defined by Illinois or Michigan law). The bank can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages (unless you receive wages in North Carolina, Pennsylvania, South Carolina or Texas) etc. If this debt is ever in default, that fact may become a part of your credit record. This notice is not the contract that makes you liable for the debt.

NOTICE TO ALL SIGNERS

You are hereby notified that a negative credit report reflecting on your credit record may be submitted to a consumer (credit) reporting agency if you fail to fulfill the terms of your credit obligations. If you believe that we have information about you that is inaccurate or that we have reported or may report to a credit reporting agency information about you that is inaccurate, please notify us of the specific information that you believe is inaccurate by writing to National City, P.O. Box 94982, Cleveland, Ohio 44101, Attn: Credit Bureau Disputes, Locator 7113.

If the Property is located in California: Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property.

If the Property is located in Colorado: The dollar amount of the finance charge disclosed to you for this credit transaction is based upon your payments being received by us on the date payments are due. If your payments are received after the due date, even if received before the date a late fee applies, you may owe additional and substantial money at the end of the credit transaction and there may be little or no reduction of principal. This is due to the accrual of daily interest until a payment is received.

If the Property is located in Florida: Florida Documentary Stamp Tax in the amount required by law has been paid or will be paid directly to the Department of Revenue, and Florida Documentary Stamps have been placed on the taxable instruments as required by Chapter 201, Florida Statutes.

If the Property is located in Iowa (this is a consumer credit transaction) or Kansas: NOTICE TO CONSUMER: 1. Do not sign this paper (agreement) before you read it. 2. You are entitled to a copy of this paper (agreement). 3. You may prepay the unpaid balance at any time and in accordance with law you will not be entitled to receive a refund of unearned charges. 4. If you prepay the unpaid balance, you may have to pay a prepayment penalty.

If the Property is located in Iowa and the principal amount of this Loan exceeds \$20,000: IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

If the Property is located in Maryland: We elect Subtitle 10, Credit Grantor Closed End Credit Provisions, of Title 12 of the Commercial Law Article of the Annotated Code of Maryland.

If the Property is located in Minnesota: If the amount of this Loan is \$100,000 or more, we elect Minn. Stat. § 334.01.

If the Property is located in Missouri: Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

If the Property is located in New York: YOU SHOULD CHECK WITH YOUR LEGAL ADVISOR AND WITH OTHER MORTGAGE LIEN HOLDERS AS TO WHETHER ANY PRIOR LIENS CONTAIN ACCELERATION CLAUSES WHICH WOULD BE ACTIVATED BY A JUNIOR ENCUMBRANCE.

DEFAULT IN THE PAYMENT OF THIS LOAN AGREEMENT MAY RESULT IN THE LOSS OF THE PROPERTY SECURING THE LOAN. UNDER FEDERAL LAW, YOU MAY HAVE THE RIGHT TO CANCEL THIS AGREEMENT. IF YOU HAVE THIS RIGHT, THE CREDITOR IS REQUIRED TO PROVIDE YOU WITH A SEPARATE WRITTEN NOTICE SPECIFYING THE CIRCUMSTANCES AND TIMES UNDER WHICH YOU CAN EXERCISE THIS RIGHT.

If the Property is located in North Dakota: THIS OBLIGATION MAY BE THE BASIS FOR A PERSONAL ACTION AGAINST THE PROMISOR OR PROMISORS IN ADDITION TO OTHER REMEDIES ALLOWED BY LAW.

If the Property is located in Oregon: NOTICE TO THE BORROWER: Do not sign this loan agreement before you read it. The loan agreement provides for the payment of a penalty if you wish to repay the loan prior to the date provided for repayment in the loan agreement.

If the Property is located in Texas: THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

If the Property is located in Vermont: NOTICE TO CO-SIGNER: YOUR SIGNATURE ON THIS NOTE MEANS THAT YOU ARE EQUALLY LIABLE FOR REPAYMENT OF THIS LOAN. IF THE BORROWER DOES NOT PAY, THE LENDER HAS A LEGAL RIGHT TO COLLECT FROM YOU.

If the Property is located in Wisconsin: NOTICE TO CUSTOMER: (a) DO NOT SIGN THIS BEFORE YOU READ THE WRITING ON THE REVERSE SIDE, EVEN IF OTHERWISE ADVISED. (b) DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES. (c) YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN. (d) YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS AGREEMENT AND YOU WILL NOT BE ENTITLED TO A PARTIAL REFUND OF THE FINANCE CHARGE.



15. SIGNATURES YOU HAVE READ AND AGREE TO ALL PROVISIONS OF THIS NOTE INCLUDING THOSE ON PAGES 1 THROUGH 3 AND IN THE DISCLOSURE STATEMENT WHICH IS INCORPORATED HEREIN BY REFERENCE. (1) DO NOT SIGN THIS NOTE BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES TO BE FILLED IN. (2) YOU ARE ENTITLED TO A COMPLETELY FILLED-IN COPY OF THIS NOTE BEFORE YOU SIGN IT. BY SIGNING THIS NOTE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND RECEIVED A COMPLETED COPY OF THIS ENTIRE NOTE BEFORE SIGNING IT ON THE DATE SHOWN ON PAGE 1. SEE PAGES 1, 2 AND 3 AND THE DISCLOSURE STATEMENT FOR ADDITIONAL IMPORTANT TERMS AND CONDITIONS.

THOMAS S DAVEY

Type or print name of Debtor

X

Debtor's signature

KEREN L DAVEY

Type or print name of Debtor

X

Debtor's signature

Type or print name of Debtor

X

Debtor's signature

Type or print name of Debtor

X

Debtor's signature

FOR MICHIGAN GUARANTORS ONLY: Guaranty Agreement. For value received, you the undersigned guarantors jointly, severally and unconditionally guarantee the payment of all sums owing under this Note when due and the performance by the Debtors of all promises contained in this Note. Upon default, we may proceed against any of you without first proceeding against any Debtor. The liability of each of you will be primary and will not be affected by any settlement, release, extension, renewal or modification of this Note whether or not by operation of law. Each of you voluntarily and knowingly waives all rights to any demands, presentments, notices and defenses of any kind or nature you might have in connection with this Guaranty. Each of you agrees to pay all expenses including reasonable attorneys' fees incurred by us if we have to enforce this Guaranty. Each of you acknowledges that you have read and agree to all terms of this Guaranty, Note and Disclosure Statement prior to signing below.

Type or print name of Guarantor

X

Guarantor's signature

Type or print name of Guarantor

X

Guarantor's signature



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

IN RE:

**WILLIAM E. DAY
PAULA V. DAY
AKA VICKIE DAY**

§
§
§
§
§
§

CASE NO. 09-12948-MWV

CHAPTER 13

JUDGE MARK W. VAUGHN

EXHIBIT A

ITEMIZATION OF CLAIM AND SUMMARY OF SUPPORTING
DOCUMENTS FOR CLAIM OF HOUSEHOLD FINANCE CORPORATION II
REGARDING CERTAIN COLLATERAL DESCRIBED AS:
80 WILDWOOD ST, MANCHESTER, NEW HAMPSHIRE 03103

SECTION 1. ITEMIZATION OF CLAIM

1.	Total Debt (As of July 31, 2009)	\$239,103.42
2.	Interest rate as of July 31, 2009	7.69%
3.	Detail of arrearage: (through July 31, 2009)	
	0 payments through July 2009	\$0.00
	1 partial post petition payment for August 2009:	\$1,743.00
	Daily Simple Interest Due	\$6,513.47
	** ATTORNEY FEES AND COSTS	\$0.00
	** OTHER CHARGES	
	TOTAL ARREARAGE	\$8,256.47

The current monthly payment amount is \$1,811.88. The monthly payment amount may change due to escrow requirements and/or interest rate adjustments.

Name of Creditor: Household Finance Corporation II
File Number 2250-N-1918 / poc

LOAN REPAYMENT AND SECURITY AGREEMENT (Page 1 of 3)**LENDER (called "We", "Us", "Our")**

HOUSEHOLD FINANCE CORPORATION II
 681 SECOND STREET
 SUITE E
 MANCHESTER NH 03102

BORROWERS (called "You", "Your")

DAY, WILLIAM E
 SS#
 DAY PAULA V
 SS#
 80 WILDWOOD ST
 MANCHESTER NH 03103

LOAN NO: [REDACTED]

DATE OF LOAN 02/26/2004	FIRST PAYMENT DUE DATE 03/26/2004	OTHERS SAME DAY OF EACH MONTH	FINAL PAYMENT DUE DATE 02/26/2034	CONTRACT RATE (per year) 7.895 %
AMOUNT FINANCED \$ 253,997.52		PRINCIPAL \$ 254,247.55		
		CLOSING FEE \$.00		OFFICIAL FEES \$ 44.00
LIFE INS PREMIUM \$ NONE	DISABILITY INS PREMIUM \$ NONE	TUI PREMIUM \$ NONE		
SECOND PROTECTOR COVERAGE (SPC) INS PREMIUM \$ NONE				
				ORIGINATION FEE/POINTS \$ 250.03
FIRST INSTALLMENT \$ 1,811.88		MONTHLY INSTALLMENT \$ 1,811.88		TERM PERIOD 360
				PREPAYMENT PENALTY YES

YOU ARE GIVING US A SECURITY INTEREST IN THE REAL ESTATE LOCATED AT THE ABOVE ADDRESS.

REQUIRED INSURANCE. You must obtain insurance for term of loan covering security for this loan as indicated by the word "YES" below, naming us as Loss Payee:

YES Title insurance on real estate security.
 YES Hazard insurance on real estate security.

You may obtain any required insurance from anyone you choose and may assign any other policy of insurance you own to cover the security for this loan.

(See "Security" paragraph above for description of security to be insured.)

NOTICE: THE FOLLOWING PAGES CONTAIN ADDITIONAL CONTRACT TERMS.

09-15-03 RE
 1ST OPT PPP



NH865301

ORIGINAL

LOAN REPAYMENT AND SECURITY AGREEMENT (Page 2 of 3)

PAYMENT. In return for this loan, you agree to pay us the Principal [Amount Financed and Points and Closing Fee (all shown on page one)] plus Interest in monthly payments as stated on page one, computed by the simple interest method on the unpaid balances of Principal at the Contract Rate as stated on page one, plus any monthly insurance premium, if elected, until fully paid. The term Points means the Origination Fee (Points) shown on page one. You shall pay us monthly payments, at our business address or other address given you. If more than one Borrower is named on page one, we may enforce this Contract against all, or any Borrowers, but not in a combined amount greater than the amount owed. Payments are applied in the following order: late charges, interest at the Contract Rate for the actual time outstanding, principal, and insurance. For any past due amounts, payments will be applied to the most delinquent monthly installment first, in the same order shown above, until all past due monthly installments are paid in full. For late charge purposes, as long as you make a full monthly installment any month, no late charge will be assessed for that month.

DATE ON WHICH FINANCE CHARGE BEGINS. If this transaction is not rescinded in accordance with your "Notice of Right to Rescind", the date on which the Finance Charge begins and payment due dates are postponed by the number of days from this Contract's date, to the date you receive this loan.

PAY-OUTS. You agree to pay-outs of Amount Financed as shown on Truth-In-Lending disclosure form. If pay-outs change because loan closing is delayed, (a) you shall pay additional amounts due at closing, or (b) your cash or check will be reduced to cover additional pay-outs.

PREPAYMENT. Subject to your choice of a Prepayment Penalty on this loan, you may prepay any or all of your loan at any time. If you choose a loan with a Prepayment Penalty, the word "YES" will appear in the Prepayment Penalty box on page one of this Agreement. In any event, if you fully pay before the final payment due date, the amount you owe will be reduced by unearned credit insurance charges, if any. If you prepay before the final due date, Points and Closing Fee are fully earned when this loan is made and you will not receive a refund of that part of the Finance Charge consisting of Points and Closing Fee.

PREPAYMENT PENALTY. If "YES" is printed in the Prepayment Penalty box on page one of this Agreement, you agree to the following penalty. If you prepay in full within two (2) years of the date of this loan (as stated on page one), you agree to pay a Prepayment Penalty equal to six (6) months interest at the Contract Rate (as stated on page one) of the unpaid principal balance. No Prepayment Penalty will be imposed (a) if this loan is refinanced by another loan with us; (b) after two (2) years; (c) if the loan is prepaid from the proceeds of any insurance; or (d) if we sue you.

LATE CHARGE. If you don't pay any payment in full within 10 days after it's due, you will also pay 5% of the unpaid amount of such payment.

SECURITY. There is a mortgage on your real estate, located at your address unless a different address is stated. You agree to give us a security interest in the real estate as described in the Mortgage/Deed of Trust.

PROPERTY INSURANCE:

A. YOUR OBLIGATION TO INSURE. You shall keep the structures located on the real property securing this loan insured against damage caused by fire and other physical hazards, name us as a loss payee and deliver to us a loss payable endorsement. If insurance covering the real property is cancelled or expires while the loan is outstanding and you do not reinstate the coverage, we may obtain, at our option, hazard insurance coverage protecting our interest in the real property as outlined below.

B. LENDER'S RIGHT TO PLACE HAZARD INSURANCE. You authorize us, at our option, to obtain coverage on the Property in an amount not greater than the outstanding balance of principal and interest on the loan or, if known to be less, the replacement value of the Property, in the event that you fail to maintain the required hazard insurance outlined above or fail to provide adequate proof of its existence. You authorize us to charge you for the costs of this insurance and add the insurance charges to your loan. The Insurance charges will be added to the unpaid balance of the loan which accrues interest at the Contract Rate. The addition of the insurance charges due might increase the amount of your final installment. The cost of Lender placed hazard insurance might be higher than the cost of standard insurance protecting the property. The Lender placed insurance will not insure the contents of the property or provide liability coverage. The insurance might not be the lowest cost coverage of its type available and you agree that we have no obligation to obtain the lowest cost coverage. We or an affiliated company might receive some benefit from the placement of this insurance and you will be charged for the full cost of the premium without reduction for any such benefit. If at any time after we have obtained this insurance, you provide adequate proof that you have subsequently purchased the required coverage, we will cancel the coverage we obtained and credit any unearned premiums to your loan.

NOTICE: THE FOLLOWING PAGE CONTAINS ADDITIONAL CONTRACT TERMS.

09-15-03 RE
1ST OPT PPP



NHB65302

ORIGINAL

LOAN REPAYMENT AND SECURITY AGREEMENT (Page 3 of 3)

DEFAULT. If you don't pay on time or fail to keep any required insurance in force, or if permitted in the event of default under the Mortgage, (1) all your payments may become due at once and, (2) without notifying you before bringing suit, we may sue you for the entire unpaid balance of Principal and accrued Interest and (3) you will pay our court costs, reasonable attorney fees (if the attorney is not our salaried employee), and other collection costs related to the default, if not prohibited by applicable law. Reasonable attorney's fees will be awarded to you if you prevail in any action brought by you or by us. If you successfully assert a partial defense or set-off, recoupment or counterclaim to an action brought by us, the Court may withhold from us the entire amount or such portion of the attorneys' fees as the Court considers equitable. You agree that, should we obtain judgment against you, a portion of your disposable earnings may be attached or garnished (paid to us by your employer), as provided by Federal law. You agree to pay interest on any judgment at the Contract Rate.

CREDIT REPORTING AND CUSTOMER INFORMATION PRACTICES. If you fail to fulfill the terms of your credit obligation, a negative report reflecting on your credit record may be submitted to a Credit Reporting Agency. You agree that the Department of Motor Vehicles (or your state's equivalent of such department) may release your residence address to us, should it become necessary to locate you. You agree that our supervisory personnel may listen to telephone calls between you and our representatives in order to evaluate the quality of our service to you. You understand and agree that we will call you from time to time to discuss your financial needs and any loan products that may be of interest to you as may be permitted by Applicable Law. For more information regarding our privacy practices, please refer to our Privacy Statement, which is included with your loan documents.

INSURANCE. Optional credit insurance and any required insurance disclosures are attached to this Agreement and are incorporated herein by reference.

ALTERNATIVE DISPUTE RESOLUTION AND OTHER RIDERS. The terms of the Arbitration Agreement and any other Riders signed as part of this loan transaction are incorporated into this Agreement by reference.

APPLICABLE LAW. This loan is governed by the First Mortgage Bankers and Brokers Act, Chapter 397-A, New Hampshire Revised Statutes Annotated and is made at an agreed rate authorized by Section 501(a), Part A, Title V, Public Law 96-221, now known as 1735f-7(a), Title 12, United States Code (USC).

**YOU HAVE RECEIVED A COMPLETE
COPY OF THIS AGREEMENT AND THE
TRUTH-IN-LENDING DISCLOSURES.**

BORROWERS:

William E. Day (SEAL)

Paula V. Day (SEAL)

WITNESS:

Richard A. Bawden (SEAL)



Uniform DT Instrument

The Key term in the Uniform Covenants is "REASONABLE TIMES AND UPON REASONABLE NOTICE" to the homeowner. The Servicer must also have some good faith basis to require an interior inspection. The best example is where the homeowner has truly abandoned the home and the Servicer needs to check heat, water, power, gas, etc. It is hard to think of many other reasonable cause needs.

Uniform Covenant #7:

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.**

Uniform Covenant #9:

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.**

O. Max Gardner III, Esq.
Chief Executive Officer
Vice President for Litigation Matters
Gardner & Gardner PLLC
National Consumer Bankruptcy Litigation Center
403 South Washington Street
PO Box 1000
Shelby NC 28151-1000
704.487.0616 (V-1)
888.870.1647 (E-Fax)
704.418.2628 (Cell)
mgardner@ncblc.com
maxgardner@maxgardner.com
<http://www.maxgardnerlaw.com>
<http://www.maxbankruptcybootcamp.com>

After Recording Return To:

_____[Space Above This Line For Recording Data]_____

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 _____, together with all Riders to this document.

(B) "Borrower" is _____. Borrower is the trustor under this Security Instrument.

(C) "Lender" is _____. Lender is a _____ organized and existing under the laws of _____. Lender's address is _____. Lender is the beneficiary under this Security Instrument.

(D) "Trustee" is _____.

(E) "Note" means the promissory note signed by Borrower and dated _____, _____. The Note states that Borrower owes Lender _____.

Dollars (U.S. \$_____) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than _____.

(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.

(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 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 and Trustee's successors and assigns, in trust, with power of sale, the

following described property located in the _____ of
[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

which currently has the address of _____
[Street]
_____, North Carolina _____ ("Property Address"):
[City] [Zip Code]

TO HAVE AND TO HOLD this property unto Trustee and Trustee's successors and assigns, forever, 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 seised 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. If Borrower has breached any covenant or agreement in this Security Instrument and Lender has accelerated the obligations of Borrower hereunder pursuant to Section 22 then 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 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. 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.

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, if permitted under Applicable Law, 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, if permitted under Applicable Law. 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, if permitted under Applicable Law, 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 assert in the foreclosure proceeding 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, and if it is determined in a hearing held in accordance with Applicable Law that Trustee can proceed to sale, Trustee shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, 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. 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, Trustee's fees of _____ % of the gross sale price; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it. The interest rate set forth in the Note shall apply whether before or after any judgment on the indebtedness evidenced by the Note.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender or Trustee shall cancel this Security Instrument. If Trustee is requested to release this Security Instrument, all notes evidencing debt secured by this Security Instrument shall be surrendered to Trustee. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in

25. Attorneys' Fees. Attorneys' fees must be reasonable.

Witnesses:

- Borrower

NORTH CAROLINA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT **Form 3034** 1/01 *(page 16 of 16 pages)*