IN THE SUPREME COURT OF NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Appellant, v. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company, Respondent.	Supreme Court No. 77010

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable JIM CROCKETT, District Judge
District Court Case No. A-13-692304-C

APPELLANT'S APPENDIX – VOLUME 2

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CHRONOLOGICAL INDEX

Document	Filing Date	Volume and Bates Number(s)
Complaint	November 27, 2013	1 AA 001-007
Proof of Service of Summons and Complaint	March 11, 2014	1 AA 008-010
Answer, Counterclaim and Cross-Claim	March 18, 2014	1 AA 011-023
Amended Answer, Counterclaim and Cross-Claim	March 20, 2014	1 AA 024-034
Scheduling Order	June 29, 2015	1 AA 035-037
Answer to Amended Counterclaim	August 11, 2015	1 AA 038-048
Motion for Leave to Amend Complaint	February 2, 2016	1 AA 049-068
Order Granting Motion for Leave to Amend the Complaint	March 8, 2016	1 AA 069-070
Amended Complaint	March 9, 2016	1 AA 071-081
SFR Investments Pool 1, LLC's Answer to Amended Complaint	March 23, 2016	1 AA 082-091
Excerpts from Transcript of Deposition of Susan Lyn Newby	April 21, 2016	1 AA 092-103
JPMorgan Chase Bank, N.A.'s Response to SFR Investment Pool 1, LLC's Requests for Admission	May 2, 2016	1 AA 104-117
Excerpts from JPMorgan Chase Bank N.A.'s First Supplement to N.R.C.P. 16.1 Disclosures	May 6, 2016	1 AA 118-129
Stipulation and Order to Extend Discovery Deadlines	June 28, 2016	1 AA 130-133
SFR Investments Pool 1, LLC's Motion for Summary Judgment (Exhibits Omitted)	July 7, 2016	1 AA 134-156
JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment	July 26, 2016	1 AA 157-190
Excerpts from JPMorgan Chase Bank, N.A.'s Joint Appendix of Exhibits to Motion for Summary Judgment and Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	July 26, 2016	2 AA 191-257

Order Granting SFR Investments Pool 1, LLC's Motion for Summary Judgment	August 23, 2016	2 AA 258-267
Motion to Extend Discovery Deadlines and to Re-Set Trial Date	January 23, 2018	2 AA 268-274
SFR Investments Pool 1, LLC's Opposition to Plaintiff's Motion to Extend (Exhibits Omitted)	January 30, 2018	2 AA 275-286
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JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment	April 13, 2018	2 AA 290-314
Excerpts from JPMorgan Chase Bank, N.A.'s Appendix of Exhibits to Motion for Summary Judgment	April 13, 2018	3 AA 315-523
SFR Investments Pool 1, LLC's Motion for Summary Judgment (Exhibits Omitted)	April 13, 2018	3 AA 524-533
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SFR Investments Pool 1, LLC's Reply in Support of Counter-motion to Strike	May 29, 2018	4 AA 595-599
Reporter's Transcript of Proceedings re: Motions	June 5, 2018	4 AA 600-624
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Notice of Entry of Findings of Fact and Conclusions of Law and Judgment in Favor of SFR Investments Pool 1, LLC	August 16, 2018	4 AA 631-639
Notice of Appeal	September 17, 2018	4 AA 640-642

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Amended Answer, Counterclaim and Cross-Claim	March 20, 2014	1 AA 024-034
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JPMorgan Chase Bank, N.A.'s Reply in Support of Motion for Summary Judgment (Exhibits Omitted)	May 25, 2018	4 AA 575-594
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Notice of Appeal	September 17, 2018	4 AA 640-642
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SFR Investments Pool 1, LLC's Reply in Support of Counter-motion to Strike	May 29, 2018	4 AA 595-599
SFR Investments Pool 1, LLC's Reply in Support of Motion for Summary Judgment	May 18, 2018	4 AA 568-574
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Stipulation and Order to Extend Discovery Deadlines	June 28, 2016	1 AA 130-133

CERTIFICATE OF SERVICE

I certify that on April 12, 2019, I filed **Appellant's Appendix – Volume 2**. Service will be made on the following through the Court's electronic filing system:

Jacqueline A. Gilbert
KIM GILBERT EBRON

Counsel for Respondent

/s/ Matthew D.Lamb
An Employee of Ballard Spahr

FILED 42

JUL 2 6 2016

CLERK OF COURT

ORIGINAL

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Attorneys for Plaintiff and Counter-Defendant JPMorgan Chase Bank N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; DOES 1 through 10, ROE BUSINESS ENTITIES I through 10, inclusive, Defendants.	CASE NO. A-13-692304-C DEPT NO. XXIV
SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company, Counter-Claimant, vs. JPMORGAN CHASE BANK NATIONAL ASSOCIATION, a national association; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1-10 and ROE BUSINESS ENTITIES 1 through 10, inclusive, Counter-Defendant/Cross-Defendants.	

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A-13-692304-C
APEN
Appendix
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JUL 26 2016

CLERK OF THE COURT

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JPMORGAN CHASE BANK, N.A.'S
JOINT APPENDIX OF EXHIBITS TO
MOTION FOR SUMMARY JUDGMENT
- and -
OPPOSITION TO SFR INVESTMENTS POOL I, LLC'S
MOTION FOR SUMMARY JUDGMENT

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5.	Deed of Trust, Recorded Instrument No. 200606120003526 (certified copy)	019-039
6.	Note	040-043
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8.	Assignment of Deed of Trust, Recorded Instrument No. 200910270000618 (certified copy)	058-059
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20.	NAS Statement of Assessments, Late Fees, Interest, Attorneys Fees & Collection Costs 01/01/2011 – 3/1/20136	197-198
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28.	Excerpts of 30(b)(6) deposition for SFR Investments Pool 1, LLC	265-276
29.	Substitution of Trustee, Recorded Instrument No. 201302220001500 (certified copy)	277

DATED this 26th day of July, 2016.

Ballard Spahr LLP

By: */s/ Holly Priest*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2016, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing JPMORGAN CHASE BANK, N.A.'S JOINT APPENDIX OF EXHIBITS TO MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO SFR'S MOTION FOR SUMMARY JUDGMENT was served on the following counsel of record via the Court's electronic service system:

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JACQUELINE A. GILBERT
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/s/ Mary Kay Carlton
An employee of BALLARD SPAHR LLP

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EXHIBIT 1

EXHIBIT 1

3270 Explorer: Loan Transfer History (LNTH)

156 - JPMORGAN CHASE BANK, N.A.

Loan Number: Redacted **Borrower Name:** HAWKINS,ROBERT M

LNTH Redacted LOAN TRANSFER HISTORY 07/07/16 15:16:50

TRAN DATE PAID	OLD/INV EFF DATE	NEW/INV EFF DATE FRCD	HT	NM	S/R/M	ADDITIONAL TRANSFER INFORMATION INV LOAN #	OLD S/F	NEW S/F	GF AFT B/B
-------- CLIENT 156 PRE 10-01-11 --------- CLIENT 908 PRE 09-01-09 ----------									
09/02/09	W08/002	C33/002	1	N	MAINT	INVESTOR			
06/01/09	07/01/09	232031.22				Redacted 6084	.00425000	.00425000	+00.000000
09/28/06	J35/009	227/002	1	N	SALE	TO FHLMC			
09/27/06	10/01/06	239585.56				Redacted 6084	.00250000	.00425000	+00.000000
09/09/06	918/001	J35/009	1	N	MAINT	INVESTOR			
__/__/__	09/01/06	239793.36				Redacted 3532	.00250000	.00250000	+00.000000

EXHIBIT 2

EXHIBIT 2

3270 Explorer: Loan Master Maint and Display (MAS1/AQN1)

156 - JPMORGAN CHASE BANK, N.A.

Loan Number: Redacted **Borrower Name:** HAWKINS,ROBERT M

```
MAS1 LOAN  Redacted     MSP LOAN MASTER MAINT. & DISPLAY     07/07/16   15:33:10
     NAME RM HAWKINS    TYPE 13 1ST MTG,CONVEN W/O INS                 GROUP
-- AQN1 -- ACQUISITION AND SALES ----------------------------------------------
  ACQN      ACQUISITION       OLD LOAN       ACQUISITION   OLD SVCR    Y/E RPTG
  DATE        PRIN BAL         NUMBER            ID         NUMBER    FROM ACQ DT
 090106       239793.36     Redacted       GRPT0906S        480           N
(MMDDYY)                                                               (Y/N)

ACQUISITION   OLD LN # INDEX
   TYPE          STOP DATE
    3              ______
1-ORIGINATED     (MMDDYY) MERS ORIG ORG ID _______
2-PURCHASED
3-SERV TRANSFER  SPEC CD: 500   RCRS CD: __   CUST CD: _____
ORIG NOTE HLD NM ____________________________________________________________
        LOAN SERV       NEW SERV              CONTRACT LOAN       SERV
         SOLD ID        LOAN NUMBER           SERV SOLD DT      TRANS DT
1ST     __________   ____________________         MMDDYY          MMDDYY
2ND     __________   ____________________

----------------------* ADDITIONAL MESSAGES *-------------------------------
PRESS PF14 FOR MEMOS
LIFE-OF-LOAN: LEGAL ACTION 'COMPLEX'
DISCHARGED CH7 BANKRUPTCY
```

3270 Explorer: Loan Master Maint and Display (MAS1/INV1)

156 - JPMORGAN CHASE BANK, N.A.

Loan Number: Redacted **Borrower Name:** HAWKINS,ROBERT M

```
MAS1 LOAN  Redacted   MSP LOAN MASTER MAINT. & DISPLAY    07/07/16   15:32:11
     NAME RM HAWKINS    TYPE 13 1ST MTG,CONVEN W/O INS                GROUP
-- INV1 -- INVESTOR, SERVICE FEES-----------------------------------------
INV CAT  INV LOAN NO  SALE/REPURCH  --- FNMA LASER ---  FNMA DEL
5CA 002  Redacted6084    FLAG  DATE   CD   DATE  CHANGED   STATUS
                          S   092706  __  ______             0 (0-9)
INV FREDDIE MAC 877903                (MMDDYY)          SSRI ___
HDR A3, PARC-5                    GUAR FEE   ----SERVICE FEE----
    8200 JONES BRANCH DR.           RATE     % RATE  OR $ AMOUNT
    MCLEAN  VA 22102              00.00000 %   .425000      0.00
    CSFB/WMMSC-S/S                                  SC ACC CD  INT IN ADV BAL
 FRCD ___                                                __              .00
 CONTRACT/POOL NO    INV SCHED DEF INT    INV ACT DEF INT    INV SCHED PRIN BAL
 ________________              239,585.56  ___________________        232,031.22
---THIRD PARTY SERVICE FEES---     FHLMC    ------EXCESS SERVICE FEES-----
CORRESPONDENT  PLAN  1ST REMIT     INACT    ORIG SERV FEE:      ___________
    CODE       CODE     DATE        I      UNAMORT SERV FEE:   ___________
    ___        ___      ____       GSE   R ORIGINAL TERM:      ___
                       (MMYY)      HN   O _ REMAINING TERM:     ___
CORR/PLAN:                              OPTION:  _    DOC CUST: DC999
--------------------------* ADDITIONAL MESSAGES *--------(PF15: OWNER/ASSIGNEE)
PRESS PF14 FOR MEMOS
LIFE-OF-LOAN: LEGAL ACTION *COMPLEX*
DISCHARGED CH7 BANKRUPTCY
```

3270 Explorer: Loan Master Maint and Display (MAS1/USR3)

156 - JPMORGAN CHASE BANK, N.A.

Loan Number: Redacted **Borrower Name:** HAWKINS,ROBERT M

```
MAS1 LOAN  Redacted  MSP LOAN MASTER MAINT. & DISPLAY    07/07/16   15:33:52
     NAME RM HAWKINS    TYPE 13 1ST MTG,CONVEN W/O INS                GROUP
-- USR3 -- EXPANDED USER FIELDS ------------------------------------------ 1
ORIGOFC                                        ORIG                  TRAILER
NAME                                           LN NUM                 FIVE
HWAMU LOANS PROJECT UNO                        ____________________    __

DEAL                              SL         CHANN LNBRD STOP  REG B   NWCDT
ID                                 DATE 2     ID    TYPE  REIT  IND     GRAD
_________________________________ ______      X     _     _     _       __
                                  (MMDDYY)
ACCT                                           RECON                 ORIG
CHGS                                           VENDOR                  OFFCD
_____________________________________________ ____________________    F1332

ACQ                               RECON    ORIG  HAZ   SPLT   RECON    DTI
ENTITY                             RESULT  INV   IND   IDMI    RES AMT  RATIO
_________________________________ ______   ___   ____  ____  __________ _____
                                  (MMDDYY)

---------------------------* ADDITIONAL MESSAGES *------- PF8: PAGE TWO -------
PRESS PF14 FOR MEMOS
LIFE-OF-LOAN: LEGAL ACTION *COMPLEX*
DISCHARGED CH7 BANKRUPTCY
```

3270 Explorer: Customer Service Workstation (SER1/LOAN)

156 - JPMORGAN CHASE BANK, N.A.

Loan Number: Redacted **Borrower Name:** HAWKINS,ROBERT M

```
SER1 Redacted                CUSTOMER SERVICE  INV 5CA/002  07/07/16  15:30:58
ROBERT M HAWKINS             Redacted  0   TYPE CONV. RES.              MAN F
CHRISTINE V HAWKINS          Redacted     IR  6.75000  BR       702-454-4228
3263 MORNING SPRINGS      HENDERSON NV 89074                     000-000-0000
_   LEGAL    < * STRICTLY CONFIDENTIAL * LEGAL ACTION *           >: 06/20/16
-----~LOAN--------------------* LOAN INFORMATION *-------------------------------
---- 07/01/09 PMT ---   LAST PAID  DATE     DUE        AMOUNT  (13 MONTHS)
 1ST P&I      1556.64   PAYMENT                                 WU: P
 *COUNTY       147.94   HAZARD   03/23/16  04/16     1744.00-  FOREMOST INS CO
    *HAZ        57.23   COUNTY   02/08/16  02/16      311.26-  RCV: _
  *OV/SH        22.63
 TOT PMT      1784.44
                                                               ANALYZED COUP MO
                                                               03/15/16    06

  LC DUE       389.15   ------- BALANCES -------                    BILL PROD
OTH FEES        75.95   PRINCIPAL     232,031.22                   07/01/16
 TOT DUE    154936.48      ESCROW      22,102.54-      YTD PRN           .00
-- PENDING PAYMENT --     SUSPENSE           .00      YTD TAX        311.26
   01/12      1864.25     RES ESC            .00      YTD INT           .00
---* PF2 FOR ADDL MESSAGES *-----------------------------------------------------
PRESS PF14 FOR MEMOS
LIFE-OF-LOAN: LEGAL ACTION *COMPLEX*
DISCHARGED CH7 BANKRUPTCY              SUSPENDED FORECLOSURE
```

EXHIBIT 4

EXHIBIT 4

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DISTRICT COURT
CLARK COUNTY, NEVADA

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JPMORGAN CHASE BANK, NATIONAL ASSOCIATION'S DECLARATION IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, Evan L. Grageda, declare under the penalty of perjury of the laws of the State of Nevada as follows:

1. My name is Evan L. Grageda. I have personal knowledge of and am competent to testify as to the facts stated herein by virtue of my position as Legal Specialist III for JPMorgan Chase Bank, National Association ("Chase").

2. As an authorized signer, I am familiar with certain systems and databases maintained by Chase that contain data regarding certain loans owned by the Federal Home Loan Mortgage Corporation ("Freddie Mac") and serviced by Chase. This declaration is based upon my review of Chase's systems and databases containing business and servicing records for the loan made to Counter-defendants Robert and Christine Hawkins.

3. Entries in Chase's systems and databases are made at or near the time of the events recorded by, or from information transmitted by, persons with knowledge. Chase maintains and keeps these systems and databases in the ordinary course of Chase's regularly conducted business activity, and it is the regular practice of Chase to keep and maintain information regarding loans owned by Freddie Mac and serviced by Chase in Chase's databases. Chase's systems and databases consist of records that were made and kept by Chase in the course of its regularly conducted activities pursuant to its regular business practice of creating such records. These systems and databases store Chase's business records.

4. I have reviewed the public documents identified in the following paragraphs. I have also reviewed Chase's business records.

5. Chase's business records and my review of the public documents reflect the following:

a. On or about June 7, 2006, Robert and Christine Hawkins ("Borrowers") obtained a loan from GreenPoint Mortgage Funding,

Inc. in the amount of $240,000.00 (the "Loan"). The Loan is secured by a real property located at 3263 Morning Springs Drive, Henderson, Nevada 89074 (the "Property"). Borrowers executed a Deed of Trust (the "Deed of Trust") and a Note (the "Note") in connection with the Loan.

b. The Deed of Trust was recorded on June 12, 2006 in Clark County as Instrument No. 20060612-0003526 and identifies Mortgage Electronic Registration Systems, Inc., acting solely as a nominee for GreenPoint Mortgage Funding, Inc., its successors and assigns, as the beneficiary under the Deed of Trust.

c. As indicated by Chase's business records, Freddie Mac acquired ownership of the Loan on or about October 1, 2006 and still is the current owner. A redacted but otherwise true and correct copy of Loan Transfer History attesting to the date Freddie Mac acquired an ownership interest is attached as Exhibit 1.

d. Washington Mutual Bank, FA became the servicer of the Loan on or about September 1, 2006 and Chase has serviced the loan through the present, including on March 1, 2013. A redacted but otherwise true and correct copy of MAS1/AQN1 screenshot demonstrating Washington Mutual Bank, FA and Chase's role as servicer from September 1, 2006 to the present is attached as Exhibit 2.

e. Mortgage Electronic Registrations Systems, Inc., assigned the Deed of Trust to Chase pursuant to the "Assignment of Deed of Trust" recorded October 27, 2009 in Clark County Recorder's Office as Instrument #. 200910270000618.

6. Chase's business records related to the Loan include a Residential Broker Price Opinion, dated February 13, 2011. A redacted but otherwise true and correct copy of the Residential Broker Price Opinion is attached as Exhibit 3.

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I declare under the penalty of perjury under the law of the State of the Nevada that the foregoing facts are true and correct.

Executed on July 26, 2016.

JPMorgan Chase Bank, National Association

Evan L. Grageda
Authorized Signer

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LAS VEGAS, NEVADA 89106
(702) 471-7000 FAX (702) 471-7070

CASE #. A-13-692304-C

EXHIBIT 5

EXHIBIT 5

20060612-0003526

Fee: $34.00
N/C Fee: $0.00

06/12/2006 14:00:35
T20060102935
Requestor:
LAWYERS TITLE OF NEVADA

Frances Deane KGP
Clark County Recorder Pgs: 21

Assessor's Parcel Number:
177-24-514-043
Return To: GreenPoint Mortgage Funding, Inc.
981 Airway Court, Suite E
Santa Rosa, CA 95403-2049

Prepared By: GreenPoint Mortgage Funding, Inc.
100 Wood Hollow Drive, Novato, CA 94945
~~Recording Requested~~ By: GreenPoint Mortgage Funding, Inc.
981 Airway Court, Suite E
Santa Rosa, CA, 95403-2049

21

1303226 -DK

[Space Above This Line For Recording Data]

DEED OF TRUST MIN [redacted]80072

DEFINITIONS
Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.
(A) "Security Instrument" means this document, which is dated June 7, 2006 , together with all Riders to this document.
(B) "Borrower" is Robert M. Hawkins and Christine V. Hawkins, Husband And Wife as joint tenants

Borrower is the trustor under this Security Instrument.
(C) "Lender" is GreenPoint Mortgage Funding, Inc.

Lender is a Corporation
organized and existing under the laws of the State of New York

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NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3029 1/01
VMP-6A(NV) (0507)
Page 1 of 15
VMP Mortgage Solutions, Inc.
(800)521-7291

0019

AA 208

Lender's address is 100 Wood Hollow Drive, Novato, CA 94945

(D) "Trustee" is Marin Conveyancing Corp.

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
(F) "Note" means the promissory note signed by Borrower and dated June 7, 2006
The Note states that Borrower owes Lender two hundred forty thousand and 00/100
Dollars
(U.S. $240,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than July 1, 2036
(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☒ Planned Unit Development Rider	☐ 1-4 Family Rider
☐ VA Rider	☐ Biweekly Payment Rider	☐ Other(s) [specify]
☒ Occupancy Rider	☐ Interim Interest Rider	

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
(M) "Escrow Items" means those items that are described in Section 3.
(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.
(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to
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time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

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

TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County [Type of Recording Jurisdiction] of Clark [Name of Recording Jurisdiction]:

As more particularly described in exhibit "A"attached hereto and made a part hereof.

Parcel ID Number: 177-24-514-043 which currently has the address of
3263 Morning Springs Drive [Street]
Henderson [City], Nevada 89074 [Zip Code]
("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances

of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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

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

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

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

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

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

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

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives

Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

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

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

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

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

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

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

lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

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

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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

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

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

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

attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

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

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be

one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

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

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

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

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

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

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

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

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

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. $ 900.00

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

Witnesses:

_____

Robert M Hawkins (Seal)
Robert M. Hawkins -Borrower

_____

Christine V. Hawkins (Seal)
Christine V. Hawkins -Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

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STATE OF NEVADA
COUNTY OF Clark

This instrument was acknowledged before me on June 8, 2006 by
Robert M. Hawkins, Christine V. Hawkins

Mail Tax Statements To:
Robert M. Hawkins
3263 Morning Springs Drive, Henderson, NV 89074 USA

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
TRACEY DERRICK
Appt. No. 04-91188-1
My Appt. Expires Dec. 8, 2007

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EXHIBIT "A"

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

Lot Fifty (50) in Block Ten (10) of SEASONS AT PEBBLE CANYON, as shown by map thereof on file in Book 53 of Plats, Page 45, in the Office of the County Recorder of Clark County, Nevada.

Assessor's Parcel Number: **177-24-514-043**

PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 7th day of June, 2006, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to GreenPoint Mortgage Funding, Inc.

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at: 3263 Morning Springs Drive, Henderson, NV 89074

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Declaration of Covenants, Conditions, and Restrictions

(the "Declaration"). The Property is a part of a planned unit development known as Seasons At Pebble Canyon

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

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

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

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B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

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

Robert M. Hawkins (Seal) -Borrower

Christine V. Hawkins (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

8007

OCCUPANCY RIDER TO MORTGAGE/ DEED OF TRUST/SECURITY DEED

THE OCCUPANCY RIDER is made this 7th day of **June, 2006**, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note (the "Note") to **GreenPoint Mortgage Funding, Inc.** (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

3263 Morning Springs Drive, Henderson, NV 89074

("Property Address")

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

1. That the above-described property will be personally occupied by the Borrower as their principal residence within 60 days after the execution of the Security Instrument and Borrower shall continue to occupy the property as their principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld.
2. That if residency is not established as promised above as well as in the Security Instrument, the Lender may, without further notice, take any or all of the following actions:
   a. increase the interest rate on the Note by one-half of one percent (0.500%) per annum on a fixed-rate loan or increase the Margin on an Adjustable Rate Note by one-half of one percent (0.500%) per annum and to adjust the principal and interest payments to the amount required to pay the loan in full within the remaining term; and/or
   b. charge a non-owner occupancy rate adjustment fee of two percent (2.00%) of the original principal balance and/or
   c. require payment to reduce the unpaid principal balance of the loan to the lesser of (1) 70% of the purchase price of the property or (2) 70% of the appraised value at the time the loan was made. The reduction of the unpaid principal balance shall be due and payable within thirty (30) days following receipt of a written demand for payment, and if not paid within thirty (30) days will constitute a default under the terms and provisions of the Note and Security Instrument, and/or
   d. declare a default under the terms of the Note and Security Instrument and begin foreclosure proceedings, which may result in the sale of the above-described property; and/or
   e. refer what is believed to be fraudulent acts to the proper authorities for prosecution. It is a federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements or reports for the purpose of influencing in any way the action of the Lender in granting a loan on the above property under the provisions of TITLE 18, UNITED STATES CODE, SECTIONS 1010 AND 1014.

It is further understood and agreed that any forbearance by the Lender in exercising any right or remedy given here, or by applicable law, shall not be a waiver of such right or remedy.

Should any clause, section or part of this Occupancy Rider be held or declared to be void or illegal for any reason, all other clauses, sections or parts of this Occupancy Rider which can be effected without such illegal clause, section or part shall nevertheless continue in full force and effect.

It is further specifically agreed that the Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies set forth above, including but not limited to, reasonable attorney's fees.

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

Robert M Hawkins (Borrower)
Robert M. Hawkins

Christine V. Hawkins (Borrower)
Christine V. Hawkins

(Borrower)

(Borrower)

(Borrower)

(Borrower)

(Borrower)

(Borrower)

EXHIBIT 6

EXHIBIT 6

NOTE

Redacted

June 7, 2006 [Date] | Henderson [City] | Nevada [State]

3263 Morning Springs Drive, Henderson, NV 89074

[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. $ 240,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is GreenPoint Mortgage Funding, Inc.

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

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

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

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

I will make my monthly payment on the 1st day of each month beginning on August 1, 2006 . I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on July 1, 2036 , I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 79363, City of Industry, CA 91716-9363 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. $ 1,556.64 .

4. BORROWER'S RIGHT TO PREPAY

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

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

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5. LOAN CHARGES

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

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

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

(B) Default

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

(C) Notice of Default

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

(D) No Waiver By Note Holder

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

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

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

7. GIVING OF NOTICES

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

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

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

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

9. WAIVERS

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

[redacted]3007

Form 3200 1/01

10. UNIFORM SECURED NOTE

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

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

Robert M Hawkins (Seal)
Robert M. Hawkins -Borrower

(Seal)
Christine V. Hawkins -Borrower

Christine V. Hawkins (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

[redacted]8007

WITHOUT RECOURSE
PAY TO THE ORDER OF:
WASHINGTON MUTUAL BANK, F.A

GreenPoint Mortgage Funding, Inc.

Thomas K. Mitchell
Vice President

EXHIBIT 7

EXHIBIT 7

Abran E. Vigil
Nevada Bar No. 7548
Russell J. Burke
Nevada Bar No. 12710
Holly Ann Priest
Nevada Bar No. 13226
BALLARD SPAHR LLP
100 North City Parkway, Suite 1750
Las Vegas, Nevada 89106-4617
Telephone: (702) 471-7000
Facsimile: (702) 471-7070
E-Mail: vigila@ballardspahr.com
E-Mail: burker@ballardspahr.com
E-Mail: priesth@ballardspahr.com

Attorneys for Plaintiff and Counter-Defendant JPMorgan Chase Bank N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company Defendants.	CASE NO. A-13-692304-C DEPT NO. XXIV
SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company, Counter-Claimant, vs. JPMORGAN CHASE BANK NATIONAL ASSOCIATION, a national association; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1-10 and ROE BUSINESS ENTITIES 1 through 10, inclusive, Counter-Defendant/Cross-Defendants.	**DECLARATION OF DEAN MEYER IN SUPPORT OF (I) JPMORGAN CHASE BANK, N.A.'S OPPOSITION TO SFR INVESTMENTS POOL 1, LLC'S MOTION FOR SUMMARY JUDGMENT AND (II) JPMORGAN CHASE BANK, N.A.'S MOTION FOR SUMMARY JUDGMENT**

I, Dean Meyer, under penalty of perjury, declare as follows:

1. My name is Dean Meyer. I have personal knowledge of and am competent to testify as to the matters stated herein by virtue of my position as Director, Loss Mitigation for Federal Home Loan Mortgage Corporation ("Freddie Mac"), a corporation organized and existing under the laws of the United States.

2. As Director, Loss Mitigation for Freddie Mac, I am familiar with certain Freddie Mac systems and databases that contain data regarding loans acquired and owned by Freddie Mac. The systems and databases include Freddie Mac's Loan Status Manager and MIDAS system, which includes and stores information concerning Freddie Mac's servicers and the purchase of loans. I also am familiar with Freddie Mac's Single-Family Seller/Servicer Guide (the "Guide"). This declaration is based upon my review of Freddie Mac's systems, databases containing loan information and data, and the Guide.

3. Entries in Freddie Mac's systems and corresponding databases are made at or near the time of the events recorded by, or from information transmitted by, persons with knowledge. Freddie Mac's systems and databases are maintained and kept in the course of Freddie Mac's regularly conducted business activity, and it is the regular practice of Freddie Mac to keep and maintain information regarding loans owned by Freddie Mac in Freddie Mac's databases. Freddie Mac's systems and databases consist of records that were made and kept by Freddie Mac in the course of its regularly conducted activities pursuant to its regular business practice of creating such records. These systems and databases are Freddie Mac's business records.

4. I have reviewed (i) JPMorgan Chase Bank, N.A.'s ("Chase") Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment, (ii) Chase's Motion for Summary Judgment, and (iii) accompanying exhibits filed contemporaneously herewith (collectively, the "Documents"). I have also reviewed Freddie Mac's systems and corresponding databases,

including the documents referenced below, which are print-outs from Freddie Mac systems reflecting the contents of those databases, as well as portions of the Guide.

5. Freddie Mac's systems, corresponding databases, and the Documents reflect the following:

a. On or about June 7, 2006, Robert M. Hawkins and Christine V. Hawkins (collectively, "Borrower") obtained a loan from GreenPoint Mortgage Funding, Inc. ("Lender") in the amount of $240,000.00 (the "Loan"). As part of the Loan, the Borrower executed a note dated June 7, 2006 in favor of Lender (the "Note"). The Loan is secured by real property located at 3623 Morning Springs Drive, Henderson, Nevada 89074 (the "Property").

b. Borrower executed a deed of trust (the "Deed of Trust") dated June 7, 2006 in connection with the Loan, which was recorded on or about June 12, 2006.

c. Mortgage Electronic Registration Systems, Inc. ("MERS") was beneficiary under the Deed of Trust in a nominee capacity for the Lender and the Lender's successors and assigns.

d. As indicated by the "Funding Date" appearing midway down on the second column of Page 1 of 2 of the print-out from Freddie Mac's MIDAS system pertaining to Freddie Mac's purchase of the Loan, Freddie Mac acquired ownership of the Loan on or about September 27, 2006 and has owned it ever since. A true and correct copy of the print-out from Freddie Mac's MIDAS system pertaining to Freddie Mac's purchase of the Loan is attached hereto as **Exhibit A**. The Guide defines "Funding Date" as the

date when Freddie Mac disburses payment to the seller for a Loan Freddie Mac purchased.

e. As indicated by the "Seller Nbr 090803" appearing near the top of the first column of Page 1 of 2 of the print-out from Freddie Mac's MIDAS system attached hereto as **Exhibit A**, which identifies the entity that sold Freddie Mac the loan by "Seller Number," Washington Mutual Mortgage Sec. sold the Loan to Freddie Mac. A true and correct copy of the print-out from Freddie Mac's MIDAS system identifying Washington Mutual Mortgage Sec. by Seller Number is attached hereto as **Exhibit B**.

f. The "Part. Pct." or "Participation Percentage" appearing above the Funding Date on Page 1 of 2 of the print-out from Freddie Mac's MIDAS system attached hereto as **Exhibit A**, reflects "1.0," which means that Freddie Mac owns 100% of the Loan. If the Participation Percentage was anything less than 100%, then a number less than 1.0 would appear on the print-out from Freddie Mac's MIDAS system.

g. On October 26, 2009, MERS, in its nominee capacity for Lender and Lender's successors and assigns, executed an Assignment Deed of Trust, which was recorded on October 27, 2009, thereby assigning its interest in the Deed of Trust to Chase.

h. Chase began servicing the Loan, pursuant to the Guide, on behalf of Freddie Mac prior to October 16, 2014. A true and correct copy of the print-out from Freddie Mac's Loan Status Manager is attached hereto as **Exhibit C**, which reflects Chase serviced the Loan, pursuant to the Guide,

on behalf of Freddie Mac both prior to October 16, 2014 and from October 16, 2014 through the present. Additionally, as indicated by the "Servicer Nbr 877903" appearing near the top of the first column of Page 1 of 2 of the print-out from Freddie Mac's MIDAS system attached hereto as **Exhibit A**, which identifies the current servicer by "Servicer Number," Chase is currently servicing the Loan, pursuant to the Guide, on behalf of Freddie Mac. A true and correct copy of the print-out from Freddie Mac's MIDAS system identifying Chase by Servicer Number 877903 is attached hereto as **Exhibit D**.

i. The Guide, a publicly accessible document found at www.freddiemac.com/singlefamily/guide, serves as a central document governing the contractual relationship between Freddie Mac and its servicers nationwide, including CitiMortgage. Archived prior versions of the Guide are available at www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html.

j. At the time Freddie Mac acquired the Loan and at all times thereafter, the Guide was in effect and governed the relationship between Freddie Mac, on the one hand, and Chase on the other, with respect to the Loan.

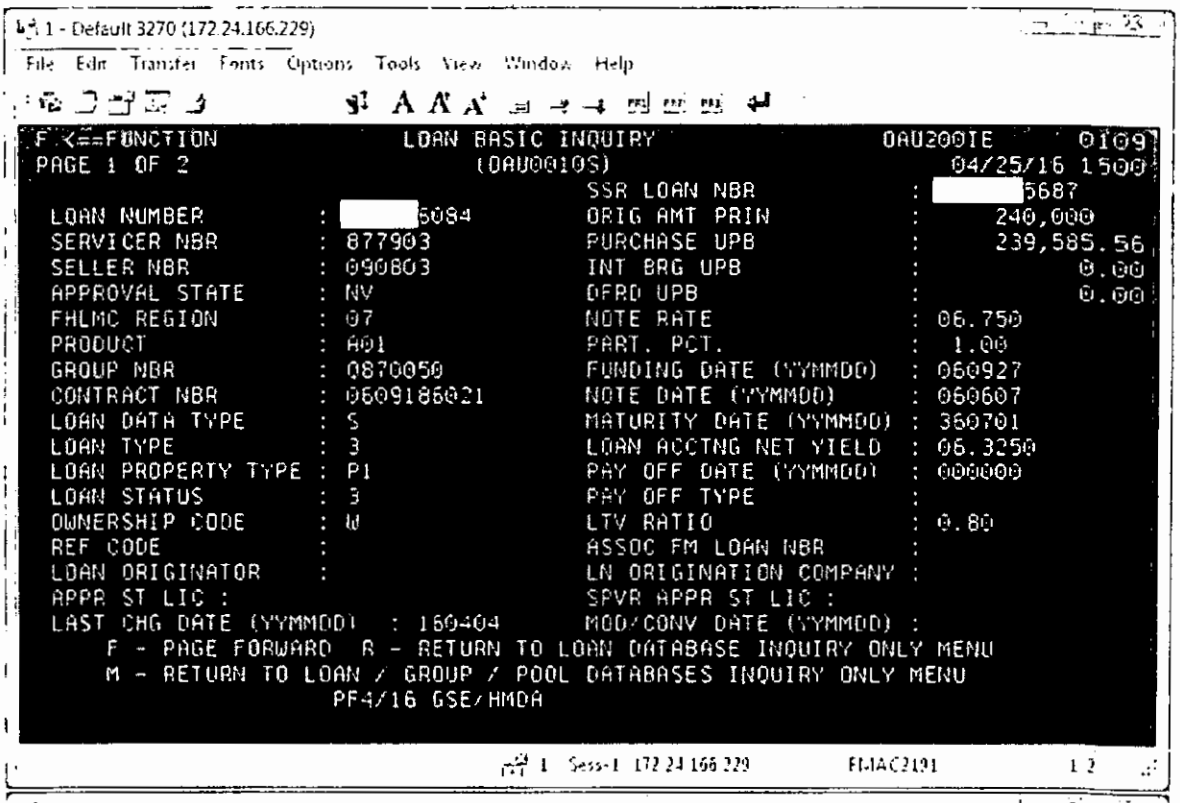
k. Since it acquired the Loan, Freddie Mac has not sold the Loan and has never authorized MERS or Chase to convey the Loan to any other entity.

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

Executed on July 26, 2016.

Dean Meyer
Director, Loss Mitigation
Federal Home Loan Mortgage Corporation

EXHIBIT A


1 - Default 3270 (172.24.166.229)
File Edit Transfer Fonts Options Tools View Window Help
F1<==FUNCTION LOAN BASIC INQUIRY OAU200IE 0109
PAGE 1 OF 2 (OAU0010S) 04/25/16 1500
LOAN NUMBER : 5084
SERVICER NBR : 877903
SELLER NBR : 090803
APPROVAL STATE : NV
FHLMC REGION : 07
PRODUCT : A01
GROUP NBR : 0870050
CONTRACT NBR : 0609186021
LOAN DATA TYPE : S
LOAN TYPE : 3
LOAN PROPERTY TYPE : P1
LOAN STATUS : 3
OWNERSHIP CODE : W
REF CODE :
LOAN ORIGINATOR :
APPR ST LIC :
LAST CHG DATE (YYMMDD) : 160404
SSR LOAN NBR : 5687
ORIG AMT PRIN : 240,000
PURCHASE UPB : 239,585.56
INT BRG UPB : 0.00
DFRD UPB : 0.00
NOTE RATE : 06.750
PART. PCT. : 1.00
FUNDING DATE (YYMMDD) : 060927
NOTE DATE (YYMMDD) : 060607
MATURITY DATE (YYMMDD) : 360701
LOAN ACCTNG NET YIELD : 06.3250
PAY OFF DATE (YYMMDD) : 000000
PAY OFF TYPE :
LTV RATIO : 0.80
ASSOC FM LOAN NBR :
LN ORIGINATION COMPANY :
SPVR APPR ST LIC :
MOD/CONV DATE (YYMMDD) :
F - PAGE FORWARD R - RETURN TO LOAN DATABASE INQUIRY ONLY MENU
M - RETURN TO LOAN / GROUP / POOL DATABASES INQUIRY ONLY MENU
PF4/16 GSE/HMDA
1 Sess-1 172.24.166.229 FMAC2191 1 2

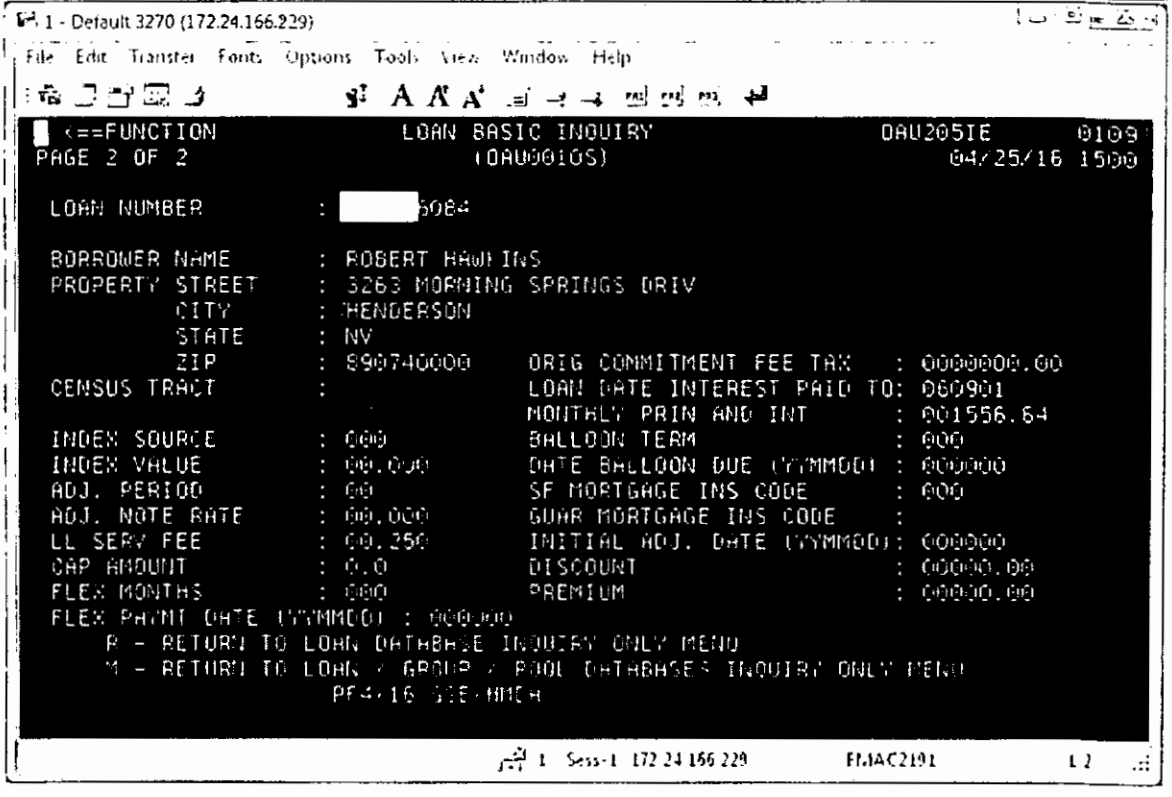

1 - Default 3270 (172.24.166.229)
File Edit Transfer Fonts Options Tools View Window Help
<==FUNCTION LOAN BASIC INQUIRY OAU205IE 0109
PAGE 2 OF 2 (OAU0010S) 04/25/16 1500
LOAN NUMBER : 5084
BORROWER NAME : ROBERT HAWKINS
PROPERTY STREET : 3263 MORNING SPRINGS DRIV
CITY : HENDERSON
STATE : NV
ZIP : 890740000
CENSUS TRACT :
INDEX SOURCE : 000
INDEX VALUE : 00.000
ADJ. PERIOD : 00
ADJ. NOTE RATE : 00.000
LL SERV FEE : 00.250
CAP AMOUNT : 0.0
FLEX MONTHS : 000
FLEX PAYMT DATE (YYMMDD) : 000000
ORIG COMMITMENT FEE TAX : 0000000.00
LOAN DATE INTEREST PAID TO: 060901
MONTHLY PRIN AND INT : 001556.64
BALLOON TERM : 000
DATE BALLOON DUE (YYMMDD) : 000000
SF MORTGAGE INS CODE : 000
GUAR MORTGAGE INS CODE :
INITIAL ADJ. DATE (YYMMDD): 000000
DISCOUNT : 00000.00
PREMIUM : 00000.00
R - RETURN TO LOAN DATABASE INQUIRY ONLY MENU
M - RETURN TO LOAN / GROUP / POOL DATABASES INQUIRY ONLY MENU
PF4/16 GSE/HMDA
1 Sess-1 172.24.166.229 FMAC2191 1 2

EXHIBIT B

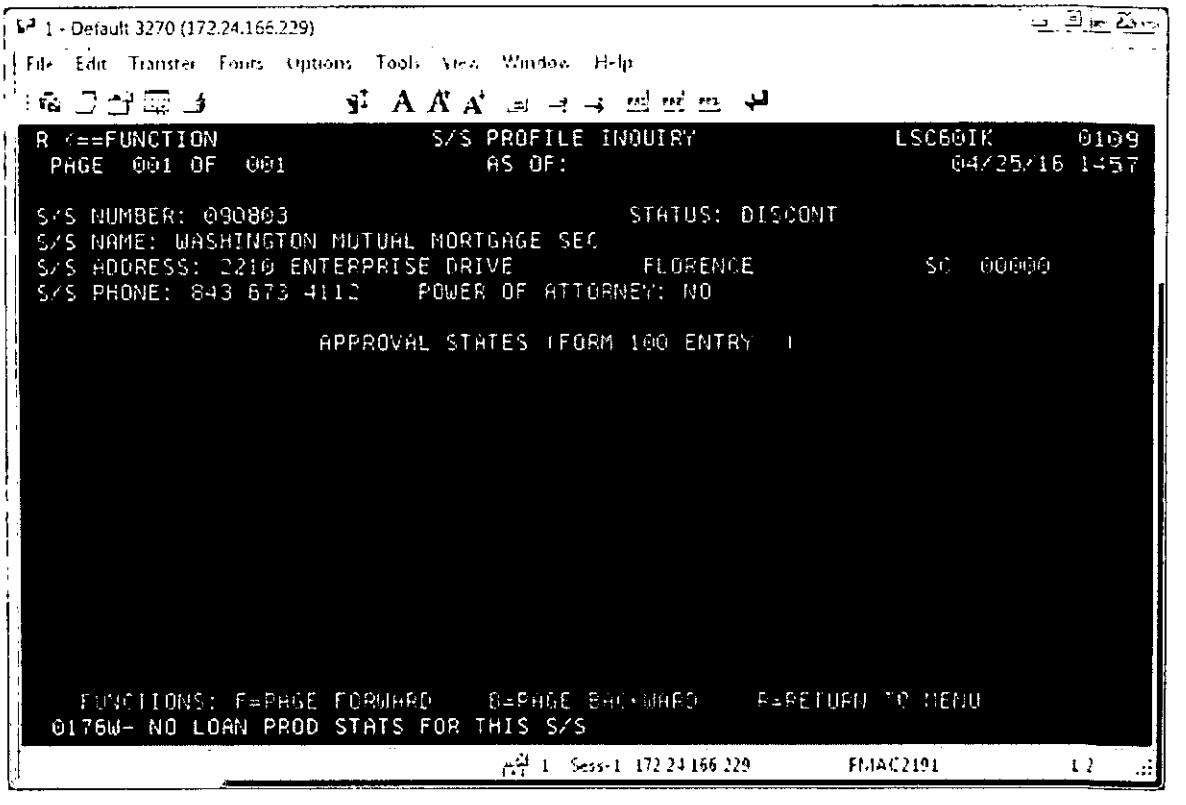

1 - Default 3270 (172.24.166.229)
File Edit Transfer Fonts Options Tools View Window Help
R <==FUNCTION S/S PROFILE INQUIRY LSC60IK 0109
PAGE 001 OF 001 AS OF: 04/25/16 1457
S/S NUMBER: 090803 STATUS: DISCONT
S/S NAME: WASHINGTON MUTUAL MORTGAGE SEC
S/S ADDRESS: 2210 ENTERPRISE DRIVE FLORENCE SC 00000
S/S PHONE: 843 673 4112 POWER OF ATTORNEY: NO
APPROVAL STATES (FORM 100 ENTRY)
FUNCTIONS: F=PAGE FORWARD B=PAGE BACKWARD R=RETURN TO MENU
0176W- NO LOAN PROD STATS FOR THIS S/S
1 Sess-1 172.24.166.229 FNMAC2191 1 2

EXHIBIT C

Loan Status*Manager*
TOS Summary Report

Report generated on Monday, April 25, 2016 at 2:54 pm.

SQL returned 1 rows

Fhlmc Loan Number: REDACTED 6084

Date Requested	Status	Status Date	Date Effective	Servicer From	Servicer To	Servicer Family From	Servicer Family To
09/04/2014	APPROVED	09/05/2014	10/16/2014	112491 - JPMORGAN CHASE BANK, N.A.	877903 - JPMORGAN CHASE BANK, N.A.	139867 - JPMORGAN CHASE BANK, N.A.	139867 - JPMORGAN CHASE BANK, N.A.

REDACTED

EXHIBIT D

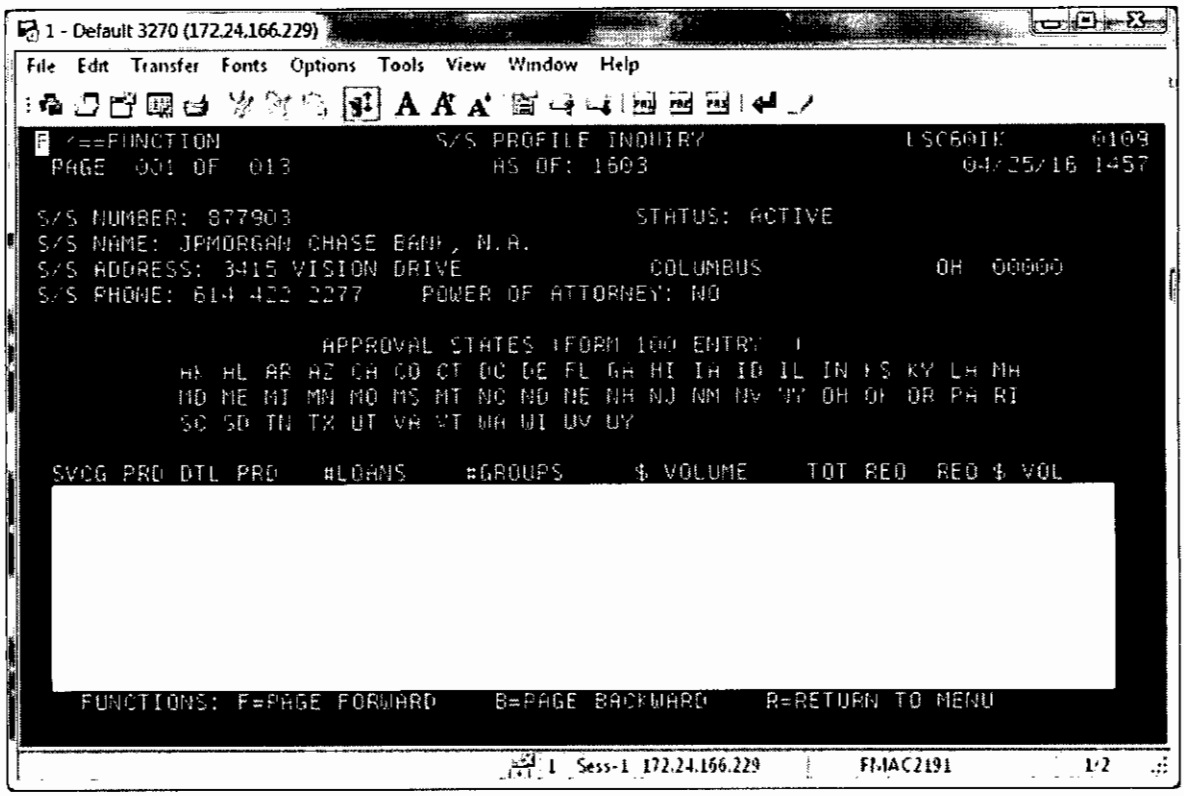

1 - Default 3270 (172.24.166.229)
File Edit Transfer Fonts Options Tools View Window Help
F ?==FUNCTION S/S PROFILE INQUIRY LSC60IC 0109
PAGE 001 OF 013 AS OF: 1603 04/25/16 1457
S/S NUMBER: 877903 STATUS: ACTIVE
S/S NAME: JPMORGAN CHASE BANK, N.A.
S/S ADDRESS: 3415 VISION DRIVE COLUMBUS OH 00000
S/S PHONE: 614 422 2277 POWER OF ATTORNEY: NO
APPROVAL STATES FOR M 100 ENTRY
AA AL AR AZ CA CO CT DC DE FL GA HI IA ID IL IN KS KY LA MA
MD ME MI MN MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI
SC SD TN TX UT VA VT WA WI WV WY
SVCG PRD DTL PRD #LOANS #GROUPS $ VOLUME TOT REO REO $ VOL
FUNCTIONS: F=PAGE FORWARD B=PAGE BACKWARD R=RETURN TO MENU
1 Sess-1 172.24.166.229 FNMAC2191 1/2

EXHIBIT 8

EXHIBIT 8

Stewart Title
APN#: 177-24-514-043

AND WHEN RECORDED MAIL TO

CALIFORNIA RECONVEYANCE COMPANY
9200 Oakdale Avenue
Mail Stop: CA2-4379
Chatsworth, CA 91311

Inst #: 200910270000618
Fees: $15.00
N/C Fee: $0.00
10/27/2009 08:52:54 AM
Receipt #: 107152
Requestor:
SPL INC
Recorded By: GILKS Pgs: 2
DEBBIE CONWAY
CLARK COUNTY RECORDER

Space above this line for recorder's use only

Title Order No. 1024157 Trustee Sale No. 137803NV Loan No. [redacted]5687

ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to JPMorgan Chase Bank, National Association all beneficial interest under that certain Deed of Trust dated 06/07/2006 executed by ROBERT M HAWKINS AND CHRISTINE V HAWKINS, HUSBAND AND WIFE AS JOINT TENANTS, as Trustor; to MARIN CONVEYANCING CORP., as Trustee; and Recorded 06/12/2006, Instrument 0003526, Book 20060612, Page of Official Records in the Office of the County Recorder of CLARK County, Nevada..

TOGETHER with the note or notes therein described and secured thereby, the money due and to become due thereon, with interest, and all rights accrued or to accrue under said Deed of Trust including the right to have reconveyed, in whole or in part the real property described therein.

Property Address: 3263 MORNING SPRINGS DRIVE
HENDERSON, NV 89074

Title Order No. 1024157 Trustee Sale No. 137803NV Loan No. [redacted]75687

Date: October 26, 2009

MORTGAGE ~~ELECTRONIC~~ REGISTRATION SYSTEMS, INC.

COLLEEN IRBY, OFFICER

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On October 26, 2009 before me, C LUCAS, "Notary Public," personally appeared COLLEEN IRBY who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

C. LUCAS
Commission # 1821933
Notary Public - California
Los Angeles County
My Comm. Expires Nov 9, 2012

EXHIBIT 18

EXHIBIT 18

Inst #: 201303060001648
Fees: $18.00 N/C Fee: $0.00
RPTT: $20.40 Ex: #
03/06/2013 11:35:06 AM
Receipt #: 1522804
Requestor:
NORTH AMERICAN TITLE SUNSET
Recorded By: DXI Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

Please mail tax statement and
when recorded mail to:
S F R Investments Pool 1, LLC
5030 Paradise Rd., B-214
Las Vegas, NV 89119

FORECLOSURE DEED

APN # 177-24-514-043
North American Title #38131

NAS # N71869

The undersigned declares:

Nevada Association Services, Inc., herein called agent (for the Pebble Canyon HOA), was the duly appointed agent under that certain Notice of Delinquent Assessment Lien, recorded August 3, 2012 as instrument number 0002972 Book 20120803, in Clark County. The previous owner as reflected on said lien is Robert M Hawkins, Christine V Hawkins. Nevada Association Services, Inc. as agent for Pebble Canyon HOA does hereby grant and convey, but without warranty expressed or implied to: S F R Investments Pool 1, LLC (herein called grantee), pursuant to NRS 116.31162, 116.31163 and 116.31164, all its right, title and interest in and to that certain property legally described as: SEASONS AT PEBBLE CANYON, PLAT BOOK 53, PAGE 45, LOT 50, BLOCK 10 Clark County

AGENT STATES THAT:
This conveyance is made pursuant to the powers conferred upon agent by Nevada Revised Statutes, the Pebble Canyon HOA governing documents (CC&R's) and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell, recorded on 9/20/2012 as instrument # 0001446 Book 20120920 which was recorded in the office of the recorder of said county. Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of Notice of Delinquent Assessment and Notice of Default and the posting and publication of the Notice of Sale. Said property was sold by said agent, on behalf of Pebble Canyon HOA at public auction on 3/1/2013, at the place indicated on the Notice of Sale. Grantee being the highest bidder at such sale, became the purchaser of said property and paid therefore to said agent the amount bid $3,700.00 in lawful money of the United States, or by satisfaction, pro tanto, of the obligations then secured by the Delinquent Assessment Lien.

Dated: March 1, 2013

By Elissa Hollander, Agent for Association and Employee of Nevada Association Services

STATE OF NEVADA)
COUNTY OF CLARK)

On March 1, 2013, before me, M. Blanchard, personally appeared Elissa Hollander personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same in his/her authorized capacity, and that by signing his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and seal.

(Seal)

(Signature)

M. Blanchard

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)
   a. 177-24-514-043
   b. _____
   c. _____
   d. _____
2. Type of Property:
   a. ☐ Vacant Land b. ☑ Single Fam. Res.
   c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
   e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
   g. ☐ Agricultural h. ☐ Mobile Home
   ☐ Other

FOR RECORDERS OPTIONAL USE ONLY
Book _____ Page: _____
Date of Recording: _____
Notes:

3.a. Total Value/Sales Price of Property $ 3,700.00
   b. Deed in Lieu of Foreclosure Only (value of property) (_____)
   c. Transfer Tax Value: $ 3,700.00
   d. Real Property Transfer Tax Due $ 20.40

4. **If Exemption Claimed:**
   a. Transfer Tax Exemption per NRS 375.090, Section _____
   b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Linda Hilarcher Capacity: Agent

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION (REQUIRED)	BUYER (GRANTEE) INFORMATION (REQUIRED)
Print Name: Nevada Association Services	Print Name: S F R Investments Pool 1, LLC
Address: 6224 W. Desert Inn Rd.	Address: 5030 Paradise Rd., B-214
City: Las Vegas	City: Las Vegas
State: NV Zip: 89146	State: NV Zip: 89119

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

North American Title Company
8485 W. Sunset Road #111
Las Vegas, NV 89113

Escrow # 38131 / N71869

State: Zip:

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 22

EXHIBIT 22

Statement

Statement on HOA Super-Priority Lien Foreclosures

FOR IMMEDIATE RELEASE

4/21/2015

Title 12 United States Code Section 4617(j)(3) states that, while the Federal Housing Finance Agency acts as Conservator, "[no] property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency." This law precludes involuntary extinguishment of Fannie Mae or Freddie Mac liens while they are operating in conservatorships and preempts any state law that purports to allow holders of homeownership association (HOA) liens to extinguish a Fannie Mae or Freddie Mac lien, security interest, or other property interest.

As noted in our December 22, 2014 statement on certain super-priority liens, FHFA has an obligation to protect Fannie Mae's and Freddie Mac's rights, and will aggressively do so by bringing or supporting actions to contest HOA foreclosures that purport to extinguish Enterprise property interests in a manner that contravenes federal law. Consequently, FHFA confirms that it has not consented, and will not consent in the future, to the foreclosure or other extinguishment of any Fannie Mae or Freddie Mac lien or other property interest in connection with HOA foreclosures of super-priority liens.

12/22/2014: **Statement of the Federal Housing Finance Agency on Certain Super-Priority Liens**

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than $5.6 trillion in funding for the U.S. mortgage markets and financial institutions. Additional information is available at **www.FHFA.gov**, on Twitter **@FHFA**, **YouTube** and **LinkedIn**.

Contacts:

Media: Corinne Russell (202) 649-3032 / Stefanie Johnson (202) 649-3030

Consumers: Consumer Communications or (202) 649-3811

ORDR
JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
E-mail: jackie@kgelegal.com
DIANA CLINE EBRON, ESQ.
Nevada Bar No. 10580
E-mail: diana@kgelegal.com
KAREN L. HANKS, ESQ.
Nevada Bar No. 9578
E-mail: karen@kgelegal.com
KIM GILBERT EBRON
7625 Dean Martin Drive, Suite 110
Las Vegas, NV 89139
Telephone: (702) 485-3300
Facsimile: (702) 485-3301
Attorneys for SFR Investments Pool 1, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; DOES 1 through 10; and ROE BUSINESS ENTITIES 1 through 10, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1 10 and ROE BUSINESS ENTITIES 1 through 10 inclusive,

Counter-Defendant/Cross-Defendants

Case No. A-13-692304-C

Dept. No. XXIV

ORDER GRANTING SFR INVESTMENTS POOL 1, LLC'S MOTION FOR SUMMARY JUDGMENT

This matter came before the Court on SFR Investments Pool 1, LLC ("SFR") Motion for Summary Judgment ("SFR MSJ"), filed on July 7, 2016, seeking judgment on its claims against JPMorgan Chase Bank, National Association ("Chase") for quiet title/declaratory relief and on Chase's claims against SFR for quiet title/declaratory relief and unjust enrichment. Chase filed

☐ Voluntary Dismissal
☐ Involuntary Dismissal
☐ Stipulated Dismissal
☐ Motion to Dismiss by Deft(s)
☒ Summary Judgment
☐ Stipulated Judgment
☐ Default Judgment
☐ Judgment of Arbitration

its opposition to SFR's MSJ on July 26, 2016, and SFR filed its reply on August 1, 2016. Karen L. Hanks, Esq. of Kim Gilbert Ebron appeared on behalf of SFR and Abran E. Vigil, Esq. of Ballard Spahr LLP appeared on behalf of Chase. No other parties or counsel appeared.

Having reviewed and considered the full briefing and arguments of counsel, for the reasons stated on the record and in the pleadings, and good cause appearing, this Court makes the following findings of fact and conclusions of law.[1]

FINDINGS OF FACT

1. In 1991, Nevada adopted the Uniform Common Interest Ownership Act as NRS 116, including NRS 116.3116(2).[2]

2. On November 8, 1991, Pebble Canyon Homeowners Association (the "Association"), recorded in the Official Records of the Clark County Recorder, its Declaration of Covenants, Conditions and Restrictions ("CC&Rs") as Instrument No. 01962 in Book 911108 of the Official Records of the Clark County Recorder.[3]

3. The Hawkinses took title to the real property commonly known as 3263 Morning Springs Drive, Henderson, Nevada 89074; Parcel No. 177-24-514-043 (the "Property"), by way of a Grant, Bargain, sale Deed recorded as Instrument No. 01962 in Book 911108 on June 12, 2006.

4. On June 12, 2006, a Deed of Trust was recorded against the Property in favor of GreenPoint Mortgage Funding, Inc. as Instrument No. 20060612003526 ("Deed of Trust"). The Deed of Trust was executed by the Hawkinses to secure a promissory note in the amount of $240,000.00. The Deed of Trust designated Mortgage Electronic Registration Systems, Inc. ("MERS") as beneficiary in a nominee capacity for the lender and the lender's successors and assigns.

5. As part of the loan transaction, the lender prepared and the Hawkinses signed, a

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[1] Any findings of fact that are more appropriately conclusions of law shall be so deemed. Any conclusions of law that are more appropriately findings of fact shall be so deemed.

[2] Unless otherwise noted, the findings set forth herein are undisputed.

[3] When a document is stated to have been recorded, it refers to being recorded in the Official records of the Clark County Recorder.

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Planned United Development Rider ("PUD Rider") a rider to the Deed of Trust, recognizing that the Property was located in a sub-common interest community within the Association.

6. On October 27, 2009, an Assignment of Deed of Trust was recorded as Instrument No. 20091027000618, stating that the MERS was assigning the Deed of Trust to Chase, together with underlying promissory note.

7. On October 27, 2009, California Reconveyance Company ("CRC") as trustee, recorded a Notice of Default and Election to Sell Under Deed of Trust, stating the Hawkinses had become delinquent on their payments under the note as of July 1, 2009.

8. On August 3, 2012, Nevada Association Services ("NAS") recorded on behalf of the Association a Notice of Delinquent Assessment Lien as Instrument No. 20120803000297 2 ("NODA"). The NODA was mailed to the Hawkinses.

9. On September 20, 2012, NAS recorded on behalf of the Association a Notice of Default and Election to Sell Under Homeowners Association Lien as Instrument No. 20120920000144 6 ("NOD"). The NOD was mailed to Chase and CRC, and Chase admits receipt of the NOD.

10. On February 7, 2013, NAS recorded on behalf of the Association a Notice of Trustee's Sale as Instrument No. 20110929000267 2 stating a sale date of March 1, 2013 ("NOS"). The NOS was mailed to Chase, CRC, MERS, and GreenPoint. Chase admits receipt of the NOS. The NOS was posted and published pursuant to statutory requirements.

11. On March 1, 2013, NAS held the Association foreclosure sale at which SFR placed the highest bid of $3,700.00 ("Association foreclosure sale").

12. The Trustee's Deed Upon Sale vesting title in SFR was recorded on March 6, 2013 as Instrument No. 20130306000164 8. The Trustee's Deed included the following recitals:

> This conveyance is made pursuant to the powers conferred upon [NAS] by Nevada Revised Statutes, the Pebble Canyon HOA governing documents (CC&Rs) and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election, recorded on 9/20/2012. . . . Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of [NODA] and [NOD] and the posting and publication of the Notice of Sale.

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13. Chase is charged with knowledge of NRS 116 since its adoption in 1991.

14. Despite being fully aware of the Association's foreclosure sale, neither Chase, its predecessors in interest, nor their agents attempted to pay any amount of the Association's lien. Neither did they take any action to enjoin the sale or seek some intervention to determine an amount to pay.

15. In the Nevada Supreme Court's SFR Investments Pool 1, LLC v. U.S. Bank, N.A., decision, the Court was unanimous in its interpretation that a homeowners association foreclosure sale could extinguish a first deed of trust, and the only disagreement being in whether the foreclosure could be non-judicial or must be judicial. 130 Nev. ___, 332 P.3d 408, 419 (2014) (majority holding and first paragraph of the concurring in part, dissenting in part by C.J. Gibbons).

16. There is no suggestion of fraud, oppression or unfairness in the conduct of the sale. Thus, whether the price was inadequate or grossly inadequate, is immaterial.

17. In its opposition, Chase argued the loan was FHA insured through the Department of Housing and Urban Development ("HUD") and, therefore, this Court should use the Supremacy Clause to preempt NRS 116 and declare that the Association's foreclosure sale did not extinguish Chase's FDOT. This Court finds that an insurer does not have an interest in the Property that is protected under the Property Clause or Supremacy Clause until title is transferred to HUD.

18. Chase also argued that the SFR Decision should not be applied retroactively.

19. Chase provided no evidence that its alleged payments for taxes or insurance were made in defense of property. There was no evidence that SFR was a named additional insured on any insurance policy on the Property obtained by Chase, nor did Chase provide evidence that the Property was in danger of being sold for delinquent taxes.

CONCLUSIONS OF LAW

A. Summary judgment is appropriate "when the pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law.'" Wood v. Safeway, 121 Nev. 724, 729, 121 P.3d

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1026, 1029 (2005). Additionally, "[t]he purpose of summary judgment 'is to avoid a needless trial when an appropriate showing is made in advance that there is no genuine issue of fact to be tried, and the movant is entitled to judgment as a matter of law.'" McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) quoting Coray v. Home, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964). Moreover, the non-moving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against [it]." Wood, 121 Nev. at 32, 121 P.3d at 1031. The non-moving party "is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture." Id. Rather, the non-moving party must demonstrate specific facts as opposed to general allegations and conclusions. LaMantia v. Redisi, 118 Nev. 27, 29, 38 P.3d 877, 879 (2002); Wayment v. Holmes, 112 Nev. 232,237,912 P.2d 816, 819 (1996). Though inferences are to be drawn in favor of the non-moving party, an opponent to summary judgment, must show that it can produce evidence at trial to support its claim or defense. Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414,417,633 P.2d 1220, 222 (1981).

B. While the moving party generally bears the burden of proving there is no genuine issue of material fact, in this case there are a number of presumptions that this Court must consider in deciding the issues, including:

1. That foreclosure sales and the resulting deeds are presumed valid. NRS 47.250(16)-(18) (stating that there are disputable presumptions "[t]hat the law has been obeyed[]"; "[t]hat a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to that person, when such presumption is necessary to perfect the title of such person or a successor in interest[]"; "[t]hat private transactions have been fair and regular"; and "[t]hat the ordinary course of business has been followed.").

2. That a foreclosure deed "reciting compliance with notice provisions of NRS 116.31162 through NRS 116.31168 "is conclusive" as to the recitals "against the unit's former owner, his or her heirs and assigns and all other persons." SFR Investments Pool 1 v. U.S. Bank, 130 Nev. Adv. Op. 75, 334 P.3d at 411-12.

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3. That "[i]f the trustee's deed recites that all statutory notice requirements and procedures required by law for the conduct of the foreclosure have been satisfied, a rebuttable presumption arises that the sale has been conducted regularly and properly; this presumption is conclusive as to a bona fide purchaser." Moeller v. Lien, 30 Cal.Rptr.2d 777, 783 (Ct. App. 1994); see also, 4 Miller & Starr, Cal. Real Estate (3d ed. 2000) Deeds of Trust and Mortgages § 10:211, pp. 647-652; 2 Bernhardt, Cal. Mortgage and Deed of Trust Practice (Cont.Ed.Bar 2d ed. 1990) § 7:59, pp. 476-477).

C. "A presumption not only fixes the burden of going forward with evidence, but it also shifts the burden of proof." Yeager v. Harrah's Club, Inc., 111 Nev. 830, 834, 897 P.2d 1093, 1095 (1995)(citing Vancheri v. GNLV Corp., 105 Nev. 417, 421, 777 P.2d 366, 368 (1989)). "These presumptions impose on the party against whom it is directed the burden of proving that the nonexistence of the presumed fact is more probable than its existence." Id. (citing NRS 47.180).

D. Thus, Chase bore the burden of proving it was more probable than not that the Association Foreclosure Sale and the resulting Foreclosure Deed were invalid.

E. Chase has the burden to overcome the conclusive presumption of the foreclosure deed recitals with evidence of fraud, unfairness and oppression.

F. Pursuant to the SFR Decision, NRS 116.3116(2) gives associations a true super-priority lien, the non-judicial foreclosure of which extinguishes a first deed of trust. SFR, 334 P.3d at 419.

G. According to the SFR Decision, "together, NRS 116.3116(1) and NRS 116.31162 provide for the nonjudicial foreclosure of the whole of the HOA's lien, not just the subpriority piece of it." SFR, 334 P.3d at 414-15.

H. The Association foreclosure sale vested title in SFR "without equity or right of redemption." SFR, 334 P.3d at 419 (citing NRS 116.31166(3)).

I. "If the sale is properly, lawfully and fairly carried out, [the bank] cannot unilaterally create a right of redemption in [itself]." Golden v. Tomiyasu, 387 P.2d 989, 997 (Nev. 1963).

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J. As the SFR Decision did not announce a new rule of law but merely interpreted the provisions set forth in NRS 116 *et seq.*, it does not raise an issue of retroactivity. The SFR Decision provided "'an authoritative statement of what the statute mean before as well as after the decision of the case giving rise to that construction.'" Morales-Izquierdo v. Dep't of Homeland Sec., 600 F.3d 1076, 1087 (9th Cir. 2010), overruled in part on other grounds by Garfias-Rodriguez v. Holder, 702 F.3d 504, 516 (9th Cir. 2010), quoting Rivers v. Roadway Express, Inc., 511 U.S. 298, 312-313 (1994). Thus, this Court rejects Chase's retroactivity argument.

K. NRS 116 does not require a purchaser at an association foreclosure sale be a bona fide purchaser, but in any case, without evidence to the contrary, when an association's foreclosure sale complies with the statutory foreclosure rules, as evident by the recorded notices and with the admission of knowledge of the sale, and without any facts to the contrary, knowledge of a FDOT and that Chase retained the ability to bring an equitable claim to challenge the foreclosure sale is not enough in itself to demonstrate that SFR took the property with notice of a potential dispute to title, the basis of which is unknown to SFR, and therefore, does is not sufficient to defeat SFR's ability to claim BFP status. Shadow Wood HOA v. N.Y. Cmty Bancorp, 132 Nev. ___, 366 P.3d 1105, 1116 (2016).

L. Shadow Wood reaffirmed Nevada's adoption of the California rule that "inadequacy of price, **however gross**, is not in itself a sufficient ground for setting aside a trustee's sale legally made; there must be in addition proof of some element of fraud, unfairness or oppression **as accounts for and brings about the inadequacy of price**[.]" Shadow Wood, 2016 WL 347979 at*5 (quoting Golden, 79 Nev. at 504 (internal citations omitted) (emphasis added)).

M. Because there is no suggestion of fraud, oppression or unfairness in the sale process or that SFR knowingly participated in fraud, oppression or unfairness in the sale, even if the purchase price paid by SFR was seen as inadequate or grossly inadequate, price alone is insufficient to invalidate the sale.

N. Chase admits it received the required notices and knew the sale had been

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scheduled, yet it did nothing to protect its interest in the Property. Furthermore, as a mere lienholder, as opposed to homeowner like the bank in Shadow Wood, Chase is not entitled to equitable relief as it has an adequate remedy at law for damages against any party that may have injured it. Las Vegas Valley Water Dist. V. Curtis Park Manor Water Users Ass'n, 646 P.2d 549, 551 (Nev. 1982) ("courts lack authority to grant equitable relief when an adequate remedy at law exists."). Thus, even if this Court had found some facts suggesting fraud, unfairness or oppression, it would not need to weigh the equities. However, because Chase has presented no evidence, other than the alleged "low price" paid by SFR, suggesting that the sale was anything other than properly conducted, the Court would not need to weigh the equities in this case.

O. The Court rejects Chase's arguments on the Supremacy Clause because Chase, a private litigant, cannot use the Supremacy Clause to displace state law under Armstrong v. Exceptional Child Care Ctr., Inc., 575 U.S. ___, 135 S.Ct. 1378, 1383-85 (2015). Furthermore, Chase lacks standing to enforce the National Housing Act. Finally, HUD's insurance interest is too attenuated to raise a supremacy clause issue, where the FDOT has not been assigned to HUD.

P. The Court rejects Chase's argument that an association must have accumulated either six or nine months of delinquent assessments before it can begin the foreclosure process. Nothing in NRS 116.3116 requires such, and the reference to six or nine months in NRS 116.3116 refers only to the amount that would be prior to a first security interest. NRS 116.31162(4) provides that the notice of delinquent assessments can be sent as early as ninety (90) days of a delinquency.

Q. Chase failed to demonstrate an exception to the voluntary payment doctrine: (a) coercion or duress caused by a business necessity, or (2) payment in defense of property. Nevada Association Services, Inc. v. The Eighth Judicial District, 130 Nev. ___, ___, 338 P.3d 1250 (2014). Without showing one of these exceptions applies, one cannot recover voluntary payments. Best Buy Stores v. Benderson-Wainberg Assocs., 668 F.3d 1019, 1030 (8th Cir. 2012) ("one who makes a payment voluntarily, cannot recover it on the ground that he was under no legal obligation to make the payment."). Here, Chase failed to provide any facts

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raising a material question as to whether any alleged payments were made under one of the exceptions.

R. The Deed of Trust was extinguished by the Association's foreclosure sale.

S. SFR is entitled to quiet title in its name free and clear of the Deed of Trust.

T. SFR is entitled to a permanent injunction enjoining Chase, its successors and assigns from taking any action on the extinguished

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the SFR MSJ is **GRANTED.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Deed of Trust recorded against the real property commonly known as 3263 Morning Springs Drive, Henderson, Nevada 89074; Parcel No. 177-24-514-043, was extinguished by the Association Foreclosure Sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Chase, its predecessors in interest and its successors, agents, and assigns, have no further interest in real property located at 3263 Morning Springs Drive, Henderson, Nevada 89074; Parcel No. 177-24-514-043 and are hereby permanently enjoined from taking any further action to enforce the now extinguished Deed of Trust.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real property located 3263 Morning Springs Drive, Henderson, Nevada 89074; Parcel No. 177-24-514-043 is hereby quieted in favor of SFR.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that SFR is entitled to summary judgment on Chase's claim for unjust enrichment and that Chase is not entitled to relief as to that claim.

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IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Order shall resolve all claims as to all parties.[4]

DATED this 23 day of August, 2016.

DISTRICT COURT JUDGE

Respectfully Submitted By:

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Approved as to Form but Not Content By:

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[4] SFR dismissed its claims against the Hawkinses by way of Stipulation and Order entered on April 23, 2014, notice of entry of which was served on April 24, 2014.

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DISTRICT COURT

CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company Defendants.	CASE NO. A-13-692304-C DEPT NO. XXIV
SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company, Counter-Claimant, vs. JPMORGAN CHASE BANK NATIONAL ASSOCIATION, a national association; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1-10 and ROE BUSINESS ENTITIES 1 through 10, inclusive, Counter-Defendant/Cross-Defendants.	

MOTION TO EXTEND DISCOVERY DEADLINES AND TO RE-SET TRIAL DATE (SECOND REQUEST)

Pursuant to EDCR 2.25 and 2.35, plaintiff JPMorgan Chase Bank, N.A. ("Chase") hereby moves to extend discovery deadlines and re-set trial date pursuant to the December 12, 2017 and January 9, 2018 status checks before the Honorable Jim Crockett.

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NOTICE OF MOTION

Please take notice that the undersigned will bring **MOTION TO EXTEND DISCOVERY DEADLINES AND RE-SET TRIAL DATE (SECOND REQUEST)** on for hearing before the above-entitled Court on the 13th day of February at 9:00 a.m.

Dated: January 23, 2018

BALLARD SPAHR LLP

By: /s/ Abran E. Vigil
Abran E. Vigil
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MEMORANDUM OF POINTS AND AUTHORITIES

Chase seeks a further extension of discovery in this matter to permit Chase to disclose additional documents. This case arises from a foreclosure sale under NRS Chapter 116. Chase claims that a deed of trust recorded against the subject property survived the sale. Defendant SFR Investments Pool 1, LLC ("SFR") claims the deed of trust was extinguished. Chase argues, among other things, that it was servicing the loan secured by the deed of trust on behalf of the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which owned the loan. Chase further argues that 12 U.S.C. § 4617(j)(3) preempts Nevada law to the extent that Nevada law would permit the sale to extinguish the deed of trust.

On June 22, 2017, the Nevada Supreme Court issued an opinion in the Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC, No. 69400, 133 Nev. Adv. Op. 34 (2017). Nationstar held that the servicer of a loan owned by Fannie Mae or Freddie Mac has standing to argue that 12 U.S.C. § 4617(j)(3) bars a foreclosure sale under NRS Chapter 116 from extinguishing a deed of trust securing the loan. Because this Court granted summary judgment before the Nationstar was issued, this Court did not consider and address the relevant facts of this case as clarified in the Nationstar decision. Chase's request to extend discovery is not a result of excusable neglect. Rather, there are compelling circumstances for Chase's request because the parties completed discovery and briefed dispositive motions before the Nevada Supreme Court issued its opinion in Nationstar. Accordingly, there may be additional documents that will assist the court in addressing the issues on remand.[1]

Proposed Amendment of Scheduling Order

Chase hereby requests an extension of the current plan and schedule as follows:

[1] Chase reserves the right to withdraw this Motion in the event it can reach an agreement with opposing counsel or otherwise determines the motion is no longer necessary.

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1. Statement of Discovery Completed

On June 29, 2015, the Court filed a Scheduling Order, which set the following deadlines:

(a) Close of discovery: May 2, 2016

(b) Motions to amend pleadings or add parties: February 2, 2016

(c) Initial expert disclosures: February 2, 2016

(d) Rebuttal expert disclosures: March 3, 2016

(e) Filing of dispositive motions: June 1, 2016

The parties have provided initial disclosures of documents and witnesses pursuant to N.R.C.P. 16.1. The parties have served discovery and responded to discovery. Chase designated and served its initial expert disclosure on February 2, 2016 and SFR designated its rebuttal expert on March 3, 2016. The deposition of Chase's expert occurred on March 9, 2016. Chase also conducted the depositions of third parties Nevada Association Services, Inc. and Pebble Canyon Homeowners Association. The deposition of Chase occurred on April 21, 2016. The deposition of SFR occurred on June 24, 2016.

2. Discovery that Remains to be Completed

(a) Supplement to N.R.C.P. 16.1 disclosures

3. The Reasons Why Remaining Discovery Was Not Completed

This matter was recently remanded from the Nevada Supreme Court to allow for this Court to determine whether 12 U.S.C. § 4617(j)(3) preempts Nevada law, whether Freddie Mac owned the loan at the time of the sale, or whether Chase was servicing the loan at the time of the sale. The issues to be addressed may be further clarified by additional discovery.

4. Proposed Discovery Schedule

Chase proposes an extension of 45-days from the date of the February 13, 2018 hearing on the instant Motion and proposes as follows:

A. Close of discovery: Friday, March 30, 2018

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B. Deadline to file dispositive motions: Monday, April 30, 2018.

5. Trial

Consistent with the deadlines requested above, Chase requests that a bench trial be set for a five-week trial stack to begin no early than the June 25, 2018 trial stack.

Dated: January 23, 2018

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CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5, I hereby certify that on January 23, 2018, an electronic copy of the foregoing MOTION TO EXTEND DISCOVERY DEADLINES AND TO RE-SET TRIAL DATE (SECOND REQUEST) was filed and served on the following via the Court's electronic service system:

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Attorneys for SFR Investments Pool, LLC

/s/ Ellen Phillipson
An employee of BALLARD SPAHR LLP

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company, Defendants. AND ALL RELATED CLAIMS.	Case No. A-13-692304-C Dept. No. XXIV **SFR INVESTMENTS POOL 1, LLC'S OPPOSITION TO PLAINTIFF'S MOTION TO EXTEND** **Hearing Date: February 13, 2018** **Hearing Time: 9:00 a.m.**

SFR Investments Pool 1, LLC ("SFR") hereby files its Opposition to JPMORGAN CHASE BANK, NATIONAL ASSOCIATION's ("the Bank") Motion to Extend Discovery Deadlines and to Re-Set Trial Date. This Opposition is based on the papers and pleadings on file herein, the following memorandum of points and authorities, the Declaration of Jacqueline A. Gilbert, Esq., and any oral argument this Court may entertain.

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DECLARATION OF JACQUELINE A. GILBERT

I, Jacqueline A. Gilbert, hereby declare as follows:

1. I am over the age of 18, a resident of Clark County, Nevada, and am an attorney admitted to practice in all courts in the State of Nevada.

2. I am a named member of Kim Gilbert Ebron, and represent defendant/counter-claimant/cross-claimant SFR Investments Pool 1, LLC ("SFR") in the above-captioned action. I also represented SFR in Plaintiff JPMorgan Chase Bank, N.A.'s ("Chase") appeal following this Court's Order Granting SFR's Motion for Summary Judgment, entered on October 26, 2016.

3. I make this Declaration in support of SFR's Opposition to Chase's motion to reopen discovery. I have personal knowledge of the facts set forth herein and for those made on information and belief I have no reason to doubt the veracity of the statement.

4. Discovery closed in this case on May 6, 2016.

5. In the parties' motions for summary judgment, Chase raised 12 U.S.C. § 4617(j)(3) as a defense, asserting that the loan in question and its resulting deed of trust were "owned" by Fannie Mae. It also asserted that it, as the servicer of the loan, was entitled raise § 4617(j)(3). In support of its position, Chase attached a number of documents to its Motion that it claimed showed Fannie's ownership and Chase's position as servicer.

6. SFR disputed not only standing to raise §4617(j)(3), but whether Fannie owned or had ever owned the loan or had an interest in the deed of trust, and Chase's position as servicer for Fannie. In support of its position, SFR attached a number of documents it believes calls into question the credibility of the evidence presented by Chase. Additionally, SFR objected to a number of Chase's documents based on Chase's failure to produce the documents during the discovery period.

7. This Court granted SFR's motion for summary judgment, in part on Chase's lack of standing to raise 12 U.S.C. § 4617(j)(3) as a defense. Therefore, this Court made no findings on Fannie's ownership.

8. It also adjudicated the remaining claims in SFR's favor, because it found (a) SFR a bona fide purchaser; (b) Chase failed to meet its burden to show fraud, unfairness or oppression

and low price alone is insufficient to set aside a sale; (c) the sale was properly conducted and with the lack of evidence of fraud, unfairness or oppression there was no need to weigh equities in this case; (d) that there need not be six or nine months of delinquency before an association can begin the foreclosure process; and (e) Chase's unjust enrichment claim was barred by the voluntary payment doctrine.

9. The Nevada Supreme Court's opinion in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Nev. Adv. Op. 34, 396 P.3d 754 (2017), held that a servicer of a loan owned by Fannie or Freddie Mac had standing to raise § 4617(j)(3) as a defense. However, in order to do so, it would have to prove ownership by the GSE and a contractual relationship with the GSE. *Id.* at 758.

10. Chase appealed.

11. Following the *Nationstar* decision, Chase's appellate counsel, Matthew Lamb, contacted me regarding seeking certification from this Court to vacate its prior orders in this case (referred to as Morning Springs/Hawkins) and in DC Case No. A-13-692202-C (referred to as Begonia/Bell) and get remand from the Nevada Supreme Court to save resources. See email chain regarding remand, at p. 11-12. A true and correct copy of this email chain is attached hereto as **Exhibit A**.

12. In response, I set forth very clearly that SFR would be willing to come before this Court to have the order amended on the § 4617(j)(3) issue but not the other issues and that we would do so filing motions for summary judgment without reopening discovery:

> I am willing to agree to go before the DC to have the order amended on the HERA issue but not to reopen discovery or any other of the DC finding and conclusions as to the sales. So the DC would grant partial summary judgment on the other issues leaving on the issue of HERA/ownership/contract per the Nationstar case and we both file motions for summary judgment **without reopening discovery**. Would that be acceptable?

See Exhibit A at p. 10 (emphasis added). In addition to Mr. Lamb and myself, a number of other attorneys at both firms were copied on the exchanges.

13. Mr. Lamb agreed, so long as the other issues were preserved for appeal. *Id.* at p. 9-10. I agreed. *Id.* at p. 9.

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14. Following this exchange, the parties moved in this Court for certification and following this Court's grant, the parties moved for remand in the Nevada Supreme Court.

15. Upon remand, this Court set a hearing regarding further proceedings on remand.

16. Neither Mr. Lamb nor I attended the December 12, 2017 hearing. In fact, both firms sent counsel that had not been copied on the prior emails: Mr. Shiroff for Chase and Mr. Clayton for SFR.

17. Upon information and belief, at the December 12, 2017 hearing, Chase asked to reopen discovery to provide additional documents to support its claims as to Fannie ownership and Chase's contractual relationship. SFR opposed reopening discovery but represented that if the Court were so inclined, SFR would need to depose Fannie or whomever else was necessary based on the newly, late disclosed documents.

18. SFR did not request the hearing be transcribed so no transcript is available. The minutes simply state that there was a colloquy following discovery after Mr. Shiroff advised they would be filing a motion and requested sixty days for discovery. Nothing in the minutes suggests SFR agreed to stipulate, but that the Court ordered a stipulation be filed, or that the Court would be inclined to grant a motion to reopen.

19. Upon information and belief, the Court's decision to reopen was based on the Court's wanting a "complete record."

20. Following the December 12, 2017 hearing, Karen Hanks, another attorney in our office who was copied on the original email chain, contacted counsel for Chase regarding Chase's request to reopen discovery and providing the same email chain I have attached as Exhibit A. I was copied on this email and all emails subsequent regarding this issue. The email from Ms. Hanks suggested simply stipulating to a dispositive motion deadline, as was agreed upon by the parties. See email chain, beginning December 13, 2017, at p. 4, a true and correct copy of which is attached hereto as **Exhibit B**.

21. Chase's counsel responded that they only wanted to reopen to "supplement our 2016 disclosures." Counsel seemed to think that it could do these disclosures without depositions and accused SFR of objecting as an "evidentiary tactic rather than having the case heard on the

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merits." *See* Ex. B at p. 2. Counsel did not address the agreement between SFR and Chase in seeking remand.

22. Ms. Hanks responded that SFR would not stipulate to reopen, and that SFR would be reserving its rights to depose Fannie and Freddie (based on the case), and any other witnesses deemed necessary regarding the issues raised in the *Nationstar* case.

23. I am fully cognizant that this Court may determine on its own accord what, if any, need there is to reopen discovery and is not bound by the parties' agreement.

24. Notwithstanding the above, I would not have agreed to seek remand without the agreement from opposing counsel and would have allowed the appeal to take its course. I believed I could rely on Counsel's agreement, made in writing.

25. SFR's position is that a complete record is determined by the evidence provided by the parties during discovery and that at the time of the original motions for summary judgment Chase would have had to prove the same things it seeks to prove now: ownership by Fannie and Chase's relationship to Fannie. There is no new evidentiary standard introduced by the *Nationstar* case. Additionally, any evidence that Chase may provide, if FHFA and Fannie were relying on it to represent their interests, should have been provided to Chase and been within its possession, custody and control. To the extent those entities failed to provide the information, they should not be rewarded for withholding evidence from their agent.

26. At the January 8, 2018 hearing I appeared on behalf of SFR and Sylvia Semper appeared on behalf of Chase. At the hearing, Ms. Semper represented to this Court that it would stipulate not to reopen discovery in the above-captioned case.

27. After the hearing on January 8, 2018, I had multiple conversations with Ms. Semper but we could not agree on a resolution. In fact, I was presented with a stipulation not to reopen discovery in the Begonia/Bell case but Ms. Semper would not include any language stating that Chase would not supplement or try to disclose further documents.

28. I also contacted Abran Vigil, a partner at the firm representing Chase, to discuss this further. We were unable to reach an agreement. My understanding of the conversation is that Chase's position is that documents disclosed after the close of discovery are merely supplements

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to disclosures and are not violating the discovery deadline, and that a party may disclose anything prior to trial, despite a discovery order. Obviously, my position differs.

29. If this Court is not inclined to deny Chase's motion and allow the case to proceed on the evidence proffered during discovery, then I believe SFR will need unfettered discovery on the following issues in addition to whatever documents Chase opts to disclose: ownership by Fannie, transfer to a trust by Fannie, consent to foreclosure, Chase's agency relationship.

30. Such discovery would include, but is not limited to depositions of Fannie and any other person or entity that Chase deems necessary to prove its case with Chase being required to produce such witnesses in Las Vegas without SFR needing to subpoena the entities, without extended discovery fights and without a limitation on the time of depositions other than that set by the rules. Discovery could also include additional written discovery.

I hereby declare under penalty of perjury and the laws of the State of Nevada that the foregoing is true and accurate.

DATED this 30th day of January, 2018.

/s/Jacqueline A. Gilbert
Jacqueline A. Gilbert, Esq.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. STANDARD OF REVIEW

The Nevada Rules of Civil Procedure "shall be construed and administered to secure the *just, speedy, and inexpensive determination of every action*." NRCP 1 (emphasis added). Allowing the Bank to reopen discovery at this late date to make a disclosure it had every opportunity to make—and was required to make—during the original discovery period is prejudicial. Further it would encourage the Bank to continue to cause delay and added expense in similar cases.

The Bank moves to extend discovery pursuant to EDCR 2.35, which states that request to extend a discovery deadline less than 20 days prior to the deadline "shall not be granted unless the moving party, attorney or other person demonstrates the failure to act was the result of excusable neglect." But the Bank does not explain in its motion how its failure to timely move to extend the discovery deadline constitutes excusable neglect in this case.

"Excusable neglect" has been defined as follows:

> A failure—which the law will excuse—to take some proper step at the proper time (esp. in neglecting to answer a lawsuit) **not because of the party's own carelessness, inattention, or willful disregard of the court's process,** but because of some unexpected or unavoidable hindrance or accident or because of reliance on the care and vigilance of the party's counsel or on a promise made by the adverse party.

Clark v. Coast Hotels & Casinos, Inc., No. 62603, 2014 WL 3784262, at *3–4 (Nev. July 30, 2014)(unpublished) (citing *Black's Law Dictionary* 1133 (9th ed.2009).)(emphasis added).

Nationstar's sole explanation appears to be that the Nevada Supreme Court's decision in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Nev. Adv. Op. 34, 396 P.3d 754 (2017) somehow created a new evidentiary requirement. As discussed further below, the *Nationstar* case did not establish a new evidentiary requirement, nor does it constitute excusable neglect, even if that were the standard for granting the Bank's motion. The Bank actually admits that its request is not a result of excusable neglect. *See* Bank's Mot. at 4:18. Instead, the standard is found under NRCP 16(b), which would apply even if the motion were timely under EDCR 2.35, which it is not. Pursuant to NRCP 16(b),

> the judge, or a discovery commissioner shall . . . enter a scheduling order that limits

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> the time: (1) To join other parties and to amend the pleadings; (2) To file and hear motions; and (3) To complete discovery.
>
> . . .
>
> A schedule shall not be modified except by leave of the judge or a discovery commissioner ***upon a showing of good cause*.**

(emphasis added).

In *Nutton v. Sunset Station, Inc.*, 131 Nev. Adv. Op. 34, 357 P.3d 966, 972 (Nev. App. 2015), the Court of Appeals of Nevada noted there is a non-exclusive four-factor test to determine whether good cause exists: "(1) the explanation for the untimely conduct; (2) the importance of the requested untimely action; (3) the potential prejudice in allowing the untimely conduct; and (4) the availability of a continuance to cure such prejudice." *citing S&W Enters., LLC v. SouthTrust Bank of Ala, N.A.*, 315 F.3d 533, 536 (5th Cir. 2003). However, because the factors are non-exclusive, "**ultimately, if the moving party was not diligent in at least attempting to comply with the deadline, 'the inquiry should end**.'" *Id.* (emphasis added), *citing Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609, (9th Cir. 1992) and *Perfect Pearl Co. v. Majestic Pearl & Stone, Inc.*, 889 F.Supp.2d 453, 457 (S.D.N.Y. 2012) ("A party fails to show good cause when the proposed amendment rests on information that the party knew, or should have known, in advance of the deadline."). Additionally, "**carelessness is not compatible with a finding of diligence and offers no reason for a grant of relief.**" *Id.* (emphasis added).

II. THE *NATIONSTAR* CASE SIMPLY CONFIRMED THE PRIOR EVIDENTIARY BURDEN

The Nevada Supreme Court's opinion in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Nev. Adv. Op. 34, 396 P.3d 754 (2017), held that a servicer of a loan owned by Fannie or Freddie Mac had standing to raise § 4617(j)(3) as a defense. However, in order to support its defense, it would have to prove ownership by the GSE and a contractual relationship with the GSE. *Id.* at 758. The *Nationstar* decision did not create a new evidentiary burden as to the applicability of the defense, as suggested by the Bank. Instead, it held that a servicer can raise § 4617(j)(3) as a defense, upon the appropriate showing of a contractual relationship with the GSE, and that the defense is only applicable if the servicer provides sufficient evidence of GSE ownership. Previously, the Bank asserted it had standing to assert the purportedly applicable defense under § 4617(j)(3). This is the exact same evidentiary burden the Bank faced prior to

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Nationstar. In fact, the Bank has failed to articulate what changed in its evidentiary burden. Furthermore, any evidence it would seek to disclose to support a defense under § 4617(j)(3) would be in the custody and control of the Bank during the prior discovery period. Therefore, even if the analysis went further, the Bank has no valid excuse for withholding the information previously, nor the necessity to produce it now. As such, the Bank should be held to the evidence previously produced, which the Bank deemed sufficient to support its defense, and its request should be denied.

III. THE BANK FAILED TO MEET ITS BURDEN

To the extent the analysis goes further, which it should not, the Bank failed to provide any evidence of good cause. In support of its motion, the Bank provides no explanation, nor justification for failing to produce sufficient evidence to support its alleged defense the first time around. As the *Nationstar* case did not establish a new evidentiary burden-it merely allows use of a defense based on the prior evidentiary burden. As discussed above, any documents regarding the Bank's contractual relationship with any GSE, and any documentation regarding GSE ownership that the Bank deemed sufficient to support the Bank's purported defense prior to *Nationstar* were in the custody and control of the Bank. Failure to produce them previously was due to a lack of diligence or a tactical decision that such documents were unnecesary, not a change in evidentiary burden. **The Bank was not diligent, so the inquiry should end**.

Even if the Court looks beyond the Bank's failure to be diligent, which it should not, the Bank does not meet any of the factors for good cause. **First**, the Bank has failed to provide any credible explanation for its need to reopen discovery. **Second**, the Bank has not explained the importance of any additional discovery that is necessary. **Third**, allowing the Bank to supplement their disclosures after discovery has closed and summary judgment briefing on the one issue this is complete and previously decided, prejudices SFR. Although this case is back on remand, it does not change the fact that this Court can decide the issues based on the briefing that was before it prior to the appeal and the *Nationstar* decision. As this Court noted, it did not make a decision on Fannie ownership. That does not mean it could not have, simply that, at the time, it was unnecessary. It was the Bank's burden to produce sufficient evidence to establish its defense under

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§ 4617(j)(3)—they do not get a second bite at the apple without good cause. **Fourth**, a continuance would not cure the prejudice caused by granting the Bank's request to reopen discovery to provide supplemental disclosure—it just benefits the Bank for its prior purported failure. The Bank has not, and cannot meet any of the factors required to show good cause. The Bank's motion should be denied in its entirety.

IV. THE BANK ACTED IN BAD FAITH

In addition to its failure to show good cause, the Bank's bad faith is apparent as laid out within the Gilbert Declaration. The timeline of events in this matter is demonstrative, wherein the Bank and SFR come to an agreement as to remand, SFR complies with its end of the deal, and the Bank simply backs out. The Bank failed to honor its agreement regarding the stipulated remand of this matter from the Nevada Supreme Court, and now it seeks to validate its bad acts, and complete disregard for the order governing discovery deadlines, through the instant motion. If it truly believed that disclosing the documents was not the same as extending discovery, it would have done so and SFR would have been filing a motion to exclude. But the Bank, despite its representation that "supplementing" is not the same as reopening discovery, filed the instant motion and sought this Court's blessing.

As the Nevada Court of Appeals explained, "[d]isregard of the [scheduling] order would undermine the court's ability to control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent and the cavalier." *Nutton v. Sunset Station, Inc.,* 131 Nev. Adv. Op. 34, 357 P.3d 966, 971 (Nev. App. 2015) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir.1992).) In this case, as outlined within, the Bank has already produced the evidence **it deemed sufficient** to support its defense under § 4617(j)(3). As no new evidentiary burden was created as a result of the *Nationstar* case, the Bank can only be requesting an extension to correct its initial failure. However, granting the Bank's instant motion would "reward the indolent and cavalier." The Bank's motion should be denied.

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V. CONCLUSION

For the reasons stated above, this Court should enter an order denying the Bank's motion.

DATED this 30th day of January, 2018.

KIM GILBERT EBRON

*/s/Jacqueline A. Gilbert*_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of January, 2018, pursuant to NRCP 5(b), I served via the Eighth Judicial District Court electronic filing system the foregoing **SFR INVESTMENTS POOL 1, LLC'S OPPOSITION TO PLAINTIFF'S MOTION TO EXTEND**, to the following parties:

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/s/ Jacqueline A. Gilbert
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Attorneys for Plaintiff and Counter-Defendant/Cross Defendant JPMorgan Chase Bank N.A.

DISTRICT COURT

CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company Defendants.	CASE NO. A-13-692304-C DEPT NO. XXIV
SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company, Counter-Claimant, vs. JPMORGAN CHASE BANK NATIONAL ASSOCIATION, a national association; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1-10 and ROE BUSINESS ENTITIES 1 through 10, inclusive, Counter-Defendant/Cross-Defendants.	

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NOTICE OF WITHDRAWAL OF MOTION TO EXTEND DISCOVERY DEADLINES AND TO RE-SET TRIAL DATE

On January 23 2018, Plaintiff JPMorgan Chase Bank, N.A. ("Chase"), by and through its counsel of record, Ballard Spahr LLP, filed a Motion to Extend Discovery Deadlines and Re-Set Trial Date ("Motion"). By way of this Notice, the Court, Defendant and Counter-Defendants are notified that the Motion is withdrawn and the hearing set for February 13, 2018 can be vacated.

Respectfully submitted this February 1, 2018

BALLARD SPAHR LLP

By: /s/ Joel E. Tasca
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of February, 2018, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing NOTICE OF WITHDRAWAL OF MOTION TO EXTEND DISCOVERY DEADLINES AND TO RE-SET TRIAL DATE was served on the parties in the manner set forth below:

[XX] Via the Court's electronic service system upon all counsel set up to receive notice via electronic service in this matter.

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Attorneys for Plaintiff SFR Investments Pool 1, LLC

[ ] HAND DELIVERY

[ ] E-MAIL TRANSMISSION

[ ] U.S. MAIL, POSTAGE PREPAID and/or

/s/ C. Bowman
An employee of BALLARD SPAHR LLP

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DISTRICT COURT

CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, N.A., Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; DOES 1 through 10, ROE BUSINESS ENTITIES 1 through 10, inclusive, Defendants.	CASE NO. A-13-692304-C DEPT NO. XXIV
SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company, Counter-Claimant, vs. JP MORGAN CHASE BANK N.A.; ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1-10 and ROE BUSINESS ENTITIES 1 through 10, inclusive, Counter-Defendant/Cross Defendants.	

JPMORGAN CHASE BANK, N.A.'S MOTION FOR SUMMARY JUDGMENT

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NOTICE OF MOTION

Please take notice that the undersigned will bring the foregoing Motion for Summary Judgment on for hearing before the above-entitled Court on the 5th day of JUNE, 2018, at the hour of 9:00 o'clock a.m. on said date, in Department XXIV, or as soon afterwards as counsel can be heard.

DATED this 13th day of April, 2018.

BALLARD SPAHR LLP

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Attorneys for Plaintiff and Counter-Defendant JPMorgan Chase Bank, N.A.

INTRODUCTION

Defendant SFR Investments Pool 1, LLC ("SFR") alleges that it purchased property at a homeowners' association foreclosure sale ("HOA Sale"), which it contends extinguished a deed of trust then encumbering the property. SFR relies on NRS § 116.3116(2) ("State Foreclosure Statute"), which allows properly conducted HOA Sales to extinguish all junior interests.

But at the time of the HOA Sale, JPMorgan Chase Bank, N.A. ("Chase") was beneficiary of record of that deed of trust as a contractually authorized servicer for the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which owned the deed of trust and therefore had a property interest in the collateral. A federal statute provides that while Freddie Mac is in conservatorship of the Federal Housing Finance Agency ("FHFA"), none of its property "shall be subject to . . . foreclosure . . . without the consent of [FHFA]." 12 U.S.C. § 4617(j)(3) (the "Federal Foreclosure Bar").

The Nevada Supreme Court has recently confirmed that the Federal Foreclosure Bar preempts the State Foreclosure Statute. *See Saticoy Bay LLC Series 9641 Christine View v. Fannie Mae*, No. 69419, 2018 WL 1448731 (Nev. Mar. 21, 2018). The Ninth Circuit and many state and federal trial courts have held the same, and further concluded that the Federal Foreclosure Bar protects Freddie Mac's property interests under circumstances, like here, where a servicer appeared as record beneficiary of a deed of trust owned by Freddie Mac. *See, e.g.*, *Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017); *Elmer v. JPMorgan Chase & Co.*, 707 F. App'x 426 (9th Cir. 2017); *Saticoy Bay, LLC v. Flagstar Bank, FSB*, 699 F. App'x 658 (9th Cir. 2017).

Here, Freddie Mac has been in FHFA conservatorship at all relevant times, and FHFA did not consent to extinguish Freddie Mac's property interest. Under the Supremacy Clause, the Federal Foreclosure Bar preempts the State Foreclosure Statute, and the HOA Sale did not extinguish Freddie Mac's interest.

For this reason, summary judgment should be entered in favor of Chase.

BACKGROUND

I. The Secondary Mortgage Market

In 1970, Congress chartered Freddie Mac to facilitate the nationwide secondary mortgage market, and thereby to enhance the equitable distribution of mortgage credit throughout the nation. *See City of Spokane v. Fannie Mae*, 775 F.3d 1113, 1114 (9th Cir. 2014). Congress has confirmed that "the continued ability of [Fannie Mae] and [Freddie Mac] to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy." 12 U.S.C. § 4501. Freddie Mac's federal statutory charter authorizes it to purchase and deal only in secured "mortgages," not unsecured loans. *See* 12 U.S.C. §§ 1451(d), 1454; *see also Lightfoot v. Cendant Mortg. Corp.*, 137 S. Ct. 553, 557 (2017) (discussing similarly situated Fannie Mae's role as a purchaser of mortgages); *Perry Capital LLC v. Mnuchin*, 864 F.3d 591, 599-600 (D.C. Cir. 2017) (same); *FHFA v. Nomura Holding Am., Inc.*, 873 F.3d 85, 105 (2d Cir. 2017) (same); *Perry Capital LLC v. Mnuchin*, 864 F.3d 591, 599-600 (D.C. Cir. 2017) (same).

Freddie Mac has purchased millions of mortgages nationwide, including hundreds of thousands in Nevada. In 2012, "the value of the combined debt and mortgage-related assets of [Fannie Mae and Freddie Mac] along with the Federal Home Loan Banks . . . exceed[ed] $5.9 trillion" nationwide. *Town of Babylon v. FHFA*, 699 F.3d 221, 225 (2d Cir. 2012). Indeed, "[t]he position held in the home mortgage business by Fannie Mae and Freddie Mac make[s] them the dominant force in the market." *Id.* Their dominant position continues to today. *See Nomura*, 873. F.3d at 105; *Perry*, 864 F.3d at 599.

Although Freddie Mac owns a large number of mortgage loans through its purchases on the secondary market, it is not in the business of managing the mortgages themselves, such as handling day-to-day borrower communications. Rather, like other investors in loans, Freddie Mac contracts with servicers to act on its behalf, and these servicers often are assigned deeds of trust as record beneficiary to facilitate their efficient management of those loans. *See Cervantes v.*

Countrywide Home Loans, Inc., 656 F.3d 1034, 1038-39 (9th Cir. 2011) (describing how loan owners contract with servicers and the servicers' role); Restatement (Third) of Prop.: Mortgages § 5.4 cmt. c ("Restatement") (discussing the common practice where investors in the secondary mortgage market designate their servicer to be assignee of the mortgage); Freddie Mac's Single-Family Seller/Servicer Guide ("Guide") at 1101.2(a) (discussing Freddie Mac's relationship with servicers to manage the loans Freddie Mac purchases).[1] The Nevada Supreme Court has recognized the importance of these relationships by adopting the Restatement approach. *See In re Montierth*, 354 P.3d 648, 650-51 (Nev. 2015). *Montierth* holds that when a loan owner has an agent or contractual relationship with an entity who acts as the beneficiary of record of a deed of trust, the loan owner (though not the recorded beneficiary) maintains a secured property interest. *Id.*

Freddie Mac and its servicers also work with Mortgage Electronic Registration System ("MERS"). The Ninth Circuit has noted that while "MERS, as the 'nominee' of the lender and of any assignee of the lender, is designated . . . as the 'beneficiary' . . . under the deed of trust," a "lender *owns* the home loan borrower's . . . promissory note." *In re Mortg. Elec. Registration Sys., Inc.*, 754 F.3d 772, 776 (9th Cir. 2014) (emphasis added). The "obvious advantage" of the system is that "it allows residential lenders to avoid the bother and expense of recording every change of *ownership* of promissory notes." *Id.* at 776-77 (emphasis added); *see also Higgins v. BAC Home Loans Servicing, LP*, 793 F.3d 688, 689 (6th Cir. 2015) (holding that sale of note to new owner while MERS remains beneficiary of record of

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[1] The Guide is publicly available on Freddie Mac's website. An interactive version is available at www.freddiemac.com/singlefamily/guide, and archived prior versions of the Guide are available at www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html. While the cited sections of the Guide have been amended over the course of Freddie Mac's ownership of the Loan, none of these amendments have materially changed the relevant sections. A static, PDF copy of the most recent version of the Guide is available at http://www.allregs.com/tpl/Viewform.aspx?formid=00051757&formtype=agency. The Court may take judicial notice of the Guide. *See, e.g.*, *Berezovsky*, 869 F.3d at 932, n.9 (taking judicial notice of Freddie Mac's servicing guide); *Charest v. Fannie Mae*, 9 F. Supp. 3d 114, 118 & n.1 (D. Mass. 2014); *Cirino v. Bank of Am., N.A.*, No. CV 13-8829, 2014 WL 9894432, at *7 (C.D. Cal. Oct. 1, 2014).

a mortgage does not trigger Kentucky recordation requirement). The true owner of the loan is the lender, its successor, or its assignee—not MERS. *See Cervantes*, 656 F.3d at 1039.

II. FHFA and Freddie Mac in Conservatorship

In July 2008, Congress passed the Housing and Economic Recovery Act of 2008 ("HERA"), Pub. L. No. 110-289, 122 Stat. 2654 (codified as 12 U.S.C. § 4511 *et seq.*), which established FHFA as an independent federal agency with regulatory and oversight authority over Freddie Mac, the Federal National Mortgage Association ("Fannie Mae"), and the Federal Home Loan Banks. In September 2008, FHFA placed Freddie Mac and Fannie Mae (together, "the Enterprises") into conservatorships "for the purpose of reorganizing, rehabilitating, or winding up [their] affairs." 12 U.S.C. § 4617(a)(2). Congress had authorized the Conservator "to undertake extraordinary economic measures" out of a concern that "a default by Fannie and Freddie would imperil the already fragile national economy." *Perry*, 864 F.3d at 599. Accordingly, Congress granted FHFA an array of powers, privileges, and exemptions from otherwise applicable laws when acting as Conservator. Among these is a section providing that "[n]o property" of FHFA conservatorships "shall be subject to . . . foreclosure . . . without the consent of [FHFA]." 12 U.S.C. § 4617(j)(3).

The Conservator has stated that it supports invocation of the Federal Foreclosure Bar by "authorized servicers" such as Chase in litigation such as this one: "FHFA supports the reliance on Title 12 United States Code Section 4617(j)(3) in litigation by authorized servicers of [Freddie Mac] to preclude the purported involuntary extinguishment of [Freddie Mac's] property interest by an HOA foreclosure sale." *See* FHFA, Statement on Servicer Reliance on the Housing and Economic Recovery Act of 2008 in Foreclosures Involving Homeownership Associations (Aug. 28, 2015), http://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Authorized-Enterprise-Servicers-Reliance.pdf.

III. Undisputed Facts Specific to this Case

A. The Subject Property, Note, and Deed of Trust

1. A deed of trust listing Robert M. and Christine V. Hawkins as the borrowers ("Borrowers"); Green Point Mortgage Funding, Inc. as the lender ("Lender"); and MERS, as beneficiary solely as nominee for Lender and Lender's successors and assigns, was recorded on June 12, 2006 ("Deed of Trust"). *See* Ex. 5, Deed of Trust.[2] The Deed of Trust granted Lender a security interest in real property known as 3263 Morning Springs Drive, Henderson, Nevada, 89074 (the "Property"), to secure the repayment of a loan in the original amount of $240,000 to the Borrowers (the "Loan"). *Id.; See* Ex. 6, Note.

2. On September 27, 2006, Freddie Mac purchased the Loan thereby becoming successor to the Lender and acquiring ownership of the Deed of Trust and the Note. *See* Ex. 7, Freddie Mac Decl. ¶ 5. Freddie Mac maintained that ownership at the time of the HOA Sale on March 1, 2013. *Id.*

3. On October 27, 2009, MERS, as nominee for Lender and Lenders successors and assigns, recorded an assignment of the Deed of Trust to Chase. *See* Ex. 8, Assignment of Deed of Trust.

4. At the time of the HOA Sale on March 1, 2013, Chase was the servicer of the Loan for Freddie Mac. *See* Ex. 7, Freddie Mac Decl. ¶ 5; *See* Ex. 4, Chase Declaration ¶ 5d.

B. Freddie Mac's Contract with Its Servicers, Including Chase

5. The relationship between Chase, as the servicer of the Loan, and Freddie Mac, as owner of the Loan, is governed by the Guide, a document central to Freddie Mac's relationship with servicers nationwide. Among other things, the Guide provides that Freddie Mac's servicers may act as record beneficiaries for the deeds of trust Freddie Mac owns and requires that

[2] Chase requests, pursuant to NRS 47.130, that the Court take judicial notice of all recorded documents provided as evidence in this motion, as they are capable of accurate and ready verification based on the records of the Clark County Recorder, a source whose accuracy cannot reasonably be questioned. *See also* NRS 52.015. In addition, Chase has provided certified copies of the recorded documents which are presumed to be true and correct pursuant to NRS 52.125.

servicers assign these deeds of trust to Freddie Mac upon Freddie Mac's demand. *See* Exs. 7-4, 7-5 and 9 (Guides at 1101.2(a); [2012 and 2016 corresponding sections of Guide];

6. Specifically, the Guide provides that:

> For each Mortgage purchased by Freddie Mac, the Seller and the Servicer agree that Freddie Mac may, at any time and without limitation, require the Seller or the Servicer, at the Seller's or the Servicer's expense, to make such endorsements to and assignments and recordations of any of the Mortgage documents so as to reflect the interests of Freddie Mac.

Exs. 7-4, 7-5 and 9, (Guide at 1301.10).

7. The Guide also provides that:

> The Seller/Servicer is not required to prepare an assignment of the Security Instrument to Freddie Mac. However, *Freddie Mac may, at its sole discretion and at any time, require a Seller/Servicer, at the Seller/Servicer's expense, to prepare, execute and/or record assignments of the Security Instrument to Freddie Mac*.

Exs. 7-4, 7-5 and 9, (Guide at 6301.6) (emphasis added).

8. The Guide authorizes servicers to foreclose on the Deed of Trust on behalf of Freddie Mac. *See, e.g.*, Exs. 7-4, 7-5 and 9, (Guide at 8105.3, 9301.1, 9301.12, 9401.1).

9. Accordingly, the Guide also provides for a temporary transfer of possession of the note when necessary for servicing, including foreclosure. *See* Exs. 7-4, 7-5 and 9 (Guide at 8107.1, 8107.2, 9301.11). However, when in "physical or constructive possession of a Note," the Servicer must "follow prudent business practices" to ensure that the note is "identif[ied] as a Freddie Mac asset." *Id.* at 8107.1(b). Furthermore, when transferring documents in a mortgage file, including a note, the servicer must ensure the receiver acknowledges that the note is "Freddie Mac's property." Exs. 7-4, 7-5 and 9 (Guide at 3302.5).

10. The Guide also includes chapters regarding how and when servicers should appear as parties to litigation involving Freddie Mac loans. *See* Guide at 9402.2 ("Routine and non-routine litigation"), 9501 ("Selection, Retention and Management of Law Firms for Freddie Mac Default Legal Matters."). Included among the types of "non-routine" litigation in which servicers may appear as a party to represent loan interests of Freddie Mac is that concerning "[a]ny issue involving Freddie Mac's conservatorship." Guide at 9402.2.

11. The Guide provides that:

> All documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.

Exs. 7-4, 7-5 and 9 (Guide at 1201.9).

12. The Guide provides that a transferee servicer undertakes all responsibilities under the Guide. *See* Exs. 7-4, 7-5 and 9 Guide at 7101.15(c)).

13. Finally, the Guide provides that:

> When a Transfer of Servicing occurs, the Transferor Servicer may not . . . further endorse the Note, but must prepare and complete assignments . . . .
>
> To prepare and complete an assignment of a Security Instrument for a Subsequent Transfer of Servicing for a Mortgage not registered with MERS, the Transferor Servicer must . . . [a]ssign the Security Instrument to the Transferee Servicer and record the assignment.

Exs. 7-4, 7-5 and 9 (Guide at 7101.6).

C. The HOA Foreclosure Sale and SFR's Purported Acquisition of the Property

14. From August 3, 2012 through September 20, 2012, the HOA recorded a Notice of Delinquent Assessment Lien concerning past-due assessments, followed by a Notice of Default and Election to Sell, and a Notice of

Foreclosure Sale against the Property. Exs. 14, 16, 17. Then, on March 1, 2013, the HOA foreclosed on its lien and sold the Property to SFR, which paid $3,700 according to the Foreclosure Deed recorded on March 6, 2013. Ex. 18.

15. At no time did the Conservator consent to the HOA Sale extinguishing or foreclosing Freddie Mac's interest in the Property. *See* Ex. 22 (FHFA's Statement on HOA Super-Priority Lien Foreclosures (Apr. 21, 2015), www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx).

LEGAL STANDARD

"Summary judgment is appropriate . . . when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). "While the pleadings and other evidence must be construed in the light most favorable to the nonmoving party, that party has the burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts to defeat a motion for summary judgment." *Id.* at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 586 (1986)). The governing law determines which "factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant." *Id.* Accordingly, Nevada courts follow the federal summary judgment standard, not the "slightest doubt" standard previously applicable before *Wood*. *Id.* at 1031, 1037.

ARGUMENT

I. The Federal Foreclosure Bar Defeats SFR's Claim to an Interest in the Property Free and Clear of the Deed of Trust

A. The Federal Foreclosure Bar Preempts Contrary State Law

As the Nevada Supreme Court and the Ninth Circuit recently held, the Federal Foreclosure Bar preempts the State Foreclosure Statute that would

otherwise permit the HOA's foreclosure of its superpriority lien to extinguish the Enterprises' interest in property while the Enterprises are under FHFA's conservatorship. *Christine View*, 2018 WL 1448731, at *3; *Berezovsky*, 869 F.3d at 930-31; *Elmer*, 707 F. App'x at 427-28; *Flagstar*, 699 F. App'x at 658-59. Indeed, nearly thirty related cases in the U.S. District Court of Nevada agree.[3] Similarly,

[3] *See Skylights v. Byron*, 112 F. Supp. 3d 1145, 1153 (D. Nev. 2015); *Premier One Holdings, Inc. v. Fannie Mae*, No. 2:14-cv-02128-GMN-NJK, 2015 WL 4276169 (D. Nev. July 14, 2015); *Williston Inv. Grp., LLC v. JP Morgan Chase Bank, NA*, No. 2:14-cv-02038-GMN-PAL, 2015 WL 4276144 (D. Nev. July 14, 2015); *My Glob. Vill., LLC v. Fannie Mae*, No. 2:15-cv-00211-RCJ-NJK, 2015 WL 4523501 (D. Nev. July 27, 2015); *1597 Ashfield Valley Trust v. Fannie Mae*, No. 2:14-cv-02123-JCM, 2015 WL 4581220 (D. Nev. July 28, 2015); *Fannie Mae v. SFR Invs. Pool 1, LLC*, No. 2:14-CV-2046-JAD-PAL, 2015 WL 5723647 (D. Nev. Sept. 29, 2015); *Saticoy Bay, LLC Series 1702 Empire Mine v. Fannie Mae*, No. 2:14-CV-01975-KJD-NJK, 2015 WL 5709484 (D. Nev. Sept. 29, 2015); *Opportunity Homes, LLC v. Freddie Mac*, 169 F. Supp. 3d 1073 (D. Nev. 2016); *FHFA v. SFR Investments Pool 1, LLC*, No. 2:15-cv-1338-GMN-CWH, 2016 WL 2350121 (D. Nev. May 2, 2016); *G & P Inv. Enters., LLC v. Wells Fargo Bank, N.A.*, No. 2:15-cv-0907-JCM-NJK, 2016 WL 4370055 (D. Nev. Aug. 4, 2016); *Saticoy Bay LLC, Series 2714 Snapdragon v. Flagstar Bank, FSB*, No. 2-13-CV-1589-JCM-VCF, 2016 WL 1064463 (D. Nev. Mar. 17, 2016); *Koronik v. Nationstar Mortg. LLC*, No. 2:13-CV-2060-GMN-GWF, 2016 WL 7493961 (D. Nev. Dec. 30, 2016); *Nevada Sand Castles, LLC v. Green Tree Servicing LLC*, No. 2:15-CV-0588-GMN-VCF, 2017 WL 701361 (D. Nev. Feb. 22, 2017); *Alessi & Koenig, LLC v. Dolan, Jr.*, No. 2:15-cv-00805-JCM-CWH, 2017 WL 773872 (D. Nev. Feb. 27, 2017); *FHFA v. Nevada New Builds, LLC*, No. 2:16-cv-1188-GMN-CWH, 2017 WL 888480 (D. Nev. Mar. 6, 2017); *LN Mgmt. LLC v. Pfeiffer*, No. 2:13-cv-1934-JCM-PAL, 2017 WL 955184 (D. Nev. Mar. 9, 2017); *Vita Bella Homeowners Ass'n v. Fannie Mae*, No. 2:15-cv-00515-JCM-VCF, 2017 WL 6055667 (D. Nev. Mar. 9, 2017); *JP Morgan Chase Bank, N.A. v. Las Vegas Dev't Grp., LLC*, No. 2:15-cv-1701-JCM-VCF, 2017 WL 937722 (D. Nev. Mar. 9, 2017); *Freddie Mac v. Donel*, No. 2:16-cv-176, 2017 WL 2692403 (D. Nev. June 21, 2017); *Cohen v. Bank of America, N.A.*, No. 2:15-cv-01393-GMN-GWF, 2017 WL 4185464 (D. Nev. Sept. 21, 2017); *Fannie Mae v. Canyon Willow Owners Ass'n*, No. 2:16-cv-00203-JCM-CWH, 2018 WL 297575 (D. Nev. Jan. 4, 2018); *Springland Vill. Homeowners Ass'n v. Pearman*, No. 3:16-cv-00423-MMD-WGC, 2018 WL 357853 (D. Nev. Jan. 10, 2018); *Freddie Mac v. T-Shack, Inc.*, No. 2:16-cv-02664-JCM-PAL, 2018 WL 456878 (D. Nev. Jan. 17, 2018); *Green Tree Servicing LLC v. Valencia Mgt. LLC*, No. 2:15-cv-725-JCM-PAL, 2018 WL 505070 (D. Nev. Jan. 22, 2018); *Fannie Mae v. KK Real Est. Inv. Fund, LLC*, No. 2:17-cv-1289-JCM-CWH, 2018 WL 525297 (D. Nev. Jan. 23, 2018); *JP Morgan Chase Bank, N.A. v. Res. Grp., LLC*, No. 2:17-cv-00225-JCM-NJK, 2018 WL 894612, at *5 (D. Nev. Feb. 13, 2018); *MRT Assets LLC v. Nationstar Mortg., LLC*, No. 2:17-cv-0070-JCM-CWH, 2018 WL 1245501 (D. Nev. Mar. 9, 2018); *Collegium Fund Series 32 v. Snyder*, No. 2:16-cv-1640-JCM-PAL, 2018 WL 1368263 (D. Nev. Mar. 16, 2018); *FLP-Vervain Ct. LLC v. DHI Mortg. Co.*, No. 2:13-cv-1517-GMN-CWH, 2018 WL 1413371 (D. Nev. Mar. 21, 2018).

Nevada state courts have resolved similar claims in favor of Freddie Mac, Fannie Mae, and their servicers in at least another thirty cases.[4]

The State Foreclosure Statute is preempted either through express or conflict preemption. A federal statute expressly preempts contrary law when it "explicitly manifests Congress's intent to displace state law." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1022 (9th Cir. 2013). This is the case here: the text of HERA declares that "[n]o property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale." 12 U.S.C. § 4617(j)(3). The Federal Foreclosure Bar

[4] *Saticoy Bay LLC Series 9641 Christine View vs. Fannie Mae*, No. A-13-690924-C (Nev. Dist. Ct. Dec. 8, 2015); *5312 La Quinta Hills LLC, vs. BAC Home Loans Serv'g LP*, No. A-13-693427-C (Nev. Dist. Ct. Jan. 6, 2016); *NV West Servicing LLC v. Bank of America, N.A.*, No. A-14-705996-C (Nev. Dist. Ct. Jan. 25, 2016); *Fort Apache Homes, Inc. vs. JPMorgan Chase Bank, N.A.*, No. A-13-691166-C (Nev. Dist. Ct. Feb. 5, 2016); *RLP-Buckwood Court, LLC, v. GMAC Mortg., LLC*, No. A-13-686438-C, (Nev. Dist. Ct. May 24, 2016); *A&I LLC Series 3 v. Lowry*, No. A-13-691529-C (Nev. Dist. Ct. May 31, 2016); *Gavirati v. Washington Mutual Bank, FA*, No. A-13-690263-C (Nev. Dist. Ct. Sept. 1, 2016); *Nevada New Builds, LLC v. Nationstar Mortg. LLC*, No. A-14-704924-C (Nev. Dist. Ct. Sept. 27, 2016); *Daisy Trust v. Wells Fargo*; No. A-13-679095-C (Oct. 14, 2016); *SFR Inv. Pool 1, LLC v. Green Tree Servicing, LLC*, No. A-13-680704 (Nev. Dist. Ct. Nov. 17, 2016); *Summit Canyon Resources LLC v. Kraemer*, No. A-15-714882-C (Nev. Dist. Ct. Nov. 22, 2016); *Nevada Sandcastles, LLC, v. Nationstar Mortg., LLC*, No. A-14-701775-C (Nev. Dist. Ct. Dec. 21, 2016); *Saticoy Bay LLC Series 338 Flying Colt v. Nationstar Mortg., LLC*, No. A-13-684192-C (Nev. Dist. Ct. Dec. 21, 2016); *Honeybadgers Holdings LLC v. Karimi*, No. A-15-718824-C (Nev. Dist. Ct. Mar. 22, 2017); *Choctaw Avenue Trust v. JPMorgan Chase Bank N.A.*, No. A-12-667762-C (Nev. Dist. Ct. June 12, 2017); *Saticoy Bay LLC Series 4930 Miners Ridge v. JPMorgan Chase Bank N.A.*, No. A-13-681090-C (Nev. Dist. Ct. June 27, 2017); *RJRN Holdings, LLC v. Green Tree Servicing LLC*, A-14-704682-C (Nev. Dist. Ct. July 21, 2017); *Nevada Sandcastles LLC v. Green Tree Servicing LLC*, A-13-691521-C (Nev. Dist. Ct. Aug. 14, 2017); *Hampton & Hampton Collections, LLC v. Pan*, No. 14-A-706519-C, 2017 WL 5660707 (Nev. Dist. Ct. Oct. 6, 2017); *Magden v. Nationstar Mortgage, LLC*, No. A-15-718839, 2017 WL 5904448 (Nev. Dist. Ct. Oct. 25, 2017); *S&J Investments, LLC v. Nationstar Mortg., LLC*, No. 14-A-706229-C, 2017 WL 5900522 (Nev. Dist. Ct. Oct. 27, 2017); *Saticoy Bay LLC Series 529 Quail Bird v. Green Tree Servicing LLC*, No. 14-A-704414, 2017 WL 5900521 (Nev. Dist. Ct. Nov. 8, 2017); *Nationstar Mortg., LLC v. Kincer*, No. 14-A-698443-C, 2017 WL 6940444 (Nev. Dist. Ct. Nov. 27, 2017); *Nevada New Builds, LLC v. JPMorgan Chase Bank*, No. 13-A-690954, 2017 WL 7058170 (Nev. Dist. Ct. Dec. 14, 2017); Minute Order, *NV Eagles LLC v. Bank of Ney York Mellon*, No. A-16-733337-C (Nev. Dist. Ct. Dec. 15, 2017); *Nevada New Builds LLC v. JPMorgan Chase Bank, N.A.*, No. A-13-690954-C (Nev. Dist. Ct. Dec. 15, 2017); Minute Order, *Chao Ma v. JPMorgan Chase Bank, N.A.*, No. A-14-701426-C (Nev. Dist. Ct. Dec. 29, 2017); *3426 Death Valley Drive Trust v. JPMorgan Chase Bank, N.A.*, No. A-13-687081-C (Nev. Dist. Ct. Jan. 5, 2018); *First 100 LLC v. Bank of Am., N.A.*, No. A-13-677352-C (Nev. Dist. Ct. Jan. 25, 2018); *First 100 LLC v. Citimortgage Inc.*, No. A-14-705078-C (Nev. Dist. Ct. Jan. 25, 2018). Chase does not cite these cases as precedential authority but rather, consistent with Nev. R. App. P. 36(c)(3), cites them for their persuasive value.

automatically bars any nonconsensual limitation or extinguishment through foreclosure of any interest in property held by Freddie Mac while in conservatorship. All of these "adverse actions . . . could otherwise be imposed on FHFA's property under state law. Accordingly, Congress's creation of these protections clearly manifests its intent to displace state law." *Skylights*, 112 F. Supp. 3d at 1153.

The Federal Foreclosure Bar also preempts the State Foreclosure Statute under a theory of conflict preemption because "state law is naturally preempted to the extent of any conflict with a federal statute." *Valle del Sol*, 732 F.3d at 1023 (quoting *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372 (2000)). Congress's clear and manifest purpose in enacting Section 4617(j)(3) was to protect FHFA conservatorships from actions, such as the HOA Sale, that otherwise would deprive them of their property interests. Accordingly, "the [State Foreclosure Statute] is in direct conflict with Congress's clear and manifest goal to protect [Freddie Mac]'s property interest while under the FHFA's conservatorship from threats arising from state foreclosure law." *Christine View*, 2018 WL 1448731, at *3; *see also Berezovsky*, 869 F.3d at 930 ("[T]he Federal Foreclosure Bar implicitly demonstrates a clear intent to preempt [the State Foreclosure Statute]."); *Elmer*, 707 F. App'x at 427-28 (following *Berezovsky*); *Flagstar*, 699 F. App'x at 658-59 (same).

B. The Federal Foreclosure Bar Protected Freddie Mac's Property Interest

To successfully invoke the Federal Foreclosure Bar's protection, Chase needs to establish two things: First, that Freddie Mac owned the Loan at the time of the HOA Sale, and second, that ownership of the Loan was a property interest covered by the Federal Foreclosure Bar's protection. Chase satisfies both here.

1. Freddie Mac Had a Property Interest at the Time of the HOA Sale

Berezovsky and *Elmer* confirm that Freddie Mac's property interest may be established by Freddie Mac's business records and a declaration from a Freddie Mac employee explaining that the records show when Freddie Mac owned the Loan. *Berezovsky*, 869 F.3d at 933; *Elmer*, 707 F. App'x at 428. Here, Chase has submitted materially identical evidence to that found sufficient for summary judgment in those Ninth Circuit decisions. This Ninth Circuit precedent should be highly persuasive here, as federal courts and Nevada courts have adopted the same standard for what evidence is sufficient for summary judgment. *See Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986) for Nevada's standard for summary judgment). In fact, Chase has gone beyond what was required by the Ninth Circuit, also submitting business records of Chase, derived from a database Chase uses to track the loans that it services, and a declaration of Chase employee.

These business records and employee declarations support the fact that Freddie Mac acquired the Loan in September 2006 and continued to own the Loan at the time of the HOA Sale in March 2013. *See* Ex. 7, Freddie Mac Decl. ¶ 5e; Ex. 7-1. As explained in Dean Meyer's declaration, Freddie Mac maintains its business records in its MIDAS system, which Freddie Mac uses in the course of its everyday business to manage and record information about the mortgage loans it owns. *See* Ex. 7, Freddie Mac Decl. ¶ 3. The mortgage payment history, among other elements in Freddie Mac's records, shows that the servicer continued to report monthly to Freddie Mac about the Loan in March 2013, demonstrating Freddie Mac's ownership of the Loan at the time of the HOA Sale. *See* Ex. 7, Freddie Mac Decl. ¶ 5k; Ex. 7-7.

The business records and declarations also show that Chase was the servicer of the Loan for Freddie Mac at the time of the HOA Sale. The declarations explain

how the business records identify the servicer for the Loan and how one can determine that Chase, the current servicer, was also the servicer at the time of the HOA Sale in March 2013. *See* Ex. 7, Freddie Mac Decl. ¶ 5j.

Under the applicable rules of evidence, business records are, by their nature, admissible to prove the truth of their contents when introduced by a qualified witness, as they are here. *See* NRS 51.135; Fed. R. Evid. 803 (advisory committee's note to 1972 proposed rules) (noting that business records, including electronic database records, have "unusual reliability"). *Berezovsky* and *Elmer* held that the business records of Freddie Mac are admissible. *Berezovsky*, 869 F.3d at 932 & n.8 (holding that Freddie Mac "database printouts" were sufficient to support a "valid and enforceable" property interest under Nevada law); *Elmer*, 707 F. App'x at 428 (finding that a declaration from a Freddie Mac employee and records from Freddie Mac's database were "reliable and uncontroverted evidence of its interest in the property on the date of the foreclosure"). The same analysis applies to the evidence here.

a. Freddie Mac Owned the Note and Deed of Trust Under Nevada Law

(i) Nevada Adopts the Restatement Approach that Acknowledges the Loan Owner-Servicer Relationship

Under Nevada law, when Freddie Mac purchased the Loan on or about September 2006, Freddie Mac acquired ownership of the note and Deed of Trust. Nevada law incorporates the Restatement, which describes the typical arrangement between investors in mortgages, such as Freddie Mac, and their servicers:

> Institutional purchasers of loans in the secondary mortgage market often designate a third party, not the originating mortgagee, to collect payments on and otherwise "service" the loan for the investor. In such cases the promissory note is typically transferred to the purchaser, but an assignment of the mortgage from the originating mortgagee *to the servicer* may be executed and recorded. This assignment is convenient because it facilitates actions that the servicer might take, such as releasing the mortgage, at the instruction of the purchaser.

Restatement § 5.4 cmt. c (emphasis added). The Restatement then emphasizes that this arrangement preserves the investor's ownership interest: "*It is clear in this situation that the owner of both the note and mortgage is the investor and not the servicer.*" *Id.* (emphasis added). Thus, the Restatement acknowledges that the assignment of a deed of trust to a servicer does not alter the fact that the loan purchaser remains the owner of the note and deed of trust. The Restatement approach also is a recognition of the realities of the mortgage industry: Freddie Mac and Fannie Mae can more efficiently support the national secondary mortgage market if they can contract with servicers to manage loans without relinquishing ownership of deeds of trust.

The Nevada Supreme Court reaffirmed that it adopted the entirety of the Restatement approach, and specifically cited to the sections cited above. *See Montierth*, 354 P.3d at 650-51. *Montierth* explained that where the record beneficiary of the deed of trust has contractual or agency authority to foreclose on the note owner's behalf, the note owner maintains a property interest in the collateral. *See id.*[5] Indeed, the Nevada Supreme Court has recently characterized *Montierth* as "recognizing that it is an acceptable practice for a loan servicer to serve as the beneficiary of record for the actual deed of trust beneficiary." *Ohfuji Investments, LLC v. Nationstar Mortg., LLC*, No. 72676, 2018 WL 1448729, at *1 (Nev. Mar. 15, 2018) (unpublished disposition). *Ohfuji* referenced this holding of *Montierth* in describing the relationship between Nationstar, a loan servicer, and Fannie Mae, a loan owner—similar facts to those here.

Montierth applied the Restatement to a situation where MERS, as nominee for the original lender and its successors and assigns, served as record beneficiary of

[5] Accordingly, *Montierth* clarified the earlier Nevada Supreme Court decision in *Edelstein v. Bank of New York Mellon*, 286 P.3d 249, 257-58 (2012), which had discussed a general rule about what happens when a note and deed of trust are split without needing to consider the exception when a contractual or agency relationship exists between the entity who owns the loan and the entity who serves as record beneficiary of the deed of trust. *Montierth*, 354 P.3d at 651 ("Because it was not pertinent to [the Nevada Supreme Court's] analysis in *Edelstein*, [the court] did not include the exceptions provided in the Restatement.").

a deed of trust, while Deutsche Bank had acquired the related promissory note from the original lender. *Id.* at 649. The Nevada Supreme Court concluded that the relationship between MERS and Deutsche Bank, wherein MERS had authority to foreclose on Deutsche Bank's behalf, ensured that Deutsche Bank remained a "secured creditor" with a "fully-secured, first priority deed" that could be enforced. *Id.* at 650-51. Deutsche Bank, like Freddie Mac here, accordingly retained a property interest while another entity was beneficiary of record of the deed of trust.

The Ninth Circuit, in addition to various state and federal trial courts, already has recognized that under the approach articulated by *Montierth* and the Restatement, Freddie Mac need not have been beneficiary of record of a deed of trust in order to have a protected property interest. *See, e.g.*, *Berezovsky*, 869 F.3d at 932; *Elmer*, 707 F. App'x at 427-28; *Flagstar*, 699 F. App'x at 658-59. The Ninth Circuit rejected any argument that, under Nevada law, a loan owners' property interest depends on its name appearing in the public property records: "[a]lthough the recorded deed of trust here omitted Freddie Mac's name, Freddie Mac's property interest is valid and enforceable under Nevada law" because Freddie Mac owned the note and its servicer was beneficiary of record of the deed of trust. *Berezovsky*, 869 F.3d at 932. This Court should do the same here.

(ii) Nevada Adopts the Uniform Commercial Code, Which Is Consistent with the Restatement Approach

The Restatement approach, acknowledging that different entities might be *owner* or *record beneficiary* of a Deed of Trust, is consistent with Nevada's adoption of Uniform Commercial Code Article 3, which provides that "[a] person may be a person entitled to enforce [a promissory note] even though the person is not the owner of the [that note]." Nev. Rev. Stat. § 104.3301. A "person entitled to enforce" a note may be a "holder" of the note or even a "nonholder in possession of the [note] who has the rights of the holder." *Id.* Accordingly, "the status of holder merely pertains to one who may enforce the debt and is a separate concept from that of

ownership." *Thomas v. BAC Home Loans Servicing, LP*, No. 56587, 2011 WL 6743044, at *3 n.9 (Nev. Dec. 20, 2011). That is because "[o]wnership rights in instruments may be determined by principles of the law of property . . . which do not depend upon whether the instrument was transferred." UCC § 3-203 cmt. 1. For that reason, a transfer of a note has no bearing on ownership, but instead "vests in the transferee any right of the transferor to enforce the instrument." Nev. Rev. Stat. § 104.3203.[6]

In fact, the Nevada Supreme Court has applied this principle in a similar circumstance, where Freddie Mac claimed to own a note while BAC was the holder of the note and the record beneficiary of the associated deed of trust. The court held there was nothing inconsistent with this situation under Nevada law. *See Thomas*, 2011 WL 6743044, at *1, 3 & n.9. Here, too, there is nothing inconsistent with Freddie Mac being the owner of the note and the Deed of Trust, while Chase, its servicer, was beneficiary of record of the Deed of Trust.

b. The Guide Confirms that Freddie Mac Retains Ownership of the Deed of Trust While Chase Is Record Beneficiary

The Guide serves as a central document governing the contractual relationship between Freddie Mac and its servicers nationwide, including Chase. *See* Guide at 1101.2(a) (Exs. 7-4, 7-5 and 9). The provisions of the Guide demonstrate that Freddie Mac and its loan servicers maintain the type of relationship described in the Restatement and *Montierth*. *See Berezovsky*, 869 F.3d at 932-33; *Montierth*, 354 P.3d at 651 (looking to whether a loan owner can "compel an assignment of the deed of trust").

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[6] Similarly, Uniform Commercial Code Article 9 provides that "[t]he attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security, mortgage or other lien." NRS § 104.9203(7). Thus, "a transferee of a mortgage note" such as Freddie Mac "whose property right in the note has attached also automatically *has an attached property right in the mortgage* that secures the note." Report of the Permanent Editorial Board for the UCC, Application of the UCC to Selected Issues Relating to Mortgage Notes at 14 (Nov. 14, 2011) (emphasis added).

For example, the Guide provides that "Freddie Mac may, at any time and without limitation, require the Seller or the Servicer . . . to make such . . . assignments and recordations of any of the Mortgage documents so as to reflect the interests of Freddie Mac." Guide at 1301.10; *see also* Guide at 6301.6 (similar). The Guide also authorizes servicers to protect the interests of Freddie Mac in the Loan, including in foreclosure proceedings. *See* Guide at 8107.1, 8107.2, 9301.11. Exs. 7-4, 7-5 and 9. Nevertheless, the Guide is clear that ownership always lies with Freddie Mac. For example, "[a]ll documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac." Guide at 1201.9, Exs. 7-4, 7-5 and 9, *see also id.* at 3302.5, 8107.1(b).

Thus, the fact that Freddie Mac's servicer, Chase, was the beneficiary of record of the Deed of Trust at the time of the HOA Sale does not negate the fact that Freddie Mac remained the owner of the note and the Deed of Trust at that time. Accordingly, the Federal Foreclosure Bar, which protects Freddie Mac's property interests, protected the Deed of Trust from extinguishment, and Freddie Mac continued to own both the Deed of Trust and the note after the HOA Sale.

2. The Federal Foreclosure Bar's Protection Extends to Freddie Mac's Property Interest Here

a. The Federal Foreclosure Bar Provides Broad Protection to Freddie Mac's Lien Interests

Federal law defines the scope of property interests protected by statutes such as the Federal Foreclosure Bar broadly. *See Matagorda Cty. v. Russell Law*, 19 F.3d 215, 221 (5th Cir. 1994). Courts have repeatedly held that mortgage liens constitute property for purposes of the analogous FDIC statute, 12 U.S.C. § 1825(b)(2).[7] "[T]he term 'property' in § 1825(b)(2) encompasses all forms of

[7] When analyzing HERA's provisions, courts have frequently turned to precedent interpreting FDIC's analogous receivership authority. *See, e.g.*, *Cty. of Sonoma v. FHFA*, 710 F.3d 987, 993 (9th Cir. 2013); *In re Fed. Home Loan Mortg. Corp. Derivative Litig.*, 643 F. Supp. 2d 790, 795 (E.D. Va. 2009), *aff'd sub nom. La. Mun. Police Emps. Ret. Sys. v. FHFA*, 434 F. App'x 188 (4th Cir. 2011).

interest in property, including mortgages and other liens." *Simon v. Cebrick*, 53 F.3d 17, 20 (3d Cir. 1995). This reflects Congress's intent to provide the greatest possible scope of protection to Freddie Mac and Fannie Mae in the midst of a severe housing crisis. *Cf. Cambridge Capital Corp. v. Halcon Enters., Inc.*, 842 F. Supp. 499, 503 (S.D. Fla. 1993) ("This Court need look no further than [Section 1825(b)(2)] itself to determine that Congress has expressed its intent that no property of the FDIC—fee or lien—be subject to foreclosure without the FDIC's consent."); *Trembling Prairie Land Co. v. Verspoor*, 145 F.3d 686, 691 (5th Cir. 1998) ("In deference to the will of Congress, we hold that the tax sale at issue was conducted without the consent of the FDIC . . . [and] violated 12 U.S.C. § 1825(b)(2)."). Therefore, Freddie Mac's interest here—ownership of both the Deed of Trust and the note—was a protected property interest under the Federal Foreclosure Bar.

b. The Federal Foreclosure Bar Extends to Freddie Mac When It Is Under FHFA's Conservatorship

The Federal Foreclosure Bar necessarily protects the Deed of Trust because the Conservator has succeeded by law to all of Freddie Mac's "rights, titles, powers, and privileges," 12 U.S.C. § 4617(b)(2)(A)(i). Accordingly, "[Freddie Mac]'s property interest effectively becomes the FHFA's while the conservatorship exists." *Christine View*, 2018 WL 1448731, at *2 (citing 12 U.S.C. § 4617(b)(2)(A)(i)). This interpretation is supported by the text and structure of HERA. *Skylights*, 112 F. Supp. 3d at 1155. Section 4617 concerns FHFA's "[a]uthority over" Freddie Mac and Fannie Mae when they are "critically undercapitalized" and thus must be placed into conservatorship or receivership. Furthermore, the protections of Section 4617(j)(3) apply in "any case in which [FHFA] is acting as a conservator or a receiver." 12 U.S.C. § 4617(j)(1).

Indeed, courts uniformly have rejected any argument that the immunities provided by Section 4617(j) do not apply to the property of Freddie Mac or Fannie Mae while in FHFA conservatorship. *See Skylights*, 112 F. Supp. 3d at 1155

(collecting cases); *Nevada v. Countrywide Home Loans Servicing, LP,* 812 F. Supp. 2d 1211, 1218 (D. Nev. 2011) ("[W]hile under the conservatorship with the FHFA, Fannie Mae is statutorily exempt from taxes, penalties, and fines to the same extent that the FHFA is."); *FHFA v. City of Chicago*, 962 F. Supp. 2d 1044, 1064 (N.D. Ill. 2013) (argument is "meritless"). Courts have also rejected similar arguments in the context of FDIC receiverships. *See, e.g.*, *In re Cty. of Orange*, 262 F.3d 1014, 1020 (9th Cir. 2001); *Cty. of Fairfax v. FDIC*, Civ. A. No. 92-0858, 1993 WL 62247, at *4 (D.D.C. Feb. 26, 1993).

C. FHFA Did Not Consent to the Extinguishment of the Deed of Trust

While it is not Chase's burden to establish this fact, it is undisputed that FHFA has not consented to extinguish Freddie Mac's property interest in this case. Because Freddie Mac had a protected property interest at the time of the HOA foreclosure sale, the Federal Foreclosure Bar precluded SFR from acquiring free-and-clear title unless SFR obtained FHFA's consent to extinguish Freddie Mac's interest. Indeed, "[t]he Federal Foreclosure Bar cloaks the FHFA's 'property with Congressional protection unless or until the Agency affirmatively relinquishes it.'" *Christine View*, 2018 WL 1448731, at *3 (quoting *Berezovsky*, 869 F.3d at 929).

SFR cannot show that it received such consent. To the contrary, the Conservator has publicly announced that it "has not consented, and will not consent in the future, to the foreclosure or other extinguishment of any Fannie Mae or Freddie Mac lien or other property interest in connection with HOA foreclosures of super-priority liens." *See* Ex. 22, FHFA Statement.[8] Thus, "it is clear that FHFA did not consent to the extinguishment of [the Enterprise's] property interest through the HOA's foreclosure sale." *Alessi & Koenig*, 2017 WL 773872, at *3 (citing and relying on cases in which FHFA's statement was sufficient to show FHFA's lack of consent).

[8] This public statement on a government website is subject to judicial notice. *See Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

D. Chase May Assert the Federal Foreclosure Bar to Protect Its Interest and Freddie Mac's Interest in the Deed of Trust

The Federal Foreclosure Bar works automatically by operation of law, protecting the Deed of Trust and thereby limiting the property rights SFR could have acquired in the HOA Sale. When the Federal Foreclosure Bar prevented the extinguishment of the Deed of Trust, it did not merely preserve Freddie Mac's ownership interest; it also preserved Chase's parallel interests.[9] Accordingly, Chase has standing because (1) Chase's interest in the Deed of Trust as beneficiary of record is preserved when the Federal Foreclosure Bar applies, and (2) Chase has a contractual relationship as servicer to protect Freddie Mac's interest in litigation relating to the Loan.

The Nevada Supreme Court recently adopted this position in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 396 P.3d 754 (Nev. 2017). Similarly, the Ninth Circuit found *Nationstar* persuasive and held that servicers may raise the Federal Foreclosure Bar to defend property interests of Fannie Mae and Freddie Mac in litigation. *Flagstar*, 699 F. App'x at 658-59. *Nationstar* holds that "the servicer of a loan owned by [an Enterprise] may argue that the Federal Foreclosure Bar preempts NRS 116.3116, and that neither [the Enterprise] nor the FHFA need be joined as a party." 396 P.3d at 758. The Nevada Supreme Court cited *Montierth*, which recognizes that when a noteholder authorizes the beneficiary of record of a deed of trust to enforce the deed of trust, the beneficiary of record may do so. *See id.* at 757 (citing *Montierth*, 354 P.3d at 651).

Nationstar and *Flagstar* are consistent with the holdings of numerous other courts recognizing that Article III standing may be conferred by contract and assignment. *E.g.*, *Sprint Comm'ns Co., L.P. v. APCC Servs., Inc.*, 554 U.S. 269, 271-

[9] For example, in a related case, a federal court granted Fannie Mae's servicer summary judgment against an HOA sale purchaser's claims because, when the "Court determined that Fannie Mae's interest in the Property was not extinguished," this meant that the servicer's interest also "was not affected" by the HOA Sale. *See* Order, *Saticoy Bay, LLC Series 1702 Empire Mine v. Fannie Mae*, No. 2:14-CV-01975-KJD-NJK, slip op. at 3 (D. Nev. Sept. 29, 2015) (ECF No. 129).

72 (2008); *CWCapital Asset Mgmt., LLC v. Chicago Props.*, 610 F.3d 497, 501 (7th Cir. 2010). Indeed, courts routinely recognize that servicers like Chase have constitutional and prudential standing to bring an action regarding the loan. *See, e.g.*, *Greer v. O'Dell*, 305 F.3d 1297, 1299 (11th Cir. 2002) ("[A] loan servicer is a 'real party in interest' with standing to conduct, through licensed counsel, the legal affairs of the investor relating to the debt that it services.").

The evidence in this case confirms that Freddie Mac is the owner of the Loan and that Chase is Freddie Mac's contractually authorized servicer. *Supra* at Section B.1. Pursuant to its contract with Freddie Mac, Chase has the authority to represent Freddie Mac's interests in litigation in which Chase is a party with respect to the loans it services. *See, e.g.*, *Exs. 7-4, 7-5 and 9*, Guide at 8105.3, 9301.1, 9301.12, 9401.1, 9402.2-4, Chapter 9500. Furthermore, the Conservator has publicly supported invocation of the Federal Foreclosure Bar by servicers in litigation such as this one. *See* FHFA Statement on Servicer Reliance on the Housing and Economic Recovery Act of 2008 in Foreclosures Involving Homeownership Associations,http://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Authorized-Enterprise-Servicers-Reliance.pdf. SFR can present no contrary evidence to create a genuine dispute about these facts. Accordingly, Chase may invoke the Federal Foreclosure Bar in this litigation without joining Freddie Mac or FHFA as a party.

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CONCLUSION

For these reasons, the Court should grant Chase's motion for summary judgment and enter a declaration that SFR's interest in the Property, if any, is subject to the Deed of Trust.

Dated this 13th day of April, 2018.

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CERTIFICATE OF MAILING

Pursuant to N.R.C.P. 5, I hereby certify that on the 13th day of April, 2018, an electronic copy of the **JPMORGAN CHASE BANK N.A.'S MOTION FOR SUMMARY JUDGMENT** was served on the following counsel of record via the Court's electronic service system:

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