

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY FLORIDA**

COMERICA BANK, a Texas banking
association,

Case No.: CACE 11-028447(03)

Plaintiffs,

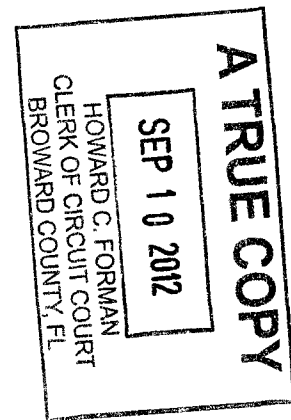
Hon. Milly Rodriguez Powell

- against -

OCEAN 4660, LLC., a florida limited liability
company, OCEANSIDE LAUDERDALE, INC.,
a Florida corporation, KENNETH A. FRANK,
individually, *et. al.*

Defendants.

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**DEFENDANT KENNETH A. FRANK'S MOTION TO COMPEL DISCOVERY
PURSUANT TO RULE 1.380, and TO DETERMINE THE SUFFICIENCY OF
OBJECTIONS WITH INCORPORATED MEMORANDUM OF LAW**

COMES NOW the Defendant KENNETH A. FRANK, *Pro Se*, and pursuant to Rule 1.380(a) of the Florida Rules of Civil Procedure and hereby moves this Court for entry of an Order compelling Plaintiff COMERICA BANK (hereinafter " Plaintiff ") to (a) provide responses and produce documents to Defendant's First Request for Production pursuant to Rule 1.350, *et. seq.*, and (b) to determine the sufficiency of plaintiff's objections, as grounds therefore states as follows:

The grounds for this motion are that each and every requested document is required to determine if Plaintiff even has standing to bring and maintain this lawsuit. As this Court knows, when a parties standing is challenged, then standing must be determined before the Court proceeds. Plaintiff repeatedly and improperly objected to each and every demand for production on the basis that the “ documents are not relevant to the Defendants’ claimed interest in the subject property “. This is nothing more than a blatant attempt to avoid discovery and mislead this court in the performance of its official duty. The simple facts are that “ Defendant Frank is a named defendant and a party to this action and, as such, is entitled to challenge Plaintiffs’ “ standing “ to determine if Plaintiff is a real party in interest to this suit and has the right to bring and maintain this lawsuit “. Accordingly, the documents requested by Defendant in its First Request for Production are necessary to determine Plaintiffs standing.

FACTS

1. The Plaintiff Comerica Bank instituted this action against Defendant(s) Ocean 4660, LLC., Oceanside Lauderdale, Inc., and Kenneth A. Frank, *et al*. This action is a complex foreclosure proceeding.

2. Defendant(s) Oceanside Lauderdale, Inc. and Kenneth A. Frank claim a lien upon the subject property and otherwise claim an interest in the subject real property., and are named Defendants in said action.

3. Defendant(s) Oceanside Lauderdale, Inc. and Kenneth A. Frank are challenging the Plaintiffs “ standing “ to bring and maintain this action and are attempting to determine if in fact the Plaintiff is a “ real party in interest “ as required by law to maintain this foreclosure proceeding.

As such, the requested production of documents is necessary to determine plaintiff's "standing" and if in fact plaintiff is a "real party in interest".

4. Plaintiff Comerica Bank through its counsel Holland & Knight, Brian Hole, Esq., has objected to each and every discovery demand, and has failed to provide any of the requested documents. These objections are "incomplete and evasive" and nothing more than an attempt to harass Defendant Frank within this litigation and otherwise hinder the defendant within these proceedings. Plaintiffs and plaintiffs's counsels actions are sanctionable.

5. Plaintiff repeatedly objects to producing any documents because they state that "the documents are not relevant to Defendant Frank's purported interest in the subject property". This is incorrect. As stated, *supra*, Defendants claimed interest in the subject real property is not the basis of the request and, simply put, is totally irrelevant to the basis for the request for production of documents. This is an unfounded objection without purpose in law or fact.

Failure to Respond to Plaintiff's First Demand for Production *via* Evasive and Incomplete Response

6. Defendant KENNETH A. FRANK served [his] First Demand for Production of Documents on June 19, 2010 by regular mail to Plaintiffs counsel, Holland & Knight, LLP. Defendant Frank's Demand For Production are annexed hereto as Exhibit "A", and incorporated herein by reference.

7. Plaintiff's Response to Defendant Frank's Request For Production is evasive and incomplete. Plaintiff has improperly objected to each and every request for production and failed to provide any requested document. Plaintiff's Responses to Defendant Frank's Demand For

Production are annexed hereto as Exhibit “B”, and incorporated herein by reference. The documents requested by defendant are relevant to allegations contained in Plaintiff’s Complaint.

8. Plaintiff has objected to each and every discovery demand primarily upon an objection that:

Response: Plaintiff objects to producing any documents responsive to this Request. Plaintiff only joined Frank in this action for the reasons Plaintiff alleges in paragraph 42 of the Second Amended Complaint (“Frank’s Purported Interest”). Because such documents are not relevant to Frank’s Purported Interest in the subject real property (“Property”), Frank is not entitled to such information.

9. According, to Rule 1.380(a)(3), furnishing evasive and incomplete answers to discovery requests is the equivalent of a failure to answer.

10. Simply put, the discovery requests are within the scope of discovery provided in the Florida Rules of Civil Procedure and the request was not made to harass or annoy plaintiff, or for any reason other than to obtain discovery relevant to defendants defense.

11. Where a party has answered or objected to a request for production, Rule 1.380 allows the requesting party to seek a judicial determination of the sufficiency of the answer or objection.

12. Defendant KENNETH A. FRANK respectfully request that this Court enter an Order compelling Plaintiff COMERICA BANK to provide responses and produce documents to Defendant’s First Demand for Production.

MOTION FOR EXPENSES AND FEES

13. Rule 1.380(a)(4) of the Florida Rules of Civil Procedure requires an award to the moving party of reasonable expenses, including attorney’s fees, incurred in obtaining an Order

compelling responses to discovery requests.

14. The Court must award expenses unless the Court finds the opposition was justified.

15. In the case at hand, Defendant Kenneth A. Frank has attempted to contact Plaintiffs counsel Brian Hole, Esq., on numerous occasions in an attempt to have Plaintiff *wilfully and voluntarily* comply with Defendant's discovery requests. All to no avail. Plaintiffs counsel Brian Hole, Esq. refuses to have Plaintiff comply with Defendants discovery requests.

16. Plaintiff has and continues to intentionally hinder Defendant in the prosecution of this action.

17. Plaintiffs' failure to respond to Defendant's discovery requests, despite the numerous requests made by Plaintiffs is inexcusable and certainly not justified.

18. Defendant respectfully request that this Court award the Defendant the amount of \$ 1,000.00 for the time spent drafting this Motion to Compel.

WHEREFORE, Defendant KENNETH A. FRANK respectfully moves this Court for entry of an Order compelling Plaintiff COMERICA BANK to provide responses and produce documents to Defendant's First Demand for Production, and to award Plaintiff's the amount of \$ 1,000.00 for the reasonable expenses incurred and for preparing and filing this Motion.

MEMORANDUM OF LAW

Rule 1.280(b) of the Florida Rules of Civil Procedure defines the scope of discovery in civil cases. Subdivision (b)(1) of the rule states in general that a party may obtain discovery regarding any matter that is "relevant to the subject matter of the pending action" or "reasonably

calculated to lead to the discovery of admissible evidence .“ A broad range of discovery is allowed under the Florida Rules of Civil Procedure. Bystrom v. Whitman, 488 So. 2d 520 (Fla. 1986).

The underlying action is a foreclosure proceeding. ALL the documents requested in Defendants First Request For Production relate to the underlying mortgage sought be foreclosed and is reasonably calculated to determine the Plaintiffs’ “ standing “ to commence and maintain this lawsuit. Nowhere, in the Florida Rules of Civil Procedure does it suggest that a party may object upon the basis that the documents are not relevant because of the “ Defendants purported interest in the subject real property”. To the contrary, Rule 1.280(b) states that “ a party may obtain discovery regarding any matter that is relevant to the subject matter of the pending action “. Here, each and every document requested by the defendant is relevant to the “ subject matter “ in a foreclosure proceeding and necessary to determine if plaintiff even has “ standing “ in this action.

In Bystrom v. Whitman, 488 So. 2d 520,523 (Fla. 1986) the Florida Supreme Court observed “ specific items that could be the proper subject of a request to produce in a given case fall within a broad range “ and that “ the rules of procedure allow a party to obtain discovery of “ any document relevant to the subject matter of the pending action “.

The furnishing of evasive and incomplete answers to discovery requests is equivalent to a “ failure to answer “ according to Rule 1.380(a)(3) of the Florida Rules of Civil Procedure. *See, Turner v. Marks*, 612 So. 2d 610 (1993). Plaintiff’s responses to the Defendant’s demands for production is nothing more than mere “ foot dragging “.

If a party fails to properly serve answers or objections to a demand for production, the trial court may enter an order to compel discovery pursuant to Rule 1.380(a)(1). Johnson v. Allstate, 410 So. 2d 978 (1982).

CONCLUSION

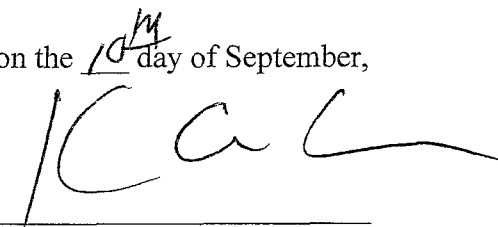
Defendant KENNETH A. FRANK respectfully requests that this Court enter an order compelling the Plaintiff COMERICA BANK to respond and produce the documents requested in Defendants First Demand For Production.

CERTIFICATION OF ATTEMPT TO CONFER AND SERVICE

The undersigned certifies that a good faith attempt to confer or a conference has been had with the person or parties failing to make discovery in an attempt to secure the information or material and appearances without court action and has been unsuccessful.

The undersigned certifies that a copy hereof has been furnished to Plaintiffs Attorney, HOLLAND & KNIGHT, LLP., Brian K. Hole, Esq., Florida Bar No.: 019968, 515 East Las Olas Boulevard, Suite 1200, Fort Lauderdale, Florida 33301 by mail on the 10th day of September, 2012.

By:


Kenneth A. Frank, *Individually*

- Defendant Pro Se -

2310 East Atlantic Blvd., Suite 206
Pompano Beach, Florida 333062
(914) 563-4510

EXHIBIT A

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 11-028447(03)

COMERICA BANK,
A Texas banking corporation,

Plaintiff,

vs.

OCEAN 4660, LLC a Florida limited liability
Company, OCEANSIDE LAUDERDALE, INC.
A Florida corporation, KENNETH A. FRANK,
Individually, *et. al.*,

Defendant(s).

_____ /

REQUEST FOR PRODUCTION

The Defendant, KENNETH A. FRANK, *PRO SE*, hereby requests that the Plaintiff

Exhibit 'A'

produce pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, the following documents and things at the offices of Defendant Kenneth A. Frank, *Pro Se*, 2310 East Atlantic Boulevard, Suite 206, Pompano Beach, Florida 33062, within thirty (30) days from the date of the faxing and/or mailing of this document for the purposes of inspection, copying and/or reproduction of the following:

Production Instructions

1. All documents produced pursuant hereto are to be produced as they are kept in the usual course of business or shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.
2. Each draft, final document, original, reproduction, and each signed and unsigned document and every additional copy of such document where such copy contains any commentary, note, notation or other change whatsoever that does not appear on the

original or on the copy of the one document produced shall be deemed and considered to constitute a separate document.

3. Unless another time period is specified, this Request for Production is addressed to documents created since January 1, 1998 and ended on the date of compliance with the Request for Production.

4. Pursuant to Rule 1.280(b)(4), of the Florida Rules of Civil Procedure, effective January 1, 1997, if you object to providing any discovery or fail to fully or fail to provide and production on the grounds of privilege or protection of trial preparation material, you are required to:

- a. make the claim directly;
- b. describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the party propounding this Request for Production to assess the applicability of the privilege or protection.

5. In any of the documents encompassed by the attached request for production of documents is/are deemed by you to be privileged, furnish all non privileged documents.

6. When appropriate, the singular form of a word should be interpreted in the plural as may be necessary to bring within the scope hereof any documents which might otherwise be construed to be outside the scope thereof.

Definitions

1. All references to any Person (as defined below) includes his/her/its employees, agents, servants, subsidiaries, parent company, affiliated company and any other person or entity or Representative (as defined below) acting or purporting to act on behalf or under his/her control.
2. "You and Your" refers to the Person (as defined below) to whom this request is addressed, including his/her/its employees, agents, servants, subsidiaries, parent company, affiliated company, and other persons acting or purporting to act on your behalf, including your Representative (as defined below).
3. "Person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units herein, and shall include, but not be limited to, public or private corporations, partnerships, joint

ventures, voluntary or unincorporated associations, organizations, proprietorships, trusts, estates, governmental agencies, commissions, bureaus, or departments, and the agents, servants, and employees of same.

4. "Materials" shall mean all "Documents", "Writings", "Agreements", and "Communications" as those terms are defined herein.

4. Document(s) or Writing(s) shall be deemed to include every record of every type, and is used in the broadest sense and includes any medium upon which intelligence or information can be recorded and further includes, but is not limited to, all originals, nonidentical copies and drafts of the following items, whether printed, handwritten, typed, recorded, or stored on any electric-magnetic storage device, or reproduced by hand, including without limitation correspondence, memoranda, invoices, receipts, records, ledger cards or other accounting records, voucher, check, shop order, diary, calendar, instruction, summaries of personal conversations or interviews, minutes or records of meetings or conferences, transcripts, opinions or reports of consultants, projections, drafts, contracts, agreements, confirmations,

statistical statements, studies, telegrams, telexes, books, notes, reports, logs, diaries, tape recordings, video cassettes and data compilations from which information can be obtained, charts, photographs, notebooks, drawings, plans, printed materials of any kind, charts and interoffice communications, and any other writing of whatever description, including but not limited to any information contained in any computer, or representing by a computer program, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, study, work paper, handwritten note, draft, demand, chart, paper, print, laboratory record, drawing sketch, diagram, form, graph, index, list, tape, photograph, microfilm, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced and reproduced.

6. "Agreement" shall mean all agreements, contracts, undertakings or other arrangements, oral, written, non-final, enforceable, superseded or modified by subsequent agreements.

7. "Communication" means any oral or written statement, dialogue, colloquy,

discussion or conversation, and also means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.

8. "Representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on behalf of the person in question.

9. "Evidencing" means having a tendency to show, prove or disprove.

10. "With respect to the Documents", the term means; (i) state the author or writer thereof and the parties thereof, (ii) state its title or other identifying date; (iii) state the person's residence address; (iv) state the person's business telephone number; and (v) state the person's residential telephone number.

11. "Employment" shall include not only full time salaries retention but also the performance of services or any type, whether compensated or not, including, but not

limited to, formal or informal advisory and consulting services.

12. The word "and" and "or" as used herein shall be construed either disjunctively or

conjunctively as required by the context to bring within the scope of these interrogatories any answer that might be deemed outside their scope by another construction.

13. "Control" means in your possession, custody or control or under your direction, and includes in the possession, custody or control of those under the direction of you or your employee, agent, subordinate, counsel, accountant, consultant, expert, parent or affiliated corporation, and any person purported to act on your behalf.

14. "Related to" or "relating to" shall mean directly or indirectly, refer to, reflect, describe, pertain to, arise out of or in connection with, or in any way legally, logically, or factually be connected with the matter discussed.

15. "Ownership Interest" shall mean an interest whether owned or possessed, vested or contingent, and whether title is held legally in your name, spouse's name or children's name, or parent, subsidiary, or other related company and shall include beneficial

interest, or interest held through any trust in your family's or business entity's name.

16. "Including" shall mean including but not limited to.

17. "Defendants" shall mean all the above-named Defendants in this action.

18. "Plaintiffs" shall mean all of the named Plaintiffs in this action.

Requested Documents

1. Any and all documents that in any way memorialize or refer to any statements of any party to this action, his/her/its agents, employees, or any independent witness or witnesses, bearing on any knowledge or facts that are either relevant or that could lead to admissible evidence in the above styled lawsuit.

2. Any and all documents upon which you now have in your possession or control, and which you believe you will intend to rely upon should this matter be tried.

3. All correspondence between you and the original lender of the Note upon which the above-styled action is based and any of the Defendants and Plaintiffs.

4. Notes and all other records of all telephone, email, and other communications that you and the original lender of the Promissory Note upon which the above-styled action is based and any of the Defendants and Plaintiffs.

5. All records that document all communications, including any contracts between you and any and all mortgage brokers that participated in any way with the obtaining, selling, granting or accepting of the loan that was given to any of the Plaintiffs.

6. All documents that pertain to or reflect in any way the transfer, assignment, trade or swap of the Promissory Note and the mortgage to the Plaintiff, including any and all notices to any of the Defendant(s) that there was a transfer, assignment, trade or swap.

7. All disclosures regarding the loan, including all documents that comply with, or relate to any and all federal and state laws, including but not limited to, Truth in

Lending laws, REMIC rules, State and Federal Securities Laws, the Investment

Company Act of 1940, the Trust Indenture Act of 1939 and RESPA, 12 U.S.C. 2605,

if the Plaintiff accepted TARP funding.

8. A copy of the complete file regarding the procurement of this loan.

9. A copy of all documents that were exchanged or executed at the closing of the loan.

10. The complete file regarding all transfer, assignments, trade or swap of the debt obligation which is the subject of this action.

11. All notes and other documents that reflect any attempt to collect on the debt obligation which is the subject of this action.

12. Copies of all recorded telephone conversations with the Defendants.

13. Copy of any and all agreements between the Plaintiff and its attorneys that provide for fees to be paid and copies of all cancelled checks paid to the attorneys for fees.

14. All documents that in any way reflect any inquiry that was made as to the income and other revenue of the Mortgator and the Mortgator's family.

15. Copies of all call logs requesting collection from the Defendants.

16. All pictures taken of the property and the area near the property, while the Plaintiff, its agents and/or affiliates were on or near the property and any other pictures relevant to the above-styled action.

17. All documents that in any way reflect any inquiry that was done by the lender to ensure that there was sufficient value in the property to secure the loan.

18. Any and all documentation that the Plaintiff had that reflected the market conditions at the time that the mortgage was closed, including but not limited to any articles in emails, magazines, internal memoranda, and internally generated documents that reflect any mention about a real estate bubble, the effects that would occur in the event of a decline of real property values.

19. Any and all servicing agreements that the Plaintiff has or has in its possession regarding the mortgage that is the subject of this lawsuit.

20. A copy of disclosure of the HUD special information booklet (if applicable).

21. A copy of the Good Faith Estimate (if applicable).

22. A copy of the Loan Application.

23. All notices regarding servicing transfers and/or assignments

24. A copy of the breakdown of the fees charged at closing for document preparation.

25. Copies of receipts for and payment history for all payments made since the origination of the loan.

26. A copy of the Settlement documents.

27. Any and all trust agreements and swap agreements that the Plaintiff has or has in its possession regarding the mortgage that is the subject of this lawsuit.

28. Copies of all Complaints filed in any courts that allege that the Plaintiff either negligently or intentionally provided loans that were secured by mortgages to individuals or other entities who were not able to repay the loans

29. All documents that in any way show the amount of commissions paid to the Broker in this Loan.

30. All notices to the Defendants of assignment, trade or swap of the loan.

31. All internal documents of yours or the Originating Bank indicating the scale of commissions to the Brokers of the Originating Bank.

32. All documents that you have that indicate any knowledge or suspicion that the loans of the Plaintiff or the Originating Bank may be bad loans.

33. All documents that in any way reflect or show the Standard Operating Procedures of the Plaintiff to ensure that the Defendants were able to repay the Loan.

34. All documents that in any way reflect or show the Standard Operating Procedures of the Originating Bank to ensure that the Defendants were able to repay the Loan.

35. All documents that reflect or show in any way the procedures that were in place to ensure the Plaintiff that the Defendants were able to repay the Loan.

36. All documents that were provided by the Originating Bank to the Plaintiff regarding the Loan.

37. All internal documents that in any way reflected or indicated the statements or concerns of any whistle blower, any detractors, or any other person who attempted to warn or showed concern as to the lending policies of the Plaintiff.

38. All documents that demonstrate the date that funds were actually transferred for the benefit of the Defendants, to fund the loan and that the loan was a purchase money mortgage.

39. Complete and itemized statement of the loan history from the date of the loan to the date of this request, which included, but is not limited to, all receipts by way of payment or otherwise and all charges to the loan in whatever form.

40. A complete and itemized statement of all advances or charges against this loan for any purpose that are not reflected on the loan history transaction statement provided in

response to number 39 above herein.

41. A complete and itemized statement of the escrow account of the loan, if any, from

the date of the loan to the date of this request, including, but not limited to, any receipts for disbursements with respect to real estate property taxes, fire or other hazard insurance, flood insurance, mortgage insurance, credit insurance, or any other insurance product of whatever type.

42. A complete and itemized statement of any forced-placed insurance of whatever type from the date of the loan to the date of this request.

43. A complete and itemized statement of any suspense account entries and/or any corporate advance entries related in any way to this loan from the date of the loan to the date of this request.

44. A complete and itemized statement of any late charges charged to this loan from the date of loan to the date of this request.

45. A complete and itemized statement of any attorneys' fees and/or other professional fees related in any way to this loan from the date of the loan to the date of

this request. You may recast any attorney-client privileged materials from this request.

46. A complete and itemized statement of the status of the payments on this loan as

of the date of this request.

47. The name and address of the current holder of the Note and Mortgage evidencing this loan, as well as any and all documents in the chain of title from the original holder of the loan to the current holder.

48. The name and address of the trustee under any pooling and servicing agreement.

49. A complete and itemized statement of any fees or costs incurred to modify, extend, or amend this loan from the date of the loan through the date of this request.

50. Copies of all income documentation of Pay stubs, W-2s, Tax Returns, any and all other verifiable income provided at time of application for borrower and co-borrower.

51. Copies of all assets provided to include Bank Statements, IRA, Annuity, Life Insurance, deeds, any and all other forms of retirement accounts provided as assets at application for borrower, co-borrower and or guarantor(s).

52. Copies of all initial loan disclosures related to the loan product/program the

Defendant applied for at time of application and all additional disclosures for the loan

they were approved on.

53. Copies of initial loan application fully completed and executed for all borrowers at time of application.

54. Copies of the final executed loan application for the Defendants at time of the loan closing.

55. A copy of final credit reprot for the Defendants and guarantor(s) as applicable and (all other borrowers if more than 2).

56. A copy of Credit Policy on the use valuation methods on conforming and non-conforming loans.

57. Policy outlining the Plaintiff Bank's Bump Logic or Upgrade Process by which the Plaintiff implements the use of various types of evaluations and appraisals in a single mortgage transaction.

58. The result of, and the response to, the last procedural audit performed prior to the loan transaction.

59. A copy of the signed/dated GFE (Good Faith Estimate) for all borrowers given within 3 days of application (if applicable).

60. A copy of the initial TIL (Truth-In-Lending)for all borrowers given within 3 days of the application (if applicable).
61. If initial loan program changed during the loan process, a copy of the *revised* GFE with *the revised* TIL provided to borrowers indicating the change (if applicable).
62. A copy of the appraisal on the subject property and any internal or external documents related thereto.
63. A copy of the rate sheet, lock-in agreements associated with the loan transaction for all borrowers.
64. A copy of the Mortgage Broker Fee Disclosure (signed/dated) for all borrowers.
65. A copy of the Lender Clear to Close or Final Commitment letter for all borrowers.
66. A copy of the Note, Deed of Trust, Riders, all Assignments of the Deed of Trust.
67. A copy of the Right of Recission (if the subject loan was a re-finance)(if applicable).

68. A copy of the Lender Final HUD-1 (if applicable).

69. Copies of all disclosures and all loan documents that were included with the

settlement documents as provided to the title/settlement agent.

70. Copies of the closing instructions to the settlement agent and all internal transmittals or emails associated with said closing including but not limited to wire requests and confirmations.

71. Copies of record receipts for the recording of the mortgage note, and any internal quality assurance transmittals associated with the Quality Control of said documents.

72. Copies of underwriters Guidelines and pricing matrices/rate sheets as related to borrowers specific to loan product and other product offerings made available by the Whole Loan Funding investor along with any other Whole Loan Purchaser or the Mortgage Pool Trustee or Swap for the time period applicable to the Defendants.

73. Copies of the Operation and Production Policies Manual used by the Whole Loan Funding Investor, the Mortgage Servicer, and/any other Whole Loan Purchaser or Servicer or entitie(s) involved in a swap, connected with the Plaintiffs mortgage

funding.

74. The name and address of any servicer or subservicer or special servicer related to

this loan, and/or swap as well as any documents evidencing the servicing agreement between the owner of the loan and the servicing agent.

75. Copies of the Securitization Agreements together with the REPS and Warranty Agreements between the warehouse funding investor, the aggregator, and mortgage pool, along with the name and addresses of all authorizing trustees and/or their agents.

76. Copies of all application forms, licenses, insurance policies, Articles of Incorporation, and executed Agreements with the respective addendums by the Mortgage Funding Investor who gained authorization and agreement of the Defendant who acted as the Correspondent Whole Loan Seller for the acquisition of the servicing.

77. Copies of the application forms, licenses, insurance policies, Articles of Incorporation, and executed Agreements with the respective addendums by the Mortgage Broker who gained authorization and agreement of the Correspondent Whole Loan Seller who acted as the corresponding Mortgage Broker authorized to originate

mortgages for the approved Correspondent Whole Loan Seller.

78. A privilege log detailing any documents not produced here and the type of

privilege asserted for the non-production.

79. Policy and procedure regarding selection of free appraisers.

80. List of appraisers used in Defendant's geographic region and list of appraisers used in same region 3 years earlier.

81. A copy of any Policy and procedure that ensures the independence of the valuation process.

82. A complete copy of the appraisal/evaluation that was performed on the property and copies of all written communications, electronic or otherwise, regarding the appraisal /evaluation from the Bank personnel to the individual who performed the appraisal/evaluation.

83. Copies of organizational charts for the past 6 years showing:

a. All production staff specifically including name and title, including first mortgage, refinances, from originators, home equity, correspondent lending, purchase from brokers;

b. All who decide upon, set maintain or modify the slate or identity of appraiser; or anyone who performs or manages the performance of valuations or evaluations and all those who monitor, supervise or, in any manner or fashion, impact the performance of those functions;

c. Credit, credit quality, underwriting or other similar functions and their relationships to production.

83. List and provide the names, addresses and telephone numbers, account and policy numbers for all providers of credit default swap insurance and/or credit support provider.

84. Copies of all credit default swap insurance policies and/or credit support providers insurance policies, as well as, any claims and/or payments upon said policies.

85. Proof of compliance with all applicable state and federal tax laws as relates to swaps, trades, assignments, and/or swap agreements.

86. All documents evidencing that the first and second mortgage(s) are purchase money mortgages.

87. All documents and proof of payments, including but not limited to, cancelled checks evidencing that the proceeds of the loan(s) were paid to the seller at the time of the closing.

88. All documents and records maintained by peron(s) or entities registered as swap

data repositories ("SDRs") that in any way pertains to the swap.

89. Any and all documents that in any way memorialize, evidence, or pertain in any

way to the compliance with the Dodd-Frank Act, the Commodities Futures Trading

Commission and the Securities and Exchange Commission rules and guidelines, the

Commodities Exchange Act, and the Securities Exchange Act of 1934.

90. All disclosures under the Dodd-Frank Act, the Commodities Futures Trading

Commission and the Securities and Exchange Commission rules and guidelines, the

Commodities Exchange Act, and the Securities Exchange Act of 1934.

91. List, provide and evidence the names, addresses, and telephone numbers of each and every party who participated in each and every "swap" under the swap agreement and the dates and times of said trades or swaps.

92. List, provide and evidence the names, addresses and telephone numbers of

each and every party claiming an interest by through and under the swaps, trades and

swap agreement, along with the dates and times of said swaps, trades or assignments.

93. Any and all documents pertaining to and/or evidence of Comerica bank's (lender)
acceptatnce of TARP money.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been faxed
and/or mailed this 19th day of June 2012, to HOLLAND & KNIGHT, LLP., c/o Brian K.
Hole, Esq., Florida Bar No.: 0019968, Attorneys for the Plaintiff, 515 E. Los Olas
Boulevard, Suite 1200, Fort Lauderdale, Florida 33301.

KENNETH A. FRANK, *PRO SE*
2310 East Atlantic Boulevard, Suite 206
Pompano Beach, Florida 33062
Telephone: (914) 563-4510
Facsimile: (954) 786-2785

By: 

Kenneth A. Frank

EXHIBIT B

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 11-028447 (03)

COMERICA BANK, a Texas banking
association,

Plaintiff,

vs

OCEAN 4660, LLC a Florida limited
liability company, OCEANSIDE
LAUDERDALE, INC., a Florida
corporation, KENNETH A. FRANK,
individually, ANGELA DIPILATO,
individually, TOWN OF LAUDERDALE-
BY-THE-SEA, a political subdivision of the
State of Florida WASTE MANAGEMENT
INC OF FLORIDA d/b/a SOUTHERN
SANITATION SERVICE, a Florida
corporation, AFFINITY MECHANICAL
INC., a Florida corporation, and
BROWARD COUNTY, a political
subdivision of the State of Florida,

Defendants

**PLAINTIFF'S RESPONSES TO DEFENDANT
KENNETH FRANK'S REQUEST FOR PRODUCTION**

Plaintiff Comerica Bank ("Plaintiff"), by and through its undersigned counsel, hereby
responds to the Request for Production served upon it by Defendant Kenneth A. Frank ("Frank")
and states as follows:

OBJECTION TO FRANK'S PRODUCTION INSTRUCTIONS

Plaintiff objects to paragraphs 2, and 3 of Frank's "Production Instructions."
Specifically, Plaintiff objects under the work product doctrine and attorney-client privilege to
producing drafts of documents as requested in Paragraph 2 of Frank's Production Instructions

Exhibit 'B'

Drafts may be considered privileged if they were prepared with the assistance of an attorney for the purpose of obtaining legal advice. *Gutter v E.I. DuPont De Nemours & Co.*, 1998 WL 2011926, *6 (S.D. Fla.1998). Likewise, they may be privileged if the drafts contain information a client considered but decided not to include in the final version after receiving an attorney's advice. *Id.*

Additionally, Plaintiff objects to paragraph 3 of Frank's Production Instructions, which states that "this Request for Production is addressed to documents created since January 1, 1998." The subject loan was originated on January 3, 2008. Accordingly, Plaintiff is not obligated to produce documents that have been created "since January 1, 1998."

Requested Documents

1. Any and all documents that in any way memorialize or refer to any statements of any party to this action, his/her/its agents, employees, or any independent witness or witnesses, bearing on any knowledge or facts that are either relevant or that could lead to admissible evidence in the above styled lawsuit

Response: Plaintiff objects to Request No. 1 on the grounds that it seeks information beyond the permissible scope of discovery. The Request is incredibly broad and overly burdensome in that it purports to require Plaintiff to produce "*all* documents that in *any* way memorialize or refer to *any* statements of *any* party to this action, his/her/its agents, employees, or any independent witness or witnesses, bearing on any knowledge or facts that are either relevant or that *could* lead to admissible evidence in the above styled lawsuit."

2. Any and all documents upon which you now have in your possession or control, and which you believe you will intend to rely upon should this matter be tried.

Response: Plaintiff objects to Request No. 2 to the extent that it purports to require Plaintiff to marshal its evidence before this matter has been set for trial. Subject to and without waiving this objection, at a minimum, Plaintiff intends to rely on the Loan Documents (as defined in Plaintiff's Second Amended Complaint for Foreclosure and Damages ("Second Amended Complaint") attached to Plaintiff's Second Amended

Complaint, copies of which have already been served on Frank and will not be reproduced here.

3. All correspondence between you and the original lender of the Note upon which the above-styled action is based and any of the Defendants and Plaintiffs.

Response: Plaintiff is not in possession of any documents responsive to this request. Further answering, Plaintiff is the original lender under the Loan Documents.

4. Notes and all other records of all telephone, email, and other communications that you and the original lender of the Promissory Note upon which the above-styled action is based and any of the Defendants and Plaintiffs.

Response: Plaintiff is not in possession of any documents responsive to this request. Further answering, Plaintiff is the original lender under the Loan Documents.

5. All records that document all communications, including any contracts between you and any and all mortgage brokers that participated in any way with the obtaining, selling, granting or accepting of the loan that was given to any of the Plaintiffs.

Response: Plaintiff objects to producing any documents responsive to this Request. Plaintiff only joined Frank in this action for the reasons Plaintiff alleges in paragraph 42 of the Second Amended Complaint ("Frank's Purported Interest"). Because such documents are not relevant to Frank's Purported Interest in the subject real property ("Property"), Frank is not entitled to such information.

6. All documents that pertain to or reflect in any way the transfer, assignment, trade or swap of the Promissory Note and the mortgage to the Plaintiff, including any and all notices to any of the Defendant(s) that there was a transfer, assignment, trade or swap.

Response: Plaintiff is not in possession of any documents responsive to this request. Further answering, Plaintiff is the original lender under the Loan Documents.

7. All disclosures regarding the loan, including all documents that comply with, or relate to any and all federal and state laws, including but not limited to, Truth in Lending laws, REMIC rules, State and Federal Securities Laws, the Investment Company Act of 1940, the

Trust Indenture [sic] Act of 1939 and RESPA, 12 U.S.C. 2605, if the Plaintiff accepted TARP funding.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

8. A copy of the complete file regarding the procurement of this loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

9. A copy of all documents that were exchanged or executed at the closing of the loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

10. The complete file regarding all transfer, assignments, trade or swap of the debt obligation which is the subject of this action.

Response: Plaintiff is not in possession of any documents responsive to this request. Further answering, Plaintiff is the original lender under the Loan Documents.

11. All notes and other documents that reflect any attempt to collect on the debt obligation which is the subject of this action.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information. Subject to and without waiving this objection, Plaintiff did attach the Loan Documents (as defined in Plaintiff's Second Amended Complaint) and relevant delinquency notice to Plaintiff's Second Amended Complaint, copies of which have already been served on Frank and will not be reproduced here.

12. Copies of all recorded telephone conversations with the Defendants.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

13. Copy of any and all agreements between the Plaintiff and its attorneys that provide for fees to be paid and copies of all cancelled checks paid to the attorneys for fees.

Response: Plaintiff objects to producing any fee agreements it has with its attorneys because the requested information is irrelevant to Frank's interest in the Property. Further answering, upon moving for summary final judgment of foreclosure, Plaintiff will produce documents supporting its demand for the costs and expenses Plaintiff has incurred in this lawsuit.

14. All documents that in any way reflect any inquiry that was made as to the income and other revenue of the Mortgator [sic] and the Mortgator's [sic] family.

Response: Plaintiff objects to producing documents responsive to this request because the requested information is irrelevant to Frank's interest in the Property. Moreover, the mortgagor is a business entity and does not have a family. Additionally, Frank is not the mortgagor, did not sign the Note, and has absolutely no involvement with the underlying loan, and is therefore seeking information that by law is the borrower's confidential financial information.

15. Copies of all call logs requesting collection from the Defendants.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

16. All pictures taken of the property and the area near the property, while the Plaintiff, its agents and/or affiliates were on or near the property and any other pictures relevant to the above-styled action.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

17. All documents that in any way reflect any inquiry that was done by the lender to ensure that there was sufficient value in the property to secure the loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

18. Any and all documentation that the Plaintiff had that reflected the market conditions at the time that the mortgage was closed, including but not limited to any articles in emails, magazines, internal memoranda, and internally generated documents that reflect any mention about a real estate bubble, the effects that would occur in the event of a decline of real property values.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

19. Any and all servicing agreements that the Plaintiff has or has in its possession regarding the mortgage that is the subject of this lawsuit.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

20. A copy of disclosure of the HUD special information booklet (if applicable)

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

21. A copy of the Good Faith Estimate (if applicable)

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

22. A copy of the Loan Application

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

23. All notices regarding servicing transfers and/or assignments.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

24 A copy of the breakdown of the fees charged at closing for document preparation

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property and accordingly, Frank is not entitled to such information.

25. Copies of receipts for and payment history for all payments made since the origination of the loan

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information

26 A copy of the Settlement documents

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

27 Any and all trust agreements and swap agreements that the Plaintiff has or has in its possession regarding the mortgage that is the subject of this lawsuit.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information. Subject to and without waiving this objection, Plaintiff did attach a Swap Agreement (as defined in Plaintiff's Second Amended Complaint) to Plaintiff's Second Amended Complaint, copies of which have already been served on Frank and will not be reproduced here.

28. Copies of all Complaints filed in any courts that allege that the Plaintiff either negligently or intentionally provided loans that were secured by mortgages to individuals or other entities who were not able to repay the loans

Response: Plaintiff objects to Request No. 28 on the grounds that it seeks information beyond the permissible scope of discovery. The Request is incredibly broad and overly burdensome, and moreover, the requested information is not relevant to Frank's Purported Interest in the Property.

29. All documents that in any way show the amount of commissions paid to the Broker in this Loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

30. All notices to the Defendants of assignment, trade or swap of the loan.

Response: Plaintiff is not in possession of any documents responsive to this Request. Further answering, Plaintiff is the originating lender of the subject loan.

31. All internal documents of yours or the Originating Bank indicating the scale of commissions to the Brokers of the Originating Bank.

Response: Plaintiff objects to Request No. 31 on the grounds that it is vague. It is unclear what Frank means by use of the capitalized phrase "Originating Bank."

32. All documents that you have that indicate any knowledge or suspicion that the loans of the Plaintiff or the Originating Bank may be bad loans.

Response: Plaintiff objects to Request No. 32 on the grounds that it is vague. It is unclear what Frank means by use of the capitalized phrase "Originating Bank." It is also unclear what Frank means by the phrase "bad loans."

33. All documents that in any way reflect or show the Standard Operating Procedures of the Plaintiff to ensure that the Defendants were able to repay the Loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

34. All documents that in any way reflect or show the Standard Operating Procedures of the Originating Bank to ensure that the Defendants were able to repay the Loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

35. All documents that reflect or show in any way the procedures that were in place to ensure the Plaintiff that the Defendants were able to repay the Loan.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

36. All documents that were provided by the Originating Bank to the Plaintiff regarding the Loan.

Response: Plaintiff objects to Request No. 36 on the grounds that it is vague. It is unclear what Frank means by use of the capitalized phrase "Originating Bank." Further answering, Plaintiff originated the subject loan.

37. All internal documents that in any way reflected or indicated the statements or concerns of any whistle blower, any detractors, or any other person who attempted to warn or showed concern as to the lending policies of the Plaintiff.

Response: Plaintiff objects to Request No. 37 because Frank lacks any foundation to seek the requested information. There have been no allegations in this action of any "concern as to the lending policies of the Plaintiff." Moreover, even if such allegations had been made, such information would not be relevant to Frank's Purported Interest in the Property, and accordingly, Frank would not be entitled to such information.

38. All documents that demonstrate the date that funds were actually transferred for the benefit of the Defendants, to fund the loan and that the loan was a purchase money mortgage.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

39. Complete and itemized statement of the loan history from the date of the loan to the date of this request, which included, but is not limited to, all receipts by way of payment or otherwise and all charges to the loan in whatever form.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

40. A complete and itemized statement of all advances or charges against this loan for any purpose that are not reflected on the loan history transaction statement provided in response to number 39 above herein

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

41. A complete and itemized statement of the escrow account of the loan, if any, from the date of the loan to the date of this request, including, but not limited to, any receipts for disbursements with respect to real estate property taxes, fire or other hazard insurance, flood insurance, mortgage insurance, credit insurance, or any other insurance product of whatever type.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

42. A complete and itemized statement of any forced-placed insurance of whatever type from the date of the loan to the date of this request.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

43. A complete and itemized statement of any suspense account entries and/or any corporate advance entries related in any way to this loan from the date of the loan to the date of this request.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

44. A complete and itemized statement of any late charges charged to this loan from the date of loan to the date of this request

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

45. A complete and itemized statement of any attorneys' fees and/or other professional fees related in any way to this loan from the date of the loan to the date of this request. You may redact any attorney-client privileged materials from this request.

Response: Plaintiff objects to producing documents responsive to this Request at this time. Further answering, upon moving for summary final judgment of foreclosure, Plaintiff will produce documents supporting its demand for the costs and expenses Plaintiff has incurred in this lawsuit.

46. A complete and itemized statement of the status of the payments on this loan as of the date of this request.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

47. The name and address of the current holder of the Note and Mortgage evidencing this loan, as well as any and all documents in the chain of title from the original holder of the loan to the current holder.

Response: Plaintiff objects to this Request because it does not seek production of a document. Further answering, Plaintiff is the original and current holder of the Loan Documents (as defined in the Second Amended Complaint).

48. The name and address of the trustee under any pooling and servicing agreement.

Response: Plaintiff objects to this Request because it does not seek production of a document.

49. A complete and itemized statement of any fees or costs incurred to modify, extend, or amend this loan from the date of the loan through the date of this request.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

50. Copies of all income documentation of Pay stubs, W-2s, Tax Returns, any and all other verifiable income provided at time of application for borrower and co-borrower

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information. Moreover, Frank is not the mortgagor, did not sign the Note, and has absolutely no involvement with the underlying loan, and is therefore seeking information that by law is the borrower's confidential financial information.

51. Copies of all assets provided to include Bank Statements, IRA, Annuity, Life Insurance, deeds, any and all other forms of retirement accounts provided as assets at application for borrower, co-borrower and on guarantor(s)

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information. Moreover, Frank is not the mortgagor, did not sign the Note, and has absolutely no involvement with the underlying loan, and is therefore seeking information that by law is the borrower's confidential financial information.

52. Copies of all initial loan disclosures related to the loan product/program the Defendant applied for at time of application and all additional disclosures for the loan they were approved on.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

53. Copies of initial loan application fully completed and executed for all borrowers at time of application.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

54. Copies of the final executed loan application for the Defendants at time of the loan closing.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

55. A copy of final credit report for the Defendants and guarantor(s) as applicable and (all other borrowers if more than 2).

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

56. A copy of Credit Policy on the use valuation methods on conforming and non-conforming loans.

Response: Plaintiff objects this Request on the grounds that it is vague. It is unclear what Frank means by "conforming and non-conforming loans." Further answering, the information requested is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

57. Policy outlining the Plaintiff Bank's Bump Logic or Upgrade Process by which the Plaintiff implements the use of various types of evaluations and appraisals in a single mortgage transaction.

Response: Plaintiff objects this Request on the grounds that it is vague. It is unclear what Frank means by "Bump Logic" and "Upgrade Process." Further answering, the information requested is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

58. The result of, and the response to, the last procedural audit performed prior to the loan transaction.

Response: Plaintiff objects this Request on the grounds that it is vague. It is unclear what Frank means by "procedural audit." Further answering, the information requested is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

59. A copy of the signed/dated GFE (Good Faith Estimate) for all borrowers given within 3 days of application (if applicable).

Response: Plaintiff is not in possession of any documents responsive to this Request. The Real Estate Settlement Procedures Act does not apply to the subject transaction. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

60. A copy of the initial TIL (Truth-In-Lending) for all borrowers given within 3 days of the application (if applicable)

Response: Plaintiff is not in possession of any documents responsive to this Request. The Truth-In-Lending Act does not apply to the subject transaction. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

61. If initial loan program changed during the loan process, a copy of the revised GFE with the revised TIL provided to borrowers indicating the change (if applicable).

Response: Plaintiff is not in possession of any documents responsive to this Request. The Truth-In-Lending Act does not apply to the subject transaction. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

62. A copy of the appraisal on the subject property and any internal or external documents related thereto.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

63. A copy of the rate sheet, lock-in agreements associated with the loan transaction for all borrowers.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

64. A copy of the Mortgage Broker Fee Disclosure (signed/dated) for all borrowers.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

65. A copy of the Lender Clear to Close or Final Commitment letter for all borrowers.

66. A copy of the Note, Deed of Trust, Riders, all Assignments of the Deed of Trust.

Response: Plaintiff attached the Loan Documents (as defined in Plaintiff's Second Amended Complaint) to Plaintiff's Second Amended Complaint, copies of which have already been served on Frank and will not be reproduced here.

67. A copy of the Right of Rescission (if the subject loan was a re-finance) (if applicable).

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

68. A copy of the Lender Final HUD-1 (if applicable).

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

69. Copies of all disclosures and all loan documents that were included with the settlement documents as provided to the title/settlement agent.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

70. Copies of the closing instructions to the settlement agent and all internal transmittals or emails associated with said closing including but not limited to wire requests and confirmations.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

71. Copies of record receipts for the recording of the mortgage note, and any internal quality assurance transmittals associated with the Quality Control of said documents.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

72. Copies of underwriters Guidelines and pricing matrices/rate sheets as related to borrowers [sic] specific to loan product and other product offerings made available by the Whole Loan Funding investor along with any other Whole Loan Purchaser or the Mortgage Pool Trustee or Swap for the time period applicable to the Defendants.

Response: Plaintiff objects to Request No. 72 on the grounds that it is vague. It is unclear what Frank means by "Whole Loan Funding investor," "Whole Loan Purchaser" and "Mortgage Pool Trustee or Swap." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

73. Copies of the Operation and Production Policies Manual used by the Whole Loan Funding Investor, the Mortgage Servicer, and any other Whole Loan Purchaser or Servicer or entitie(s) involved in a swap, connected with the Plaintiff's mortgage funding

Response: Plaintiff objects to Request No. 73 on the grounds that it is vague. It is unclear what Frank means by "Whole Loan Funding investor," "Whole Loan Purchaser or Servicer" and "Mortgage Servicer." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

74. The name and address of any servicer or subservicer or special servicer related to this loan, and/or swap as well as any documents evidencing the servicing agreement between the owner of the loan and the servicing agent.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

75. Copies of the Securitization Agreements together with the REPS and Warranty Agreements between the warehouse funding investor, the aggregator, and mortgage pool, along with the name and addresses of all authorizing trustees and/or their agents.

Response: Plaintiff objects to Request No. 75 on the grounds that it is vague. It is unclear what Frank means by "warehouse funding investor," "aggregator" and "mortgage pool." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

76. Copies of all application forms; licenses, insurance policies, Articles of Incorporation, and executed Agreements with the respective addendums by the Mortgage Funding Investor who gained authorization and agreement of the Defendant who acted as the Correspondent Whole Loan Seller for the acquisition of the servicing.

Response: Plaintiff objects to Request No. 76 on the grounds that it is vague. It is unclear what Frank means by "Mortgage Funding Investor" and "Correspondent Whole Loan Seller." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

77. Copies of the application forms, licenses, insurance policies, Articles of Incorporation, and executed Agreements with the respective addendums by the Mortgage Broker who gained authorization and agreement of the Correspondent Whole Loan Seller who acted as the corresponding Mortgage Broker authorized to originate mortgages for the approved Correspondent Whole Loan Seller.

Response: Plaintiff objects to Request No. 77 on the grounds that it is vague. It is unclear what Frank means by "Correspondent Whole Loan Seller." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

78. A privilege log detailing any documents not produced here and the type of privilege asserted for the non-production.

Response: At this time, Plaintiff is not in possession of any documents responsive to this Request.

79. Policy and procedure regarding selection of free appraisers.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

80. List of appraisers used in Defendant's geographic region and list of appraisers used in same region 3 years earlier.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

81. A copy of any Policy and procedure that ensures the independence of the valuation process.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

82. A complete copy of the appraisal/evaluation that was performed on the property and copies of all written communications, electronic or otherwise, regarding the appraisal / evaluation from the Bank personnel to the individual who performed the appraisal/evaluation

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information

83. Copies of organizational charts for the past 6 years showing:

a. All production staff specifically including name and title, including first mortgage, refinances, from originators, home equity, correspondent lending, purchase from brokers;

b. All who decide upon, set maintain or modify the slate or identity of appraiser; or anyone who performs or manages the performance of valuations or evaluations and all those who monitor, supervise or, in any manner or fashion, impact the performance of those functions;

c. Credit, credit quality, underwriting or other similar functions and their relationships to production.

Response: Plaintiff objects to producing any documents responsive to this Request, including all of its subparts, because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

83. List and provide the names, addresses and telephone numbers, account and policy numbers for all providers of credit default swap insurance and/or credit support provider.

Response: Plaintiff objects to this Request because it does not seek production of a document. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

84. Copies of all credit default swap insurance policies and/or credit support providers insurance policies, as well as, any claims and/or payments upon said policies.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

85. Proof of compliance with all applicable state and federal tax laws as relates to swaps, trades, assignments, and/or swap agreements.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

86. All documents evidencing that the first and second mortgage(s) are purchase money mortgages.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

87. All documents and proof of payments, including but not limited to, cancelled checks evidencing that the proceeds of the loan(s) were paid to the seller at the time of the closing.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

88. All documents and records maintained by person(s) or entities registered as swap data repositories ("SDRs") that in any way pertains to the swap.

Response: Plaintiff objects to Request No. 88 on the grounds that it is vague. It is unclear what Frank means by "swap data repositories." Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

89. Any and all documents that in any way memorialize, evidence, or pertain in any way to the compliance with the Dodd-Frank Act, the Commodities Futures Trading Commission and the Securities and Exchange Commission rules and guidelines, the Commodities Exchange Act, and the Securities Exchange Act of 1934.

Response: Plaintiff objects to Request No. 89 on the grounds that it is vague and overly broad. The Request is not even limited to the subject loans. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

90. All disclosures under the Dodd-Frank Act, the Commodities Futures Trading Commission and the Securities and Exchange Commission rules and guidelines, the Commodities Exchange Act, and the Securities Exchange Act of 1934.

Response: Plaintiff objects to Request No. 90 on the grounds that it is vague and overly broad. The Request is not even limited to the subject loans. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

91. List, provide and evidence the names, addresses, and telephone numbers of each and every party who participated in each and every "swap" under the swap agreement and the dates and times of said trades or swaps.

Response: Plaintiff objects to this Request because it does not seek production of a document. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

92. List, provide and evidence the names, addresses and telephone numbers of each and every party claiming an interest by through and under the swaps, trades and swap agreement, along with the dates and times of said swaps, trades or assignments.

Response: Plaintiff objects to this Request because it does not seek production of a document. Further answering, the requested information is not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

93. Any and all documents pertaining to and/or evidence of Comerica bank's (lender) acceptance of TARP money.

Response: Plaintiff objects to producing any documents responsive to this Request because such documents are not relevant to Frank's Purported Interest in the Property, and accordingly, Frank is not entitled to such information.

Dated July 10, 2012

Respectfully submitted,

HOLLAND & KNIGHT LLP

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By: 

Brian K. Hole

Florida Bar No. 019968

Nicole C. Velasco

Florida Bar No. 0028585

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 10th day of July, 2012 to all parties on the Service List below.

By: 

Brian K. Hole

Florida Bar No. 019968