

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.

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 2017926, *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 Morgator'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. AH 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 or 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/or any other Whole Loan Purchaser or Servicer or entitie(s) involved in a swap, connected with the Plaintiffs 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

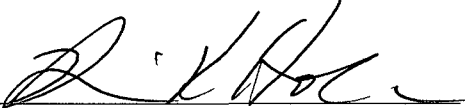
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By: 

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

SERVICE LIST

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