Case No. 81293

IN THE SUPREME COURT OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A NEVADA LIMITED LIABILITY COMPANY, Appellant,

VS.

U.S. BANK N.A., A NATIONAL BANKING ASSOCIATION; AND NATIONSTAR MORTGAGE, LLC, A FOREIGN LIMITED LIABILITY COMPANY, Respondent. Electronically Filed Jan 19 2021 02:34 p.m. Elizabeth A. Brown Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County The Honorable GLORIA STURMAN, District Judge District Court Case No. A-14-705563-C

JOINT APPENDIX VOLUME 4

Respectfully submitted by:

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Attorneys for Appellant SFR Investments Pool 1, LLC

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8	50	09/08/2020	Amended Notice of Appeal	JA_1742
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8	42	Continued	Recorder's Transcript of 2/10/2020 Bench Trial	JA_1674
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Alessi. This tender discharged the super-priority portion of the HOA's lien, which carried over to the
 Second HOA Lien.

Additionally, any further attempts to pay the super-priority amount would have been futile. Tender is excused when a tender would be futile. *See* 15 Williston, A Treatise on the Law of Contracts, § 1819 (3d ed. 1972); *see also Enfield v. Huffman Motor Co.*, 117 Cal. App. 2d 800, 807 (1953). Not only is tender excused, the lien itself may be waived. *Id.* Here, it was clear that it would have been futile to tender payment to the HOA Trustee to satisfy the HOA's super-priority lien. According, this issue of BAC's tender raises triable issues of fact that precludes this Court from granting SFR summary judgment.

Accordingly, this Court should deny SFR motion for summary judgment and instead grant
 summary judgment in favor of Nationstar.

C. <u>THE HOA'S LOW FORECLOSURE SALE PRICE, COUPLED WITH</u> <u>IRREGULARITIES IN THE SALE, WARRANTS THIS COURT EXERCISING ITS</u> <u>EQUITABLE POWERS TO SET ASIDE THE SALE.</u>

SFR's Motion should also be denied because the HOA Sale the sale should be set aside
under equitable principles because the sale of the Property for less than 20% of its fair market value
is grossly inadequate, and when coupled with the unfairness evidenced in this case, warrants setting
aside the sale. *See, Nationstar Mortgage, LLC v. Saticoy Bay, LLC Series 2227 Shadow Canyon*,
133 Nev. Adv. Op. 91 (Nov. 22, 2017).

In Nationstar, which was recently decided by the Nevada Supreme Court, the Court clarified 19 the standard upon which a sale can be set aside as "commercially unreasonable." In particular, the 20 Court held that *Shadow Wood* did not overturn the Court's longstanding rule that "inadequacy of 21 price, however gross, is not in itself a sufficient ground for setting aside a trustee's sale" absent 22 additional "proof of some element of fraud, unfairness, or oppression as accounts for and brings 23 about the inadequacy of price". See Id. at 2-3 citing Shadow Wood, 132 Nev., Adv. Op. 5, 366 P.3d 24 111 (quoting Golden v. Tomiyasu, 79 Nev. 503, 514, 387 P.2d 989, 995 (1963). 25 However, the Nevada Supreme noted in *Nationstar*: "This is not to say that price is wholly 26 irrelevant. To the contrary, Golden recognized that the price/fair-market-value disparity is a relevant 27

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consideration because a wide disparity may require less evidence of fraud, unfairness, or oppression 1 2 to justify setting aside the sale:

[I]t is universally recognized that inadequacy of price is a circumstance of greater or less weight to be considered in connection with other circumstances impeaching the fairness of the transaction as a cause of vacating it, and that, where the inadequacy is palpable and great, very slight additional evidence of unfairness or irregularity is sufficient to authorize the granting of relief sought."

Thus, in *Nationstar*, the Nevada Supreme Court clarified that it continues to endorse the approach in Golden when evaluating the validity of foreclosure sales – mere inadequacy of price is not in itself sufficient to set aside the foreclosure sale, but it should be considered together with any irregularities in the sales process to determine whether the sale was affected by fraud, unfairness, or oppression. See Id. at 15-16. There is no doubt that the SFR's purchase price of \$59,000.00 at 19.2% of the fair market value of the Property was wholly inadequate. See, BFP v. Resolution Trust 511 U.S. 531. 538 (1994).Corp.,

Here, not only was the sale price woefully insufficient, but the sale exhibits fatal 14 irregularities resulting in substantial unfairness. After BAC tendered payment to Alessi to satisfy 15 the super-priority portion of its lien and after Alessi rejected the tender, Alessi recorded a release of 16 the delinquent assessment lien, only then to rerecord the lien with the same balance of delinquent assessments, late fees, and other fees that existed in the 1st HOA Lien. These significant 18 irregularities serve to render the sale patently unfair and, when considering the entirety of the circumstances, warrant setting aside the foreclosure sale.

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SFR INVESTMENTS IS NOT A BONA FIDE PURCHASER FOR VALUE

In the JPMorgan Chase Bank decision, the Supreme Court noted the futility of proving that one is a bona fide purchaser in a case where an HOA lien had been satisfied through tender:

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25 ¹ Nationstar at 15 (citing Golden, 79 Nev. at 515-16, 387 P.2d at 995 (quoting Odell v.Cox, 90 P. 194, 196 (Cal. 1907)); id. ("While mere inadequacy of price has rarely been 26 held sufficient in itself to justify setting aside a judicial sale of property, courts are not slow to seize upon other circumstances impeaching the fairness of the transaction as a cause for 27 vacating it, especially if the inadequacy be so gross as to shock the conscience." (quoting Schroeder v. Young, 161 U.S. 334, 337-38 (1896)). 28

GERRARD, COX & LARSEN O:(702)796-4000 F:(702)796-47848 Parkway, Suite 200 Henderson, NV 89074 2450 St. Rose

Although appellant argues it was a bona fide purchaser, appellant has not explained how its putative BFP status could have revived the already-satisfied superpriority component of the HOA's lien.

No. 71246, 2017 WL 6597154 Fn. 1. (Nev. Dec. 22, 2017). Although the bona fide purchaser status is not a defense to a sale which is rendered void due to the extinguishing of the underlying lien prior to the HOA Sale, as occurred in this case, Nationstar will address SFR's status as a bona fide purchaser.

Under Nevada law, the bona fide purchaser status is an affirmative defense. *Bailey v. Butner*, 64 Nev. 1, 4, 176 P.2d 226, 229 (1947) (the right to protection as a bona fide purchaser is ordinarily regarded as an affirmative defense). The party asserting an affirmative defense always bears the burden of proving each element of that defense. *See Nev. Ass'n Servs., Inc. v. Eighth Judicial Dist. Court*, 130 Nev. Adv. Rep. 94, 338 P.3d 1250, 1254 (2014) (noting that the party asserting an affirmative defense bears the burden of proving each element of that defense); *Schwartz v. Schwartz*, 95 Nev. 202, 206 n.2, 591 P.2d 1137, 1140 n.2 (1979) (A party who asserts an affirmative defense has the burden to prove each element of the defense). In this case, SFR has failed to set out any facts which might support its claim of bona fide purchaser status, such as efforts to determine whether or not a payment had been made that would extinguish the HOA Lien. SFR cannot therefore claim to be a bona fide purchaser and this defense is unavailable to it.

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1	V.
2	CONCLUSION
3	WHEREFORE, for the foregoing reasons, Nationstar Mortgage, LLC respectfully requests
4	that this Court deny SFR Investments Pool 1, LLC's Motion for Summary Judgment.
5	Dated this 19 th day of July, 2018.
6	GERRARD COX LARSEN
7	<u>/s/ Fredrick J. Biedermann, Esq.</u> Douglas D. Gerrard, Esq.
8	Nevada Bar No. 4613
9	Fredrick J. Biedermann, Esq. Nevada Bar No. 11918
10	2450 Saint Rose Pkwy., Suite 200 Henderson, Nevada 89074
11	AKERMAN LLP
12	
13	/s/ Donna Wittig, Esq. Darren T. Brenner, Esq. Nevada Bar No. 8386
14	Donna Whittig, Esq. Nevada Bar No. 11015
15	1635 Village Center Circle, Suite 200 Las Vegas, Nevada 89134
16	Attorneys for Defendant / Counter-Defendant
17	Nationstar Mortgage, LLC
18	
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	CERTIFICATE OF SERVICE
1	I hereby certify that I am an employee of GERRARD COX LARSEN, and that on the <u>19th</u>
2	day of July, 2018, I served a copy of the OPPOSITION TO SFR INVESTMENTS POOL 1 ,
3	LLC'S MOTION FOR SUMMARY JUDGMENT, by e-serving a copy on all parties <i>listed in the</i>
4	Master Service List pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer
5	Togliatti, on May 9, 2014.
6 7 8 9	Melanie D. Morgan, Esq. Donna Wittig, Esq. 1635 Village Center Circle, Suite 200 Las Vegas, Nevada 89134 Attorneys for Defendant, Nationstar Mortgage, LLC and Defendant/ Counterclaimant/ Third-Party Defendant U.S. Bank, National Association, as Trustee for the Certificate Holders of the LXS 2006-4N Trust Fund, erroneously plead as U.S. Bank, N.A.
10	Diane Cline Ebron, Esq.
11	Jacqueline A. Gilbert, Ésq. Karen L. Hanks, Esq.
12	KIM GILBERT EBRON 7650 Dean Martin Drive, Suite 110
13	Las Vegas, Nevada 89139 Attorneys for SFR Investment Pool 1, LLC
14	
15	<u>/s/ Fredrick J. Biedermann, Esq.</u> Fredrick J. Biedermann, an employee of
16	GERRARD COX LARSEN
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GERRARD, COX & LARSEN 2450 St. Rose Parkway, Suite 200 Henderson, NV 89074 0:(702)796-47848

JA_0722

TAB 18

TAB 18

TAB 18 JA_0723

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JA_0724

1	ERR Jacqueline A. Gilbert, Esq.	Atump. Atu
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3	DIANA S. EBRON, ESQ. Nevada Bar No. 10580	
5	E-mail: diana@kgelegal.com	
4	KAREN L. HANKS, ESQ.	
_	Nevada Bar No. 9578	
5	E-mail: karen@kgelegal.com	
6	KIM GILBERT EBRON <i>fka Howard Kim & Associates</i>	
	7625 Dean Martin Drive, Suite 110	
7	Las Vegas, Nevada 89139	
8	Telephone: (702) 485-3300	
0	Facsimile: (702) 485-3301 Attorneys for SFR Investments Pool 1, LLC	
9		
10	IN THE EIGHTH JUDICIAL DISTRIC	T COURT OF THE STATE OF NEVADA
10	IN AND FOR THE (COUNTY OF CLARK
11	IN AND FOR THE	COUNTION CLARK
	ALESSI & KOENIG, LLC, a Nevada limited	Case No. A-14-705563-C
12	liability company,	
13	Plaintiff, vs.	Dept. No. 17
		ERRATA TO:
14	STACY MOORE, an individual; MAGNOLIA	EKKATA IO.
15	GOTERA, an individual; KRISTIN JORDAL,	SFR INVESTMENTS POOL 1 LLC'S
15	AS TRUSTEE FOR THE JBWNO REVOCABLE LIVING TRUST, a trust; U.S.	OPPOSITION TO CROSS-DEFENDANT
16	BANK, N.A., a national banking association;	NATIONSTAR MORTGAGE, LLC'S
1 -	NATIONSTAR MORTGAGE, LLC, a foreign	MOTION FOR SUMMARY JUDGMENT
17	limited liability company; REPUBLIC SILVER	AND
18	STATE DISPOSAL, INC., DBA REPUBLIC SERVICES, a domestic governmental entity;	
10	DOE INDIVIDUALS I through X, inclusive;	U.S. BANK, N.A. AS TRUSTEE FOR THE
19	and ROE CORPORATIONS XI through XX	CERTIFICATE HOLDERS OF THE LXS 2006-4N TRUST FUND'S JOINDER TO
20	inclusive,	NATIONSTAR MORTGAGE, LLC'S
20	Defendants.	MOTION
21	U.S. BANK, N.A.,	
	Counterclaimant,	
22	VS.	
23	ALESSI & KOENIG, LLC, a Nevada limited	
	liability company,	
24	Counter-Defendant.	
25	U.S. BANK, N.A., Third Party Plaintiff	
23	Third-Party Plaintiff, vs.	
26		
27	SFR INVESTMENTS POOL 1, LLC, a Nevada	
27	limited liability company; INDIVIDUAL DOES I through X, inclusive; and ROE	
28	CORPORATIONS I through X, inclusive,	
	-	1 -

1 2	Third-Party Defendant(s). SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,	
3	Third-Party Counterclaimant/Cross-Claimant,	
4	vs.	
5	U.S. BANK, N.A.; NATIONSTAR	
6	MORTGAGE, LLC, foreign limited liability	
7	company; KRISTEN JORDAL, as Trustee for the JBWNO REVOCABLE LIVING TRUST, a	
8	Trust; STACY MOORE, an individual; and MAGNOLIA GOTERA, an individual,	
9	Counter-Defendants/Cross-Defendants.	
10	ERRATA	А ТО:
11	SFR INVESTMENTS POOL 1 LLC'S OP	POSITION TO CROSS-DEFENDANT
12	NATIONSTAR MORTGAGE, LLC'S MOTI U.S. BANK, N.A. AS TRUSTEE FOR THE C 2006-4N TRUST FUND'S JOINDER TO NAT	ON FOR SUMMARY JUDGMENT; AND CERTIFICATE HOLDERS OF THE LXS IONSTAR MORTCACE, LLC'S MOTION
13		
14	SFR Investments Pool 1, LLC ("SFR"), by and through its undersigned counsel of record,	
15	hereby submits its Errata to its Nationstar Mortgage, LLC's motion for summary judgment and	
16	to U.S. Bank, N.A. joinder thereto.	
17	The attorney signature was inadvertently omitted from the original document filed July	
18	19, 2018. Attached hereto as Exhibit A is a corrected version of the motion that includes the	
19	attorney signature, as well as minor cosmetic ch	anges that do not affect the substance of the
20	original motion.	
21	DATED this 20th day of July, 2018.	KIM GILBERT EBRON
22		<u>/s/Jacqueline A. Gilbert</u> JACQUELINE A. GILBERT, ESQ.
23		Nevada Bar No. 10593 DIANA S. EBRON, ESQ.
24		Nevada Bar No. 10580
25		KAREN L. HANKS, ESQ. Nevada Bar No. 9578 7625 Deep Martin Drive, Suite 110
26		7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139
27		Attorneys for SFR Investments Pool 1, LLC
28		
	- 2 -	-

JA_0725

CERTIFICATE OF SERVICE

I hereby certify that on the <u>20th</u> day of July, 2018, pursuant to NRCP 5(b)(2)(D), I caused service of a true and correct copy of **ERRATA TO: SFR INVESTMENTS POOL 1 LLC'S OPPOSITION TO CROSS-DEFENDANT NATIONSTAR MORTGAGE, LLC'S MOTION FOR SUMMARY JUDGMENT AND U.S. BANK, N.A. AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE LXS 2006-4N TRUST FUND'S JOINDER TO NATIONSTAR MORTGAGE, LLC'S MOTION** to be made electronically via the Eighth Judicial District Court's electronic filing system upon the following parties at the e-mail addresses listed below:

Akerman LLP Akerman LAS@akerman.com Melanie Morgan melanie.morgan@akerman.com Donna Wittig donna.wittig@akerman.com Douglas D. Gerrard, Esq. . dgerrard@gerrard-cox.com Fredrick J. Biedermann, Esq. fbiedermann@gerrard-cox.com A&K eserve. eserve@alessikoenig.com Kaytlyn Johnson . kjohnson@gerrard-cox.com Sarah Greenberg Davis . sgreenberg@wrightlegal.net Esther Medellin emedellin@gerrard-cox.com /s/ Alexander Loglia Alexander Loglia, an employee of KIM GILBERT EBRON

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JA 0726

Ex. A

EXHIBIT A

Ex. A

JA_0727

1 2 3 4 5 6 7 8	OMSJ JACQUELINE A. GILBERT, ESQ. Nevada Bar No. 10593 E-mail: jackie@kgelegal.com DIANA S. 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 Dr., Suite 110 Las Vegas, Nevada 89139 Telephone: (702) 485-3300 Facsimile: (702) 485-3301 Attorneys for SFR Investments Pool 1, LLC		
9		Γ COURT OF THE STATE OF NEVADA	
10	IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK		
11	ALESSI & KOENIG, LLC, a Nevada limited	Case No. A-14-705563-C	
12	liability company, Plaintiff,		
13	vs.	Dept. No. 17	
14 15	STACY MOORE, an individual; MAGNOLIA GOTERA, an individual; KRISTIN JORDAL, AS TRUSTEE FOR THE JBWNO	SFR INVESTMENTS POOL 1 LLC'S OPPOSITION TO CROSS-DEFENDANT NATIONSTAR MORTGAGE, LLC'S	
16	REVOCABLE LIVING TRUST, a trust; U.S. BANK, N.A., a national banking association;	MOTION FOR SUMMARY JUDGMENT	
	NATIONSTAR MORTGAGE, LLC, a foreign limited liability company; REPUBLIC SILVER	AND	
18	STATE DISPOSAL, INC., DBA REPUBLIC SERVICES, a domestic governmental entity;	U.S. BANK, N.A. AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE LXS 2006-4N TRUST FUND'S JOINDER TO	
19	DOE INDIVIDUALS I through X, inclusive; and ROE CORPORATIONS XI through XX	NATIONSTAR MORTGAGE, LLC'S MOTION	
20	inclusive, Defendants.		
21	U.S. BANK, N.A., Counterclaimant,		
22	VS.		
23	ALESSI & KOENIG, LLC, a Nevada limited liability company, Counter-Defendant.		
24	U.S. BANK, N.A., Third-Party Plaintiff,		
25	VS.		
26	SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; INDIVIDUAL DOES		
27 28	I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,		
20			

KIM GILBERT EBRON 7625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301 KIM GILBERT EBRON 7625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301 10

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Third-Party Defendant(s). 1 SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company, 2 Third-Party Counterclaimant/Cross-Claimant, 3 VS. 4 5 U.S. BANK, N.A.; NATIONSTAR MORTGAGE, LLC, foreign limited liability 6 company; KRISTEN JORDAL, as Trustee for 7 the JBWNO REVOCABLE LIVING TRUST, a Trust; STACY MOORE, an individual; and 8 MAGNOLIA GOTERA, an individual, 9 Counter-Defendants/Cross-Defendants.

SFR Investments Pool 1, LLC ("SFR") hereby opposes Nationstar Mortgage, LLC ("Nationstar") motion for summary judgment and U.S. Bank, N.A. ("U.S. Bank"), Joinder.

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. ("Gilbert Decl."), attached hereto as **Exhibit A**, and such evidence and oral argument as may be presented at the time of the hearing on this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. <u>INTRODUCTION</u>

18 Nationstar's motion should be denied for the following reasons: **First**, Nationstar has not 19 proven its standing to enforce the note and, therefore, the deed of trust. **Second**, Nationstar has 20 failed to meet its burden to establish its alleged "tender" defense was effective to discharge the 21 superpriority portion of the Association's lien. Nationstar has not shown that the rejection was 22 unjustified. Nationstar's payment is unenforceable against third-parties such as SFR because it 23 was unrecorded. Contrary to Nationstar's unsubstantiated statements, without recording, SFR is 24 not in position to ever know whether an alleged tender ever occurred. Given Nationstar's failure 25 to establish its tender defense, such defense was not sufficient to preclude summary judgment in 26 SFR's favor. Third, Nationstar failed to demonstrate any element of fraud, oppression or 27 unfairness sufficient to set aside the Association foreclosure sale. Since Nationstar has failed to 28 raise a genuine dispute regarding whether the sale was commercially reasonable, this Court must



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deny Nationstar's motion.

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II. STATEMENT OF DISPUTED FACTS

Disputed Fact#1: Nationstar's purported interest in the DOT, if any.

SFR does not object to the Bank's request that the Court take judicial notice of the fact that its exhibits¹ (publicly recorded documents purporting to pertain to the property's title) were recorded by the Clark County Recorder on the recording dates provided therein. See F.R.E. 201(b)(2); NRS 47.130(2)(b). However, SFR objects to the Bank's request to the extent the Bank intends to use them to establish the truth or falsity of the facts contained therein. Id.; see also F.R.E. 201(e); NRS 47.160 (a party can challenge "the propriety of taking judicial notice and the tenor of the matter to be noticed."). The mere recording of a document does not guarantee the accuracy or the authenticity of such a document.

SFR challenges the Bank's standing to enforce the alleged note and deed of trust ("DOT"). It is a matter of public record that various mortgage holders and servicers engaged in serious misconduct that drew into question the validity of documentation underlying their property transactions. In 2012, the Office of Inspector General, Department of Housing & Urban Development issued its Memorandum No. 2012-CH-1803. See Gilbert Decl., Exhibit A-1 ("OIG Report"). SFR has noted these types of problems raised in recent litigation by other parties.² See Gilbert Decl., Exhibits A-2 through A-6. Based on these same issues, another court in this District denied a bank's motion to substitute parties based on a recorded assignment. See Ditech Financial LLC v. SFR Investments Pool 1, LLC, Case No. 2:16-cv-00127-GMN-NJK, at ECF No. 98 (D. Nev. Nov. 8, 2017) (Order, referencing ECF No. 93 which included the above-

¹ See [ECF No. 49].



²³ ² See Gilbert Decl., ¶6(b) & Exhibit A-2 (U.S. Bank unable to explain the 2007 reconveyance of the purported first deed of trust or the 2013 rescission of the 2007 reconveyance: unable to explain 24 how J.P. Morgan became the depositor for a loan originated by Countrywide and explaining that a single code in the bank's system of record served the basis for the bank's position that the loan 25 is contained in the trust and to determine in which entity the deed of trust should be assigned). See Gilbert Decl., ¶6(d) & Exhibit A-5 (bank's written discovery responses and recorded assignment 26 stated HSBC Bank USA, N.A. a Trustee for Sequoia Mortgage Trust 2007-3 was owner of loan while bank witness testified that bank system of record showed the loan to be contained in a 27 different trust)

referenced exhibits herein listed as A-1 through A-6).³ Given the issues above, the relevance in mandating that the Bank produce the original of the Deed of Trust, Note and Assignments to establish its claimed interest in the property is apparent. Copies will not suffice.

Disputed Fact #2: Nationstar's "Tender." See Bank's Mot. pg. 7 at ¶¶ 5-8.

The motion is supported by an affidavit from Doug Miles. *See* Nationstar's Mot. at Exhibit E. Miles was never properly disclosed as witness during the course of discovery. So as to not waive its opposition to use of the affidavit and any unauthenticated documents, SFR will not respond to the affidavit. NRCP 16.1(a)(3)(A); NRCP 16.1(e)(B); *see also* section A *infra*. If the Affidavit is not considered by this Court, then what is left is unsubstantiated statements that a "tender" occurred, which is insufficient for summary judgment. NRCP 56(c). Even if that is not enough, Miles cannot lay a foundation for the Association's ledger or the letters from Alessi & Koenig, LLC ("A&K"). The purpose of attaching said letters and ledgers is for the truth of the matter asserted making these documents hearsay. Accordingly, the court cannot rely on these documents.

Without waiving the waiver, SFR disputes the use of the word "tender" as what constitutes proper "tender" is a question of law. Second, the amount of the lien entitled to super-priority status is a legal question and not proper for the facts section. Third, in making any payment, Nationstar insisted that acceptance of such payment was conditional on the fact that this check would have "paid in full" all the obligations towards the Association and required acceptance that the amount proffered was all that was due. *See* Nationstar's Mot. Exhibit E, Sub-Exhibit 3. In fact, the letter stated as follows:

Our client has authorized us to make payment to you in the amount of \$207.00 to satisfy its obligations to the HOA as a holder of the first deed of trust against the property. Thus, enclosed you will find a cashier's check made out to Alessi & Koenig, LLC in the sum of \$207.00, which represents the maximum 9 months worth of delinquent assessments recoverable by an HOA. This is a non-negotiable amount and any endorsement of said cashier's check on your part, whether express or implied, will be strictly construed as an unconditional acceptance on your part of the facts stated herein and express agreement that BAC's financial obligations towards the HOA in regards to the real property located at 5327 Marsh Butte Street have now been "paid in full".

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²⁸ ³ True and correct copies of the Order and [ECF No. 93] are attached hereto as **Exhibit B**.

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KIM GILBERT EBRON 625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301 3

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Id. If such impermissible condition was not contained in the letter, A&K likely would have
 accepted this payment and applied it to the balance of the delinquent homeowner.

But more importantly, Nationstar has failed to establish through admissible evidence that Nationstar ever made any payment to A&K or the Association. The only evidence that a check was ever delivered to A&K is an unauthenticated letter, unauthenticated copy of the purported check and a copy of the purported run slip from Legal Wings which is hearsay. The run slip is an out of court statement that is being used for the truth of the matter asserted, and there is no exception that is applicable. NRS 51.035. Additionally, the run slip has not been authenticated. Simply put, Nationstar is asking this Court to take it at face value that this check was received. As such, this Court cannot conclude at this stage of litigation that such a payment was even sent to AMS as claimed by Nationstar.

<u>Disputed Fact#3:</u> "...SFR purported to be the highest bidder and allegedly purchased the property for \$59,000.00."

SFR disputes the use of "purported" as the evidence that it was highest bidder is the fact that SFR purchased the Property at the publicly conducted auction, evidenced by the check in the amount of \$59,000 and the foreclosure deed which reflects the same.

Disputed Fact#4: "At the time of the foreclosure sale, the fair market value of the Property was \$306,000.00."

SFR disputes this "fact" as it calls for a legal conclusion. First, Mr. Dugan's retrospective
market appraisal should be disregarded because it fails to take into account the realities of the sale
itself, that it was a forced sale, rather Nationstar's expert did an appraisal as if it was a typical
property being sold under normal conditions.

Mr. Dugan relied on a Sales Comparison Approach as if none of the factors surrounding the sale existed. Every property sale used by Mr. Dugan was a traditional sale. This type of sale bears no resemblance to an NRS 116 sale. NRS 116 sale issues have engendered countless litigation costing thousands of dollars, led to many Nevada Supreme Court decisions, and is still driving costly litigation. The fact that Mr. Dugan had to ignore this in its entirety to formulate his opinion is unequivocal proof that his Appraisal Report is based upon an erroneous assumption. As is

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discussed further below, market value has no applicability to a forced sale situation. BFP v. Resolution Trust Corporation, 511 U.S. 531 (1994).

III. LEGAL ARGUMENT

A. The Bank's Quiet Title Claim Fails Because It Did Not Prove Standing to Enforce.

The Bank does not have and has never had title to the Property. Thus, the Bank has the burden of proof to demonstrate that both the note and deed of trust were properly transferred to it in order to obtain the declaratory relief it seeks. Breliant v. Preferred Equities Corp., 918 P.2d 314, 318 (Nev. 1996)). If the Bank did not have a property interest to be deprived of at the time of the Association foreclosure sale. If the Bank is not currently entitled to enforce the deed of trust and promissory note, then it is not the proper party to bring this lawsuit and a declaration from the Court saying the Bank's deed of trust was not extinguished would be improper. SFR challenges the Bank's standing to enforce the deed of trust and promissory note in its affirmative defenses and counterclaims.

Evidentiary Principles from Nevada's Foreclosure Mediation Program Reveal that 1) the Bank did not Prove Standing to Enforce.

Nevada law contemplates the spirit of requiring lenders to prove good title: standing to enforce. Under NRS 107.086, the Bank is required to bring to mediation the original or a certified copy of the deed of trust, the mortgage note, and each assignment of the deed of trust and/or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority. Nev. Rev. Stat. Ann. § 107.086 (West); see also Law v. Federal National Mort. Ass'n, Case No. 69469 (Nev. Ct. App. Dec. 28, 2016) (unpublished disposition) (holding that where the beneficiary of record is one entity and holder of note is another, the beneficiary cannot enforce). Therefore, in order for the Bank to strip SFR of its property rights, the Bank must at least prove its standing to enforce, or the transaction in which it acquired standing, by providing the original or certified copy of the Deed of Trust, the Note, and each assignment upon which it relies. ///

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2) <u>Under the UCC, the Bank did not Prove that it can Enforce the Note.</u>

The proper method of transferring a mortgage note is governed by Article 3 of the Uniform Commercial Code—Negotiable Instruments, because a mortgage note is a negotiable instrument.⁴ *Leyva v. Nat'l Default Servicing Corp.*, 127 Nev. 470, 255 P.3d 1275, 1279–81 (2011) (citing *Birkland v. Silver State Financial Services, Inc.*, No. 2:10–CV–00035–KJD, 2010 WL 3419372, at *4 (D. Nev. Aug. 25, 2010)). The obligor on the note has the right to know the identity of the entity that is "entitled to enforce" the mortgage note under Article 3, *see* NRS 104.3301, *see also In re Veal*, 450 B.R. 897, 920, at *16 (B.A.P. 9th Cir. June 10, 2011) (holding that a purported servicer, did not prove that it was the party entitled to enforce, and receive payments from, a mortgage note because it "presented no evidence as to who possessed the original Note. It also presented no evidence showing [e]ndorsement of the note either in its favor or in favor of Wells Fargo, for whom AHMSI allegedly was servicing the [bankrupt party's] Loan.").

Similarly, in a quiet title action, a lender must show that it is the party entitled to enforce the mortgage note. "An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument." UCC § 3-203(a). "Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument. ..." UCC § 3-203(b). While the failure to obtain the endorsement of the payee or other holder does not prevent a person in possession from being the "person entitled to enforce" the note, the possessor does not

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 ⁴ See NRS 104.3102 (1) which applies to negotiable instruments like mortgage notes under Nevada's adoption of UCC Article 3. Transfer of a mortgage note must be done in accordance to NRS 104.3109 (note payable to bearer or order) and properly transferred or negotiated to a subsequent holder by proper endorsement if required. <u>See</u> NRS 104.3109; 104.3201; 104.3204; see also Leyva v. Nat'l Default Servicing Corp., 255 P.3d 1275, 1280 (Nev. 2011).

²³ If the note is payable to the order of an identifiable party but is then sold or otherwise assigned to a new party, it must be endorsed by the party to whom it was originally payable for the 24 note to be considered properly negotiated to the new party. Leyva, 255 P.3d at 1280. "When endorsed in blank, an instrument becomes payable to bearer...." NRS 104.3205(2). Further, "a note 25 initially made payable 'to order' can become a bearer instrument, if it is endorsed in blank." Bank of New York v. Raftogianis, 418 N.J.Super. 323, 13 A.3d 435, 439 (N.J.Super.Ct.Ch.Div.2010); 26 see also U.C.C. § 3–205 cmt. 2 (2004). A party wishing to enforce a note must demonstrate it was validly negotiated or transferred by proper endorsement or proving the transaction through which, 27 the note was acquired. Leyva, 255 P.3d at 1281 citing NRS 104.3203(2) and U.C.C. § 3-202 cmt 2. 28

have the presumption of a right to enforce. Branch Banking & Trust Co. v. Smoke Ranch Dev., LLC, No. 2:12-CV-00453-APG-NJK, 2014 WL 4796939, at *4 (D. Nev. Sept. 26, 2014). Rather, the possessor of the note must demonstrate both the fact and the purpose of the delivery of the note to the transferee in order to qualify as the "person entitled to enforce." Levva, 255 P.3d at 1281.

The Bank may argue that it has possession of the note and that alone demonstrates standing to enforce the note and deed of trust. However, this argument fails because it never proved it had possession of the original note. See id. at 1280. Even if it had, Article 3 requires the Bank to demonstrate more than mere possession of the original note to be able to enforce it as a negotiable instrument. Id. Mere possession of the note does not evidence valid transfer. Without a valid or blank endorsement, "the possessor does not have the presumption of a right to enforce. Rather, the possessor of the note must demonstrate both the fact and the purpose of the delivery of the note to the transferee in order to qualify as the 'person entitled to enforce." Branch Banking & Trust Co. v. Smoke Ranch Dev., LLC, No. 2:12-CV-00453-APG-NJ, 2014 WL 4796939, at *4 (D. Nev. Sept. 26, 2014) *citing Leyva*, 255 P.3d at 1281. In this matter, the Bank has not demonstrated both the fact and delivery of the note. Here, the Bank failed to produce or otherwise make available the original note. In light of the above, the Bank has completely failed to prove it has standing to enforce the note and deed of trust which precludes it from quiet title.

3) Lack of production of evidence reinforces the Bank's lack of standing to enforce.

A written assignment of a deed of trust is an instrument that sets forth the chain of title. Kono v. Wells Fargo Bank, N.A., No. 59928, 2013 WL 7158570, at *2 (Nev. Dec. 17, 2013). A 20 written assignment's purpose is to complete the chain of title of the person seeking to enforce the note. See Cf. Einhorn, 128 Nev. Adv. Op. 61, 290 P.3d 249, 254 (2012).

The Bank must provide a certified copy of the assignment of mortgage and provide proof 23 that the assignment was made by a party that itself held the mortgage. See U.S. Bank N.A. v. Ibanez, 24 25 941 N.E.2d 40, 52 (Mass.App. 2011) (citing In re Samuels, 415 B.R. 8, 20 (Bankr.D.Mass.2009)). 26 The Bank may provide a complete chain of assignments linking it to the record holder of the 27 mortgage, or a single assignment from the record holder of the mortgage. Id. (citing In re Parrish, 326 B.R. 708, 720 (Bankr.N.D.Ohio 2005) ("If the claimant acquired the note and mortgage from 28

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the original lender or from another party who acquired it from the original lender, the claimant can 1 2 meet its burden through evidence that traces the loan from the original lender to the claimant")).

The Bank failed to produce the original, wet-ink endorsed note, a certified copy of the mortgage, a certified copy of the assignment, and the chain of ownership of the note and the deed of trust. Thus, the Bank has not demonstrated it has standing to enforce the mortgage loan. Where the Bank files a complaint asking for a declaration of clear title, the parties are entitled to ask for proof that it is has standing. *Ibanez*, 941 N.E.2d at 52-53. A plaintiff that cannot make this modest showing, cannot justly proclaim that it was unfairly denied a declaration of clear title. Id. at 54 (citing In re Schwartz, 461 B.R. 93 (Bankr. D. Mass. 2011) ("When HomEq [Servicing Corporation] was required to prove its authority to conduct the sale, and despite having been given ample opportunity to do so, what it produced instead was a jumble of documents and conclusory statements, some of which are not supported by the documents and indeed even contradicted by them")); see also Bayview Loan Servicing, LLC v. Nelson, 382 Ill.App.3d 1184, 1188, 322, 890 N.E.2d 940 (Ill. Dec. 21, 2008) (reversing grant of summary judgment in favor of financial entity in a foreclosure action, where there was "no evidence that [the entity] ever obtained any legal interest in the subject property"). It is too late for the Bank to try and overcome these evidentiary issues.

In conclusion, the Bank failed to prove its standing with any evidence of valid transfer of 18 19 the note and Deed of Trust. The Bank failed to provide a validly endorsed note, failed to provide 20 the chain of ownership of the note and the Deed of Trust and failed to provide the original writing transferring the deed of trust. Therefore, this Court should deny the Bank's Motion for Summary 21 22 Judgment as it has not met its burden to show standing to enforce the loan; thus, it cannot legally show it is entitled to "quiet title." 23

B. Nationstar Failed to Show the Association's Lien did not Include Superpriority Amounts.

The Association's notices constitute prima facie evidence that the Association foreclosed 26 on the superpriority portion of the Lien. PNC Bank v. Saticoy Bay, No. 69595 (unpublished order 27 May 25, 2017); PNC Bank v. Saticov Bay, No. 69201 (unpublished order June 15, 2017). Similarly, 28

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a foreclosure deed "conveying all its right, title and interest" constitutes prima facie evidence that the Association foreclosed on the superpriority portion of the lien. BNY Mellon v. K&P Homes, LLC, No. 71273, 404 P.3d 403 (Nev. October 20, 2017) (unpublished disposition). As such, Nationstar bears the burden to overcome the presumption. Nationstar has failed to meet said 4 burden. As set forth below, any purported partial payment by the Bank failed to discharge the super-priority portion of the lien. 6

C. Undisclosed Witness, Unauthenticated Documents and Documents Containing Hearsay are Not Admissible.

1) Doug Miles was NOT Disclosed

Nationstar uses an affidavit from an undisclosed witness, Doug Miles ("Miles"). While Nationstar will claim it disclosed a "corporate designee for the law firm of Miles Bauer Bergstrom and Winters, LLC ("Miles Bauer") this is insufficient because the rules require identification of witnesses by name. NRCP 16.1(a)(3)(A), provides the following: "[t]he name, and..., the address and telephone number of each witness, separately identifying those whom the party expects to present, those witnesses who have been subpoenaed for trial and those whom the party may call if the need arises[.]" Id. Here, SFR was not provided the name of the witness during the discovery period, making the disclosure meaningless. Nationstar's disclosure merely stated "corporate designee for the Miles Bauer." This is insufficient and contra to NRCP 16.1 as the named individual was not identified. Since a witness was never properly disclosed, it is prejudicial for Nationstar to now rely on Miles' affidavit in its motion for summary judgment. As a result, this Court should not consider the affidavit of Miles. Pursuant to NRCP 16.1(e)(B) "[a]n order prohibiting the use of any witness, document, or tangible thing which should have been disclosed... pursuant to Rule 16.1(a)." Id.

Nationstar should have produced this witness without being asked, as part of its initial 24 disclosures and supplements thereto. See NRCP 16.1(a)(1)(B) and see also, NRCP 26(b). 25 Pursuant to NRCP 26(b) (1) "Parties may obtain discovery regarding any matter...which is 26 relevant to the subject matter involved in the pending action... and the **identity and location of** 27 persons having knowledge of any discoverable matter." Id. (emphasis added). The fact that the 28

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Nationstar is supporting its motion with this declaration reveals it is relevant to the claims. The 2 witness' identity should have been disclosed timely. Since Nationstar did not, this motion should easily be denied. 3

2) Unauthenticated Exhibits are Inadmissible.

Even if this Court were to overlook the failure to disclose, Nationstar still needs to authenticate and establish foundation for the admission of the documents, which they have not done. Pursuant to NRS 52.015(1) authentication is a condition precedent in order for documentary and other physical evidence to be admitted. In order to authenticate evidence, Nationstar must show that the exhibit is what the movant claims it is. Here, Miles cannot authenticate and lay a foundation for the Association's ledger or the letters written by A&K as Miles in his capacity as an employee of Miles Bauer did not prepare these documents. Additionally, Exhibit E-5 is a computer screen shot. Nationstar is seeking to use these purported screenshots to establish its claims against SFR. However, when business records exist in electronic form, the focus is not so much on the creation of the record, "but rather on the circumstances of the preservation of the record during the time it is in the file so as to assure that the document being proffered is the same as the document that originally was created." In re Vee Vinhnee, 336 B.R. 437, 444 (B.A.P. 9th Cir. 2005). It is not sufficient to identify the computer program. Instead, Nationstar is required to show the "entities policies and procedures for the use of the equipment, database, and programs." The Custodian of the records must also establish how access to the system is controlled, how changes are logged and recorded, and the implementation of backup systems." Id. The Miles Affidavit fails in all respects in meeting the *In re Vee* standard. Evidence in support of a motion for summary judgment must be admissible. NRCP 56(e); Schneider v. Continental Assurance Co., 110 Nev. 1270, 1274, 885 P.2d 572, 575 (1994). This Court should deny Nationstar's Motion because it is not supported with admissible evidence.

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3) Hearsay Makes Documents Inadmissible

Further, these same exhibits contain hearsay, as Nationstar is using these documents for 26 27 the truth of the matter asserted in order to establish its defense of "tender." However, in order to be admissible, Nationstar needs to establish an exception, which it cannot. Accordingly, these 28

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documents cannot be relied upon to support its motion for summary judgment.

D. Nationstar's Alleged Payment did not Constitute a Valid Tender.

1) <u>The Payment was Conditional and Therefore Not Valid.</u>

While the Nevada Supreme Court has not defined the term "tender," in a published decision, two unpublished orders recently were issued which held that a "[t]o make an effective tender, the debtor must actually attempt to pay the sums due; mere offers to pay or declarations that the debtor is willing to pay, are not enough." *See The Bank of New York Mellon, FKA The Bank of New York as Trustee for the Certificateholders of CWALT Inc., Alternative Loan Trust 2005-1CB, Mortgage Pass-Through Certificates, Series 2005-1CB v. SFR Investments Pool 1, LLC, No. 68165, at *2 (Nev. June 15, 2018) (unpublished order of affirmance) ("BYNM"); see also Bank of America, N.A. Successor By Merger to BAC Home Loans Servicing LP, FKA Countrywide Home Loans Servicing, LP, A National Association v. SFR Investments Pool 1, LLC, No. 69323 at *2 (Nev. June 15, 2018) (unpublished order of affirmance); see also Cochran v. Griffith Energy Serv., Inc., 993 A.2d 153 (Md. Ct. Spec. App. 2010).*

Assuming arguendo Nationstar sent the letter, the letter read as follows:

Our client has authorized us to make payment to you in the amount of \$207.00 to satisfy its obligations to the HOA as a holder of the first deed of trust against the property. Thus, enclosed you will find a cashier's check made out to Alessi & Koenig, LLC in the sum of \$207.00, which represents the maximum 9 months worth of delinquent assessments recoverable by an HOA. This is a non-negotiable amount and any endorsement of said cashier's check on your part, whether express or implied, will be strictly construed as an unconditional acceptance on your part of the facts stated herein and express agreement that BAC's financial obligations towards the HOA in regards to the real property located at 5327 Marsh Butte Street have now been "paid in full".

See Nationstar's Mot. Exhibit E-3. This language does not limit the time or scope of Nationstar's obligation to the Association. Thus, this restrictive language could mean that (1) acceptance of the check meant that the Association would have to accept all of the facts and arguments made by Nationstar in its letter, including what constitutes the super-priority portion of a lien and its recitation of the statute, and (2) Nationstar never again would have to pay the Association further sums after said check. It would be reasonably problematic for the Association/A&K to have unconditionally accepted all of these facts and arguments, however, because the issue of what comprised the super-priority amount was "still open." Additionally, the letter could be deemed to



absolve Nationstar from any future payments in the event that that the borrower later again defaulted, Nationstar obtained title, or it again lent money on the Property in the future. By way of example, if like the bank in Shadow Wood⁵, Nationstar were to foreclose and take title to the Property, it could argue it was relieved of any obligation to pay assessments despite being the unit 4 owner. Shadow Wood, 366 P.3d at 1113 (stating the lender's conditional offer failed to consider its obligation to pay ongoing assessments). 6

This is especially true because lenders have argued the "one and done" argument, *i.e.*, if they paid or attempted to pay the super-priority amount once, they never had to pay it again. The Nevada Supreme Court rejected that argument.⁶ In Property Plus Bank argued an association is only entitled to one super-priority lien ever. Id., 401 P.3d at 729, 730-31. Thus, an association would be justified in rejecting an attempt at such a payment based on such a letter when the banks themselves considered the language to mean the bank's financial obligations towards the Association would be resolved forever, regardless of later delinquencies.

Furthermore, requiring agreement with the facts is especially egregious where Nationstar does not even acknowledge that an association has a superpriority portion of its lien for any amounts that constitute nuisance or abatement under NRS 116.310312. NRS 116.3116(2). The letter purportedly sent with the alleged check expressly eliminates this statutory language, stating:

The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien.

See Nationstar's Mot. at Exhibit E-3. The actual statutory language is:

The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS **116.310312** and to the extent of the assessments for common expenses which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien

- 25 ⁵ Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. , 366 P.3d 1105 (Nev. 2016) ("Shadow 26 Wood").
- ⁶ See Property Plus Investments, LLC v. Mortgage Electronic Registration System, 401 P.3d 728, 27 730-31 (Nev. 2017) (involving a letter like the one here, stating "We agree with the analysis set forth in JPMorgan and conclude that NRS 116.3116 does not limit an HOA to one lien 28 enforcement action or one superpriority lien per property forever.")

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NRS 116.3116(2)(emphasis added). Nationstar never offered to pay for abatement or recognize these charges would have priority over a first deed of trust. Nationstar apparently purposefully miscites the statute to the Association and fails to recognize and correct its mistake to this Court in attempting to rely on the purported letter.

Nationstar's reliance on *Bank of America, N.A. v. Ferrell Street Trust*, 416 P.3d 208 (Nev. 2018) (unpublished disposition) is misplaced. First as stated in Ferrell a tender "must be... an unconditional offer of payment." *Id.* Here, as discussed above the "tender" was impermissibly conditional. As set forth below, Sec. D 1, a payment that requires the creditor to admit the amount is correct and that no more is possibly due will not discharge the lien. More importantly, here, Nationstar limited the superpriority amount to only 9 months of assessments, while in reality, the superpriority portion of an association lien includes assessments, nuisance and abatement charges under NRS 106.310312-which was purposefully omitted in the "tender." *See* NRS 116.3116(2); NRS 116.30312; *see also* NRS 116.3102(j). The important point is that under no set of circumstances is an offer to pay a sum less than what may constitute the super-priority amount a "tender." Nor can any offer be coupled with impermissible conditions.

Based on the above, the impermissibly conditional nature of the letter precludes the alleged offer to pay, if it was made, from being effective to discharge the super-priority portion of the lien.

2) <u>The Association Rejected the Payment in Good Faith.</u>

19 Assuming *arguendo*, that Nationstar delivered and A&K rejected the check, "an actual tender of the proper amount due and owing will not operate to discharge a lien where the 20 lienholder in good faith believes that a greater sum is due." See Segars v. Classen Garage & 21 Service Co., 612 P.2d 293, 295 (Okla. Ct. App. 1980) (emphasis added). "To constitute a sufficient 22 23 tender, it must be unconditional. Where a larger sum than that tendered is in good faith claimed to be due, the tender is ineffectual as such if its acceptance involves the admission that no 24 25 more is due.". First Nat. Bank of Davis v. Britton, 94 P.2d 896, 898 (Okla. 1939) (emphasis added); see also Smith v. School Dist. No. 64 Marion County, 89 Kan. 225, 131 P. 557, 558 (1913) 26 27 ("Where it appears that a larger sum than that tendered is claimed to be due, the offer is not effectual as a tender if coupled with such conditions that the acceptance of it as tendered involves 28

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an admission on the part of the person accepting it that no more is due.") (emphasis added). This is true even if the person rejecting was ultimately wrong. *Hilmes v. Moon*, 11 P.2d 253, 260 (Wash. 1932)(" In order to discharge the lien of the mortgage, the proof must be clear that the refusal was palpably unreasonable, absolute, arbitrary, and unaccompanied by any bona fide, though 4 mistaken, claim of right) (emphasis added); see also Bank of America, N.A. v. Rugged Oaks Investments, LLC, Nevada Supreme Court Case No. 68504 (Sept. 16, 2016)(unpublished order), 6 citing Cf. 59 C.J.S. Mortgage § 582 (2016) ("It has been held... that a good and sufficient tender 8 on the day when payment is due will relieve the property from the lien of the mortgage, except where the refusal [of payment] was. . . grounded on an honest belief that the tender was 9 10 insufficient.") (emphasis added)).

Determining whether a rejection was reasonable and made in good faith must be made based on the facts at the time of the act, not by way of Monday morning quarterbacking. In other words, to the extent this Court believes the issue of what constitutes the super-priority amount in an association foreclosure case has been decided—which it has not—that is irrelevant in deciding whether rejection was reasonable and in good faith. It is not based on who eventually prevails on the disagreement. See Hilmes, 11 p.2d at 260 (determining whether rejection is unreasonable does not depend on eventually being proven right).

Whether a lender had to pay nine months assessments plus collections costs to protect its 18 19 deed of trust was still open to interpretation at the relevant time. Shadow Wood, 366 P.3d at 1113. 20 In fact, at the time of this sale, there were conflicting opinions from CCICCH that lead to Association to reasonable believe they were entitled to more. See Horizons at Seven Hills v. Ikon 21 Holdings, 373 P.3d 66, 71 (Nev. 2016)(citing 10-01 Op. CCICCH 1, 12-13 (2010)). Put simply, 22 23 if the answer to the question of whether rejection was reasonable would change if *Ikon* had been decided differently, then this Court cannot deem rejection unreasonable simply based on *Ikon*. 24 25 Therefore, Nationstar's argument falls flat.

26 Here, A&K did not receive the letter with the check. See Deposition Testimony of David 27 Alessi, attached to Gilbert Decl. as **Exhibit D-5**; see specifically, pg. 53:13-15, and pg. 59:22-25. Nationstar's alleged tender is problematic because the letter dated September 30, 2010 to A&K on 28

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behalf of the Association states "have now paid in full." Nationstar Mot. at Exhibit E-3. But 1 2 assessments can become delinquent again, giving rise to a new notice of delinquent assessments and a new super-priority portion of that delinquency. If A&K had accepted the tender, A&K would 3 be precluded from enforcing future super-priority amounts against the deed of trust, or from 4 collecting any fees and costs for which the Association may be entitled. David Allessi testified as 5 much, stating that accepting a partial payment with the conditions included by Miles Bauer "would 6 end up causing potential harm to the association, client of Alessi & Koenig[,]" including 7 8 potentially waiving rights under NRS 116. See Ex. A-11 at pg. 63:11-20. Additionally, the alleged 9 tender is not in compliance with NRS 116.3116 because the letter completely eliminates the phrase 10 before "to the extent of the assessments for common expenses": the phrase making costs incurred for nuisance, abatement, and maintenance prior to the deed of trust. Thus, the letter requires the 11 Association to agree to Nationstar's narrow interpretation of what was needed to protect the deed 12 of trust. A condition on which it had no right to insist. 13

In this regard, it was not reasonable for Nationstar to pay less than the full amount requested by A&K. The open question, along with the conditions attached to the payment, means A&K' rejection of the check (assuming it was sent and received) was justified and made in good faith.

3) <u>Nationstar failed to record its "Performance" (the professed "tender") so as to</u> protect itself from third-party purchasers as required by Nevada Law.

Even if Nationstar's actions could be construed as "tender," it would not be effective to allow the deed of trust to remain on the Property, as it was not recorded, and Nationstar has made no assertions that it was recorded. Nothing in NRS 116.3116 et seq. relieves anyone from the requirements of NRS 111 or NRS 106 with regard to recording.

Under Nevada law, every interest in property must be recorded as set forth NRS 111.315, which reads:

NRS 111.315 Recording of conveyances and instruments: Notice to third persons. Every conveyance of real property, and every instrument of writing setting forth an agreement to convey any real property, or whereby any real property may be affected, proved, acknowledged and certified in the manner prescribed in this chapter, to operate as notice to third persons, shall be recorded in the office of the recorder of the county in which the real property is situated or to the extent permitted by NRS 105.010 to 105.080, inclusive, in the Office of the



	1	Secretary of State, but shall be valid and binding between the parties thereto without such record.
	2	If a "conveyance" is not recorded, it will have no effect on a subsequent purchaser. This is
	3	confirmed by NRS 111.325 which states:
	4	NRS 111.325 Unrecorded conveyances void as against a subsequent bona fide purchaser for value when conveyance recorded.
	5	Every conveyance of real property within this State hereafter made, which shall not be recorded as provided in this chapter, shall be void as against any subsequent
	6 7	<u>purchaser</u> , in good faith and for valuable consideration, of the same real property, or any portion thereof, where his or her own conveyance shall be first duly. (Emphasis added).
	8	As such, any "tender" by Nationstar is a "conveyance" under Nevada law as can be seen
	9	from NRS 111.010(1) defining conveyance:
	10	NRS 111.010 Definitions. As used in this chapter:
	11	1. "Conveyance" shall be construed to embrace every instrument in writing,
110	12	except a last will and testament, <u>whatever may be its form</u> , and by whatever name it may be known in law, <u>by which any</u> estate or <u>interest in lands is created</u> , <u>alienated</u> , <u>assigned or surrendered</u> . (emphasis added).
SUITE 39139 5-3301	13	As stated above, the definition of "conveyance" is broad and includes extinguishment or
DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301	14	discharge of the lien. NRS 111.010.
KTIN D S, NEV 0 FAX (15	
V MAR VEGA: 185-330	16	The purported satisfaction of the super-priority portion of the association's lien is a
DEAN LAS	17	surrender or release of the Association's senior position. Surrender and release are defined as:
7625	18	Surrender, n. (15c) 1. The act of yielding to another's power or control. 2. The giving up of a right or claim.
	19	Release, n. (14c) Liberation from an obligation, duty, or demand; the act of giving up a right or claim to the person against whom it could have been enforced. 2. The
	20	relinquishment or concession of a right, title or claim. 3. A written discharge, acquaintance, or receipt; specifically, a writing - either under seal or supported by
	21	sufficient consideration. 4. A written authorization or permission for publication.
I	22	5. The act of conveying an estate or right to another, or of legally disposing of it. 6. A deed or document effecting a conveyance. 7. The action of freeing of the fact of
	23	being freed from restraint or confinement. 8. A document giving formal discharge from custody.
	24	Release of mortgage. A written document that discharges a mortgage upon full
	25	payment by the borrower and that is publicly recorded to show that the borrower has full equity in the property.
	26	Black's Law Dictionary 971 (6th ed. 1990) (emphasis added).
	27	There can be no doubt that a payment, which discharges the super-priority portion of the
	28	Association's lien, constitutes an instrument or conveyance that affects the property. See
		- 17 -

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Restatement (Third) of Property: Mortgages § 6.4 cmt. (g). Per the Restatement, if a junior interest 1 2 holder pays the senior lien, that debt is assigned to the payor under the doctrine of subrogation and is added to the junior lienholders's loan. See Restatement § 6.4 cmt. (g)("[R]edemption by a person 3 not primarily responsible for payment of the debt does not extinguish the [lien], but rather assigns 4 both the [lien] and the debt to the payor by operation of law under the doctrine of 5 subrogation[.]")(emphasis added). Per the Restatement § 6.4 cmt. (f), "[t]he junior interest-holder 6 7 who redeems is not entitled to a document of discharge, but rather an *assignment* of the [lien]." Id. 8 (emphasis added). See also, Black's Law Dictionary 971 (6th ed. 1990) Per Black's, "release" is 9 defined as, "Liberation from an obligation, duty, or demand; the act of giving up a right or claim 10 to the person against whom it could have been enforced. 2. The relinquishment or concession of a right, title or claim. 3. A written discharge, acquaintance, or receipt; specifically, a writing - either 11 under seal or supported by sufficient consideration. 4. A written authorization or permission for 12 publication. 5. The act of conveying an estate or right to another, or of legally disposing of it. 6. A 13 deed or document effecting a conveyance. 7. The action of freeing of the fact of being freed from 14 restraint or confinement. 8. A document giving formal discharge from custody." Because the 15 satisfaction of a lien is a form of conveyance, "surrender" or discharge, NRS 111.315 requires that 16 Nationstar's satisfaction be recorded to be effective as to SFR. Whatever effect the purported 17 payment may have had as to the Association, because Nationstar failed to record its purported 18 19 payment, whatever its legal effect, it has no validity against SFR. Simply put, Nationstar cannot 20 rely on its inadequate "performance" of tender to defeat SFR's clean title.

Furthermore, Nationstar must have recorded its purported "tender" pursuant to NRS
106.220, which reads in pertinent part, "[a]ny instrument which any…lien upon…real property is
subordinated or waived as to priority, must…be recorded…"

There can be no doubt that a payment, which discharges the superpriority portion of the Association's lien, constitutes an instrument or conveyance that affects the property or which subordinates or waives said lien as to priority. This is consistent with the Restatement, which characterizes the type of payment by Nationstar as an **assignment** of the debt to Nationstar, who then adds it to the amount owed by its borrower. *See* Restatement (Third) of Property: Mortgages

KIM GILBERT EBRON (625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301 § 6.4 cmt. (g) and (f).⁷ An assignment must be recorded to be effective against a third party. NRS 111.325.

Further, because Nationstar's "tender" purports to subordinate or waive the lien as to priority, NRS 106.220 requires that Nationstar's purported satisfaction be recorded. Since Nationstar is the entity attempting to use the purported partial payment to its advantage, Nationstar should have ensured that its attempt was recorded. Having failed to record its purported payment, whatever its legal effect, therefore has no validity against SFR. All case law regarding satisfaction of a debt based on tender are between the debtor and creditor. Nothing in those cases addresses the effect on a third party. In fact, those authorities that do address the issue state that the third-party purchaser should not be affected by any proper or wrongfully rejected "tender." *See, e.g., Moeller v. Lien*, 25 Cal. App. 4th 822, 830, 30 Cal. Rptr. 2d 777, 782 (1994) (cannot unwind sale to bona fide purchaser). Simply put, Nationstar cannot rely on its inadequate "performance" of tender.

Assuming *arguendo* that Nationstar "tendered" to A&K, SFR, a third-party purchaser, would not be in a position to have knowledge of the transaction; a transaction between Nationstar, the Association and the Association's Agent. Glaringly, and most importantly, Nationstar did absolutely nothing to notify potential bidders of its purported tender. Had Nationstar recorded a document putting the world on notice of its alleged "tender" or a dispute regarding same, we would not be here today. Nationstar's argument that it had no obligation to record evidence of tender ignores obligations under Nevada's recording statutes. Absent recording, there is no way for a third-party purchaser at an Association sale to be on notice of any purported tender by any bank.

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⁷ "[R]edemption by a person not primarily responsible for payment of the debt does not extinguish 22 the [lien], but rather assigns both the [lien] and the debt to the payor by operation of law under the doctrine of subrogation[.]"(Emphasis added). Restatement § 6.4 cmt. (g). Per the Restatement § 23 6.4 cmt. (f), "[t]he junior interest-holder who redeems is not entitled to a document of discharge, but rather an assignment of the [lien]." Id. (emphasis added). See also, Black's Law Dictionary 24 971 (6th ed. 1990) Per Black's, "release" is defined as, "Liberation from an obligation, duty, or demand; the act of giving up a right or claim to the person against whom it could have been 25 enforced. 2. The relinquishment or concession of a right, title or claim. 3. A written discharge, acquaintance, or receipt; specifically, a writing - either under seal or supported by sufficient 26 consideration. 4. A written authorization or permission for publication. 5. The act of conveying an estate or right to another, or of legally disposing of it. 6. A deed or document effecting a 27 conveyance. 7. The action of freeing of the fact of being freed from restraint or confinement. 8. A document giving formal discharge from custody."

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1	In Shadow Wood, the law did not impose a duty of inquiry on a third-party purchaser as SFR,
2	unless there were facts revealing that a bank actually paid the super-priority amount, not just that
3	a bank could have paid it. Shadow Wood, 366 P.3d at 1116. Furthermore, ""[w]here a former
4	statute is amended, or a doubtful interpretation of a former statute rendered certain by subsequent
5	legislation, it has been held that such amendment is persuasive evidence of what the Legislature
6	intended by the first statute."" Estate of Thomas v. Costello, 116 Nev. 492, 495, 998 P.2d 560, 562
7	(Nev. 2000) (quoting Sheriff v. Smith, 91 Nev. 729, 734, 542 P.2d 440, 443 (1975)). Here, NRS
8	Chapter 116 has been amended and said amendments state that a "tender" must now be recorded
9	to prevent extinguishment of the deed of trust.
10	Currently, NRS 116.31162(1)(b)(3)(I) and (II) read as follows:
11	(3) State that:(I) If the holder of the first security interest on the unit does not satisfy the
12	amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and
13	that the sale may extinguish the first security interest as to the unit; and (II) If, not later than 5 days before the date of the sale, the holder of the first
14	security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not
15	later than 2 days before the date of the sale, <u>a record of such satisfaction is</u> <u>recorded in the office of the recorder</u> of the county in which the unit is located,
16	the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.
17	(Emphasis added). Put simply, if Nationstar satisfies the super-priority amount, but fails to record
18	such satisfaction prior to the sale, the first security interest is still extinguished.
19	E. In Nevada, the Golden Rule Applies for Analyzing Foreclosure Sales and Nationstar
20	Bears the Burden of Production and Proof to Invalidate the Sale.
21	The Nevada Supreme Court has reaffirmed that:
22	'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
23	element of fraud, unfairness or oppression as accounts for and brings about the inadequacy of price' (internal citations omitted) (emphasis added).
24	Shadow Canyon, 405 P.3d at 647 (quoting Golden v. Tomiyasu, 387 P.2d 989, 995 (Nev. 1963).
25	The Court outright rejected Nationstar's proffered Restatement 20-percent bright line rule: "Nor
26	do we believe that we should adopt a 20-percent standard and abandon <i>Golden</i> ." <i>Id</i> . "If this court
27	had adopted the Restatement, we would have overruled <i>Golden</i> rather than cite favorably to it."
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Id. In doing so, the Court rejected a commercial reasonableness standard for association 1 2 foreclosure sale, since NRS 116.3116 et seq. provides the framework in which a foreclosure sale 3 must proceed. Id. at 645-46. Instead, an analysis must be done under the Golden Rule, with actual evidence of fraud, unfairness, or oppression that affected the sale to consider setting aside the sale, 4 and Nationstar "has the burden to show that the sale should be set aside in light of [SFR's] status 5 as the record title holder." Id. (citing Breliant v. Preferred Equities Corp., 918 P.2d 314, 318 (Nev. 6 7 1996); NRS 47.250(16) (rebuttable presumption law has been obeyed); and NRS 116.31166(1)-8 (2) ("[C]onclusive presumption that certain steps in foreclosure process have been followed."). 9 Nationstar only complained about price, and price alone is not enough. Accordingly, Nationstar 10 failed to meet this burden.

F. The Price Paid was Adequate.

12 As no irregularities existed with the foreclosure, this Court need not consider the price paid by SFR at foreclosure. See Shadow Canyon, 405 P.3d at 649 (if the district court looks at the sale 13 14 as a whole and finds no evidence of fraud, unfairness or oppression affecting the sale, "then the sale cannot be set aside, regardless of the inadequacy of price."); see also Oller v. Sonoma Cty. 15 Land Title Co., 290 P.2d 880, 882 (Cal.Ct.App. 1955) (case from which Golden Rule was adopted) 16 (failure of the court to determine the value of property was not abuse of discretion because of lack 17 of evidence of fraud, unfairness or oppression). However, even if analyzed, this Court will find 18 19 the price paid by SFR was adequate because fair market value has no applicability to a forced sale 20 situation. BFP v. Resolution Trust Corp., 511 U.S. 531, 537-538 (1994). This is because foreclosure redefines the market in which the property is offered for sale" as opposed to the free 22 market. Id. at 548-49. So long as the state statutes include requirements for public noticing of the 23 auction and provisions for competitive bidding, then the price obtained is the reasonable equivalent value of the property. See In re Tracht Gut, LLC, 836 F.3d 1146 (9th Cir. 2016)(extending BFP's 24 25 analysis to California tax sales because they afford the same procedural safeguards as a mortgage foreclosure sale); T.F. Stone v. Harper, 72 F.3d 466 (5th Cir. 1995); Kojima v. Grandote Int'l Ltd. 26 27 Co., 252 F.3d 1146 (10th Cir. 2001). Regardless of the type of sale, the analysis still aptly explains how market value cannot be compared to a forced sale transaction. 28

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The report should be disregarded. Mr. Dugan's retrospective market appraisal fails to take into account the realities of the sale itself, that it was a forced sale, rather the Bank's expert did an appraisal as if it was a typical property being sold under normal conditions. Nationstar's Mot. at Exhibit R.

Mr. Dugan relied on a Sales Comparison Approach as if none of the factors surrounding the sale existed. Every property sale used by Mr. Dugan was a traditional sale. This type of sale bears no resemblance to an NRS 116 sale. NRS 116 sale issues have engendered countless litigation costing thousands of dollars, led to many Nevada Supreme Court decisions, and is still driving costly litigation. The fact that Mr. Dugan had to ignore this in its entirety to formulate his opinion is unequivocal proof that his Appraisal Report is based upon an erroneous assumption. As is discussed further below, market value has no applicability to a forced sale situation. *BFP v. Resolution Trust Corporation*, 511 U.S. 531 (1994).

This was a forced sale, which the Bank's expert failed to consider in his analysis. Instead the Bank's expert did an appraisal as if it was a typical property being sold under normal conditions. *See* Nationstar's Mot.

Thus, Mr. Dugan's analysis is faulty.

Mr. Dugan's retrospective market appraisal is a typical residential appraisal that states that

the Appraisal is based on the "market value" defined as follows:

[T]he most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and <u>assuming the price is not affected by undue stimulus</u>. Implicit in this definition is the consummation of a sale of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;

2. Both parties are well informed or well advised and acting in what they consider their best interest;

3. A reasonable time is allowed for exposure in the open market;

4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

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See Bank's Designation of Expert Retained. Mr. Dugan also opines in his "clarification of scope 1 of work" that foreclosures cannot be qualified or quantified in an appraisal: 2

Valuation Methodology: The data presented in the report is considered to be the most relevant to the valuation of the subject property (and its market segment) based on its current occupancy and market environment. In areas influenced by foreclosure, 4 short-sale and REO activity, and motivated (or impacted) by factors that cannot be qualified or quantified, the transactional characteristics of those sales may not fully meet the definition of market value criteria and therefore may be misleading. Verifications and drive-by inspections frequently reveal inconsistencies between the MLS and public records. Through this process, the appraiser can present the rationale supporting the final value opinion within the reconciliation and the reader can 6 comprehend the logic and its application to the valuation process.

Id. at 28. Dugan goes on to explain that these factors may make his Market Value opinion "misleading." Id. Mr. Dugan has stated in multiple depositions that fair market value is not *applicable* in the context of an NRS 116 sale.^{8 9 10} This is consistent with the reasoning set forth herein, that market value has no applicability to a forced sale situation. BFP, 511 U.S. at 537. Because Mr. Dugan testified that his Reports substantively contain the same information, the testimony contained in those depositions apply here. See July 2, 2015, Deposition (Dappled Light property), [9:3 – 11:21], attached hereto as **Exhibit D-1**.

G. SFR is a Bona Fide Purchaser.

Nationstar's suggestion that SFR is not a BFP, that SFR's BFP status is irrelevant, and that Nationstar is entitled to equity, flies in the face of this Court's precedent. Nothing in NRS 116 suggests this Court should ignore the BFP doctrine under property law. See NRS 116.3108 (incorporating property law, among others). The Bank's reliance of *Stone Hollow II* and *Stone* Hollow III for the notion that tender somehow trumps BFP status is simply incorrect.

Because Nationstar has failed to demonstrate any fraud, unfairness or oppression in the

21 sale process that accounted for and about the sale price of which Nationstar complains, SFR's bona

¹⁰ See June 16, 2015 Deposition Excerpt (Brighton Summit property) at 14:15-18; 21:2-25 through 27 22:1-8; 23:12-21; 26:2-13; 32:21-25 through 35:1-3; 36:3-16; 37:10-25 through 38:1-3; 15-22;

41:2-18; 48: 1-3; 15-18; 23-25 through 49:1-5; 66:6-23; 82:11-21; 84:3-7, attached hereto as 28 ExhibitD-4.



²² ⁸ See June 1, 2015 Deposition Excerpt (Rabbit Track property) at 12:5-12; 16:22-25 through 17:1-2; 18:1-4; 30:3-19; 31:5-9; 34:23-25 through 36:1-2; 38:10-25 through 42:1-11; 60:13-17; 61:24-

²³ 25 through 62:1-23; 69:15-25 through 70: 1-3; 74:12-24; 82: 6-12; 97:5-8; 103:2-6; 105:11-17; 106:8-11; 22-25; 108:16-19; 126:19-22; 130:11-15; 23-25 through 131:1, attached hereto as 24 Exhibit D-2.

²⁵ ⁹ See June 1, 2015 Deposition Excerpt (Manorwood property) at 28:21-25 through 29:1; 29:14-25 through 30:1-9; 41:14-21; 49:16-21; 55:8-15; 67:16-19; 68:22-25 through 69:1-3; 77:3-18, 26 attached hereto as Exhibit D-3.

fide purchaser ("BFP") status is not relevant. However, to the extent this Court accepts
 Nationstar's tender argument, SFR's BFP status is something that must be considered and given
 appropriate weight in an equitable balancing.

Generally, a BFP "claiming title to the land by a subsequent conveyance must show the purchase was made in good faith, for valuable consideration; and the conveyance of the legal title was received before notice of any equities of the prior grantee." *Berge v. Fredericks*, 591 P.2d 246, 247 (Nev. 1979).

However, because Nationstar is seeking equitable title the burden shifts and Nationstar **must prove** SFR, the legal titleholder, is not a BFP. *See First Fidelity Thrift & Loan Ass'n v. Alliance Bank*, 60 Cal. App. 4th 1433, 71 Cal. Rptr. 2d 295 (Cal.Ct.App. 1998). *Shadow Wood* stood for the proposition that if Nationstar claims a pre-sale dispute occurred between it and the Association/Agent, and SFR had no knowledge of this pre-sale dispute. Unless SFR caused or knew of any purported irregularities with the sale, SFR is a BFP. "Where the complaining party has access to all the facts surrounding the questioned transaction and merely makes a mistake as to the legal consequences of his act, equity should normally not interfere, especially where the rights of third parties might be prejudiced thereby." *Shadow Wood*, 366 P.3d at 1116 (*quoting Nussbaumer v. Sup. Ct. in & for Yuma Cty.*, 107 Ariz. 504, 489 P.2d 843, 846 (1971).

It is undisputed that SFR paid valuable consideration for the Property in the form of actual 18 19 funds. At the time of the sale, SFR had no notice of any equities of the prior grantee where the 20 public records show only that (1) a deed of trust was recorded after the Association perfected its lien by recording its declaration of CC&Rs, (2) there was a delinquency by the homeowner, which 21 22 resulted in the Association instituting foreclosure proceedings and after complying with NRS 23 Chapter 116, sold the Property at a public auction. Prior to the sale, Nationstar never recorded a lis pendens or other documents alleging any problems with the foreclosure process or the 24 25 foreclosure sale. As far as a duty of inquiry, some set of facts would have had to put SFR on notice to make an inquiry. Merely being a frequent purchaser is not enough in itself and no information 26 27 ever came to light regarding whether a bank made a payment. See Albice v. Premier Mortg. Servs. Of Wash., Inc., 276 P.3d 1277, 1284-85 (Wash. 2012) ("But if the purchaser has knowledge or 28

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KIM GILBERT EBRON 625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301 information that would cause an ordinarily prudent person to inquire further, and if such inquiry,
reasonably diligently pursued, would lead to discovery of title defects or of equitable rights of
others regarding the property, then the purchaser has constructive knowledge of everything the
inquiry would have revealed."). Moreover, the experience of the purchaser does not automatically
defeat BFP status, and general knowledge by a purchaser is not enough to defeat it—it is the
specific facts of that sale that are relevant. *Melendrez v. D & I Inv.*, Inc., 127 Cal. App. 4th 1238,
1253, 26 Cal. Rptr. 3d 413, 426 (2005).

8 This is especially true when related to "tender." Let us assume arguendo that the Bank 9 "tendered" to A&K and A&K rejected for the reasons stated above. SFR, a third-party purchaser, 10 would not be in a position to have knowledge of the transaction or dispute; something strictly between the Bank, the Association and the Association's Agent. See Shadow Wood, 366 p.3d at 11 12 1116. Glaringly, and most importantly, Nationstar did absolutely nothing to notify potential bidders of its purported tender. Had Nationstar recorded a document putting the world on notice 13 of its alleged "tender" or a dispute regarding same, we would not be here today. Nationstar's 14 argument that it had no obligation to record evidence of tender ignores obligations under Nevada's 15 recording statutes. Absent recording, there is no way for a third-party purchaser at an Association 16 sale to be on notice of any purported tender by any bank. In Shadow Wood, the law did not impose 17 a duty of inquiry on a third-party purchaser as SFR, unless there were facts revealing that a bank 18 19 actually paid the super-priority amount, not just that a bank could have paid it. Shadow Wood, 366 20 P.3d at 1116. Furthermore, "[w]here a former statute is amended, or a doubtful interpretation of a former statute rendered certain by subsequent legislation, it has been held that such amendment 21 22 is persuasive evidence of what the Legislature intended by the first statute."" Estate of Thomas v. Costello, 116 Nev. 492, 495, 998 P.2d 560, 562 (Nev. 2000) (quoting Sheriff v. Smith, 91 Nev. 23 729, 734, 542 P.2d 440, 443 (1975)). Here, NRS Chapter 116 has been amended and said 24 25 amendments state that a "tender" must now be recorded to prevent extinguishment of the deed of 26 trust.

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Currently, NRS 116.31162(1)(b)(3)(I) and (II) read as follows:

(3) State that:

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(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(Emphasis added). Put simply, if the bank satisfies the super-priority amount, but fails to record such satisfaction prior to the sale, the first security interest is still extinguished.

Additionally, SFR had no knowledge of Nationstar's payment. Ex. D Hardin Decl. at ¶ 22. SFR does not recall any announcement at the Association sale regarding payments of any kind. Id. at ¶ 21. In fact, SFR was not even aware of banks making or attempting to make payments to the associations at any time prior to the Association foreclosure sale, as no bank was making such an argument in litigation, see id at ¶23. Finally, SFR has never seen the documents Nationstar is using to support its "tender" defense. Id. at \P 24. Therefore, nothing, in this case, refutes SFR's status as a BFP.

V. CONCLUSION

Based on the above, this Court should deny Nationstar's motion and US Bank's joinder thereto.

DATED July 19, 2018.

KIM GILBERT EBRON

/s/ Jacqueline A. Gilbert Jacqueline A. Gilbert, Esq. Nevada Bar No. 10593 Diana S. Ebron, Esq. Nevada Bar No. 10580 Karen L. Hanks, Esq. Nevada Bar No. 9578 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 Attorneys for SFR Investments Pool 1, LLC



	1	CERTIFICATE OF SERVICE					
	2	I HEREBY CERTIFY that on this 19th day of July, 2018, pursuant to NRCP 5(b), I					
	3	served via the Eighth Judicial District Court electronic filing system, the foregoing SFR					
	4	INVESTMENTS POOL 1 LLC'S OPPOSITION TO CROSS-DEFENDANT NATIONSTAR					
	5	MORTGAGE, LLC'S MOTION FOR SUMMARY JUDGMENT, AND U.S. BANK, N.A. AS					
	6	TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE LXS 2006-4N TRUST FUNDS					
	7	JOINDER TO NATIONSTAR'S MORTGAGE, LLC'S MOTION to the following parties:					
	8	Douglas D. Gerrard, Esq. dgerrard@gerrard-cox.com					
	9	Akerman LLP Melanie.morgan@akerman.com					
	10	akermanLAS@akerman.com					
	11	thera.cooper@akerman.com					
	12	Alessi & Koenig Contact Email					
111 III	13	A&K eserve <u>eserve@alessikoenig.com</u>					
DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301	14	Wright, Finlay & Zak, LLP Email					
IN DRI NEVAI	15	sgreenberg@wrightlegal.net					
N MART VEGAS, 185-3300 F	16	/s/ Caryn R. Schiffman					
DEAN LAS V (702) 48	17	/s/ Caryn R. Schiffman An employee of Kim Gilbert Ebron					
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KIM GILBERT EBRON

Ex. A

EXHIBIT A

Declaration of Jacqueline A. Gilbert

Ex. A

1	DECLARATION OF JACQUELINE A. GILBERT			
2	I, Jacqueline A. Gilbert, Esq., declare as follows:			
3	1. I am an attorney with Kim Gilbert Ebron, and I am admitted to practice law in the			
4	State of Nevada.			
5	2. I am counsel for SFR Investments Pool 1, LLC in this action.			
6	3. I make this declaration in support of SFR INVESTMENTS POOL 1, LLC'S			
7	OPPOSITION to CROSS DEFENDANT NATIONSTAR MORTGAGE LLC'S MOTION FOR			
8	SUMMARY JUDGMENT("NATIONSTAR") MOTION FOR SUMMARY JUDGMENT AND			
9	U.S. BANK, N.A.'S ("US BANK") JOINDER THERETO. I have personal knowledge of the			
10	facts set forth below based upon my review of the documents produced in this matter, except for			
11	those factual statements expressly made upon information and belief, and as to those facts, I			
12	believe them to be true, and I am competent to testify.			
13	4. I am knowledgeable about how Kim Gilbert Ebron maintains its records associated			
14	with litigation, including litigation in this case. In connection with this litigation 5327 Marsh			
15	Butte Street, Las Vegas, Nevada 89148; (the "Property"). I reviewed the documents attached			
16	hereto as Exhibits A-1 through Exhibit A-6.			
17	5. In many of these cases, it is impossible to rely on publically recorded documents			
18	or written discovery responses to determine who has an interest in a particular loan or deed of			
19	trust. While I have not had the opportunity to compile all examples of which I am aware, some			
20	examples include the following:			
21	a. In 2012, the Office of Inspector General, Department of Housing & Urban			
22	Development issued its Memorandum No. 2012-CH-1803, a copy of which is attached			
23	hereto as Exhibit A-1 ("OIG Report"). (Available by searching OIG memorandum			
24	no. 2012-CH-1803: <u>https://www.hudoig.gov/sites/default/files/documents/audit-</u>			
25	reports/2012-ch-1803.pdf (last accesssed July 17, 2018). The OIG Report summarizes			
26	the misconduct of five major lender / servicers, including Bank of America,			
27	CitiMortgage, JPMorgan Chase, and Wells Faro Bank, and Ally Financial. The			
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summary findings were demonstrate why publicly recorded documents cannot be accorded any presumption of validity: The five servicers did not establish effective control over their foreclosure process. This failure permitted a control environment in which: • Affiants routinely signed foreclosure documents, including affidavits, certifying that they had personal knowledge of the facts when they did not and without reviewing the supporting documentation referenced in them. Affiants . . . consistently failed to verify the accuracy of the foreclosure documents they signed. • A number of employees . . . engaged as "robosigners," had little or no education beyond high school and little or no experience in banking or real estate. . . . work histories revealed a lack of qualifications to hold the titles held by affiants. Interviews ... disclosed that employees were given titles such as vice president for the sole purpose of allowing the individuals to sign documents, and the titles came with no other duties or authority. • Notaries public for three of the servicers ... routinely notarized documents without witnessing affiant signatures. • For two of the five servicers . . ., the amounts of borrower's indebtedness were unsupported or mathematically inaccurate. * * * The five servicers failed to follow HUD requirements for properties they foreclosed upon in judicial foreclosure States and jurisdictions ... [which] required these services to obtain and convey to the Secretary of HUD good and marketable title to properties. The mortgage servicers may have conveyed flawed or improper titles to HUD because they did not establish a control environment which ensured that affiants performed a due diligence review of the facts submitted to the courts and that employees properly notarized documents. See OIG Report, Ex. A-1 at 5-6. b. In case number 2:15-cv-01484-JAD-VCF, U.S. Bank, N.A., as trustee for the holders of the J.P. Morgan Mortgage Trust 2007-S3, Mortgage Pass Through Certificates Series 2007-S3 v. SFR Investments Pool 1, LLC, the bank was unable to explain a 2007 reconveyance of the purported first deed of trust or the 2013 rescission of the 2007 reconveyance. In addition, the bank was unable to explain how J.P. Morgan became the depositor for a loan originated by Countrywide and explained that a single code in the bank's system of record served as the basis for the bank's position that the loan is contained in the trust and to determine in which entity the deed of trust should be assigned. See June

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15, 2016 Deposition Transcript of Diane Deloney at 29-31, 36-42, 81-85, a true and correct copy of which is attached as **Exhibit A-2**.

c. In case number A-12-673671-C, SFR Investments Pool 1, LLC v. U.S. Bank, N.A., as trustee for the Certificateholders of the Banc of America Mortgage Securities 2008-A Trust, Mortgage Pass-Through Certificates, Series 2008-A, the bank was unable to explain a Discharge of Assignment recorded in 2015 purporting to rescind a 2011 assignment to U.S. Bank that included a statement that U.S. Bank had never purchased the underlying promissory note. See October 21, 2015 Deposition Testimony of Jessica Woodbridge, at 54-56, at true and correct copy of which is attached as Exhibit A-3. A true and correct copy of the Discharge of Assignment is attached hereto as Exhibit A-4.

d. In case number A-12-673418-C, SFR Investments Pool 1, LLC v. HSBC Bank USA, N.A. a Trustee for Sequoia Mortgage Trust 2007-3, the bank's written discovery responses and recorded assignment stated HSBC Bank USA, N.A. a Trustee for Sequoia Mortgage Trust 2007-3 was owner of loan while bank witness testified that bank system of record showed the loan to be contained in a different trust. See Deposition Transcript of Katherine Ortwerth, 58:17-60:19, a true and correct copy of which is attached as Exhibit A-5.

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1	e. In Case No. 2:16-cv-00470-APG-CWH, Deutsche Bank National Trust v. SFR
2	Investments Pool I, LLC, et al, a bank's deposition witness stated an
3	assignment from Deutsche Bank to Bank of America was an invalid "ghost
4	assignment" and later confirmed having seen a "rogue assignment" by Bank of
5	America more than once, agreed that he had seen situations in the past where
6	"an Assignment doesn't necessarily match up with reality." See Deposition
7	Transcript of Keith Kovalic, August 2, 2016, 61-65, a true and correct copy of
8	which is attached as Exhibit A-6 .
9	I declare under penalty of perjury under the laws of Nevada and the United States that the
10	foregoing is true and correct.
11	DATED this 19th day of July, 2018.
12	/s/ Jacqueline A. Gilbert
13	Jacqueline A. Gilbert
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Ex. A-1

EXHIBIT A-1

Office of the Inspector General, U.S. Department of Housing and Urban Development

Memorandum No. 2012-CH-1803

A Summary of the Foreclosure and Claims Process Reviews for Five Mortgage Servicers That Engaged in Improper Foreclosure Practices

September 28, 2012

Ex. A-1



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF INSPECTOR GENERAL

MEMORANDUM NO. 2012-CH-1803

September 28, 2012

MEMORANDUM FOR:

Charles S. Coulter, Deputy Assistant Secretary for Single Family Housing, HU Dane M. Narode, Associate General Counsel for Program Enforcement, CACC Craig T. Clemmensen, Director of Departmental Enforcement Center, CACB

Kelyforderson

FROM:

Kelly Anderson, Regional Inspector General for Audit, 5AGA

SUBJECT: A Summary of the Foreclosure and Claims Process Reviews for Five Mortgage Servicers That Engaged in Improper Foreclosure Practices

INTRODUCTION AND BACKROUND

In October 2010, the U.S. Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG) began its nationwide effort to review the foreclosure practices of the five largest Federal Housing Administration (FHA)¹ mortgage servicers (Ally Financial, Incorporated, Bank of America, CitiMortgage, JPMorgan Chase, and Wells Fargo Bank). We performed these reviews due to reported allegations made in the fall of 2010 that national mortgage servicing lenders were engaged in widespread questionable foreclosure practices involving the use of foreclosure "mills" and a practice known as "robosigning"² of sworn documents in thousands of foreclosures throughout the United States. On March 12, 2012, we issued separate memorandums to HUD, which detailed our results for each of the five reviews.³ We initially focused our efforts on examining the foreclosure practices of servicers in the judicial States and jurisdictions in which they do business.⁴

¹ FHA provides mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. Mortgage insurance provides lenders with protection against losses as the result of homeowners defaulting on their mortgage loans.

² We have defined the term "robosigning" as the practice of an employee or agent of the servicer signing documents automatically without performing a due diligence review or verification of the facts.

³ See memorandums (2012-PH-1801, 2012-FW-1802, 2012-KC-1801, 2012-CH-1801, and 2012-AT-1801).

⁴ With respect to foreclosure procedures, there are three variations: those States that require a complete judicial

The five servicers were either supervised or nonsupervised FHA direct endorsement lenders that could originate, sponsor, and service FHA-insured loans. During the period October 1, 2008, through September 30, 2010,⁵ the servicers collectively submitted 93,120 FHA insurance claims totaling more than \$12.04 billion. Of the 93,120 claims, 34,357 conveyance⁶ claims totaling more than \$4.1 billion were for foreclosed-upon properties in the 23 judicial foreclosure States and jurisdictions. Between September and October 2010, three of the five banks (Ally, Bank of America, and Chase) stated that they had temporarily halted judicial foreclosures or suspended evictions and postforeclosure closing in the 23 judicial States while they conducted a review of their processes.

Because we identified potential False Claims Act⁷ violations, we provided the U.S. Department of Justice (DOJ) with our analyses and preliminary conclusions as to whether these lenders engaged in the reported foreclosure practices. DOJ used our reviews and analyses in negotiating a settlement agreement with the servicers. On February 9, 2012, DOJ and 49 State attorneys general⁸ announced their proposed joint settlement agreement totaling \$25 billion with the five mortgage servicers for their reported violations of foreclosure requirements. On March 12, 2012, DOJ and the State attorneys general filed proposed consent judgments with the court to resolve violations of State and Federal law. The consent judgments provided details of the servicers' financial obligations under the agreement, such as payments to borrowers whose properties were foreclosed upon and the Federal and State governments. They also included more than \$20 billion, collectively, in consumer relief activities, such as principal reductions and refinancing and new standards the servicers would be required to implement regarding loan servicing and foreclosure practices, and established a monitoring committee⁹ and a monitor to ensure compliance with agreed-upon servicing standards and consumer relief provisions.

The judgments also included a Federal payment settlement amount of more than \$684 million. The funds would be used for (1) losses incurred to FHA's capital reserve account and the Veterans Housing Benefit Program Fund or as otherwise directed by the U.S. Department of Veterans Affairs and the U.S. Department of Agriculture's Rural Housing Service and (2) the resolution of qui tam¹⁰ actions. Of the \$684 million, as of July 15, 2012, more than \$315.2 million had been deposited into FHA's account.

The objective of our reviews was to determine whether the servicing lenders complied with applicable foreclosure procedures when processing foreclosures on FHA-insured loans. We

proceeding, which are referred to as "judicial jurisdictions"; those that do not require a judicial proceeding; and those that are a hybrid. For the purposes of this review, we determined that there were 23 judicial States and jurisdictions.

⁵ Federal fiscal years 2009 and 2010

⁶ Excludes deeds in lieu of foreclosure

⁷ 31 U.S.C. (United States Code) 3729 et.seq.

^a The State of Oklahoma elected not to participate in the settlement agreement. This means that borrowers from Oklahoma will not be eligible for any of the relief directly available for homeowners.

⁹ The monitoring committee is comprised of State attorneys general and staff, representatives from the State mortgage regulator for the State of Maryland, DOJ, and HUD.

¹⁰ A lawsuit brought by a private citizen (popularly called a "whistle blower") against a person or company who is believed to have violated the law in the performance of a contract with the government or in violation of a government regulation, when there is a statute which provides for a penalty for such violations.

reported our results in individual memorandums to HUD. This memorandum summarizes the results of the foreclosure and claims process reviews and presents OIG's recommendations to correct weaknesses identified in the five individual memorandums that were issued.

We provided the draft memorandum to HUD on August 17, 2012. We asked HUD to provide written comments to the draft memorandum by September 17, 2012. On September 18, 2012, HUD proposed alternative language for the recommendations and opted not to provide formal written comments to the memorandum.

METHODOLOGY AND SCOPE

To accomplish the objective, we¹¹

- Obtained and reviewed relevant written policies and procedures and reviews for all five
 of the servicers' servicing and foreclosure processes.
- Obtained and reviewed personnel documents or excerpts of personnel documents that three servicers (Ally, Wells Fargo, and Bank of America) provided for selected employees.
- Interviewed management officials and staff members of four of the five mortgage servicers (Bank of America, Chase, CitiMortgage, and Wells Fargo), including those involved in the document execution, notary, foreclosure, and claims processes.
- Coordinated with the servicers' legal counsel, our Office of Legal Counsel, and DOJ attorneys.
- Identified samples of 388 claims processed by HUD during the review period. Additionally, for Chase, we selected and reviewed 30 FHA-insured loans, the borrowers of which were identified as currently undergoing foreclosure actions.
- Reviewed FHA claims and related documents, including affidavits, for 364 of the 388 claims in our samples (see Scope Limitation section).
- Obtained and analyzed FHA claims data from the five servicers or HUD.
- Obtained and analyzed Chase's production records¹² and Bank of America's shipping logs¹³ that identified documents that were signed and notarized during the review period. However, as described in the following section, the data were incomplete and did not represent our entire review period.
- Obtained and reviewed various congressional testimonies and documents from various court proceedings related to the foreclosure practices of CitiMortgage and other lenders and law firms. Additionally, we obtained and reviewed various court documents related to the foreclosure practices of Bank of America and law firms that conducted work on its behalf.
- Worked with DOJ to issue 54 civil investigative demands (CID)¹⁴ to compel testimony for our review of Ally and Bank of America. Additionally, we attended testimonies given by 17 individuals pursuant to CIDs issued by DOJ.

¹¹ For additional details on the scope and methodology used in the reviews of the five servicers, see the related memorandums.

¹² Chase's production records in Microsoft Excel

¹³ Bank of America's shipping logs included FHA and non-FHA foreclosure documents.

¹⁴ Under 31 U.S.C. 3733 et.seq., CIDs can be served on a person to give oral testimony whenever the attorney

- Issued Inspector General administrative subpoenas for documents and records of all of the servicers, with the exception of Wells Fargo.
- Reviewed and extracted pertinent information from each of the five issued memorandums to summarize the information.

Additionally, we

- Obtained and reviewed default and claim information from HUD's Single Family Data Warehouse system¹⁵ for each of the five servicers and
- Identified the number of foreclosures in which an insurance claim had yet to be filed and determined the number of days the property had been in foreclosure.

During the course of our reviews and the drafting of the memorandums, all five lenders were actively engaged in negotiations with DOJ in an attempt to resolve potential claims under the False Claims Act or other statutes for the conduct we were reviewing. Accordingly, OIG determined that our work product was privileged and not releasable to the lenders for any purpose, including the solicitation of written comments on our findings from the lenders. For this same reason, we did not provide them with a copy of the draft memorandums. Both DOJ and HUD concurred with our determination that the work product was privileged.

The results reported in the five memorandums differed due to various factors. These factors included (1) the level of information made available to the auditors at the time of the onsite reviews or that was obtained later through subpoenas or CIDs; (2) variances in review procedures used, including the analysis of the data, that were governed in part by the amount and types of information obtained; (3) differences in the foreclosure procedures used by the servicers; and (4) scope limitations imposed by some servicers.

The reviews generally covered the servicers' foreclosure and claims processes for their FHA claims initially processed by HUD between October 1, 2008, and September 30, 2010, including their procedures for signing and notarizing sworn judgment affidavits. Additionally, they either focused on FHA-insured loans for properties located primarily in judicial foreclosure States and jurisdictions, because foreclosures in these States would require the filing of some form of sworn affidavit of indebtedness with a court, or included both judicial and nonjudicial foreclosure States and jurisdictions to provide a comprehensive overview of the servicers' practices and compliance with requirements. The scope of the reviews was expanded as needed to accomplish the objective. We initiated the reviews on October 15, 2010, and performed the onsite work at the lenders' offices¹⁶ between October 2010 and January 2011.

Scope Limitation

general has reason to believe that the person may be in control of information relevant to a false claim investigation.

¹⁵ We relied in part on data maintained in HUD's system to obtain loan level data. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequately reliable for our purposes.

¹⁶ Ally's office in Fort Washington, PA; Bank of America's offices in Fort Worth, Plano, and Addison, TX, and Simi Valley, CA; Chase's office in Columbus, OH; CitiMortgage's office in O'Fallon, MO; and Wells Fargo's office in Fort Mill, SC.

The reviews were significantly hindered due to (1) restricted or denied employee interviews because of the involvement of the servicers' management or attorneys, (2) limited access to data or documents, (3) incomplete records, or (4) delays in obtaining requested records or reports. Due to these limitations, we were not always able to review the requested records.



RESULTS OF REVIEW

The servicers' flawed control environments resulted in their filing improper legal documents, thereby misrepresenting their claims to HUD, which exposed them to potential liability under the False Claims Act. Further, during our review of the five servicers' foreclosure practices, we determined that they appeared to have temporarily ceased submitting claims for FHA insurance benefits, thus creating a backlog. If these five servicers were to file these withheld claims, the FHA insurance fund would suffer a significant loss.

Questionable Affidavit and Foreclosure Document Processes

¹⁷ An affiant is a person who signs an affidavit and attests to its truthfulness before a notary public.

¹⁸ Chase employees who prepared legal documents including affidavits

The five servicers failed to follow HUD requirements¹⁹ for properties they foreclosed upon in judicial foreclosure States and jurisdictions. These provisions required these servicers to obtain and convey to the Secretary of HUD good and marketable title to properties. The mortgage servicers may have conveyed flawed or improper titles to HUD because they did not establish a control environment which ensured that affiants performed a due diligence review of the facts submitted to courts and that employees properly notarized documents.

Judicial foreclosures were processed through the court system, beginning with each of the five servicers filing a complaint or petition regarding a mortgage purportedly in default. The formal legal document stated what the debt was and why the default should allow any of these lenders to foreclose on the property. In many judicial foreclosures, an affidavit was part of the foreclosure documentation. Generally, a representative of each lender swore in a notarized affidavit that the lender owned or held the mortgage in question and the borrower's mortgage payments were in arrears. As judicial States and jurisdictions routinely resolved foreclosures through summary judgment,²⁰ the accuracy and propriety of the documents were essential to ensure the integrity of the foreclosure process. All five servicers used flawed processes to submit 34,357 conveyance²¹ claims for judicially foreclosed-upon properties during the review period and received payments totaling more than \$4.1 billion.²²

Servicer	Number of conveyance claims	Total claim payments ²³
Ally Financial	1,345	\$161
Bank of America	8,973	1,127
CitiMortgage	5,182	597
JPMorgan Chase	4,437	547
Wells Fargo	14.420	\$1,684
Total	34,357	\$4,116

Affiants Robosigned Foreclosure Documents

Based on sworn or CID testimonies or interviews with the servicers' management and staff and legal representations, we determined that affiants routinely signed and certified that they had personal knowledge of the contents of documents, including affidavits, without reviewing the source documents. Additionally, some affiants acknowledged that they did not reverify the accuracy of the foreclosure information stated in the affidavits. For instance, sworn testimony from the team leader of Ally's foreclosure department, provided during depositions in Florida²⁴ and Pennsylvania,²⁵ revealed that he routinely signed legal documents, including affidavits,

¹⁹ 24 CFR (Code of Federal Regulations) 203.366(a) and HUD Handbook 4330.4, paragraphs 2-6 and 2-23

²⁰ A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case and one party is entitled to judgment as a matter of law.

²¹ Excludes deeds in lieu of foreclosure

²² This amount was calculated based on information in HUD's Single Family Data Warehouse and excludes claims for deeds in lieu of foreclosure.

²³ In millions

²⁴ This disposition on December 10, 2009, was related to a foreclosure case in Florida: GMAC Mortgage v. Ann Neu, in the Circuit Count of the Fifteen Judicial Circuit in and for Palm Beach County. FL, Case Number 50 2008 CA 040805XXXX MB.

²⁵ This disposition on June 7, 2010, was related to a foreclosure case in Maine: Federal National Mortgage

without the supporting documentation and without reviewing and verifying the accuracy of the foreclosure information. He testified that he signed 400 affidavits per day and up to 10,000 affidavits per month.

Affidavits generally require an affirmation that the person executing the legal document had personally reviewed borrowers' accounts and applicable records and had personal knowledge of the amounts due on those accounts. Therefore, the processes used by the five servicers did not ensure that (1) their foreclosure documents were properly executed before submitting them to courts or (2) they conveyed good and marketable title to HUD.

The consent judgments outlined provisions for documents used in foreclosure and bankruptcy proceedings. Some of the provisions that addressed the apparent robosigning of foreclosure documents by the five servicers required them to ensure that

- Affidavits, sworn statements, and declarations executed by the servicers' affiants were based on the affiants' review and personal knowledge of the accuracy and completeness of the assertions in the affidavit, sworn statement, or declaration and
- Affiants confirmed that they reviewed competent and reliable evidence to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and required loan ownership information.

Further, affiants for Wells Fargo signed hundreds of foreclosure affidavits per day, and most verified only that their name was properly typed on the document as the signer of the affidavit. In reviewing the personnel files for these affiants, we identified that Wells Fargo may have hired and designated unqualified persons as "vice president of loan documentation," with their sole responsibility as vice president being to sign affidavits. Affiants for Chase also signed affidavits using titles such as "vice president of Chase Home Finance," although they were not.

In accordance with the provisions of the settlement, servicers should have standards for qualifications, training, and supervision of employees. The servicer should train and supervise employees who regularly prepare and execute affidavits, sworn statements, or declarations. Further, each employee should sign a certification stating that he or she has received training.

Notaries Did Not Witness Signatures

The five servicers did not establish a control environment which ensured that notaries²⁶ met their responsibilities under State laws that required them to witness affiants' signatures on documents they notarized.²⁷ For instance, during interviews with employees at Wells Fargo, it was mentioned that they notarized documents without witnessing the person signing the documents. Further, some of the notaries acknowledged that they notarized documents that were unsigned or

Association v. Nicole M. Bradbury, Maine District Court, District Nine, Division of Northern Cumberland, Docket Number BRI-RE-09-65.

²⁶ The notaries had additional job duties and responsibilities.

²⁷ Every State's notary laws require that the notary personally administer an oath and personally verify the identity of the document signer.

allowed others to use their notary stamp to notarize the affidavits. Wells Fargo notaries also stated that they had not received training when they began notarizing affidavits. It was not until October 2010 that training began and then only as a result of our review.

According to Bank of America's employees, affiants did not routinely sign documents in front of a notary. Two of its employees specifically testified that they had raised concerns about the notary process to management but were told to continue the process. In CID testimony, one of the referenced managers said that she did not recall concerns about the notary process being brought to her attention. One notary stated that Bank of America set a target of notarizing 75 to 80 documents per hour and he was evaluated on whether he met the target. In reviewing the data provided, the 10 most active notaries each notarized between 14,000 and 77,000 foreclosure documents during the 2-year review period. The data also showed that one of Bank of America's notaries, in violation of Texas law, notarized her own signature on two documents.

One of the primary purposes for using a notary is to verify the authenticity of the signer. The servicers' failure to ensure that notaries witnessed signatures indicated a significant control weakness. Because this type of deficiency undermined the integrity of the control environment, the affidavits and other foreclosure documents submitted by the servicers were unreliable and inauthentic and may have exposed the servicers to false claims liability. Under the terms of the settlement, servicers must maintain records that identify all notarizations of documents executed by each notary employed by them and cannot rely on an affidavit, sworn statement, or declaration that was not properly executed as required. The servicers are also prohibited from paying volume-based or other incentives to employees that encourage undue haste or lack of due diligence over quality.

Law Firms May Have Engaged in Improper Practices

Bank of America and CitiMortgage used law firms that may have engaged in questionable practices to process FHA-insured foreclosures. These practices ranged from robosigning and the unauthorized practice of law to a judge's ruling that in an attempt to collect on questionable debt, a firm filed deceptive documents and one of the lawyers lied in court. For example, our reviews of Bank of America and CitiMortgage included a complaint²⁸ against Goldbeck, McCafferty, and McKeever, PC, a law firm that conducted foreclosure work for both servicers. The complaint alleged that nonlawyers in the firm engaged in the unauthorized practice of law by preparing foreclosure complaints, signing lawyers' names to those complaints, and filing those complaints in county courts around the Commonwealth of Pennsylvania. The complaint included 27 exhibits containing signatures to support the plaintiff's allegation that hundreds or thousands of cases were prepared, signed, and filed by the nonlawyer defendants without attorney review.

In addition, the Chief U.S. Bankruptcy Judge for Western Pennsylvania issued a memorandum opinion and order²⁹ and a memorandum order³⁰ that were "intended to serve as a public reprimand"³¹ of Goldbeck, McCafferty, and McKeever and one of its attorneys. The judge

²⁸ Longhren vs Lion, et al., GD-10, Allegheny County, PA

²⁹ In re Hill, 437 B.R. 503 (Bankr. W.D. Pa., October 5, 2010)

³⁰ In re Hill, 437 B.R. 503 (Bankr. W.D. Pa., November 24, 2010)

³¹ In re Hill, 437 B.R. 503 pg 8 (Bankr. W.D. Pa., November 24, 2010)

sanctioned the firm and the attorney for filing deceptive documents in a foreclosure proceeding and found that "the attorney, and by extension GMM [Goldbeck, McCafferty, and McKeever], had not been honest with this Court."³² The judge ruled that the firm filed copies of three key letters created after the fact in an attempt to collect on questionable debt that were not sent to the homeowner or her lawyer. The judge publicly reprimanded the firm and the attorney for their misconduct and ordered them to report to the Disciplinary Board of the State Supreme Court. We determined that Goldbeck, McCafferty, and McKeever processed 469 foreclosure documents for Bank of America in Pennsylvania and New Jersey.

In interviews with Chase's management and staff, they acknowledged that on occasion, Chase's operations specialists obtained affidavits from their foreclosure counsel that already contained the amounts of the borrowers' indebtedness, since the foreclosure counsel had read-only access to certain data screens in Chase's mortgage servicing system. Additionally, in some cases, before the foreclosure counsel filed the complaints with the court, he or she sometimes added verbiage and clauses to the affidavits regarding borrowers or the subject properties. In these instances, the information on the affidavits was not verified or validated by Chase.

The provisions of the settlement require that the servicers not pay volume-based or other incentives to third-party providers or trustees that encourage undue haste or lack of due diligence over quality. The servicers must also

- Adopt policies and processes to oversee and manage foreclosure firms, law firms, etc., retained by or on behalf of the lenders that provide servicing activities.
- Ensure that attorneys are licensed to practice in the relevant jurisdiction and have the
 experience and competence necessary to perform the services requested and that their
 services comply with applicable regulations.
- Adopt policies and procedures to oversee and manage foreclosure firms, law firms, etc., retained by or on behalf of the servicers that provide servicing.
- Adopt policies requiring third-party providers to maintain records that identify all notarizations of documents executed by each notary employed by the provider.

Affidavits Contained Inconsistencies and Errors

For two of the five servicers, Bank of America and Chase, we reviewed the affidavits to determine whether the amounts of the borrowers' indebtness were supported or mathematically accurate. In reviewing seven of Bank of America's affidavits that contained judgment figures in judicial foreclosure States, we identified mathematical errors with the per diem interest calculations, which ranged from \$16 to \$470. This error rate indicated that Bank of America lacked proper controls to ensure that it correctly and consistently calculated accrued interest charges in documents it filed in courts to support its foreclosure actions.

³² In re Hill, 437 B.R. 503 pg 4 (Bankr. W.D. Pa., November 24, 2010)

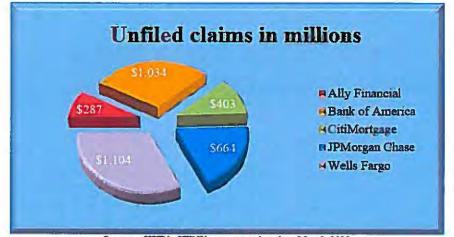
For Chase, we also reviewed 36 affidavits for foreclosures in judicial States to determine whether the amounts of borrowers' indebtedness were supported. Chase was unable to provide documentation to support the amounts of borrowers' indebtedness listed on the affidavits for all except four.³³ When we reviewed the four affidavits, three were inaccurate. Specifically, the amounts of the borrowers' late charges and accumulated interest did not reconcile with the information in Chase's mortgage servicing system.

Therefore, both Chase and Bank of America lacked proper controls to ensure that they correctly and consistently calculated borrowers' indebtedness and in most cases, the accrued interest charges in documents they filed in courts to support their foreclosure actions.

On November 16, 2010, the Congressional Oversight Panel released an indepth report analyzing the robosigning allegations.³⁴ Its report concluded that "[t]he foreclosure documentation irregularities unquestionably show a system riddled with errors" and emphasized "that mortgage lenders and securitization servicers should not undertake to foreclose on any homeowner unless they are able to do so in full compliance with applicable laws and their contractual agreements."

The Five Largest Mortgage Servicers Had Unfiled Claims

As of April 2012, a little over 1 month after the settlement, the five largest FHA mortgage servicers (Ally, Bank of America, CitiMortgage, Chase, and Wells Fargo) had not filed FHA insurance claims for 26,306 foreclosed-upon properties with unpaid mortgage balances of more than \$3.49 billion. According to HUD's Annual Report to Congress regarding the financial status of the FHA Mutual Mortgage Insurance Fund, as of the end of fiscal year 2011, FHA's total capital resources stood at \$33.7 billion. Of that total, \$29 billion was in its financing accounts to offset expected claims, and \$4.7 billion was in its capital reserve account.



Source - HUD's SFDW system retrieved on May 3, 2012

³³ Chase's foreclosure processing software overrode account histories when applying claim payments, which caused the principal and interest records necessary for verifying the affidavits to display as zero.

³⁴ Congressional Oversight Panel. November Oversight Report Examining the Consequences of Mortgage Irregularities for Financial Stability and Foreclosure Mitigation (November 16, 2010), available at http://cop.senate.gov/documents/cop-111610-report.pdf (submitted under section 125(b)(1) of Title 1 of the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343).

Using HUD's December 2011 estimated loss severity rate of 66 percent on the resale of foreclosed-upon properties,³⁵ the insurance fund may be reduced by as much as \$2.3 billion. Of the \$3.49 billion in unfiled claims, nearly \$1.64 billion represented 11,953 properties that had been in foreclosure for more than 180 days. Some of these unfiled claims were for properties foreclosed upon in November 2009.

As of August 3, 2012, HUD's Single Family Claims division had a backlog of 4,776 unpaid claims due to a significant increase in the volume of claims received in March and April 2012. Additionally, as of August 3, 2012, it had a backlog of 27,343 supplemental claims.³⁶ Consequently, if the servicers were to consecutively file these claims or file these claims all at once, the backlog of unpaid claims would significantly increase, thus potentially impacting HUD's ability to process and pay claims in a timely manner.

CONCLUSION

The five servicers did not establish an effective control environment to ensure the integrity of their foreclosure process. Because they failed to establish proper policies and procedures that fostered compliance with laws and regulations, their affiants signed foreclosure documents automatically without performing a due diligence review or verification of the facts, their notaries failed to authenticate signatures, and they used law firms that may have included inaccurate information on foreclosure documents. As a result, the servicers engaged in improper practices by not fully complying with applicable foreclosure procedures when processing foreclosures on FHA-insured loans. Their flawed control environments resulted in the five mortgage servicers' filing improper legal documents, thereby misrepresenting their claims to HUD.

As previously mentioned, on March 12, 2012, DOJ and the State attorneys general filed proposed consent judgments with the court to resolve violations of State and Federal law. The judgments included, collectively, a Federal payment settlement amount of more than \$684 million. Of the \$684 million, as of July 15, 2012, \$315,250,829 had been deposited into FHA's capital reserve account for incurred losses.

RECOMMENDATIONS

We recommend that HUD's Deputy Assistant Secretary for Single Family Housing

1A. Consult with HUD's Office of General Counsel to determine the changes needed to FHA's servicing and foreclosure policies based on the consent judgments. Once determined, ensure that the servicers incorporate the necessary changes into their procedures for servicing FHA-insured loans.

³⁵ Single Family Acquired Asset Management System's case management profit and loss by acquisition as of December 2011.

³⁶ Adjustments to the initial claim payment in the event of delayed disbursements and to correct errors in the original claim or payment.

1B. Ensure that the servicers establish or implement adequate procedures and controls to address the control deficiencies cited in the five issued memorandums, including but not limited to, the withholding of claims for insurance benefits, and the retention of appropriate legal documentation supporting the appropriateness of the foreclosure for all FHA-insured properties for the life of the loans.

We recommend that HUD's Associate General Counsel for Program Enforcement

1C. Agree to allow HUD OIG to record the recovery amount of \$315,250,829 in HUD's Audit Resolution and Corrective Action Tracking System as resolution of the civil actions against the five servicers identified in this memorandum.

We recommend that the Director of HUD's Departmental Enforcement Center

1D. Pursue appropriate administrative sanctions against attorneys who may have violated professional obligations related to the foreclosure of FHA-insured properties.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-4. Please furnish us copies of any correspondence or directives issued because of the review.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/
1C	<u>\$ 315,250,829</u>
Total	\$ 315,250,829

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local polices or regulations.

Ex. A-2

EXHIBIT A-2

Deloney Deposition Transcript

Ex. A-2

In The Matter Of:

U.S. Bank, National Association vs. Southern Highlands Community, et al.

30(b)(6) U.S. Bank & Bank of America, N.A. - Diane Deloney June 15, 2016



Min-U-Script® with Word Index

30(b)(6) U.S. Bank & Bank of America, N.A Diane Deloney - June 15, 2	2016
U.S. Bank, National Association vs. Southern Highlands Community, et	t al.

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	Page 1			Page 3
1	UNITED STATES DISTRICT COURT	1		INDEX
2	DISTRICT OF NEVADA	2	WITNESS:	PAGE
3	U.S. BANK, NATIONAL) ASSOCIATION, AS TRUSTEE FOR)	3	DIANE DELC	DNEY
4	J.P. MORGAN MORTGAGE TRUST)	4	Exam	ination by Ms. Ebron 6
5	2007-S3, MORTGAGE	5		
6	PASS-THROUGH CERTIFICATES,) CASE NO.: SERIES 2007-S3,) 2:15-cv-01484-KJD-VCF	6		
7	Plaintiff,	7		
8	vs.	8		
9	SOUTHERN HIGHLANDS COMMUNITY)	9		EXHIBITS
10	ASSOCIATION; SFR INVESTMENTS) POOL I, LLC; DOES INDIVIDUALS)	10	EXHIBIT	DESCRIPTION PAGE
11	I-X, inclusive, and ROE) CORPORATIONS I-X, inclusive,)	11	Exhibit 1	Amended Notice of Rule 30(b)(6) 19
12	Defendants.	12		Deposition of Bank of America, N.A. (7 pages)
13		13	Exhibit 2	Second Amended Notice of Rule 20
14	AND ALL RELATED ACTIONS.)	14		30(b)(6) Deposition of U.S. Bank, N.A. (8 pages)
15		15	Exhibit 3	**CONFIDENTIAL** 22
16	DEPOSITION OF DIANE DELONEY	16		Note, Bates stamped USBANK000391 through USBANK000392 (2 pages)
17	PERSON MOST KNOWLEDGEABLE FOR BANK OF AMERICA, N.A. and U.S. BANK, N.A.	17	Exhibit 4	Deed of Trust, Bates stamped SFR9 23
18	(La Crescenta Court)	18		through SFR28 (20 pages)
19	Taken on Wednesday, June 15, 2016	19	Exhibit 5	Deed of Trust, Bates stamped SFR30 32 through SFR39 (10 pages)
20	At 9:05 a.m.	20	Exhibit 6	Trust Agreement, dated July 1, 38
21	At 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada	21		2007, Bates stamped USBANK000351 through USBANK000381 (31 pages)
22		22	Exhibit 7	Master Declaration of Covenants, 42
23		23		Conditions, and Restrictions for Southern Highlands, Bates stamped
24		24		USBANK000186 through USBANK000193 (8 pages)
25	REPORTED BY: JEAN DAHLBERG, RPR, CCR NO. 759, CSR 11715	25		
	Page 2			Page 4
1	APPEARANCES:	1		EXHIBITS (continued)
2	For BANK OF AMERICA, N.A., and U.S. BANK, N.A.:	2	EXHIBIT	DESCRIPTION PAGE
3	AKERMAN (NEVADA) LLP	3	Exhibit 8	Grant, Bargain, Sale Deed, Bates 48
4	BY: MELANIE MORGAN, ESQ. 1160 Town Center Drive, Suite 330	4		stamped SFR1 through SFR3 (3 pages)
5	Las Vegas, Nevada 89144			
1	(702) 634-5000	5	Exhibit 9	Notice of Default/Election to Sell 48 Under Deed of Trust, Bates stamped
6		5 6		Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages)
6 7	(702) 634-5000 (702) 380-8572 (Facsimile)	-		Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped
-	(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON	6		Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50
7	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110</pre>	6 7	Exhibit 10	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51
7 8	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300</pre>	6 7 8	Exhibit 10 Exhibit 11	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page)
7 8 9	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139</pre>	6 7 8 9	Exhibit 10 Exhibit 11	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association
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7 8 9 10 11	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS</pre>	6 7 8 9 10 11	Exhibit 10 Exhibit 11 Exhibit 12	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association
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7 8 9 10 11 12 13	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 384-7000</pre>	6 7 8 9 10 11 12 13	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page)
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7 8 9 10 11 12 13 14 15 16	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 385-7000 (Facsimile)</pre>	6 7 8 9 10 11 12 13 14 15 16	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13 Exhibit 14 Exhibit 15	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page) Corporation Assignment of Deed of 54 Trust Nevada, Bates stamped SFR48 (1 page) Corporation Assignment of Deed of 58 Trust Nevada, Bates stamped SFR49 (1 page) Notice of Trustee's Sale, Bates 60
7 8 9 10 11 12 13 14 15 16 17	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 384-7000 (702) 385-7000 (Facsimile) drothenberg@alversontaylor.com</pre>	6 7 8 9 10 11 12 13 14 15 16 17	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13 Exhibit 14 Exhibit 15 Exhibit 16	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page) Corporation Assignment of Deed of 54 Trust Nevada, Bates stamped SFR48 (1 page) Corporation Assignment of Deed of 58 Trust Nevada, Bates stamped SFR49 (1 page) Notice of Trustee's Sale, Bates 60 stamped SFR50 (1 page)
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 385-7000 (Facsimile) drothenberg@alversontaylor.com</pre>	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13 Exhibit 14 Exhibit 15 Exhibit 16	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page) Corporation Assignment of Deed of 54 Trust Nevada, Bates stamped SFR48 (1 page) Corporation Assignment of Deed of 58 Trust Nevada, Bates stamped SFR49 (1 page) Notice of Trustee's Sale, Bates 60 stamped SFR50 (1 page) Notice of Trustee's Sale and 61 Election to Sell Under Homeowners Association Lien, including other documents, Bates stamped USBANK0003401 through USBANK000350
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 385-7000 (Facsimile) drothenberg@alversontaylor.com</pre>	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13 Exhibit 14 Exhibit 15 Exhibit 16	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page) Corporation Assignment of Deed of 54 Trust Nevada, Bates stamped SFR48 (1 page) Corporation Assignment of Deed of 58 Trust Nevada, Bates stamped SFR49 (1 page) Notice of Trustee's Sale, Bates 60 stamped SFR50 (1 page) Notice of Trustee's Sale and 61 Election to Sell Under Homeowners Association Lien, including other documents, Bates stamped USBANK0003401 through USBANK000350
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	<pre>(702) 634-5000 (702) 380-8572 (Facsimile) melanie.morgan@akerman.com For the SFR INVESTMENTS POOL I, LLC: KIM GILBERT EBRON BY: DIANA S. CLINE EBRON, ESQ. 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 (702) 485-3300 (702) 485-3301 diana@kgelegal.com For SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION: ALVERSON, TAYLOR, MORTENSEN & SANDERS BY: DAVID J. ROTHENBERG, ESQ. 7401 West Charleston Boulevard Las Vegas, Nevada 89117 (702) 385-7000 (Facsimile) drothenberg@alversontaylor.com</pre>	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Exhibit 10 Exhibit 11 Exhibit 12 Exhibit 13 Exhibit 14 Exhibit 15 Exhibit 16	Under Deed of Trust, Bates stamped SFR41 through SFR42 (2 pages) Rescission of Election to Declare 50 Default Nevada, Bates stamped USBANK000158 through USBANK000159 (2 pages) Notice of Delinquent Assessment 51 (Lien), Bates stamped SFR45 (1 page) Notice of Default and Election to 52 Sell Under Homeowners Association Lien, Bates stamped SFR46 (1 page) Notice of Trustee's Sale, Bates 52 stamped SRF47 (1 page) Corporation Assignment of Deed of 54 Trust Nevada, Bates stamped SFR48 (1 page) Corporation Assignment of Deed of 58 Trust Nevada, Bates stamped SFR49 (1 page) Notice of Trustee's Sale, Bates 60 stamped SFR50 (1 page) Notice of Trustee's Sale and 61 Election to Sell Under Homeowners Association Lien, including other documents, Bates stamped USBANK0003401 through USBANK000350

30(b)(6) U.S. Bank & Bank of America, N.A. - Diane Deloney - June 15, 2016 U.S. Bank, National Association vs. Southern Highlands Community, et al.

	0.5. Dank, Ivational Asso	ciation vs. 5	outin	ern Highlands Community, et al.
		Page 5		Page 7
1	EXHIBITS (continue	ed)	1	A. Yes.
2	EXHIBIT DESCRIPTION	PAGE	2	Q. And what's your office address?
3	Exhibit 18 **CONFIDENTIAL**	71	3	A. 16001 North Dallas Parkway, Addison, Texas
4	Letter from Jacqueline R. Hato Bank of America, dated	agerman	_	75001.
5	October 29, 2012, Bates star USBANK000393 (1 page)	nped	4	
6	Exhibit 19 Corporation Assignment of Deed o	f 74	5	Q. How long have you been employed with Bank of
7	Trust Nevada, Bates stamped (1 page)		6	America?
8		76	7	A. For Bank of America, approximately eight years.
	Exhibit 20 Trustee's Deed Upon Sale, Bates stamped SFR51 through SFR52	76 (2 pages)	8	Q. Do you know your start date?
9	Exhibit 21 Quitclaim Deed, Bates stamped	80	9	A. I started at the time of the Bank of
10	USBANK000117 through USBANK((5 pages)	000121	10	America/Countrywide merger, so sometime in '08 or '09.
11	Exhibit 22 Full Reconveyance, Bates stamped	81	11	Q. Did you work for Countrywide before Bank of
12	SFR40 (1 page)		12	America?
13	Exhibit 23 Rescission of Full Reconveyance,	83	13	A. I did.
14	Bates stamped SFR57 through (3 pages)	SFRJY	14	Q. When did you start working for Countrywide?
15	Exhibit 24 Transferring of Servicing	88	15	A. In October 1994.
16	Responsibility from Bank of to Nationstar Mortgage, Bate		16	MS. EBRON: Off the record.
17	stamped USBANK000382 through USBANK000390 (9 pages)	ı	17	(Discussion held off the record.)
18	() Payes)		18	BY MS. EBRON:
19			10	Q. What positions did you hold at Countrywide?
				A. At Countrywide I held various positions within
20			20	
21			21	the foreclosure department: Specialist, management
22			22	roles. I also handled or had a litigation-associate
23			23	role, as well, for a couple of years.
24			24	Q. Anything else?
25			25	A. No.
		Page 6		Page 8
1	LAS VEGAS NEVADA: WEDNESDAV III	Ū	1	-
1	LAS VEGAS, NEVADA; WEDNESDAY, JU 9:05 A M	Ū	1	Q. Before we get too much further, have you had
2	9:05 A.M.	Ū	2	Q. Before we get too much further, have you had your deposition taken before?
2 3	9:05 A.M. -oOo-	Ū	2 3	Q. Before we get too much further, have you had your deposition taken before?A. Yes.
2 3 4	9:05 A.M. -oOo- Whereupon	NE 15, 2016	2 3 4	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times?
2 3 4 5	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p	NE 15, 2016 prior to	2 3 4 5	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100
2 3 4 5 6	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, counse	NE 15, 2016 prior to el agreed to	2 3 4 5 6	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times.
2 3 4 5 6 7	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, couns waive the court reporter's requirements und	NE 15, 2016 prior to el agreed to der Nevada	2 3 4 5 6 7	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times. Q. So you're familiar with the ground rules of a
2 3 4 5 6 7 8	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, couns waive the court reporter's requirements und Rules of Civil Procedure, Rule 30(b)(4), o	NE 15, 2016 prior to el agreed to der Nevada r Federal	2 3 4 5 6 7 8	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times. Q. So you're familiar with the ground rules of a deposition?
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2 3 4 5 6 7 8 9 10 11	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, counse waive the court reporter's requirements und Rules of Civil Procedure, Rule 30(b)(4), o Rules of Civil Procedure, Rule 30(b)(5), as a DIANE DELONEY,	NE 15, 2016 prior to el agreed to der Nevada r Federal applicable.)	2 3 4 5 6 7 8 9	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times. Q. So you're familiar with the ground rules of a deposition? A. Yes. Q. And you understand that the testimony that you're giving today is under oath and it has the same
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, counse waive the court reporter's requirements und Rules of Civil Procedure, Rule 30(b)(4), o Rules of Civil Procedure, Rule 30(b)(5), as a DIANE DELONEY, having been first duly sworn to testify to th the whole truth, and nothing but the truth, wa and testified as follows: EXAMINATION BY MS. EBRON: Q. Good morning. I'm Diana Cline Ebb represent SFR Investments Pool I, LLC in to Can you please state your name for A. Yes. It's Diane Deloney. Q. Are you employed? A. Yes. Q. Who is your employer?	NE 15, 2016 prior to el agreed to der Nevada r Federal applicable.) he truth, s examined ron, and I this matter.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times. Q. So you're familiar with the ground rules of a deposition? A. Yes. Q. And you understand that the testimony that you're giving today is under oath and it has the same force and effect as if you were testifying in court? A. Yes. Q. And it has the same penalty for perjury? A. Yes. Q. Have you also testified at trials? A. Yes. Q. About how many? A. You know, 75 to 100 trials, probably. Maybe not quite as many as depositions. Q. When you testified at deposition, has it been in certain geographical areas, or has it been all over the country?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	9:05 A.M. -oOo- Whereupon (In an off-the-record discussion held p the commencement of the proceedings, counse waive the court reporter's requirements und Rules of Civil Procedure, Rule 30(b)(4), o Rules of Civil Procedure, Rule 30(b)(5), as a DIANE DELONEY, having been first duly sworn to testify to th the whole truth, and nothing but the truth, wa and testified as follows: EXAMINATION BY MS. EBRON: Q. Good morning. I'm Diana Cline Ebb represent SFR Investments Pool I, LLC in to Can you please state your name for A. Yes. It's Diane Deloney. Q. Are you employed? A. Yes. Q. Who is your employer?	NE 15, 2016 prior to el agreed to der Nevada r Federal applicable.) he truth, s examined ron, and I this matter.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Before we get too much further, have you had your deposition taken before? A. Yes. Q. Approximately how many times? A. I would have to estimate probably close to 100 times. Q. So you're familiar with the ground rules of a deposition? A. Yes. Q. And you understand that the testimony that you're giving today is under oath and it has the same force and effect as if you were testifying in court? A. Yes. Q. And it has the same penalty for perjury? A. Yes. Q. Have you also testified at trials? A. Yes. Q. About how many? A. You know, 75 to 100 trials, probably. Maybe not quite as many as depositions. Q. When you testified at deposition, has it been in certain geographical areas, or has it been all over the country?

(2) Pages 5 - 8

	U.S. Bank, National Association Vs. S Page 9	Juin	Page 11
	Fage 9		Faye II
1	before?	1	group; I also was a senior operations consultant in our
2	A. I don't believe so.	2	advocacy litigation group; and my current role, which is
3	Q. Were those depositions approximately 100	3	consumer resolution associate with our consumer
4	depositions were those on behalf of Bank of America?	4	resolution associate team.
5	A. Some were, yes.	5	Q. Is there a difference between consumer
6	Q. Were the others for Countrywide?	6	resolution associate and a mortgage resolution
7	A. Yes.	7	associate?
8	Q. And what was your what were your duties as	8	A. No. There was a name change not too long ago.
9	specialist in the foreclosure department at Countrywide?	9	Q. Did any when there was a name change, did any
10	A. Well, when I first started I was handling a	10	functionality change within the department?
11	portfolio of loans in a presale status, working with	11	A. No.
12	counsel up and through the foreclosure from referral	12	Q. Do you know the time period that you were a unit
13	to foreclosure sale date.	13	manager for state mediations?
14	Q. Anything else?	14	A. I was unit manager from January 2010 until about
15	A. No, not that I can think of right now.	15	December 2010.
16	Q. When you were in management at Countrywide, what	16	Q. And what were your duties?
17	were your duties?	17	A. I managed a team of associates who handled
18	A. I managed various teams of associates that were	18	our what we call our state mediations, the
19	in a foreclosure-specialist role. So basically managing	19	foreclosure mediations that were being held across the
20	associates in foreclosure presale.	20	country; basic management duties involved.
21	Q. Anything else?	21	Q. Anything else?
22	A. I also managed associates that were handling	22	A. I would appear from time to time on behalf of
23	files in litigation for a couple years.	23	the bank at state mediations.
24	Q. Anything else?	24	Q. Anything else?
25	A. That's all I can think of right now.	25	A. Not that I can think of right now.
	Page 10		Page 12
1	Q. You also mentioned that you were a litigation	1	Q. Did you ever work on any mediations, or files
2	associate; is that correct?	2	that were in mediations, in Nevada?
3	A. Yes.	3	A. Not that I recall.
4	Q. And what was your role as a litigation	4	Q. Do you know if your team did?
5	associate?	5	A. We had a team in California, and they handled
6	A. I was handling a portfolio of contested	6	the majority of it in Nevada.
7	foreclosures at that time. I would work with counsel	7	Q. Have you worked at any other Bank of America
8	toward collecting documents, anything on the servicing	8	offices besides the one that you're at right now in
9	side, which also would include appearing on behalf of	9	Addison?
10	the bank when needed.	10	A. Yes.
11	Q. So when you say "appearing on behalf of the	11	Q. Where?
12	bank," does that mean appearing at deposition, in court,	12	A. I worked in the Fort Worth office, and I also
13	or like settlement conferences?	13	worked in the Plano office.
14	A. All of the above.	14	Q. What about when you were at Countrywide? What
15	Q. Were you ever a vice president at Countrywide?	15	offices or what office did you work at?
16	A. No.	16	A. I was out of the Plano, Texas office.
17	Q. Were you ever any type of officer?	17	Q. Okay. So for the whole time from 1994 to 2008,
18	A. I yes. Currently I'm an assistant vice	18	2009, you were in the Plano office?
19	president.	19	A. Yes.
20	Q. And what about when you were at Countrywide?	20	Q. Are you an officer of MERS?
21	Were you an assistant vice president?	21	A. Yes.
22	A. I don't recall.	22	Q. Do you know when you became an officer of MERS?
23	Q. What positions have you held at Bank of America	23	MS. MORGAN: Objection; scope.
24	since Countrywide and Bank of America merged?	24	THE WITNESS: I don't remember exactly.
25	A. I was a unit manager in our state mediation	25	///
	č		

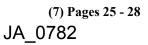
	U.S. Bank, National Association vs. S	outin	5 V/
	Page 13		Page 15
1	BY MS. EBRON:	1	occurred. It could have been with the senior operations
2	Q. Do you know if you were an officer of MERS when	2	consultant. Again, I don't exactly recall.
3	you worked for Countrywide?	3	Q. Were you employed before you worked for
4	MS. MORGAN: Objection; scope.	4	Countrywide?
5	THE WITNESS: I was not.	5	A. Yes.
6	BY MS. EBRON:	6	Q. Where were you employed?
7	Q. What were your duties as a senior operations	7	A. I was employed by Lomas Mortgage U.S.A.
8	consultant?	8	Q. Can you spell that?
9	A. I would appear on behalf of the bank in	9	A. It's L-o-m-a-s.
10	depositions, trials, and mediations where the issue was	10	Q. Where was Lomas Mortgage located?
11	loan modification related, whether it be allegations or	11	A. They were located in Dallas, Texas.
12	the settlement was based on loan modification.	12	Q. What were the dates of employment for Lomas
13	Q. Anything else?	13	Mortgage U.S.A.?
14	A. Not that I recall.	14	A. 1988 to 1994.
15	Q. Do you know the time period that you were a	15	Q. And what positions did you hold at Lomas?
16	senior operations consultant?	16	A. I held various positions within the foreclosure
17	A. Yes.	17	department.
18	Q. When was that?	18	Q. What types of positions?
19	A. That was January 2011 until about June 2012.	19	A. Handling, pulling up the claim proceeds,
20	Q. What are your duties as a consumer resolution	20	providing bids for foreclosure sales.
21	associate?	21	Q. Anything else?
22	A. Today I handle a portfolio of loans that are	22	A. That's all I can think of right now.
23	contested or litigated, I work with counsel toward a	23	Q. Were you employed before you worked for Lomas?
24	resolution. I also appear on behalf of the bank when	24	A. Various part-time jobs while going to school.
25	needed at trials, depositions, and mediations.	25	Q. Do you have any other mortgage-related
	Page 14		Page 16
	-		-
1	Q. Anything else?	1	employment?
2	Q. Anything else?A. Just various duties as they come about	2	employment? A. No.
2 3	Q. Anything else?A. Just various duties as they come about throughout the workday.	2 3	employment?A. No.Q. Where did you go to school?
2 3 4	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a 	2 3 4	employment?A. No.Q. Where did you go to school?A. What kind of school?
2 3 4 5	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? 	2 3 4 5	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school?
2 3 4 5 6	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, 	2 3 4 5 6	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes.
2 3 4 5 6 7	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to 	2 3 4 5 6 7	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When?
2 3 4 5 6 7 8	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. 	2 3 4 5 6 7 8	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979.
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2 3 4 5 6 7 8 9 10	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? 	2 3 4 5 6 7 8 9 10	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? A. Both. Q. Do you have any other duties as the consumer resolution associate? A. Not that comes to mind. Q. Did you become the consumer resolution associate right after you were the senior operations consultant? A. Yes. Q. So that would have been from June of 2012 until present? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas. Q. Did you attend a college or university? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. Yes. Q. Any others? A. University of North Texas. Q. Any others?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? A. Both. Q. Do you have any other duties as the consumer resolution associate? A. Not that comes to mind. Q. Did you become the consumer resolution associate right after you were the senior operations consultant? A. Yes. Q. So that would have been from June of 2012 until present? A. Correct. Q. And there was sometime during your time at Bank 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas. Q. Did you attend a college or university? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. I attended Texas. Q. Where? A. I attended Texas. Q. Mhere? A. I attended Texas. A. Yes. Q. Where? A. There was probably some junior college work in between, various local schools, but I don't remember
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? A. Both. Q. Do you have any other duties as the consumer resolution associate? A. Not that comes to mind. Q. Did you become the consumer resolution associate right after you were the senior operations consultant? A. Yes. Q. So that would have been from June of 2012 until present? A. And there was sometime during your time at Bank of America that you became an assistant vice president. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas. Q. Did you attend a college or university? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. There was probably some junior college work in between, various local schools, but I don't remember exactly which ones.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? A. Both. Q. Do you have any other duties as the consumer resolution associate? A. Not that comes to mind. Q. Did you become the consumer resolution associate right after you were the senior operations consultant? A. Yes. Q. So that would have been from June of 2012 until present? A. Correct. Q. And there was sometime during your time at Bank of America that you became an assistant vice president. Was that when you became a consumer resolution associate? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas. Q. Did you attend a college or university? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. University of North Texas. Q. Any others? A. There was probably some junior college work in between, various local schools, but I don't remember exactly which ones. Q. Have you earned any degrees? A. Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Anything else? A. Just various duties as they come about throughout the workday. Q. What types of duties might come about during a workday? A. There might be some training involved, collecting documents; you know, whatever it takes to handle a case in litigation. Q. When you say "training," is that you being trained, or are you training other people? A. Both. Q. Do you have any other duties as the consumer resolution associate? A. Not that comes to mind. Q. Did you become the consumer resolution associate right after you were the senior operations consultant? A. Yes. Q. So that would have been from June of 2012 until present? A. Correct. Q. And there was sometime during your time at Bank of America that you became an assistant vice president. Was that when you became a consumer resolution 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 employment? A. No. Q. Where did you go to school? A. What kind of school? Q. Sorry. Did you graduate from high school? A. Yes. Q. When? A. In May 1979. Q. Where? A. In Dallas. Q. Did you attend a college or university? A. Yes. Q. Where? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. Yes. Q. Where? A. Yes. Q. Mhere? A. I attended Texas Tech University. Q. Any others? A. Yes. Q. Where? A. University of North Texas. Q. Any others? A. There was probably some junior college work in between, various local schools, but I don't remember exactly which ones. Q. Have you earned any degrees?

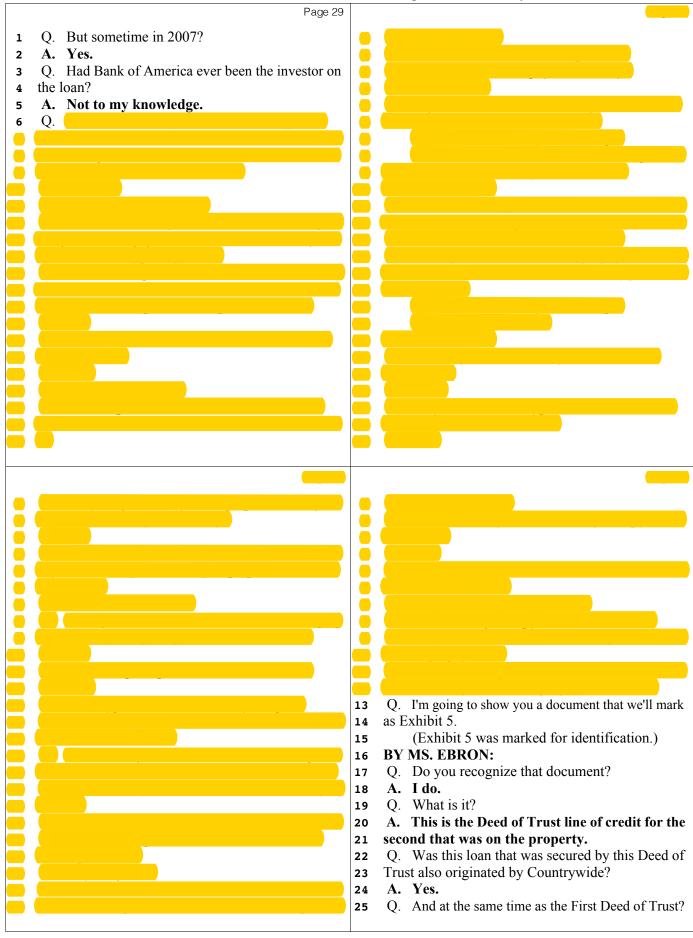
	U.S. Bank, National Association vs. 8	outn	
	Page 17		Page 19
1	A. One.	1	foreclosing on a Deed of Trust; correct?
2	Q. And what is it?	2	A. Correct.
3	A. I have a bachelor's of business administration	3	Q. Would you say that you're pretty familiar with
4	in real estate finance.	4	the process of a bank foreclosing on a Deed of Trust?
5	Q. When did you get your degree?	5	MS. MORGAN: Objection; form, scope.
6	A. In December 1987.	6	THE WITNESS: Fairly, yes.
7	Q. So after graduating, you've pretty much been in	7	BY MS. EBRON:
8	the banking or mortgage industry since?	8	Q. I'm going to show you a document that we're
9	A. Yes.	9	going to mark as Exhibit 1.
10	Q. How many different loan files do you think	10	(Exhibit 1 was marked for identification.)
11	you've reviewed in your career?	11	BY MS. EBRON:
12	A. I have no idea.	12	Q. Do you recognize this document?
13	Q. And would that number be in, like, the hundreds	13	A. I do.
14	or thousands?	14	Q. And what is it?
15	A. I really don't know.	15	A. A document that's entitled Amended Notice of
16	Q. Do you have with your current job with Bank	16	Rule 30(b)(6) Deposition of Bank of America, N.A.
17	of America, do you have certain files that you're	17	Q. Is this something that you've reviewed prior to
18	assigned to work on from start to finish, or is it	18	your deposition today?
19	appearance-based?	19	A. Yes.
20	A. I do have files that I work on from start to	20	Q. And are you the person that Bank of America,
21	finish that do not involve an appearance.	21	N.A. has designated to testify on its behalf on these
22	Q. And then are there some times when you make an	22	topics?
23	appearance, like at a deposition, when you haven't been	23	A. Yes.
24	necessarily working that file throughout the litigation?	24	Q. I'm going to go ahead and show you another
25	A. Yes.	25	deposition notice that we'll mark as Exhibit 2.
	Page 18		Page 20
1	-	1	
1	Q. Have you ever worked on files where Bank of	1	(Exhibit 2 was marked for identification.)
2	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment	2	(Exhibit 2 was marked for identification.) BY MS. EBRON:
2 3	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're		(Exhibit 2 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?
2 3 4	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now,	2 3 4	(Exhibit 2 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?A. I do.
2 3	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were	2 3	(Exhibit 2 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?A. I do.Q. What is it?
2 3 4 5	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were working with outside counsel to try to make a payment	2 3 4 5	 (Exhibit 2 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. This is the Second Amended Notice of
2 3 4 5 6	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were	2 3 4 5 6	 (Exhibit 2 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. This is the Second Amended Notice of Rule 30(b)(6) Deposition of U.S. Bank, N.A.
2 3 4 5 6 7	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were working with outside counsel to try to make a payment before an association foreclosure sale took place?	2 3 4 5 6 7	 (Exhibit 2 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. This is the Second Amended Notice of
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2 3 4 5 6 7 8 9	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were working with outside counsel to try to make a payment before an association foreclosure sale took place? MS. MORGAN: Objection; scope. THE WITNESS: So to make sure I understand your question, have I ever worked on a file where working	2 3 4 5 6 7 8	 (Exhibit 2 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. This is the Second Amended Notice of Rule 30(b)(6) Deposition of U.S. Bank, N.A. Q. And did you have a chance to review the topics that are in this notice? A. I did.
2 3 4 5 6 7 8 9 10	Q. Have you ever worked on files where Bank of America was hiring counsel to attempt to make a payment to a homeowners association? I understand we're litigating about that issue in some of these cases now, but have you ever been assigned to a file where you were working with outside counsel to try to make a payment before an association foreclosure sale took place? MS. MORGAN: Objection; scope. THE WITNESS: So to make sure I understand your	2 3 4 5 6 7 8 9 10	 (Exhibit 2 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. This is the Second Amended Notice of Rule 30(b)(6) Deposition of U.S. Bank, N.A. Q. And did you have a chance to review the topics that are in this notice?
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	Page 21		Page 23
1	The first one refers to the property as the real	1	Q. Have you seen the original wet-ink signature
2	property located at 10702 La Crescenta Court, Las Vegas,	2	Note before?
3	Nevada 89141. Parcel No. 176-36-619-021. Whenever I	3	A. No.
4	refer to the property today, I'm going to be referring	4	Q. I'm going to show you a document that we will
5	to the property La Crescenta. Is that okay?	5	mark as Exhibit 4.
6	A. Yes.	6	(Exhibit 4 was marked for identification.)
7	Q. Also, it defines the homeowners association as	7	BY MS. EBRON:
8	Southern Highlands Homeowners Association. So whenever	8	Q. I think there may be an extra page at the back,
9	I refer to the association, unless otherwise specified,	9	so you can just remove that. It should be SFR9 through
10	I'm going to be referring to the Southern Highlands	10	SFR28, and I think I accidentally attached that as
11	Homeowners Association. Actually, it should be Southern	11	SFR39. So if you could just remove that.
12	Highlands Community Association.	12	And, Counsel, I originally printed copies of the
13	So with that correction, anytime I refer to the	13	ones disclosed by U.S. Bank, but for some reason the
14	association, I will be referring to the Southern Highlands Community Association. Okay?	14 15	page, like, started halfway down. So it cut some things off.
15 16	A. Okay.	15	MS. MORGAN: Okay. So if it affects your
17	Q. We will be talking about an association	17	answers today to the questions, just let us know;
18	foreclosure sale that took place on September 5th, 2012,	18	otherwise we'll just move forward.
19	by Alessi & Koenig, LLC on behalf of the association.	19	THE WITNESS: Okay.
20	So whenever I ask for any information about the	20	BY MS. EBRON:
21	association foreclosure sale or something that happened	21	Q. Do you recognize this document?
22	before the association foreclosure sale, I'll be looking	22	A. I do.
23	to that date of September 5th, 2012. Okay?	23	Q. What is that?
24	A. Okay.	24	A. This is a copy of the Deed of Trust, along with
25	Q. I also might refer to Alessi & Koenig as Alessi,	25	a copy of the Planned Urban Development Rider attached
	Page 22		Dars 04
			Pade 24
		-	Page 24
1	if that's all right?	1	to the Deed of Trust for the property in question.
2	if that's all right? A. Sure.	2	to the Deed of Trust for the property in question. Q. Is this something that you reviewed in
2 3	if that's all right?A. Sure.Q. Okay. I'm going to show you a document that we	2 3	to the Deed of Trust for the property in question. Q. Is this something that you reviewed in preparation for your deposition?
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	Page 25		Page 27
1	imaging system, about how many documents were returned	1	A. My best estimate would be maybe four or five.
2	from that search?	2	Q. Do you know the time period from where those
3	MS. MORGAN: Objection; scope.	3	were from?
4	THE WITNESS: I'd have to estimate probably	4	A. The earliest I recall was October 2010.
5	well, I'd just be guessing. A 100, maybe.	5	Q. And what about the latest?
6	MS. MORGAN: Yeah, I don't want you to guess,	6	A. In AS-400, maybe some time 2011, 2012. I don't
7	but you can give your best estimate, if you're able.	7	recall exactly.
8	THE WITNESS: That's just an estimate.	8	Q. Was there a certain time period of the customer
9	BY MS. EBRON:	9	service notes or other information in AS-400 that you
10	Q. Fair enough. What other types of documents did	10	reviewed?
11	you review in preparation for your deposition?	11	A. I reviewed it from the beginning of when the
12	A. I reviewed excuse me our servicing notes,	12	loan originally was boarded.
13	and I reviewed some of the other documents that were	13	Q. Did you review to the last entry in the AS-400,
14	produced.	14	or did you stop at a certain date?
15	Q. What do you mean "other documents that were	15	A. To the last entry.
16	produced"?	16	Q. And what's the last entry, approximately?
17	A. That were produced by the bank.	17	A. 2013.
18	Q. In this litigation?	18	Q. Do you know when in 2013?
19	A. Yes.	19	A. No.
20	Q. Were there any documents that you reviewed that	20	Q. And is it correct that Bank of America was the
21	were not part of Bank of America's business records?	21	servicer after the mortgager with Countrywide through
22	A. Not that I recall.	22	2013?
23	Q. Going back, well let's sorry, strike that.	23	A. Yes.
24	You said you reviewed the servicing notes; is	24	Q. And do you know who became the servicer after
25	that correct?	25	Bank of America?
	Dess 20		Dave 20
	Page 26		Page 28
	A X 7		A X 7
1	A. Yes.	1	A. Yes. $(A = A + A)^2$
2	Q. Where are the servicing notes located for this	2	Q. Who?
2 3	Q. Where are the servicing notes located for this file? Are they also in the imaging system?	2 3	Q. Who? A. Nationstar.
2 3 4	Q. Where are the servicing notes located for this file? Are they also in the imaging system?A. No. They'd be in a separate database commonly	2 3 4	Q. Who?A. Nationstar.Q. And it's my understanding that Countrywide was
2 3 4 5	Q. Where are the servicing notes located for this file? Are they also in the imaging system?A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes.	2 3 4 5	Q. Who?A. Nationstar.Q. And it's my understanding that Countrywide was the originating lender; correct?
2 3 4 5 6	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed 	2 3 4 5 6	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct.
2 3 4 5 6 7	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? 	2 3 4 5 6 7	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer?
2 3 4 5 6 7 8	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? A. I was just reviewing the history of the loan 	2 3 4 5 6 7 8	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer? A. Yes.
2 3 4 5 6 7 8 9	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? A. I was just reviewing the history of the loan file. 	2 3 4 5 6 7 8 9	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer? A. Yes. Q. Did Countrywide ever sell the loan?
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2 3 4 5 6 7 8 9 10 11	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? A. I was just reviewing the history of the loan file. Q. And so what types of information did you look at in AS-400? 	2 3 4 5 6 7 8 9 10 11	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer? A. Yes. Q. Did Countrywide ever sell the loan? MS. MORGAN: Objection; form. THE WITNESS: Sell the loan? Sell the what
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? A. I was just reviewing the history of the loan file. Q. And so what types of information did you look at in AS-400? A. I reviewed notes made by our customer our customer service, by our foreclosure; just the general origination terms of the loan. The payments made, that sort of thing. Q. Anything else? A. Not that I recall right now. Q. Did you when you were reviewing the notes, did you check to see if there were any references to a homeowners association? A. I did. Q. Did you see any? A. I did. Q. Do you know about how many references about 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer? A. Yes. Q. Did Countrywide ever sell the loan? MS. MORGAN: Objection; form. THE WITNESS: Sell the loan? Sell the what exactly do you mean? BY MS. EBRON: Q. Well, I guess I want to distinguish between the servicing rights and being the investor. So was Countrywide an investor of this loan at any point in time? A. Not to my knowledge. Q. So is there a different investor for this loan? A. Well, when we were servicing it, it was still U.S. Bank. Q. When did U.S. Bank become the investor? A. Shortly after the loan originated. Q. Do you know about how long?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Where are the servicing notes located for this file? Are they also in the imaging system? A. No. They'd be in a separate database commonly referred to as our AS-400 servicing notes. Q. And what were you looking for when you reviewed the AS-400? A. I was just reviewing the history of the loan file. Q. And so what types of information did you look at in AS-400? A. I reviewed notes made by our customer our customer service, by our foreclosure; just the general origination terms of the loan. The payments made, that sort of thing. Q. Anything else? A. Not that I recall right now. Q. Did you when you were reviewing the notes, did you check to see if there were any references to a homeowners association? A. I did. Q. Did you see any? A. I did. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Who? A. Nationstar. Q. And it's my understanding that Countrywide was the originating lender; correct? A. Correct. Q. Was Countrywide also the first servicer? A. Yes. Q. Did Countrywide ever sell the loan? MS. MORGAN: Objection; form. THE WITNESS: Sell the loan? Sell the what exactly do you mean? BY MS. EBRON: Q. Well, I guess I want to distinguish between the servicing rights and being the investor. So was Countrywide an investor of this loan at any point in time? A. Not to my knowledge. Q. So is there a different investor for this loan? A. Well, when we were servicing it, it was still U.S. Bank. Q. When did U.S. Bank become the investor? A. Shortly after the loan originated.





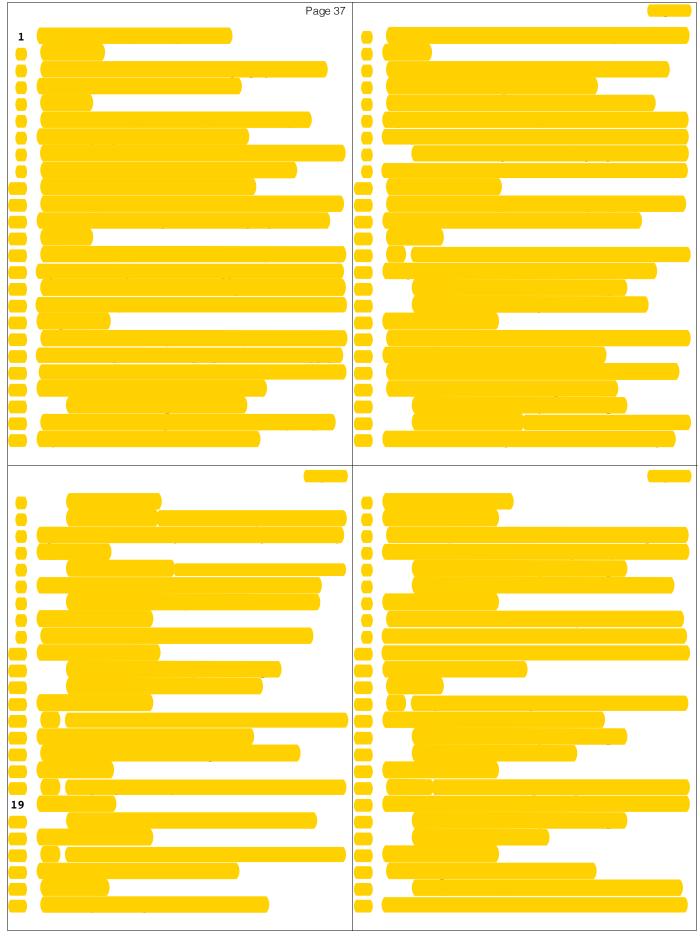
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(8) Pages 29 - 32 JA_0783

1	U.S. Bank, National Association Vs. S Page 33	Journ	Page 35
	-		-
1	A. Yes.	1	BY MS. EBRON:
2	Q. Do you know if these were purchase money loans?	2	Q. Looking at the page Bates stamped SFR27,
3	MS. MORGAN: Objection; scope.	3	Paragraph A, it says: PUD Obligations. Borrower shall
4	THE WITNESS: Yes.	4	perform all of Borrower's obligations under the PUD's
5	BY MS. EBRON:	5	Constituent Documents. The Constituent Documents are
6	Q. Were they purchase money loans?	6	the Declaration, Articles of Incorporation, Trust
7	A. Yes.	7	Instruments or any equivalent document which creates the
8	Q. Now, Mortgage Electronic Registration Systems,	8	Owners Association, and any bylaws or other rules or
9	Inc. is mentioned in both of these Deeds of Trust. Can	9	regulations of the Owners Association. Borrower shall
10	you tell me, or do you know, what Mortgage Electronic	10	promptly pay, when due, all dues and assessments imposed
11	Registration Systems, Inc.'s role is with these Deeds of	11	pursuant to the Constituent Documents.
12	Trust?	12	Did I read that correctly?
13	MS. MORGAN: Objection; scope, calls for a legal	13	A. Yes.
14	conclusion.	14	Q. Is it fair to say that this notifies the
15	THE WITNESS: For both of the Deeds of Trust,	15	borrower that the borrower has to pay homeowners
16	Mortgage Electronic Registration Systems was acting as	16	association dues?
17	the nominee for the lender, Countrywide Home Loans, Inc.	17	MS. MORGAN: Objection; scope, the document
18	BY MS. EBRON:	18	speaks for itself.
19	Q. Going to Exhibit 4 on the page that's Bates	19	THE WITNESS: Yes.
20	stamped SFR10 right under the title Deed of Trust, it	20	BY MS. EBRON:
21	says MIN and then there's a number. Do you see that?	21	Q. And then on the last page, 3 of 3 that's Bates
22	A. I do.	22	stamped SFR28, Paragraph F, it says, "Remedies. If
23	Q. Do you know what that number is for?	23	Borrower does not pay PUD dues and assessments when due,
24	MS. MORGAN: Objection; scope.	24	then Lender may pay them. Any amounts disbursed by
25	THE WITNESS: Yes.	25	Lender under this paragraph F shall become additional
	Page 34		Page 36
1	BY MS. EBRON:	1	debt of Borrower secured by the Security Instrument."
2	Q. What's it for?	2	Did I read that correctly?
3	A. That is basically the MERS identification		
4		3	A. Yes.
4	number.	3 4	A. Yes. Q. So is it fair to say that Paragraph F notifies
4 5	number. Q. Do you know what a MERS identification number is	_	
_		4	Q. So is it fair to say that Paragraph F notifies
5	Q. Do you know what a MERS identification number is	4 5	Q. So is it fair to say that Paragraph F notifies the borrower that if the borrower does not pay the
5 6	Q. Do you know what a MERS identification number is used for?	4 5 6	Q. So is it fair to say that Paragraph F notifies the borrower that if the borrower does not pay the homeowners association dues, then the lender can choose
5 6 7	Q. Do you know what a MERS identification number is used for?A. It is used on behalf of MERS to determine who	4 5 6 7	Q. So is it fair to say that Paragraph F notifies the borrower that if the borrower does not pay the homeowners association dues, then the lender can choose to pay them and then add that on to the amount secured
5 6 7 8	 Q. Do you know what a MERS identification number is used for? A. It is used on behalf of MERS to determine who the current servicer is on a loan. Q. If you turn to the page that is Bates stamped SFR26 	4 5 6 7 8	Q. So is it fair to say that Paragraph F notifies the borrower that if the borrower does not pay the homeowners association dues, then the lender can choose to pay them and then add that on to the amount secured by this Deed of Trust? MS. MORGAN: Objection; scope, the document speaks for itself.
5 6 7 8 9	 Q. Do you know what a MERS identification number is used for? A. It is used on behalf of MERS to determine who the current servicer is on a loan. Q. If you turn to the page that is Bates stamped SFR26 A. Sorry, Exhibit 4 still? 	4 5 6 7 8 9	 Q. So is it fair to say that Paragraph F notifies the borrower that if the borrower does not pay the homeowners association dues, then the lender can choose to pay them and then add that on to the amount secured by this Deed of Trust? MS. MORGAN: Objection; scope, the document speaks for itself. THE WITNESS: Well, it says the lender may pay
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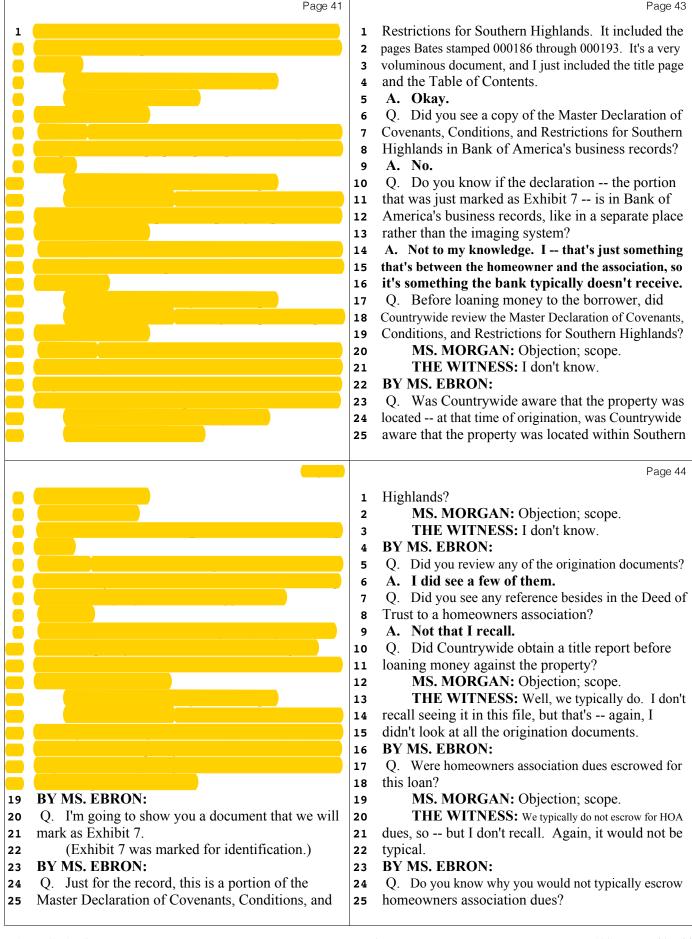
30(b)(6) U.S. Bank & Bank of America, N.A. - Diane Deloney - June 15, 2016 U.S. Bank, National Association vs. Southern Highlands Community, et al.



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(11) Pages 41 - 44 JA 0786

	U.S. Bank, National Association vs. S	outh	ern Highlands Community, et al.
	Page 45		Page 47
1	MS. MORGAN: Objection; scope.	1	speculation.
2	THE WITNESS: Again, that's between the it's	2	THE WITNESS: I don't know.
3	the borrower's responsibility to pay them, so it's not	3	BY MS. EBRON:
	something that the bank pays on their behalf on a	4	Q. When Bank of America merged with Countrywide,
4	monthly basis.		did it review property records for this file?
5	BY MS. EBRON:	5 6	MS. MORGAN: Objection; scope.
6	Q. Before loaning money against this property, did	_	THE WITNESS: At the time of the merger?
7	Countrywide review any of the other documents that had	7	BY MS. EBRON:
8		8	Q. Yes.
9	been recorded against the property?	9	A. Not that I'm aware of.
10	MS. MORGAN: Objection; scope. THE WITNESS: What exactly do you mean?	10	Q. Do you know if at the time U.S. Bank obtained an
11	BY MS. EBRON:	11	interest in the loan, if U.S. Bank reviewed the
12		12	
13	Q. For example I'm just going to go ahead and show this to you, rather than attaching it as an	13	Declaration of Covenants, Conditions, and Restrictions
14		14	for Southern Highlands?
15	exhibit. This is a document that is Bates stamped	15	MS. MORGAN: Objection; scope, calls for
16	USBANK000006 through USBANK000042. And it's actually	16	speculation.
17	two different Deeds of Trust that were that appear to have been recorded in 2002.	17	THE WITNESS: I don't know. BY MS. EBRON:
18		18	
19	A. I'm sorry, the question again?Q. Did Countrywide review any of the documents that	19	Q. Did U.S. Bank rely on any particular provisions in the Declaration of Covenants, Conditions, and
20	were previously recorded against the property before	20	Restrictions for Southern Highlands when it obtained its
21 22	loaning money against the property?	21 22	interest in the loan?
	MS. MORGAN: Objection; scope.		A. I don't know.
23 24	THE WITNESS: Well, it would be part of the	23 24	Q. Do you know who would know that?
24 25	title report. And, again, I didn't see it specifically,	24 25	A. I don't.
25	the report. And, again, I didn't see it speemeany,	25	
	Page 46		Page 48
1	but it is something that is typically done before	1	Q. I'm going to show you a document that we'll mark
2	closing on loans.	2	as Exhibit 8.
3	BY MS. EBRON:	3	(Exhibit 8 was marked for identification.)
4	Q. So if the Declaration of Covenants, Conditions,	4	BY MS. EBRON:
5	and Restrictions for Southern Highlands was recorded	5	Q. Do you recognize that document?
6	against the property, then Countrywide may have looked	6	A. No, I have not seen it before.
7	at them?	7	Q. Do you know from the face of the document what
8	MS. MORGAN: Objection; form, scope.	8	it is?
9	THE WITNESS: I'm sorry, your question? I	9	A. Yes.
10	didn't hear all the question.	10	Q. What is it?
11	BY MS. EBRON:	11	A. The document's entitled Grant, Bargain, Sale
12	Q. So if the Declaration of Covenants, Conditions,	12	Deed that was executed by the County granting or
13	and Restrictions for Southern Highlands were recorded	13	conveying to Ms. Hagerman, the mortgager on the loan.
14	against the property, then Countrywide may have looked	14	Q. Is this typically a document that would be
15	at them before loaning against the property?	15	included in Bank of America's or Countrywide's business
16	0 -0	1	•
	MS. MORGAN: Same objection.	16	records?
17	MS. MORGAN: Same objection. THE WITNESS: I'd only be speculating. But if	16 17	records? A. Yes.
17 18	MS. MORGAN: Same objection. THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then	_	A. Yes.
	THE WITNESS: I'd only be speculating. But if	17	
18	THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then	17 18	 A. Yes. MS. MORGAN: Objection; scope. BY MS. EBRON:
18 19	THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then we would have been aware of it.	17 18 19	 A. Yes. MS. MORGAN: Objection; scope.
18 19 20	THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then we would have been aware of it. BY MS. EBRON:	17 18 19 20	 A. Yes. MS. MORGAN: Objection; scope. BY MS. EBRON: Q. So is it possible it's within their business
18 19 20 21	 THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then we would have been aware of it. BY MS. EBRON: Q. Do you know if Countrywide relied on any 	17 18 19 20 21	 A. Yes. MS. MORGAN: Objection; scope. BY MS. EBRON: Q. So is it possible it's within their business records and that's just one of the ones you didn't open?
18 19 20 21 22	THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then we would have been aware of it.BY MS. EBRON:Q. Do you know if Countrywide relied on any particular provisions or portions of the Declaration of	17 18 19 20 21 22	 A. Yes. MS. MORGAN: Objection; scope. BY MS. EBRON: Q. So is it possible it's within their business records and that's just one of the ones you didn't open? A. Yes.
18 19 20 21 22 23	 THE WITNESS: I'd only be speculating. But if it was recorded and appeared on the title report, then we would have been aware of it. BY MS. EBRON: Q. Do you know if Countrywide relied on any particular provisions or portions of the Declaration of CC&Rs for Southern Highlands when loaning money against 	17 18 19 20 21 22 23	 A. Yes. MS. MORGAN: Objection; scope. BY MS. EBRON: Q. So is it possible it's within their business records and that's just one of the ones you didn't open? A. Yes. Q. I'm going to show you a document that we'll mark

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	U.S. Bank, National Association Vs. S Page 49	Juin	Page 51
	Faye 49		Fage ST
1	THE WITNESS: Okay.	1	cutting off the page, so I just want to make sure I've
2	BY MS. EBRON:	2	got the right ones here in the right order.
3	Q. Do you recognize this document?	3	Okay. I want to show you a document that we'll
4	A. I do.	4	mark as Exhibit 11.
5	Q. What is it?	5	(Exhibit 11 was marked for identification.)
6	A. This is a Notice of Default, Election to Sell	6	THE WITNESS: Okay.
7	Under Deed of Trust.	7	BY MS. EBRON:
8	Q. Does this relate to the Deed of Trust that we	8	Q. Have you seen this document before?
9	marked as Exhibit 4?	9	A. I have.
10	A. Yes.	10	Q. Is this document part of Bank of America's
11	Q. There is a paragraph that's in all caps, and it	11	business records?
12	says it starts off: Failure to pay the installment	12	A. I saw it in preparation for today. I did not
13	of principal and interest which became due on	13	see it within our actual business record.
14	September 1st, 2009. Do you see that?	14	Q. Did you see anything in Bank of America's
15	A. Yes.	15	business records that would lead you to doubt that the
16	Q. Do you know if the borrower made any payments	16	borrower was delinquent to Southern Highlands Community
17	after September 1st, 2009?	17	Association as of that date?
18	MS. MORGAN: Objection; scope.	18	A. No.
19	THE WITNESS: I don't. I don't know.	19	Q. Did you see anything in Bank of America's
20	BY MS. EBRON:	20	business records that would lead you to dispute the
21	Q. And you would look in the payment history to see	21	amounts listed in this Notice of Delinquent Assessment
22	that?	22	Lien?
23	A. Yes.	23	MS. MORGAN: Objection; scope.
24	Q. Well, at least for the time period that Bank of	24	THE WITNESS: No.
25	America was servicing?	25	///
	C C		
	Page 50		
	Fage 50		Page 52
1	A. Correct.	1	Page 52 BY MS. EBRON:
1	-	1 2	-
	A. Correct.		BY MS. EBRON:
2	A. Correct.Q. I'm going to show you a document that we'll mark	2	BY MS. EBRON: Q. I'll show you a document that we will mark as
2 3	A. Correct.Q. I'm going to show you a document that we'll mark as Exhibit 10.	2 3	BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12.
2 3 4	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) 	2 3 4	BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.)
2 3 4 5	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. 	2 3 4 5	BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay.
2 3 4 5 6	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: 	2 3 4 5 6	BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON:
2 3 4 5 6 7	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? 	2 3 4 5 6 7	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document?
2 3 4 5 6 7 8	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. 	2 3 4 5 6 7 8	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do.
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2 3 4 5 6 7 8 9 10 11	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. 	2 3 4 5 6 7 8 9 10 11	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners
2 3 4 5 6 7 8 9 10 11 12	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of 	2 3 4 5 6 7 8 9 10 11 12	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien.
2 3 4 5 6 7 8 9 10 11 12 13	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of Default that we marked as Exhibit 9? 	2 3 4 5 6 7 8 9 10 11 12 13	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien. Q. Is this something that is contained within Bank
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of Default that we marked as Exhibit 9? A. Yes. Q. Do you know why this rescission was recorded? MS. MORGAN: Objection; scope, calls for speculation. THE WITNESS: I don't. BY MS. EBRON: Q. Where would you look to find that information? A. I am not sure. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien. Q. Is this something that is contained within Bank of America's business records? A. Yes. I did find it in our business records. Q. And do you know when it was received by Bank of America? A. It was received sometime in October or November of 2010. Q. Do you know if Bank of America received multiple copies or just one copy of this Notice of Default? A. I don't recall.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of Default that we marked as Exhibit 9? A. Yes. Q. Do you know why this rescission was recorded? MS. MORGAN: Objection; scope, calls for speculation. THE WITNESS: I don't. BY MS. EBRON: Q. Where would you look to find that information? A. I am not sure. Q. So would it be in the servicing notes somewhere? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien. Q. Is this something that is contained within Bank of America's business records? A. Yes. I did find it in our business records. Q. And do you know when it was received by Bank of America? A. It was received sometime in October or November of 2010. Q. Do you know if Bank of America received multiple copies or just one copy of this Notice of Default?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of Default that we marked as Exhibit 9? A. Yes. Q. Do you know why this rescission was recorded? MS. MORGAN: Objection; scope, calls for speculation. THE WITNESS: I don't. BY MS. EBRON: Q. Where would you look to find that information? A. I am not sure. Q. So would it be in the servicing notes somewhere? A. It was not. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien. Q. Is this something that is contained within Bank of America's business records? A. Yes. I did find it in our business records. Q. And do you know when it was received by Bank of America? A. It was received sometime in October or November of 2010. Q. Do you know if Bank of America received multiple copies or just one copy of this Notice of Default? A. I don't recall. Q. I'm going to show you a document we'll mark as
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. Correct. Q. I'm going to show you a document that we'll mark as Exhibit 10. (Exhibit 10 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 10 is labeled Rescission of Election to Declare Default Nevada. Q. Does this rescission relate to the Notice of Default that we marked as Exhibit 9? A. Yes. Q. Do you know why this rescission was recorded? MS. MORGAN: Objection; scope, calls for speculation. THE WITNESS: I don't. BY MS. EBRON: Q. Where would you look to find that information? A. I am not sure. Q. So would it be in the servicing notes somewhere? A. It was not. Q. I apologize. I printed a whole bunch of 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 BY MS. EBRON: Q. I'll show you a document that we will mark as Exhibit 12. (Exhibit 12 was marked for identification.) THE WITNESS: Okay. BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. A document or Exhibit 12 is labeled Notice of Default and Election to Sell Under Homeowners Association Lien. Q. Is this something that is contained within Bank of America's business records? A. Yes. I did find it in our business records. Q. And do you know when it was received by Bank of America? A. It was received sometime in October or November of 2010. Q. Do you know if Bank of America received multiple copies or just one copy of this Notice of Default? A. I don't recall. Q. I'm going to show you a document we'll mark as Exhibit 13.

	Page 53	Juin	Page 55
1	THE WITNESS: Okay.	1	THE WITNESS: I don't know.
2	BY MS. EBRON:	2	BY MS. EBRON:
3	Q. Do you recognize this document?	3	Q. Do you know if someone at Bank of America
4	A. I do.	4	prepared this assignment?
5	Q. What is it?	5	A. I don't.
6	A. Exhibit 13 is the Notice of Trustee's Sale.	6	Q. Do you know who would know who prepared the
7	Q. And this is a Notice of Trustee's Sale on behalf	7	assignment?
8	of the homeowners association?	8	A. I don't, no.
9	A. Yes.	9	Q. Do you know why the assignment was to Bank of
10	Q. Is this something that was received by Bank of	10	America, N.A. if the loan had been transferred to the
11	America?	11	trust with U.S. Bank as trustee already?
12	A. Yes.	12	MS. MORGAN: Objection; scope.
13	Q. Do you know when it was received?	13	THE WITNESS: I don't know.
14	A. Not the exact date. It was received sometime in	14	BY MS. EBRON:
15	late April 2011.	15	Q. The language in this assignment states that it's
16	Q. How do you know that?	16	granting, assigning, and transferring all beneficial
17	A. Just based on my review of the business records.	17	interest under the Deed of Trust that we marked as
18	Q. And what business records told you that it was	18	Exhibit 4; right?
	received in April of 2011?	10	A. Correct.
19	÷	_	Q. And it also says together with the Note or Notes
20	A. It was notated in the servicing notes.	20	
21	Q. Were there also servicing notes about the Notice	21	therein described or referred to. Do you see that? A. Yes.
22	of Default in 2010?	22	
23	A. I don't remember right now.	23	Q. So at this time, August 23rd of 2011, was the
24	Q. And you would look back at the AS-400 to see if	24	Promissory Note transferred to Bank of America?
25	there were if there was a notation in the servicing	25	MS. MORGAN: Objection; scope.
	Page 54		Page 56
	Page 54		Page 56
1	notes about the Notice of Default from the association?	1	THE WITNESS: I'm sorry, the question again?
2	notes about the Notice of Default from the association? A. Correct.	2	THE WITNESS: I'm sorry, the question again? THE REPORTER: "So at this time, August 23rd of
2 3	notes about the Notice of Default from the association?A. Correct.Q. I'll show you a document that we will mark as	2 3	THE WITNESS: I'm sorry, the question again? THE REPORTER: "So at this time, August 23rd of 2011, was the Promissory Note transferred to Bank of
2 3 4	notes about the Notice of Default from the association? A. Correct. Q. I'll show you a document that we will mark as Exhibit 14.	2 3 4	THE WITNESS: I'm sorry, the question again? THE REPORTER: "So at this time, August 23rd of 2011, was the Promissory Note transferred to Bank of America?"
2 3	notes about the Notice of Default from the association? A. Correct. Q. I'll show you a document that we will mark as Exhibit 14. (Exhibit 14 was marked for identification.)	2 3	THE WITNESS: I'm sorry, the question again? THE REPORTER: "So at this time, August 23rd of 2011, was the Promissory Note transferred to Bank of America?" MS. MORGAN: I'll add a form objection, as well.
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	Page 57		Page 59
			-
1	A. I'm sorry, I'm just going off the language of	1	on August 24th when one was already executed on
2	the document that states that it's a Deed of Trust along	2	August 23rd?
3	with the Note. So yes.	3	A. No.
4	Q. Do you know if there's any other entity that may	4	Q. Do you know what the up on the top left
5	have prepared this assignment besides Bank of America?	5	what TS Number refers to?
6	MS. MORGAN: Objection; scope, calls for	6	MS. MORGAN: Objection; scope.
7	speculation.	7	THE WITNESS: I don't.
8	THE WITNESS: Just based on the document itself,	8	BY MS. EBRON:
9	it's possible that ReconTrust Company drafted the	9	Q. Do you know what Title Order Number refers to?
10	document.	10	MS. MORGAN: Objection; scope.
11	BY MS. EBRON:	11	THE WITNESS: No.
12	Q. And who is ReconTrust?	12	BY MS. EBRON:
13	A. They were the trustee handling the foreclosure	13	Q. In your review of the file, did you see any
14	of the loan on behalf of the bank.	14	other assignments of the Deed of Trust that we marked as
15	Q. At this time, on August 23rd, 2011, was there an	15	Exhibit 4?
16	active foreclosure of this loan?	16	A. Not that comes to mind right now.
17	MS. MORGAN: Objection; scope.	17	Q. I'm asking because I feel like there should be
18	THE WITNESS: I don't recall.	18	to U.S. Bank.
19	BY MS. EBRON:	19	MS. MORGAN: Yeah. I reviewed one in my review
20	Q. I mean, I know we saw the Notice of Default	20	of my records, so
21	before, but that was rescinded. Do you know if there	21	MS. EBRON: I'll keep going and I'll look for
22	was any other foreclosure activity after that rescission	22	that, for the other one.
23	of the Notice of Default?	23	BY MS. EBRON:
24	A. I don't recall.	24	Q. But let me show you a document that we'll mark
25	Q. I'll show you a document that we'll mark as	25	as Exhibit 16.
	Page 58		Page 60
-	Exhibit 15	-	(Exhibit 16 was marked for identification)
1	Exhibit 15. (Exhibit 15 was marked for identification)	1	(Exhibit 16 was marked for identification.)
2	(Exhibit 15 was marked for identification.)	2	BY MS. EBRON:
2 3	(Exhibit 15 was marked for identification.) BY MS. EBRON:	2 3	BY MS. EBRON: Q. Just let me know when you're ready.
2 3 4	(Exhibit 15 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?	2 3 4	BY MS. EBRON:Q. Just let me know when you're ready.A. Okay, I'm ready.
2 3 4 5	(Exhibit 15 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?A. I do.	2 3 4 5	BY MS. EBRON:Q. Just let me know when you're ready.A. Okay, I'm ready.Q. Do you recognize that document?
2 3 4 5 6	(Exhibit 15 was marked for identification.)BY MS. EBRON:Q. Do you recognize this document?A. I do.Q. What is it?	2 3 4 5 6	 BY MS. EBRON: Q. Just let me know when you're ready. A. Okay, I'm ready. Q. Do you recognize that document? A. I do.
2 3 4 5 6 7	 (Exhibit 15 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. Exhibit 15 is a Corporate Assignment of Deed of 	2 3 4 5 6 7	 BY MS. EBRON: Q. Just let me know when you're ready. A. Okay, I'm ready. Q. Do you recognize that document? A. I do. Q. What is it?
2 3 4 5 6 7 8	 (Exhibit 15 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. Exhibit 15 is a Corporate Assignment of Deed of Trust Nevada. 	2 3 4 5 6 7 8	 BY MS. EBRON: Q. Just let me know when you're ready. A. Okay, I'm ready. Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 16 is the Notice of Trustee's Sale.
2 3 4 5 6 7 8 9	 (Exhibit 15 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. Exhibit 15 is a Corporate Assignment of Deed of Trust Nevada. Q. Does this assignment also relate to the Deed of 	2 3 4 5 6 7 8 9	 BY MS. EBRON: Q. Just let me know when you're ready. A. Okay, I'm ready. Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 16 is the Notice of Trustee's Sale. Q. And this one is also from the association;
2 3 4 5 6 7 8 9 10	 (Exhibit 15 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document? A. I do. Q. What is it? A. Exhibit 15 is a Corporate Assignment of Deed of Trust Nevada. Q. Does this assignment also relate to the Deed of Trust marked as Exhibit 4? 	2 3 4 5 6 7 8 9 10	 BY MS. EBRON: Q. Just let me know when you're ready. A. Okay, I'm ready. Q. Do you recognize that document? A. I do. Q. What is it? A. Exhibit 16 is the Notice of Trustee's Sale. Q. And this one is also from the association; correct?
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	U.S. Bank, National Association vs. S	outh	
	Page 61		Page 63
1	documents, that we'll mark as Exhibit 17.	1	those documents and service the loan accordingly.
2	(Exhibit 17 was marked for identification.)	2	Q. Is it fair to say that U.S. Bank's business
3	MS. EBRON: We can go ahead and go off the	3	records, related to the day-to-day servicing of the
4	record and give you a chance to review all those, and go	4	loan, were maintained through Bank of America?
5	grab the other assignment.	5	A. Yeah. Countrywide or Bank of America, yes.
6	(Recess taken.)	6	Q. Okay. Looking at the first page of Exhibit 17,
	BY MS. EBRON:	-	it's Bates stamped USBANK000340. Do you know what that
7	Q. Back on the record.	7	is?
8		8	
9	Exhibit 17 are documents that are Bates stamped	9	A. The first page of Exhibit 17 appears to be a
10	USBANK000340 through USBANK000350. You've had a chance	10	appears to be maybe a copy of an envelope or some sort
11	to look over these?	11	of cover letter addressed to Countrywide Home Loans,
12	A. I did.	12	Inc. It includes a bar code which appears to be a
13	Q. Are these documents that were contained in Bank	13	first-class mail reference.
14	of America's business records in their imaging system?	14	Q. Do you know who stamped Foreclosure No. 6,
15	A. Yes.	15	October 19th, 2010, received, on the right-hand side of
16	Q. And just to kind of go back for a second, when	16	that document?
17	Countrywide transferred the loan to U.S. Bank as trustee	17	A. I don't know.
18	for the trust, it remained as the servicer of the loan;	18	Q. Have you seen stamps like that before?
19	right?	19	A. I don't recall if it actually had a I've seen
20	MS. MORGAN: Objection; form.	20	foreclosure stamps before, yes.
21	THE WITNESS: Based on my review, Countrywide's	21	Q. And is it or was it at that time, the policy
22	been the servicer since the loan originated.	22	and practice of Bank of America to stamp incoming mail?
23	BY MS. EBRON:	23	A. In 2010, I don't recall.
24	Q. Right. And then Bank of America became the	24	Q. Do you have any reason to doubt that this
25	servicer and then the merger happened, so sometime 2008,	25	document was received by Bank of America on
-			
	Page 62		Page 64
1	-	1	-
1	2009?	1	October 19th, 2010?
2	2009? A. Right.	2	October 19th, 2010? A. I'm sorry, received by whom?
2 3	2009?A. Right.Q. And so as the servicer, would Bank of America	2 3	October 19th, 2010? A. I'm sorry, received by whom? Q. Bank of America.
2 3 4	2009?A. Right.Q. And so as the servicer, would Bank of America during that time period have been acting on behalf of	2 3 4	 October 19th, 2010? A. I'm sorry, received by whom? Q. Bank of America. A. Well, the addressee is Countrywide Home Loans,
2 3 4 5	2009?A. Right.Q. And so as the servicer, would Bank of America during that time period have been acting on behalf of U.S. Bank?	2 3 4 5	October 19th, 2010? A. I'm sorry, received by whom? Q. Bank of America. A. Well, the addressee is Countrywide Home Loans, Inc. It was part of the loan file, but whether it was
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(16) Pages 61 - 64 JA_0791

	Page 65		Page 67
1	Fage 03		Fage 07
1	the numbers, no, I don't.	1	Q. Do you have any reason to doubt that the Notice
2	Q. Was was there a reference in the AS-400 to	2	of Trustee's Sale that is Bates stamped USBANK000345 is
3	receipt of this Notice of Default on October 19th, 2010?	3	the document that was contained in the envelope, a copy
4	A. I don't remember.	4	of which is Bates stamped as USBANK000344?
5	Q. Does a foreclosure stamp mean it was routed	5	A. I don't have any reason one way or the other to
6	through a foreclosure department?	6	know what was in the envelope.
7	A. Yes.	7	Q. Did Bank of America in 2011 have a policy,
8	Q. So is it the foreclosure department that would	8	practice, or procedures for storing copies of
	have stamped stamped the document with the	9	foreclosure notices?
9			
10	foreclosure stamp?	10	MS. MORGAN: Objection; scope.
11	A. I don't know if it was the actual department	11	THE WITNESS: I'm sorry, the question one more
12	that did the stamp.	12	time.
13	Q. Or do you know if the mailroom had a foreclosure	13	BY MS. EBRON:
14	stamp that it would stamp when it was received?	14	Q. In 2011, did Bank of America have a policy,
15	MS. MORGAN: Objection; scope.	15	practice, or procedure for electronically storing
16	THE WITNESS: That is possible. I don't know	16	foreclosure notices?
17	for sure. I don't recall what the process was in 2010.	17	A. Yes.
18	BY MS. EBRON:	18	Q. Did that practice, policy, or procedure include
19	Q. Okay. Turning to the page Bates stamped	19	keeping a copy of the envelope and what was contained in
20	USBANK000342, this is also a document that you saw	20	the envelope?
21	within the imaging system?	21	A. I don't know about the practice of always
22	A. Yes.	22	keeping a copy of the envelope. But definitely whatever
23	Q. And based on the foreclosure stamp on this page,	23	was contained within an envelope.
24	would it be fair to say that there was a second copy of	24	Q. When you reviewed these documents in Bank of
25	the Notice of Default that was received on or about	25	America's business records, were they in the same order
	Page 66		Page 68
-	October 20th, 2010?		or I maan that war produced to us by U.S. Dank in
1			
_		1	or I mean, these were produced to us by U.S. Bank in
2	A. Yes.	2	this order. Do you know if that is how they were stored
3	A. Yes.Q. Looking at page USBANK000344, do you know what	2 3	this order. Do you know if that is how they were stored in Bank of America's business records?
3 4	A. Yes.Q. Looking at page USBANK000344, do you know what this page is?	2 3 4	this order. Do you know if that is how they were stored in Bank of America's business records?A. They're typically stored in chronological order,
3 4 5	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. 	2 3 4 5	this order. Do you know if that is how they were stored in Bank of America's business records?A. They're typically stored in chronological order, so I don't know if there was anything else stored
3 4 5 6	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top 	2 3 4 5 6	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011.
3 4 5 6 7	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? 	2 3 4 5 6 7	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346
3 4 5 6 7 8	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. 	2 3 4 5 6 7 8	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay.
3 4 5 6 7 8 9	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a 	2 3 4 5 6 7 8 9	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document?
3 4 5 6 7 8 9 10	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that 	2 3 4 5 6 7 8 9 10	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do.
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3 4 5 6 7 8 9 10 11 12 13	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated 	2 3 4 5 6 7 8 9 10 11	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS.
3 4 5 6 7 8 9 10 11 12	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America 	2 3 4 5 6 7 8 9 10 11 12	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS?
3 4 5 6 7 8 9 10 11 12 13	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of 	2 3 4 5 6 7 8 9 10 11 12 13	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012.
3 4 5 6 7 8 9 10 11 12 13 14	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately 	2 3 4 5 6 7 8 9 10 11 12 13 14	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012.
3 4 5 6 7 8 9 10 11 12 13 14 15	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail
3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which is Bates stamped 345, was included in the envelope Bates 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the foreclosure department on August 17th of 2012; is that
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which is Bates stamped 345, was included in the envelope Bates 344. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the foreclosure department on August 17th of 2012; is that right?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which is Bates stamped 345, was included in the envelope Bates 344. Q. Do you have any reason to doubt that the Notice of Trustee's Sale Bates stamped USBANK000345 was the 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the foreclosure department on August 17th of 2012; is that right? A. Well, it could be and, again, this is just speculating that a hard copy was routed to the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which is Bates stamped 345, was included in the envelope Bates 344. Q. Do you have any reason to doubt that the Notice 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the foreclosure department on August 17th of 2012; is that right? A. Well, it could be and, again, this is just speculating that a hard copy was routed to the foreclosure department on August 17th, 2012.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. Looking at page USBANK000344, do you know what this page is? A. 344 is a copy of an envelope. Q. And there's also a foreclosure stamp on the top right-hand of the page; correct? A. Correct. Q. And the document following this envelope is a Notice of Trustee's Sale dated March 30th, 2011; is that correct? A. Yes. Q. So based on the foreclosure stamp dated April 21st, 2011, is it fair to say that Bank of America through Countrywide received a copy of the Notice of Sale dated March 30th, 2011, on approximately April 21st, 2011? A. Well, that's assuming this Notice of Sale, which is Bates stamped 345, was included in the envelope Bates 344. Q. Do you have any reason to doubt that the Notice of Trustee's Sale Bates stamped USBANK000345 was the document contained in the envelope that's copied as 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 this order. Do you know if that is how they were stored in Bank of America's business records? A. They're typically stored in chronological order, so I don't know if there was anything else stored between October 2010 and April 2011. Q. Looking at the page Bates USBANK000346 A. Okay. Q do you recognize this document? A. I do. Q. What is that? A. 346 is a copy of a basically an electronic cover letter that the bank received from MERS. Q. When did the bank receive this from MERS? A. The well, the 346 is dated on 8/15/2012. There is a foreclosure date stamp of August 17th, 2012. Q. So it may have been received by the e-mail in-box on August 15th of 2012, and then by the foreclosure department on August 17th of 2012; is that right? A. Well, it could be and, again, this is just speculating that a hard copy was routed to the

(17) Pages 65 - 68 JA_0792

	Page 69		Page 71
1	A. You know, I don't remember.	1	records?
1	Q. The next page that's Bates stamped USBANK000347,	2	A. Yes.
3	do you know what this is?	3	Q. And what did you see?
	A. Yes.	4	A. I saw a copy of a letter from the borrower
4 5	Q. What is it?	5	regarding let's see it was she was trying to do
	A. This is just a general cover letter that we		a short sale and discovered through the tax records that
6		6	
7	typically receive from MERS on any sort of document	7	another entity was the new owner of the property.
8	received by MERS and sent to the servicer.	8	Q. Okay. And I'll show you a document that we'll mark as Exhibit 18.
9	Q. Looking at the next page, USBANK000348, do you	9	
10	know what this is? A. Yes.	10	(Exhibit 18 was marked for identification and
11	Q. What is it?	11	will be sealed as "Confidential.")
12		12	MS. MORGAN: And just for clarification,
13	A. Again, this is just some an identifier that	13	Exhibit 18 was produced pursuant to a protective order, as was the Note that was attached as an exhibit earlier.
14	we typically receive from MERS when they forward	14	
15	documents to the servicer. Q. And then the next page that's Bates stamped	15	And the testimony, with respect to the communications with the borrower, will also fall under the purview of
16	· · · · ·	16	with the borrower, will also fall under the purview of that protective order
17	USBANK000349, do you know what this is? A. 349 is a copy of the Notice of Trustee's Sale.	17	that protective order. MS_EBBON: Well Lawess Labould say L
18	Q. And this one is dated June 14th, 2012; correct?	18 19	MS. EBRON: Well, I guess I should say I understand your position. I don't agree that the Note
19 20	A. Yes.	20	is confidential, but we do have a protective order in
20 21	Q. And it lists a sale date of September 5th, 2012?	20 21	place, so
22	A. Yes.	22	MS. MORGAN: Yes. I wasn't sure that the terms
23	Q. And Bank of America received this before	23	of the protective order contemplate testimony as well,
23 24	September 5th, 2012; correct?	24	so
25	A. Correct.	25	
25	A. Contet.	2.5	
	Page 70		Page 72
1		1	-
1	Q. Based on your review of Bank of America's	1	BY MS. EBRON:
1 2 3	Q. Based on your review of Bank of America's business records, did you see any information that would		-
2	Q. Based on your review of Bank of America's	2	BY MS. EBRON: Q. Yes. Have you had a chance to look at
2 3	Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate?	2 3	BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes.
2 3 4	Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice	2 3 4	BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18?
2 3 4 5	Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope.	2 3 4 5	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were
2 3 4 5 6	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: 	2 3 4 5 6	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about?
2 3 4 5 6 7	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. 	2 3 4 5 6 7	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes.
2 3 4 5 6 7 8	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you 	2 3 4 5 6 7 8	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the
2 3 4 5 6 7 8 9	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that 	2 3 4 5 6 7 8 9	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale
2 3 4 5 6 7 8 9 10	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. 	2 3 4 5 6 7 8 9 10	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records?
2 3 4 5 6 7 8 9 10 11	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? 	2 3 4 5 6 7 8 9 10 11	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or
2 3 4 5 6 7 8 9 10 11 12	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. Q. Does Bank of America have any reason to doubt that the borrower was also given this Notice of 	2 3 4 5 6 7 8 9 10 11 12	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or Foreclosures documents from Bank of America. Do you
2 3 4 5 6 7 8 9 10 11 12 13	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. Q. Does Bank of America have any reason to doubt 	2 3 4 5 6 7 8 9 10 11 12 13	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or Foreclosures documents from Bank of America. Do you know if the Notice of Default that we looked at as
2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. Q. Does Bank of America have any reason to doubt that the borrower was also given this Notice of 	2 3 4 5 6 7 8 9 10 11 12 13 14	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or Foreclosures documents from Bank of America. Do you know if the Notice of Default that we looked at as Exhibit 9, do you know if that was ever mailed to the
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. Q. Does Bank of America have any reason to doubt that the borrower was also given this Notice of Trustee's Sale? MS. MORGAN: Objection; calls for speculation, scope. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or Foreclosures documents from Bank of America. Do you know if the Notice of Default that we looked at as Exhibit 9, do you know if that was ever mailed to the borrower?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. Based on your review of Bank of America's business records, did you see any information that would lead you to doubt that the amount listed in the Notice of Sale was accurate? MS. MORGAN: Objection; scope. THE WITNESS: No. BY MS. EBRON: Q. In your review of the business records, did you see any information that would lead you to believe that the borrower was not delinquent on the homeowners association dues at the time of this notice? A. No. Q. Does Bank of America have any reason to doubt that the borrower was also given this Notice of Trustee's Sale? MS. MORGAN: Objection; calls for speculation, scope. THE WITNESS: We didn't know one way or the 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 BY MS. EBRON: Q. Yes. Have you had a chance to look at Exhibit 18? A. Yes. Q. Is this the communication or letter you were talking about? A. Yes. Q. Are there any other communications with the borrower about the association foreclosure sale contained in Bank of America's business records? A. Not based on my review, no. Q. In that first paragraph, the second sentence, it says: I have never received any Notice of Default or Foreclosures documents from Bank of America. Do you know if the Notice of Default that we looked at as Exhibit 9, do you know if that was ever mailed to the borrower? MS. MORGAN: Objection; scope.
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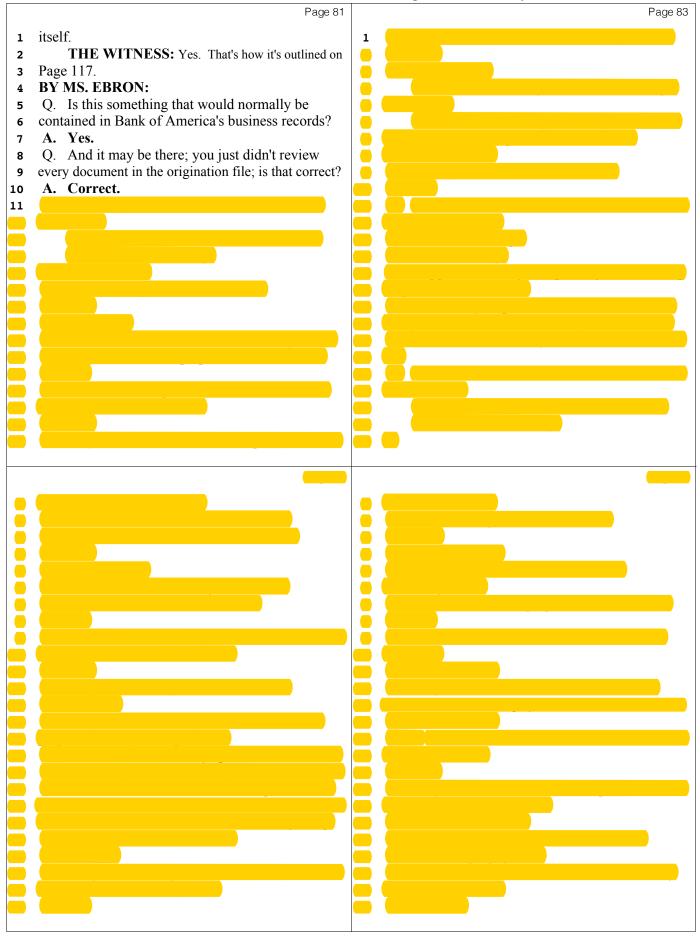
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 3 short safe? 3 MS. MORGAN: Scope. 5 THE WITNESS: I don't know. 6 BY MS. EBRON: 7 Q. Going back to Exhibi 17, there's a page that's 8 Bates stamped USBANK000350. Is it fair to say that 9 that's a copy of an envelope that was addressed to MERS? 10 A. Yes. 11 Q. And that that copy, or at least a copy of the 12 envelope, was provided to Bank of America at the same 13 time as the Notice of Trustee's Sale? 14 A. Yes, from MERS. 15 Q. So Bank of America doesn't dispute that it 16 received the Notice of Default and both Notices of 17 Trustee's Sale; correct? 18 A. No. 19 Q. Did Bank of America ever pay the association any 20 amounts after receiving the Notice of Default and both Notices of 17 Trustee's Sale? 2 A. No. 3 Q. Do you know why not? 2 A. Not based on my review of the notes. I don't. 2 Page 74 1 about the delinquency with the association? 3 duot the delinquency with the association? 3 duot that degree. 4 Q. Do you know if Countrywide considered the amount? 5 of bale? 2 Q. Do you know if Countrywide considered the amount? 3 duot the delinquency with the association? 4 A. Not based on my review of the notes. I don't. 3 reviewed the recorded documents before or, so 4 the other documents recorded against the property I 5 recording this Deed of Trust? 6 MS. MORGAN: Objection; scope. 7 THE WITNESS: You know, I don't know. In 2007, 1 don't know if that how that was handled. 10 BY MS. EBRON: 11 Q. Did U.S. Bank look at how the borrower 12 MS. BBRON: 13 Q. Did U.S. Bank look at how the borrower 14 Q. Did U.S. Bank look at how the borrower 15 DY MS. EBRON: 16 D. Subar Cort and the dow the dore the courde the association?<th>LP to or the 007-S3</th>	LP to or the 007-S3
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5 THE WITNESS: I don't know. 5 successor by merger to BAC Home Loan Servicing, 6 BY MS. EBRON: 7 Successor by merger to BAC Home Loan Servicing, 7 Q. Going back to Exhibit 17, there's a page that's Bates stamped USBANK000350. Is it fair to say that 9 hat's a copy of an envelope that was addressed to MERS? 9 Q. When was this executed? 10 A. Yes. 10 Q. And that that copy, or at least a copy of the 11 Q. And who prepared this assignment? 12 envelope, was provided to Bank of America at the same 12 MS. MORGAN: Objection; scope. 13 time as the Notice of Trustee's Sale; 11 Q. And who prepared this assignment? 14 A. Yes, from MERS. 15 BY MS. EBRON: 15 Q. So Bank of America ever pay the association any mours after receiving the Notice of Default on Notices of 15 M. No. 19 Q. Did Bank of America ever contact the borrower 12 A. No. 20 Do you know why the assignment to U.S. 23 Q. Do you know why not? 24 MS. MORGAN: Objection; scope. 24 A. Idon't. 20 Do you know if Bank of America or U.S. <	LP to or the 007-S3
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12 into the trust, did U.S. Bank look at how the borrower 12 THE WITNESS: Okay.	
•	n.)
13was qualified for the loan?13BY MS. EBRON:	
14MS. MORGAN: Objection; scope.14Q. Do you recognize this document?	
15 THE WITNESS: I don't know. 15 A. I do.	
16 MS. EBRON: Off the record. 16 Q. And what is it?	
17 (Discussion held off the record.) 17 A. Exhibit 20 is a Trustee's Deed Upon S	
18 MS. EBRON: I'm going to show you a document 18 Q. Is this something that is contained in Bar	
 19 that we will mark as Exhibit 19. 19 America's business records? 19 A L did not find it in our business records? 	
20 (Exhibit 19 was marked for identification.) 20 A. I did not find it in our business record	nk of
21 THE WITNESS: Okay. 21 just viewed it in preparation for today.	nk of
22 BY MS. EBRON: 22 Q. Did Bank of America attend the auction 23 Q. Did Bank of America attend the auction	nk of s. I
23Q. Do you recognize this document?23September 5th, 2012?24ALdo	nk of s. I
24A. I do.24A. Not to my knowledge.25Q. What is it?25Q. Did U.S. Bank attend the auction on	nk of s. I
25 Q. What is it? 25 Q. Did U.S. Bank attend the auction on	nk of s. I

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	U.S. Bank, National Association vs. S	outin	
	Page 77		Page 79
1	September 5th, 2012?	1	THE WITNESS: We don't have any information one
2	A. Not to my knowledge.	2	way or the other.
3	Q. Do you know why not?	3	BY MS. EBRON:
4	A. No.	4	Q. And to be clear, I'm not asking you to
5	Q. Does Bank of America or U.S. Bank have any	5	speculate. I'm just asking you, based on what you've
6	information contained in its business records about the	6	seen in your business records, do you have any
7	events of the auction on September 5th, 2012?	7	information about that?
8	A. No.	8	A. Correct. And, yes, I understand.
9	Q. Does Bank of America have any reason to doubt	9	Q. Does Bank of America have any information about
10	the Notice of Sale that we marked as Exhibit 16 was	10	whether or not the Notice of Default was posted on the
11	posted on the property?	11	property?
12	MS. MORGAN: Objection; scope.	12	A. No.
13	THE WITNESS: I'm sorry, the question is, do we	13	Q. Did Bank of America ever hire outside counsel to
14	have any knowledge or any doubt that it was posted?	14	handle the foreclosure notices received from the
15	BY MS. EBRON:	15	association?
16	Q. Correct.	16	A. No.
17	A. No. One way or the other.	17	Q. And just to be clear, before the association
18	Q. Does Bank of America have any information or any	18	foreclosure sale?
19	reason to doubt, based on its business records, that the	19	A. No.
20	Notice of Trustee's Sale was published in a newspaper?	20	Q. At the time those notices were received in 2010,
21	MS. MORGAN: Objection; scope.	21	and 2011 and 2012, I guess, did Bank of America have a
22	THE WITNESS: Don't have there was nothing in	22	policy or procedure for handling association foreclosure
23	the business records one way or the other.	23	notices?
24	BY MS. EBRON:	24	A. Yes.
25	Q. Does Bank of America have any information about	25	Q. And what was that policy?
	Page 78		Page 80
1		1	
1	whether the Notice of Trustee's Sale was posted in three	1	A. Just, in general, the notices are sent we
2	whether the Notice of Trustee's Sale was posted in three public places?	2	A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be
2 3	whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope.	2 3	A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them.
2 3 4	whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one	2 3 4	A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right?
2 3 4 5	whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other.	2 3 4 5	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct.
2 3 4	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: 	2 3 4	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why?
2 3 4 5 6	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about 	2 3 4 5 6	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why? A. No.
2 3 4 5 6 7	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about whether or not the Notice of Trustee's Sale was 	2 3 4 5 6 7	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why?
2 3 4 5 6 7 8	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about 	2 3 4 5 6 7 8	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why? A. No. Q. That's something that you looked for; right?
2 3 4 5 6 7 8 9	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about whether or not the Notice of Trustee's Sale was personally served on the borrower? 	2 3 4 5 6 7 8 9	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why? A. No. Q. That's something that you looked for; right? A. Right.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about whether or not the Notice of Trustee's Sale was personally served on the borrower? A. No. Q. Looking back at Exhibit 11, which is the Notice of Delinquent Assessments A. Okay. Q does Bank of America have any information or reason to information about, or reason to doubt, that the Notice of Delinquent Assessment was mailed to the borrower? A. The bank doesn't have information one way or the other. Q. Looking at Exhibit 12, does Bank of America have any information about whether or not the Notice of Default and Election to Sell Under Homeowners Association Lien was mailed to the borrower? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why? A. No. Q. That's something that you looked for; right? A. Right. Q. Just a couple more documents. I'll show you a document that we'll mark as Exhibit 21. This is Bates stamped USBANK000117 through USBANK000121. (Exhibit 21 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document or documents? A. I do not. And just for the record, part of 120 and 121 has been cut off. Q. Right. And I think it is for all of the pages. This is one that I didn't catch in the reprint. But can you tell from the face of the document what it is? A. It is a Quitclaim Deed. Q. And a Quitclaim Deed to the borrower in this
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 whether the Notice of Trustee's Sale was posted in three public places? MS. MORGAN: Objection; scope. THE WITNESS: I don't have any information one way or the other. BY MS. EBRON: Q. Does Bank of America have any information about whether or not the Notice of Trustee's Sale was personally served on the borrower? A. No. Q. Looking back at Exhibit 11, which is the Notice of Delinquent Assessments A. Okay. Q does Bank of America have any information or reason to information about, or reason to doubt, that the Notice of Delinquent Assessment was mailed to the borrower? A. The bank doesn't have information one way or the other. Q. Looking at Exhibit 12, does Bank of America have any information about whether or not the Notice of Default and Election to Sell Under Homeowners Association Lien was mailed to the borrower? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Just, in general, the notices are sent we hire counsel, a notice is sent to counsel so they can be evaluated to determine if we are required to pay them. Q. But that didn't happen in this case; right? A. Correct. Q. Any idea why? A. No. Q. That's something that you looked for; right? A. Right. Q. Just a couple more documents. I'll show you a document that we'll mark as Exhibit 21. This is Bates stamped USBANK000117 through USBANK000121. (Exhibit 21 was marked for identification.) BY MS. EBRON: Q. Do you recognize this document or documents? A. I do not. And just for the record, part of 120 and 121 has been cut off. Q. Right. And I think it is for all of the pages. This is one that I didn't catch in the reprint. But can you tell from the face of the document what it is? A. It is a Quitclaim Deed. Q. And a Quitclaim Deed to the borrower in this

(20) Pages 77 - 80

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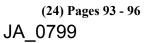
(21) Pages 81 - 84 JA 0796

	Page 85		Page 87
	-	1	no anosific definition of prospectus. But in general
1		1	no specific definition of prospectus. But, in general terms, it's the preliminary terms of an agreement.
		2	Q. So is a prospectus something that would be
		3 4	prepared in advance of an agreement before it was
		4 5	formally agreed to?
		5	MS. MORGAN: Objection; calls for a legal
		7	conclusion and exceeds the scope of the topics.
		8	THE WITNESS: Again, that's my own definition,
		9	given that it's not the specific definition is not
		10	outlined in this document.
11	Q. Back in 2010, when ReconTrust recorded the	11	BY MS. EBRON:
12	Notice of Default and Election to Sell Under Deed of	12	Q. Do you know if and I apologize if I asked
13	Trust that we looked at in Exhibit 9, would it have been	13	this before but do you know if U.S. Bank ordered a
14	the policy, practice, and procedure of ReconTrust or	14	title report for this property before the loan was put
15	Bank of America to have a title report or a Trustee's	15	into the trust?
16	Sale Guarantee before recording a Notice of Default?	16	MS. MORGAN: Objection; scope.
17	A. Yes.	17	THE WITNESS: That's typically left up to the
18	Q. So well, did you see a Trustee's Sale	18	servicer, so I don't know.
19	Guarantee or a title report from 2010?	19	BY MS. EBRON:
20	A. Not I don't recall one way or the other.	20	Q. Back on Exhibit 23, it says that the well,
21	Q. Do you know the specific date that the loan was	21	I'm paraphrasing that the Deed of Trust, the one that
22	put into the trust?	22	we marked as Exhibit 24 (sic), was erroneously or
23	A. No.	23	fraudulently reconveyed, and it references the Full
24	Q. The trust agreement that we looked at in	24	Reconveyance that we marked as Exhibit 22. Do you see
25	Exhibit 6, is dated July 1st, 2007; is that right?	25	that?
	Page 86		Page 88
	. 490 00		Page 66
1		1	A. Yes.
1	A. Sorry, Exhibit 6? Q. Correct.	1 2	A. Yes.
	A. Sorry, Exhibit 6?		-
2	A. Sorry, Exhibit 6?Q. Correct.	2	A. Yes.Q. Do you know if the reconveyance was erroneous or
2 3	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? 	2 3	A. Yes.Q. Do you know if the reconveyance was erroneous or fraudulent?
2 3 4	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. 	2 3 4	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope.
2 3 4 5	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. A. Yes. 	2 3 4 5	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope. THE WITNESS: I don't.
2 3 4 5 6	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. A. Yes. Q. So is that an accurate date as to when the trust 	2 3 4 5 6	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope. THE WITNESS: I don't. BY MS. EBRON:
2 3 4 5 6 7	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. A. Yes. Q. So is that an accurate date as to when the trust was formed? 	2 3 4 5 6 7	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope. THE WITNESS: I don't. BY MS. EBRON: Q. In your review of the file, did you see any evidence that there was an investigation into the reconveyance?
2 3 4 5 6 7 8	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. A. Yes. Q. So is that an accurate date as to when the trust was formed? A. Well, the July 1st, 2007, is notated on USBANK351, claims that that's the date of the trust agreement. 	2 3 4 5 6 7 8	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope. THE WITNESS: I don't. BY MS. EBRON: Q. In your review of the file, did you see any evidence that there was an investigation into the reconveyance? MS. MORGAN: Objection; scope.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Sorry, Exhibit 6? Q. Correct. A. July 1st, 2007? Q. Yes. A. Yes. Q. So is that an accurate date as to when the trust was formed? A. Well, the July 1st, 2007, is notated on USBANK351, claims that that's the date of the trust agreement. Q. Right. And then on the page that's Bates stamped USBANK000353 in the Recitals, it also mentions the Pooling and Servicing Agreement as dated after July 1st of 2007. Do you see that? A. Yes. Q. Do you see any reference to an earlier date as to when the trust agreement and the Pooling and Servicing Agreement? A. Yes. Q. Where? A. USBANK357 at the very top, the prospectus dated April 26th, 2007. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. Do you know if the reconveyance was erroneous or fraudulent? MS. MORGAN: Objection; scope. THE WITNESS: I don't. BY MS. EBRON: Q. In your review of the file, did you see any evidence that there was an investigation into the reconveyance? MS. MORGAN: Objection; scope. THE WITNESS: I don't recall. BY MS. EBRON: Q. Did you see any evidence that anyone was prosecuted for committing fraud? A. No. MS. EBRON: I'm going to show you a document that we'll mark as Exhibit 24. (Exhibit 24 was marked for identification.) BY MS. EBRON: Q. And I actually think there may be multiple documents. They're Bates stamped USBANK000382 through 000390. A. Okay.

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	Page 89		Page 91
	-		-
1	Bank of America to various entities while we were	1	America; correct?
2	servicing the loan.	2	MS. MORGAN: Objection; form, and calls for a
3	Q. And the page that's Bates stamped USBANK000382, does it state that effective November 30th, 2013, Bank	3	legal conclusion.
4	of America, N.A. will be transferring servicing	4 5	THE WITNESS: I'm sorry, can we go off? I thought there was another assignment. It's weren't
5 6	responsibility for the first-lien mortgage listed above	6	we searching for another assignment?
7	to Nationstar Mortgage, LLC?	7	BY MS. EBRON:
8	A. Yes.	8	Q. Oh, yeah. We did. We got that. That was to
9	Q. So is it fair to say that as of November 30th,	9	U.S. Bank in 2013.
10	2013, Nationstar took over servicing and Bank of America	10	A. What exhibit number was that? I'm sorry.
11	was no longer servicer for this loan?	11	Q. Let me find it for you.
12	A. Correct.	12	A. Oh, here it is, 19.
13	Q. I just wanted to nail down the actual date.	13	Q. So it's Exhibit 19.
14	MS. EBRON: Counsel, if you want to go ahead and	14	A. Okay. So, again, to make sure I understand your
15	ask questions	15	question, as of the date of the association foreclosure
16	MR. ROTHENBERG: You've actually covered them	16	sale, was there an assignment to Bank of America?
17	all, so	17	Q. Yes.
18	MS. EBRON: Let me just look really quick and	18	A. Yes.
19	see if there's anything else.	19	Q. And that assignment also referenced the Note?
20	BY MS. EBRON:	20	MS. MORGAN: Objection; the document speaks for
21	Q. Okay, I do have a couple more.	21	itself.
22	Does Bank of America currently have any interest	22	THE WITNESS: Yes.
23	in the First Deed of Trust?	23	BY MS. EBRON:
24	A. No.	24	Q. But your testimony is that Bank of America did
25	Q. Does Bank of America have any current interest	25	not own the Note at that time?
	Page 90		Page 92
1	in the Promissory Note?	1	MS. MORGAN: Objection; form.
1 2	A. No.	1 2	THE WITNESS: Correct.
	A. No.Q. And just to be clear, on the date of the		THE WITNESS: Correct. BY MS. EBRON:
2	A. No.Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012,	2	THE WITNESS: Correct. BY MS. EBRON: Q. When did Bank of America learn about SFR's
2 3 4 5	A. No.Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan;	2 3 4 5	THE WITNESS: Correct. BY MS. EBRON: Q. When did Bank of America learn about SFR's interest in the property?
2 3 4 5 6	A. No.Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan; correct?	2 3 4 5 6	THE WITNESS: Correct.BY MS. EBRON:Q. When did Bank of America learn about SFR's interest in the property?A. How are you defining "interest"?
2 3 4 5 6 7	 A. No. Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan; correct? MS. MORGAN: Hang on. What was the question? 	2 3 4 5 6 7	 THE WITNESS: Correct. BY MS. EBRON: Q. When did Bank of America learn about SFR's interest in the property? A. How are you defining "interest"? Q. As explained in the Trustee's Deed Upon Sale.
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2 3 4 5 6 7 8 9 10 11 12 13	 A. No. Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan; correct? MS. MORGAN: Hang on. What was the question? BY MS. EBRON: Q. On the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan? A. Correct. MS. MORGAN: Wait. Objection; form. 	2 3 4 5 6 7 8 9 10 11 12 13	 THE WITNESS: Correct. BY MS. EBRON: Q. When did Bank of America learn about SFR's interest in the property? A. How are you defining "interest"? Q. As explained in the Trustee's Deed Upon Sale. A. I am not sure when we became aware. Q. Is there anything in Bank of America's business records that suggest that it knew about SFR's interest in the property before the letter was sent by the borrower, the one that we marked as Exhibit 18? A. And, again, you're defining a trust as outlined
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. No. Q. And just to be clear, on the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan; correct? MS. MORGAN: Hang on. What was the question? BY MS. EBRON: Q. On the date of the association foreclosure sale on September 5th, 2012, Bank of America was only the servicer of the loan? A. Correct. MS. MORGAN: Wait. Objection; form. BY MS. EBRON: Q. Was Bank of America the investor on September 5th of 2012? A. No. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 THE WITNESS: Correct. BY MS. EBRON: Q. When did Bank of America learn about SFR's interest in the property? A. How are you defining "interest"? Q. As explained in the Trustee's Deed Upon Sale. A. I am not sure when we became aware. Q. Is there anything in Bank of America's business records that suggest that it knew about SFR's interest in the property before the letter was sent by the borrower, the one that we marked as Exhibit 18? A. And, again, you're defining a trust as outlined in the Trustee's Deed Upon Sale, the one that we marked as Exhibit 20. A. You know, I don't remember.
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	Page 93		Page 95
-	to the letter from the borrower?"	-	BY MS. EBRON:
1	THE WITNESS: Yes.	1	Q. Well, did you do anything?
3	BY MS. EBRON:	3	A. Well, as I stated earlier, as I wasn't sure what
4	Q. How much did Bank of America pay for its	4	the question meant, then it was hard to prepare for.
5	interest in the First Deed of Trust?	5	Q. Did you make any attempt to prepare for
6	MS. MORGAN: Objection; form.	6	Topic No. 5?
7	THE WITNESS: Again, how are you defining	7	A. Well, again
8	"interest"?	8	MS. MORGAN: I'll object to the extent it calls
9	BY MS. EBRON:	9	for attorney-client privilege.
10	Q. Well, we can break it down if that's easier.	10	THE WITNESS: And being unclear of the question,
11	Did Bank of America pay anything for the	11	it made it difficult to prepare for.
12	servicing rights?	12	BY MS. EBRON:
13	A. No, not that I'm aware of.	13	Q. What about the part that says the amount BANA
14	Q. Was Bank of America paid to be the servicer?	14	was paid for its interest in the First Deed of Trust
15	A. Yes.	15	and/or underlying Promissory Note? Did you understand
16	Q. How much did the trust of which U.S. Bank was a	16	what that meant?
17	trustee pay for its interest in the loan?	17	A. Not what it meant by that part of the question
18	MS. MORGAN: Objection; form.	18	meaning its interest.
19	THE WITNESS: I don't know.	19	Q. What did you do to prepare for Topic No. 6?
20	BY MS. EBRON:	20	A. I reviewed our servicing records.
21	Q. Did U.S. Bank pay anything to be the investor?A. I don't know.	21	Q. Anything else?A. Not that I can recall.
22 23	Q. Who would know that?	22 23	Q. We already established that you didn't talk to
23 24	A. I am not sure.	23 24	anybody at ReconTrust about the Rescission of Full
25	Q. When the loan was transferred to the trust, did	25	Reconveyance; right?
23	Q. When the four was dansferred to the dash, and	23	reconveyance, right.
	Page 94		Page 96
1	Page 94 Countrywide or Bank of America receive any compensation?	1	Page 96 A. Correct.
1 2		1 2	A. Correct.Q. What did you do to prepare for Topic Number 2 in
	Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that?		A. Correct.Q. What did you do to prepare for Topic Number 2 inU.S. Bank's deposition notice that's marked as Exhibit
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2 3	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out 	2 3	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing
2 3 4 5 6	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? 	2 3 4 5 6	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records.
2 3 4 5 6 7	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. 	2 3 4 5 6 7	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did
2 3 4 5 6 7 8	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for 	2 3 4 5 6 7 8	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look?
2 3 4 5 6 7 8 9	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? 	2 3 4 5 6 7 8 9	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes.
2 3 4 5 6 7 8 9 10	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? 	2 3 4 5 6 7 8 9 10	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see
2 3 4 5 6 7 8 9 10 11	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. 	2 3 4 5 6 7 8 9 10 11	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes?
2 3 4 5 6 7 8 9 10 11 12	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring 	2 3 4 5 6 7 8 9 10 11 12	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure.
2 3 4 5 6 7 8 9 10 11 12 13	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. 	2 3 4 5 6 7 8 9 10 11 12 13	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the
2 3 4 5 6 7 8 9 10 11 12 13 14	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? 	2 3 4 5 6 7 8 9 10 11 12 13 14	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. Hooked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed?
2 3 4 5 6 7 8 9 10 11 12 13 14	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls 	2 3 4 5 6 7 8 9 10 11 12 13 14	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope. THE WITNESS: You know, I only looked for it
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls for attorney-client privilege. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls for attorney-client privilege. THE WITNESS: Not that I recall. BY MS. EBRON: 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. Hooked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope. THE WITNESS: You know, I only looked for itI can only attest to this loan, and I didn't find information.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls for attorney-client privilege. THE WITNESS: Not that I recall. BY MS. EBRON: Q. So because you didn't understand what 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. I looked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope. THE WITNESS: You know, I only looked for itI can only attest to this loan, and I didn't find information. BY MS. EBRON:
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls for attorney-client privilege. THE WITNESS: Not that I recall. BY MS. EBRON: Q. So because you didn't understand what "transferred its interest" meant, you didn't do anything to prepare for the topic? MS. MORGAN: Objection; misstates prior testimony. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. Hooked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope. THE WITNESS: You know, I only looked for itI can only attest to this loan, and I didn't find information. BY MS. EBRON: Q. But that's where you found the Pooling and Servicing Agreement?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Countrywide or Bank of America receive any compensation? A. I don't know. Q. Who would know that? A. In 2007, I'm not sure. Q. Do you know where you would look to find out that information? A. I don't know if it's notated in the PSA or not. Q. Can you tell me what you did to prepare for Topic No. 5 in Bank of America's deposition notice? A. No. 5? Q. Correct. A. I wasn't sure what was meant by "transferring its interest" in the Deed of Trust. Q. So did you ask what that meant? THE WITNESS: Not that I recall. MS. MORGAN: Objection, to the extent it calls for attorney-client privilege. THE WITNESS: Not that I recall. BY MS. EBRON: Q. So because you didn't understand what "transferred its interest" meant, you didn't do anything to prepare for the topic? MS. MORGAN: Objection; misstates prior 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Correct. Q. What did you do to prepare for Topic Number 2 in U.S. Bank's deposition notice that's marked as Exhibit No. 2? A. Hooked for the information in our servicing records. Q. Where specifically in your servicing records did you look? A. In our AS-400 servicing notes. Q. Is that something that you would typically see in the AS-400 notes? A. I'm not sure. Q. Have you ever seen the amount paid by the investor in the AS-400 servicing notes in all of the files that you've ever reviewed? MS. MORGAN: Objection; scope. THE WITNESS: You know, I only looked for itI can only attest to this loan, and I didn't find information. BY MS. EBRON: Q. But that's where you found the Pooling and



	U.S. Bank, National Association vs. S	outn	
	Page 97		Page 99
1	Q. Where was the trust agreement stored in Bank of	1	A. No.
2	America's business records?	2	Q. So am I correct to understand that once you
3	MS. MORGAN: Objection; scope.	3	looked through the AS-400 before and did not see any
4	THE WITNESS: The trust agreement?	4	information about the price the trust paid for the loan,
5	BY MS. EBRON:	5	that you stopped looking?
6	Q. Right. The one that we have marked as	6	MS. MORGAN: Objection; misstates prior
7	Exhibit 6.	7	testimony.
8	A. I don't know. It has a web site, sec.gov web	8	THE WITNESS: I believe I also said reviewed
9	site noted on the document.	9	the pulling the servicing agreement.
10	Q. Is that where Bank of America stores trust	10	BY MS. EBRON:
11	agreements?	11	Q. And was there any information in there about the
12	MS. MORGAN: Objection; scope.	12	price?
13	THE WITNESS: I don't know, again, where this	13	A. Not that I recall.
14	particular document was retrieved from.	14	Q. And I believe earlier you said that you did not
15	BY MS. EBRON:	15	see a schedule of loans?
16	Q. Do you know if U.S. Bank keeps a copy of the	16	A. Correct.
17	documents in which it had obtained an interest in the	17	Q. Did you look for a schedule of loans?
18	Deed of Trust?	18	A. Yes.
19	MS. MORGAN: Objection; scope.	19	Q. And where did you look?
20	THE WITNESS: I don't know.	20	A. In Lotus Notes.
21	BY MS. EBRON:	21	Q. In your review of the file, did you see any
22	Q. Did you ask anyone at U.S. Bank?	22	other communications with the association or Alessi &
23	A. No.	23	Koenig other than the ones in Exhibit 17? Exhibit 17
24	Q. Why not?	24	were the foreclosure notes that were received by Bank of
25	MS. MORGAN: Objection; scope.	25	America.
	Page 98		Page 100
	-		-
1	BY MS. EBRON:	1	A. No.
2	BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice.	2	A. No.Q. And besides the letter in Exhibit 18, you didn't
2 3	BY MS. EBRON:Q. It's 2 of U.S. Bank depo notice.MS. MORGAN: But you're asking where documents	2 3	A. No.Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower
2 3 4	 BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so 	2 3 4	A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments?
2 3 4 5	 BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so that's my objection. 	2 3 4 5	 A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments? A. Correct.
2 3 4 5 6	 BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so that's my objection. MS. EBRON: I actually just asked if she talked 	2 3 4 5 6	 A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments? A. Correct. Q. Was there anything that the association did that
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2 3 4 5 6 7 8	 BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so that's my objection. MS. EBRON: I actually just asked if she talked to anybody at U.S. Bank and MS. MORGAN: About where they were stored; 	2 3 4 5 6 7 8	 A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments? A. Correct. Q. Was there anything that the association did that prevented Bank of America from making a payment on the lien?
2 3 4 5 6 7 8 9	BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so that's my objection. MS. EBRON: I actually just asked if she talked to anybody at U.S. Bank and MS. MORGAN: About where they were stored; right?	2 3 4 5 6 7 8 9	 A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments? A. Correct. Q. Was there anything that the association did that prevented Bank of America from making a payment on the lien? A. Not to my knowledge.
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2 3 4 5 6 7 8 9 10 11	BY MS. EBRON: Q. It's 2 of U.S. Bank depo notice. MS. MORGAN: But you're asking where documents are stored, and I don't think that's part of 2, so that's my objection. MS. EBRON: I actually just asked if she talked to anybody at U.S. Bank and MS. MORGAN: About where they were stored; right? MS. EBRON: If they had any documents. MS. MORGAN: Right. And I'm objecting that it's	2 3 4 5 6 7 8 9 10 11	 A. No. Q. And besides the letter in Exhibit 18, you didn't see any additional communications with the borrower about the association lien, foreclosure or assessments? A. Correct. Q. Was there anything that the association did that prevented Bank of America from making a payment on the lien? A. Not to my knowledge. Q. Similarly, was there anything that Alessi & Koenig did that prevented Bank of America from making a factor of the lien?
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	Page 101	Juin	Page 103
-		-	O Did U.S. Pank take any action to protect its
1	A. Not that I can recall, no.Q. Did you look in the MRT file?	1	Q. Did U.S. Bank take any action to protect its interest in the First Deed of Trust after the
2	A. The MRT file?	2	association was enforcing its lien on the property?
3	Q. Yes.	3	MS. MORGAN: Objection; form, calls for a legal
4 5	A. Yes.	4 5	conclusion.
5	Q. And did you see any reference to the association	5	THE WITNESS: Not to my knowledge.
7	foreclosure or lien in the MRT file?	7	BY MS. EBRON:
8	A. No.	8	Q. Did U.S. Bank have any practices, policies, or
9	Q. And that's where you would expect to see	9	procedures applicable to the property for handling
10	information about whether or not outside counsel was	10	association liens? That's from origination to the date
11	hired in relation to the foreclosure notices?	11	of the foreclosure sale.
12	A. Yes.	12	A. Not to my knowledge.
13	Q. Was U.S. Bank aware of any other entity at the	13	Q. What is U.S. Bank's factual basis for its
14	time of the association foreclosure sale that claimed an	14	foundation that the First Deed of Trust was not
15	interest in the First Deed of Trust?	15	extinguished by the association foreclosure sale?
16	A. I didn't hear all that.	16	MS. MORGAN: Objection; calls for a legal
17	Q. Was U.S. Bank aware of any other entity that	17	conclusion, and form.
18	claimed an interest in the first Deed of Trust at the	18	THE WITNESS: The question again?
19	time of the association foreclosure sale?	19	(Discussion held off the record.)
20	MS. MORGAN: Objection; form, calls for a legal	20	MS. EBRON: What is U.S. Bank's factual basis
21	conclusion.	21	for its allegation that the First Deed of Trust was not
22	THE WITNESS: I don't know.	22	extinguished by the association foreclosure sale?
23	BY MS. EBRON:	23	MS. MORGAN: Same objections.
24	Q. You would have seen in your review of the	24	THE WITNESS: That the Deed of Trust was not
25	records if, for example, Fannie Mae claimed an interest	25	extinguished?
	Page 102		Page 104
1	Page 102 in the Deed of Trust or the loan at the time of the	1	Page 104 BY MS. EBRON:
1 2	in the Deed of Trust or the loan at the time of the sale?	1 2	
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-	U.S. Bank, National Association Vs. S	outh	ern Highlands Community, et al.
	Page 105		Page 107
1	A. Not that I'm aware of.	1	What is U.S. Bank's factual basis for its allegation, if
2	Q. Is there anything about the sale itself that	2	any, that the circumstances surrounding the association
3	U.S. Bank claims was unfair?	3	foreclosure sale constitute unfairness?
4	MS. MORGAN: Objection; form.	4	THE WITNESS: I don't know.
	THE WITNESS: Not that I'm aware.		
5	BY MS. EBRON:	5	MS. MORGAN: Objection; calls for a legal
6		6	conclusion.
7	Q. Does U.S. Bank contend that SFR knew something	7	BY MS. EBRON:
8	before the sale that would have caused SFR to know about	8	Q. And are there any provisions in the Pooling and
9	a presale dispute?	9	Servicing Agreement that reference the association or
10	MS. MORGAN: Objection; form.	10	are applicable to association liens?
11	THE WITNESS: Yeah, can you repeat the question?	11	A. Not that I've seen.
12	I'm not sure	12	Q. During the time leading up to the association
13	BY MS. EBRON:	13	foreclosure sale, did U.S. Bank have a specific policy
14	Q. It's hard, because I think you just said that	14	that it required its servicers to follow when it came to
15	there was a presale dispute, so	15	association foreclosure liens or association
16	A. I don't think I understand.	16	foreclosure sales?
17	Q. Does U.S. Bank allege that SFR knew there was	17	A. Yes.
18	some type of problem with the association foreclosure	18	Q. And what was that?
19	sale before it purchased the property?	19	A. Well, it's just the general practice that the
20	MS. MORGAN: Objection; calls for a legal	20	servicer is to protect the priority lien, the mortgage
21	conclusion, form.	21	loan lien according to applicable state laws.
22	THE WITNESS: The question one more time. I'm	22	Q. Is there something in the agreement between
23	sorry.	23	U.S. Bank and its servicer that provides remedies to
24	THE REPORTER: "Does U.S. Bank allege that SFR	24	U.S. Bank if the servicer does not follow that general
25	knew there was some type of problem with the association	25	practice?
	Page 106		Page 108
1		1	-
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30(b)(6) U.S. Bank & Bank of America, N.A Diane Deloney - J	une 15, 2016
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9 9 (6) 20:19;48:24,25;50:13; 72:16;85:13 9:05 (1) 6:2			

30(b)(6) U.S. Bank & Bank of America, N.A. - Diane Deloney - 6/15/2016 U.S. Bank, National Association vs. Southern Highlands Community, et al.

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1	CERTIFICATE OF REPORTER
2	STATE OF NEVADA)
3)SS: COUNTY OF CLARK)
4	I, Jean M. Dahlberg, a duly commissioned and licensed
5	Court Reporter, Clark County, State of Nevada, do hereby
6	certify: That I reported the taking of the deposition
7	of the deponent, Diane Deloney, commencing on Wednesday,
8	June 15, 2016, at 9:05 a.m.
9	That prior to being examined, the deponent was, by
10	me, duly sworn to testify to the truth. That I
11	thereafter transcribed my said shorthand notes into
12	typewriting and that the typewritten transcript of said
13	deposition is a complete, true and accurate
14	transcription of said shorthand notes.
15	I further certify that I am not a relative or
16	employee of an attorney or counsel of any of the
17	parties, nor a relative or employee of an attorney or
18	counsel involved in said action, nor a person
19	financially interested in the action.
20	IN WITNESS HEREOF, I have hereunto set my hand in my
21	office in the County of Clark, State of Nevada, this
22	22nd day of June, 2016.
23	Jean m. Klallderg
24	JEAN M. DAHLBERG, RPR, CCR NO. 759, CSR 11715
25	GEAN M. DAUBBENG, NEN, CON NO. 159, CON 11/15

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JA_0848¹¹⁰

Ex. A-3

EXHIBIT A-3

Woodbridge Deposition Transcript

Ex. A-3

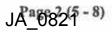
		estments Pool 1, L	-	141 A 44
1	DISTRICT COUR		-	and duly sworn, was taken in the above-styled and
2	CLARK COUNTY, NE		1.7	numbered cause on October 21, 2015, from 3:22 p.m. to
3	SFR INVESTMENTS POOL 1, LLC a Nevada limited liability company,) Case No. A-12-673671-C	3	5:18 p.m., before April R. Eichelberger, CSR in and for
4	Plaintiff. Vs.) Dept. No. XXVII)	4	the State of Texas, reported by machine shorthand, at
5	US BANK, N.A., a national banking) URAL DEPOSITION OF	5	the law offices of Akerman, LLP, 2001 Ross Avenue,
6	association as Trustee for the Certificate Holders of the Banc) JESSICA WOODBRIDGE, AS) US BANK N.A. 30(b)(6)	6	Suite 2550, Dallas, Texas, pursuant to the Nevada Rules
7	of America Mortgage Securities 2008-A Trust, Mortgage Pass-	VOLUME 1	7	of Civil Procedure and the provisions stated on the
8		Date: October 21, 2015	8	record or attached hereto.
9	CORPORATION, a California	3	9	
10	CORPORATION, SAN SEVINO WEST AT SOUTHERN HIGHLANDS HOMEOWNERS	2	10	
11	ASSOCIATION, a Nevada non-profit corporation, SOUTHERN HIGHLANDS		11	
12	COMMUNITY ASSOCIATION, a Nevada non-profit corporation, GEDRGE		12	
13	A. SHERWOOD, an individual, SHARON L. SHERWOOD, an individual.	} }	13	
14	DOES I through X; and ROE CORPORATIONS I through X,	2	14	
82	inclusive, Defendants.	2	1.53	
15	U.S. BANK, N.A., as Trustee for		15	
16	the Certificate Holders of the Banc	-	16	
17	of America Mortgage Securities 2008-A Trust, Mortgage Pass-Through		17	
18	Certificates. Series 2008-A. Counterclaimant.		18	
19	va.		19	
20	SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company:	1 F	20	
21	DOES 1-10, inclusive; ROE CORPORATIONS 1-10, inclusive;	E.	21	
22	Counterdefendants.		22	
23		01	23	
24	CRAL DEPOSITION OF JESSICA HOOD	BRIDGE, produced as a	24	
25	witness at the instance of the Plain	tiff/Counterdefendant,	25	
		Page 1		Page 2
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2			2	PAGE
3	FOR THE PLAINTIFF AND COU	INTERDEFENDANT:	з	Appearances
	Ms. Diana S. Ebron			
4	Pis. Diana o. Bolon		4	Exhibit List5
4	HOWARD KIM & ASSOCT	TES Drive, Suite 110	4	Exhibit List5 Stipulations
G	HOWARD KIM & ASSOCT	ATES Drive, Suite 110 19014	1 22	Stipulations
5	HOWARD KIM & ASSOCI 1055 Whitney Ranch I Henderson, Nevada 702.485.3300 702.485.3301 (Fax)	ATES Drive, Suite 110 99014	1 22	Stipulations
5 6 7	HOWARD KIM & ASSOCT	ATES Drive, Suite 110 99014	67	Stipulations
5 6 7 8	HOWARD KIM & ASSOCI 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com	prive, Suite 110 19014	6 7 8	Stipulations
5 6 7 8 9	HOWARD KIM & ASSOCIF 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com	prive, Suite 110 19014	6 7 8 9	Stipulations
5 6 7 8 9 10	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner	DUNTERCLAIMANTS:	6 7 8 9 10	Stipulations
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5 6 7 8 9 10 11 12 13	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner AKERMAN, L.L.P. 1160 Town Center Dri Las Vegas, Nevada & 702.634.5000	DUNTERCLAIMANTS: Lve, Suite 330	6 7 8 9 10 11 12 13	Stipulations
5 6 7 8 9 10 11 12 13 14	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner AKERMAN, L.L.P. 1160 Town Center Dri Las Vegas, Nevada & 702.634.5000	DUNTERCLAIMANTS: Lve, Suite 330	6 7 9 10 11 12 13 14	Stipulations
5 6 7 8 9 10 11 12 13 14 15	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner AKERMAN, L.L.P. 1160 Town Center Dri Las Vegas, Nevada & 702.634.5000	DUNTERCLAIMANTS: Lve, Suite 330	6 7 9 10 11 12 13 14 15	Stipulations
5 6 7 8 9 10 11 12 13 14 15 16	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner AKERMAN, L.L.P. 1160 Town Center Dri Las Vegas, Nevada & 702.634.5000	DUNTERCLAIMANTS: Lve, Suite 330	6 7 8 9 10 11 12 13 14 15 16	Stipulations
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	HOWARD KIM & ASSOCIA 1055 Whitney Ranch I Henderson, Nevada & 702.485.3300 702.485.3301 (Fax) diana@hkimlaw.com FOR THE DEFENDANTS AND CO Mr. Darren Brenner AKERMAN, L.L.P. 1160 Town Center Dri Las Vegas, Nevada & 702.634.5000	DUNTERCLAIMANTS: Lve, Suite 330	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Stipulations

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JA_0820-4)

Der	_	SFR Investments Pool		T	
1	100	E X H I B I T S	PAGE	1	P R O C E E D I N G S (Exhibits 1 through 8 were marked.)
	NO.	Second Amended Notice of 30(b)(6) Deposition	PAGE 7	2	JESSICA WOODBRIDGE,
		of U.S. Bank, N.A.	00	3	having been first duly sworn, testified as follows:
4	2	Deed of Trust, October 11, 2007 SFR14-SFR37	19	5	EXAMINATION
5	1	Grant, Bargain, Sale Deed	19	5	BY MS. EBRON:
	4	Pooling and Servicing Agreement	23	7	Q. Good morning. Can you please I guess it's
	1	January 28, 2008	100	8	
8	5	Substitution of Trustee and Full Reconveyance SFR38-SFR39	26	1.57	record.
10	6	Notice of Breach and Default and of Election	27	10	A. Jessica Woodbridge.
11		to Cause Sale of Real Property Under Deed of Trust SFR42-SFR43		11	Q. Are you employed?
12	7	Assignment of Deed of Trust	28	12	A. Yes.
13	32. -	November 26, 2010 SFR48	100	13	Q. Who is your employer?
14	8	Assignment of Deed of Trust	29	14	 Bank of America, N.A.
15		November 18, 2011 SFRS0		15	Q. Where is your office located?
16	9	Monthly Report, February 20, 2015	52	16	A. It is located in Plano, Texas.
17	10	Certificate, State of Nevada Foreclosure	53	17	Q. We've taken your deposition before in a
18		Mediation Program SFR52		18	different case where SFR Investments Pool 1 is involved
19	11	Notice of Trustee's Sale	53	19	Do you recall that?
20	653	SFR53-54	. T. T.	20	λ. Υσ#.
21	12	Discharge of Assignment, November 25, 2014	54	21	Q. Counsel and I have spoken before we went on
22	13	First Amended Answer, Counterclaims, Crossclaims and Third-Party Complaint	61	22	the record and agreed that we could incorporate
23	14	Answers to SFR Investments Pool 1, LLC's	70	23	testimony from your previous depositions on your
24		First Set of Interrogatories		24	background. Is that okay with you?
25				25	A. Yes.
		Pag	e 5		Page 6
1		Q. Is there anything different about your		1	behalf of U.S. Bank, N.A.?
2	prev	ious background or your duties at Bank of Ameri	са	2	 Bank of America, N.A. is the servicer for the
3	since	e the last time I took your deposition?		3	trust where U.S. Bank is the trustee.
4		A. I don't believe so. Everything seems	I	4	Q. And just for the record, the trust we're
5	beli	eve everything is the same.		5	talking about is Banc of America Mortgage Securities
6		Q. Will you look at what's been marked Exhib	it 1,	6	2008-A Trust, Mortgage Pass-Through Certificates, Serie
7	pleas	se.		7	2008-A; is that correct?
8		A. Okay.		8	A. Yes.
9		Q. Do you recognize that document?		9	MR. BRENNER: I just want to correct
10		λ. Υεε.		10	something because I think if I do it now it's going to
11		Q. Have you had a chance to review it before		11	save a heck of a lot of time rather than create more
12	today	Å3		12	confusion. You said Bank of America is the servicer?
13		λ. Yes.		13	THE WITNESS: Sorry. Bank of America wa
14		Q. When was the first time that you saw this		14	the servicer during the time of the HOA foreclosure
15	docur			15	sale.
16		 I'm not sure if I saw this exact document 		16	Q. (BY MS. EBRON) Who is the servicer now?
17		lieve it was sometime last week, but a version	of	17	 I believe it's Specialized Loan Servicing.
18	the 1	Notice of Deposition.		18	Q. From what date to what date was Bank of
19		Q. When did you first find out that you were		19	America servicer for this loan?
20	1000	g to be testifying as the 30(b)(6) witness for		20	A. I believe that we Bank of America was the
21	U.S.	Bank, N.A.7	157	21	servicer from the from origination, and I'm not sure
22		A. I believe it was either last weak or the	week	22	of the exact date of the service transfer but believe i
23	befor			23	was sometime in 2013.
24		Q. Since you're employed by Bank of America.	1023011	24	Q. Let's go back to the deposition notice. On
25	are ;	you the person who was designated to testify on		25	page 2 it defines "property" as 11577 Capanna Rosso
~~					

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	SFR Investments Pool 1, L	LC	vs. US Bank, N.A., et al.
1	Place, Las Vegas, Nevada 89141, Parcel	1	A. Yes.
2	Number 191-05-27-040. Whenever I refer to "the	2	MR. BRENNER: Subject to the limitations
3	property," I'm going to be referring to the property on	3	by the Court as agreed to by the parties.
4	Capanna Rosso; is that okay?	4	Q. (BY MS. EBRON) Can you actually, can you
5	A. Yes.	5	tell me what you did to prepare for your deposition
6	Q. Also when I refer to "the association," I will	6	today?
7	be, unless I otherwise specify, referring to Southern	7	A. I reviewed the deposition notice. I looked a
8	Highlands Community Association. In addition, when I	8	the servicing records of Bank of America, N.A. I also
9	talk about "the foreclosure sale" or "the date of the	9	reviewed information from U.S. Bank, N.A. as well as th
10	foreclosure sale," I'll be referring to the auction that	10	new servicer. And I looked at documents on the Bank of
11	was held on September 5th, 2012, by Alessi & Koenig LLC	11	America platform servicing platforms and met with
12	on behalf of the association; is that okay?	12	attorneys, my the attorneys for this case.
13	A. Okay.	13	Q. Did you meet with anyone else besides your
14	Q. When I talk about "the borrowers," I'll be	14	attorneys?
15	referring to George A. Sherwood and Sharon L. Sherwood,	15	A. No.
16	If you could turn to page 3, please.	16	Q. Did you speak to anyone else besides your
	There are topics that start with Number 1 and go through	17	
18		173	today?
	topics?	19	A. I did not speak with anyone.
20	λ. Υσπ.	20	Q. Did you communicate in another way with anyon
21	Q. Are you prepared to testify on those topics	21	else about preparation for your deposition today?
22		22	A. Yes.
23	λ. Υεπ.	23	0. Who?
24	Q. And you're the person that U.S. Bank has	24	A. I spoke with somebody else in the MRT
	designated to testify on its behalf?	25	nan san Marin wasan kan
	Page 9	1	Page 10
1	Q. Who was that?	1	A. Just in general that U.S. Bank has no
2	A. I believe her name is Antonia Hood.	2	knowledge of you know, it was I mean, there's many
3	Q. Can you spell that, her last name?	3	topics on here where U.S. Bank was asked specifically
4	А. Н-С-С-Д.	4	about their knowledge of certain things, and so they
5	Q. Anyone else?	5	were she was just saying that in general they don't
6	A. I can't think of anyone else at this time.	6	have any knowledge. And then also their document
7	Q. Did you communicate with anyone from U.S. Bank	2	retention policy of U.S. Bank and confirming with SLS
-2.	in preparation for your deposition?		that their records also show that U.S. Bank is still the
9	A. I did not communicate with anyone directly		trustee for this loan.
-	from U.S. Bank.	10	Q. So did I'm sorry. Is it Antonio or
11	Q. Did you communicate with anyone who did	1.00	Antonia7
2	communicate with U.S. Bank in preparation for your	12	A. Antonia.
13	deposition today?	13	Q. Ms. Hood?
	MR. BRENNER: Calls for speculation.	14	A. Yesh.
14	A. Yeah, I don't know. I don't know if other	14	 Did she communicate with U.S. Bank and that's
16	if they communicated with U.S. Bank.	1.000	how she knows that information to tell you about what
17	Q. (BY MS. EBRON) What was the e-mail with	100	they know or don't know?
	Antonia Hood about?	23	MR. BRENNER: Calls for speculation.
8	A. She just informed me of the communications	18	 The e-mail wasn't clear of how she knew that
.9	from U.S. Bank and from SLS. the new servicer.	19	A. The e-mail wash't clear of now she knew that information.
20		23	
21	Q. What communications with U.S. Bank?	21	Q. (BY MS. EBRON) And so you sent an e-mail, and
22	A. Just their knowledge of the topics from this	1	Ms. Hood sent you an e-mail bank saying that U.S. Bank
23	deposition, the notice that they were asked about.		and SLS don't have any knowledge of the topics?
24	Q. What did Antonia Hood tell you about the	24	λ. Νο.
25	communications with U.S. Bank and SLS?	25	Q. What did the e-mail say?
	Page 11		Page 12

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	SFR Investments Pool 1, L	_	
1	A. I didn't e-mail her. She e-mailed me.	1	MR. BRENNER: Foundation, assumes facts
2	Q. Okay. So she just sent an e-mail and had	2	not in evidence.
3	already received a copy of the deposition notice and	3	 I was not given there was not no
4	then said what?	4	attachments to the e-mail.
5	A. She just outlined, again, the answers from the	5	Q. (BY MS. EBRON) Okay. Was there information
6	deposition notice that Bank of America, N.A.'s records	6	contained in the e-mail about the document retention
7	would not reflect, that we needed to reach out to	7	policy for U.S. Bank?
8	U.S. Bank for or SLS for that information.	8	A. Yes.
9	Q. Do you know what Ms. Hood's title is?	9	Q. And what was that information?
10	A. I believe that she is a mortgage resolution	10	A. Just that they if they had received a
11	MRT specialist.	11	document, they would scan the document, save the
12	Q. Do you know where her office is located?	12	documant, and forward it to the servicer.
13	A. I do not.	13	Q. And where did that information come from
14	Q. Is there somewhere that you would look to find	14	originally? Was that something that Ms. Hood knew from
15	that information?	15	personally working at U.S. Bank or some other way?
16	A. I could look in the company's directory.	16	MR. BRENNER: Foundation.
17	Q. So did she give you any information in that	17	A. I don't know.
	e-mail that you need to rely on today for your testimony	18	Q. (BY MS. EBRON) Did the e-mail indicate where
0.54	on these topics?	1000	Ms, Hood obtained that information from?
20	A. It would depend. It, I guess, depends on the	20	A. Hy understanding is that it was from
21	questions that I'm asked.	1.0	U.S. Bank, but I'm not sure if the e-mail indicated that
22	Q. For example, you mentioned the document	22	or if I just was assuming that it was directly from
	retention policy. Were you provided a copy of the	1.00	U.S. Bank itself.
	document of U.S. Bank's document retention policy in	24	Q. So it didn't say in the e-mail, oh, I talked
29.	the e-mail?	10.00	to so and so at U.S. Bank or I talked to a contact or
63	Page 13	6.7	Page 14
4	e-mailed someone and this is how I know to tell you for	-	provided the information about the records showing
- 73	the deposition?	1.73	U.S. Bank is still the trustee and the trust is still
~	A. I'm not sure. I just don't remember if it	1 ~	and that the loan is still under this trust?
3	waid that or not.	1.5	A. No.
- 2	Q. Do you still have a copy of that e-mail?	4	Q. Okay. Other than your counsel and Ms. Hood,
5	 Yes. 	5	did you communicate with anyone else about the
6		1.0	deposition topics in preparation for your deposition
7	Q. Can you provide that, please? MR. BRENNER: We'll meet and confer about	1.0	
8		1.3	today?
	that, whether it's appropriate for production.	9	А. Но.
10	MS. EBRON: Are you claiming a privilege?	10	Q. About how much time did you prepare for the
11	MR. BRENNER: I don't know. You just	11	deposition today?
12	asked for it.	12	 I spent probably six or seven hours preparing,
1000			
13	MS. EBRON: It was actually one of the	13	off and on.
	topics, but let's keep going.	13 14	Q. Over the last week?
14	topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS, did	1.5	Over the last week?A. Yes.
14 15	topics, but let's keep going.	14 15 16	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from
14 15 16	topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS, did	14 15 16 17	 Q. Over the last week? A. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the
14 15 16 17	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS, did Ms. Hood give you any information specifically from SLS?</pre>	14 15 16 17	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from
14 15 16 17 18 19	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS, did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the</pre>	14 15 16 17 18	 Q. Over the last week? A. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the
14 15 16 17 18	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS, did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that?</pre>	14 15 16 17 18 19	 Q. Over the last week? A. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is
14 15 16 17 18 19 20	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS. did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the trust is still in their records show or that</pre>	14 15 16 17 18 19	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is there any other information that you reviewed from
14 15 16 17 18 19 20	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS. did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the trust is still in their records show or that</pre>	14 15 16 17 18 19 20	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is there any other information that you reviewed from U.S. Bank and SLS?
14 15 16 17 18 19 20 21 22	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS. did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the trust is still in their records show or that U.S. Bank is still the trustee and that the trust is</pre>	14 15 16 17 18 19 20 21 22	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is there any other information that you reviewed from U.S. Bank and SLS? X. No.
14 15 16 17 18 19 20 21 22 23	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS. did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the trust is still in their records show or that U.S. Bank is still the trustee and that the trust is still showing as the investor for this property.</pre>	14 15 16 17 18 19 20 21 22	 Q. Over the last week? A. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is there any other information that you reviewed from U.S. Bank and SLS? A. No. Q. What servicing records from Bank of America
13 14 15 16 17 18 19 20 21 22 23 24 25	<pre>topics, but let's keep going. Q. (BY MS. EBRON) What about from SLS. did Ms. Hood give you any information specifically from SLS? A. Yes. Q. What was that? A. That SLS confirms that U.S. Bank is the trust is still in their records show or that U.S. Bank is still the trustee and that the trust is still showing as the investor for this property. Q. When was this e-mail?</pre>	14 15 16 17 18 19 20 21 22 23 24	 Over the last week? X. Yes. Q. You mentioned that you reviewed info from U.S. Bank and the new servicer. Aside from the information contained in the e-mail from Ms. Hood, is there any other information that you reviewed from U.S. Bank and SLS? X. No. Q. What servicing records from Bank of America did you review in preparation for your deposition?

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_	SFR Investments Pool 1, L		
1	reviewed the loan the loan modification or loss	1	 I can't think of anything else right now.
2	mitigation notes.	2	Q. Okay. If you think of anything else as we go
3	Q. Anything else?	3	along, if you could just let me know, that would be
4	A. I can't think of anything at this time, but I	4	great.
5	might have looked somewhere else that I can't think of	5	You also mentioned that you looked at docs
6	right now.	6	in the servicing platform. What documents did you look
7	Q. What is CIWI?	7	at7
8	A. It is the corresponding correspondence and	8	A. I looked at the notes, the deed of trust,
9	imaging workflow interface.	9	assignments of mortgage. I looked for correspondence in
10	Q. What's the purpose of CIWI?	10	that file. I looked at the title policy and just
11	A. It is the system that we use to image any	11	other I think that those are the main documents. I
12	correspondence received by Bank of America, N.A. and	12	can't think of other documents that I would have looked
13	to image it and then to route it to the proper	13	at.
14	departments.	14	Q. Did you say you reviewed notes, plural?
15	Q. Did you review the entire AS/400 or did	15	 If I did, I meant the note.
16	were there certain portions of it that you reviewed?	16	Q. Okay. I just wanted to make sure there wasn't
17	 Just certain portions. 	170	more than one promissory note. Is there?
18	Q. What portions were those?	18	A. No.
19	 I looked at several screens. I would have 	19	Q. Okay. And when you say "notes," that wouldn't
20		20	include, like, servicing notes or snything. You're just
20	screen. I looked at the location of the collateral file	21	talking about a promissory note; is that right?
22	screens. I looked at the bankruptcy screens. I looked	22	 That's correct.
	at I believe I reviewed all of the customer service	23	Q. Is there snything else that you recall that
	notes.		you reviewed?
	Q. Anything else?	25	 Not that I haven't already mentioned.
25		25	
123	Page 17		Page 18 A. I'm not sure if I've seen this before or not.
1	 Will you look at what has been marked 	1	
·		2	Is this something that was contained in the
3	A. Okay.	3	file that you reviewed?
4	Q. Do you recognize this document?	4	 It may have been contained in the homeowner's
5	λ. Yes.	5	file, but it's not something that I reviewed or looked
6	Q. What is it?	- T	at in their file.
7	 It is a copy of the deed of trust. 	7	Q. Do you know what this document is?
8	Q. Is this the deed of trust that's related to	8	A. Yes.
9	the property on Capanna Rosso?	9	Q. What is it?
10	A. Yes.	10	 It looks like it's a recorded copy of the
11	Q. Who originated this deed of trust?	11	deed, it appears for this property.
12	A. Bank of America, N.A.	12	Q. Do you know if the Sherwoods used a loan to
13	Q. When was it originated?	13	purchase this property?
14	A. It's October 11th, 2007.	14	A. I'm not sure.
15	Q. How much is it for?	15	Q. How long has U.S. Bank had an interest in this
	A. For \$885,000.	16	loan?
16		17	 Since it was placed in the trust.
	Q. Was this a refinance loan?		Q. When was that?
17	Q. Was this a refinance loan? A. Yem.	18	Q: Hick was check
17 18		18 19	 A. January 28th, 2008.
17 18 19	λ. Yes.	1	
17 18 19 20	 A. Yes. Q. How much cash was provided to the Sherwoods, 	19	A. January 28th, 2008.
17 18 19 20 21	 X. Yes. Q. How much cash was provided to the Sherwoods, if any, after this loan closed? MR. BRENNER: Objection, relevance and 	19 20 21	 January 28th, 2008. Q. And how do you know that?
17 18 19 20 21 22	 X. Yes. Q. How much cash was provided to the Sherwoods, if any, after this loan closed? MR. BRENNER: Objection, relevance and 	19 20 21 22	 January 28th, 2008. Q. And how do you know that? A. Because that's what the records of Bank of
17 18 19 20 21 22 23	 X. Yes. Q. How much cash was provided to the Sherwoods, if any, after this loan closed? MR. BRENNER: Objection, relevance and it's confidential. 	19 20 21 22	 January 28th, 2008. Q. And how do you know that? A. Because that's what the records of Bank of America show, and that's also the date of the pooling
21 22 23 24	 A. Yes. Q. How much cash was provided to the Sherwoods, if any, after this loan closed? MR. BRENNER: Objection, relevance and it's confidential. A. I don't know. I didn't review that. 	19 20 21 22 23 24	 January 28th, 2008. Q. And how do you know that? A. Because that's what the records of Bank of America show, and that's also the date of the pooling and servicing agreement.

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1		11	whatever the unpaid principal balance.
2	Q. And what does that mean?	2	Q. What record of Bank of America tells you that
3	HR. BRENNER: Calls for a legal	3	that was the price paid?
4	conclusion.	4	 It was a screen in AS/400.
5	A. My just general understanding of a trustee is	5	Q. What screen is that?
6	that they are going to act in the place of the	6	 The loan transfer detail screen.
7	certificate holders who hold the trust.	7	Q. What else is included on that screen besides
8	Q. (BY MS. EBRON) Did the trust pay anything to	8	the price?
9	obtain its interest in the loan?	9	A. It shows the dates of the transfer, the
10	MR. BRENNER: Form.	10	investor number that it was transferring from and then
11	A. Yes.	11	transferring into, what the new investor was.
12	Q. (BY MS. EBRON) What?	12	Q. Anything else?
13	A. I believe that they paid the face value of the	13	A. It also shows the paid-through dates and if
14	property at the time, the unpaid principal balance of	14	there's any I believe that it shows what the escrow
15	\$885,000.	15	balance is and anything like and something like that
16	Q. How do you know that?	16	Q. Anything else?
17	A. It's my understanding of what is paid and that	17	A. That's all I can think of on that screen righ
18	it also is what the records of Bank of America, N.A.	18	nov.
19	show.	19	Q. So until January 28th, 2008, Bank of America
20	Q. How is that your understanding?	20	was both the servicer and the investor; is that correct
21	A. It's just my general knowledge of when the	21	A. Yes.
22	through my training and experience that when these	22	Q. And until sometime in 2013, Bank of America
23	trusts are created, that they pay the whenever they	23	remained the servicer; is that correct?
24	are put whenever the loan is put into the pooling and	24	A. Yes.
	servicing, then that is the price that is paid is	25	Q. And can you look at what's been marked as
	Page 21	1	Page 22
1		1	Q. Where did you get it from?
2	λ. Υος.	2	A. I received it as a part of that e-mail.
3	Q. What is it?	3	Q. So how was it included in that e-mail?
4	A. It is a copy of the pooling and servicing	4	A. It was just a screen shot.
5	agreements dated January 28th, 2008, for this pool of	s	Q. Were there any other screen shots in the
~	loans.	- °	e-mail?
7	Q. And does is there somewhere in the pooling	7	A. No.
-25	and servicing agreement that shows or identifies the	8	Q. Was there any commentary about the screen
~	loan secured by the deed of trust we marked as	- C	ahot?
	Exhibit 2?	10	X. No.
11	A. I'm not sure if there is. I don't it does	11	Q. Do you know where the actual list is stored?
12	not appear that this version of the servicing agreement	12	 I don't.
13	would include the list of loans that are included as	12	Q. Is that something that Ms. Hood would know?
222	part of this.	1.55	MR. BRENNER: Calls for speculation.
	Q. Did you review a list of loans?	14	A. I don't know.
15	A. Yes.	15	Q. (BY MS. EBRON) What other documents exist
16	Q. And you were able to identify on that list the	100.	
.7	loan secured by the deed of trust in this case?	17	into this pool of loans?
8		1	MR. BRENNER: Form and foundation.
19		19	A. I'm not sure I understand your question.
20		20	b manual durant when however the barreness
	list?	21	Q. (BY MS. EBRON) Well, we've got the pooling
22	A. I only looked at one page of that report, and	22	and servicing agreement, right? Are there other
23	I I don't know how long.	23	documents that were created and executed as part of the
24	Q. Where was that report stored?	24	transaction of placing this loan into the trust?
25	 I am not sure. 	25	MR. BRENNER: Same objections.
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1	 I'm not sure. 	1 don't know if that's the name of the software or if
2	Q. (BY MS. EBRON) Have you seen any other	2 that's just what pulls it up. It's called Request Net.
3	documents that relate to the transaction where the los	m 3 Q. Can you request other things besides the
4	was placed into the trust?	4 pooling and servicing agreement through Request Net?
5	A. I have I don't believe I have, no.	5 A. There appears to be a long list of things that
6	Q. Where is the pooling and servicing agreement	6 can be requested, but this is pooling and servicing
7	stored on Bank of America's system?	7 agreements are the only thing that I've been trained to
8	A. I'm not sure.	g request through there.
9	Q. Where did you get the copy from to review?	9 Q. Are there other platforms or websites that you
10	A. I request it from the we have a department	10 went to in preparation for your deposition today that
11	that mainteins these, all of the pooling and servicing	11 you requested information from?
12	agreements, and I request them through that. There's	a 12 A. I mean, there were other websites I use but
13	software program that I would go to and make a request	. 13 nothing that I requested through, no.
14	Q. Okay. When did you make a request for this	14 Q. So the other ones you could just pull up the
15	pooling and servicing agreement?	15 information and you had access to it and were able to
16		16 look at it, is that correct?
17		17 A. Yes.
18	G - and a state of the second s	18 Q. Okay. Can you look at what we've marked as
110		19 Exhibit 57 Have you seen this document before?
19		
20	A. No.	20 A. I might have seen it before, but not in the 21 Bank of America records.
21		
22		
23	and a state of the second s	23 A. I was given documents that had been I guess
24	: 정도하는	24 there had been a file pulled from all of the recorded
25	A. I type "Request Net" into the browser, so I	25 documents.
	Page 2	5 Page 26
1	Q. But this isn't something that was contained	1 A. I believe you might have missed "said deed of
2	within Bank of America's files?	2 trust," but
3	 If it was, it just wasn't something I looked 	 Q. Said deed of trust, okay. Is it accurate,
4	at in the file.	4 based on your review of the records and this notice of
5	Q. Can you look at what's been marked as Exhibi	5 default, that the borrowers did not pay, beginning
6	Number 67 Do you recognize this document?	6 November 1st of 2008?
7	λ. Υσπ.	7 MR. BRENNER: Outside the scope of this
8	Q. What is that?	8 deposition.
9	A. It's the notice of breach and default and of	9 A. I just know I believe that that's the I
10	election to cause sale of real property under deed of	10 believe that they are still due for that payment, yes.
11	trust.	11 Q. (BY MS. EBRON) Can you look at what has been
12	Q. Was this something that was contained in Ban	k 12 marked as Exhibit Number 77 Do you recognize that
13	of America's records?	13 document?
14	A. Yes.	14 A. Yes.
15	Q. When is it dated?	15 Q. What is that?
16	A. It is it looks like it was recorded on	16 A. This is a recorded copy of an assignment of
10.50	9/17/2009.	17 deed of trust dated November 26th, 2010.
	 On the first page there's a bolded part on t 	
18		
19	reads: Failure to pay the monthly payment due	<pre>it 19 A. It looks like it was actually recorded 20 12/7/2010.</pre>
20	November 1st, 2008, of interest only in subsequent	
21		
22	installments due thereafter plus late charges together	75
23	with all subsequent sums advanced by beneficiary perso	
24		24 holders of the Banc of America Mortgage 2008-A Trust,
25	Did I read that correctly?	25 Mortgage Pass-Through Certificates, Series 2008-A.
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<u> </u>		-	and the second
1	Q. Do you know who Michelle Reinhard is?	1	Do you know why there were two assignments to
2		2	U.S. Bank?
3	says that she's an assistant vice president of Bank of	3	A. I don't.
4	America, N.A.	4	Q. Do you know who would know that?
5	Q. Do you have any reason to believe that she was	5	 I don't. I do not.
6	not an assistant vice president of Bank of America, N.A.	6	Q. Is it common for there to be two assignments
7	at the time this was executed?	7	to the same entity recorded against a property?
8	A. I do not.	8	 I don't know whether it's common or not.
9	Q. Can you look at what's been marked as Exhibit	9	Q. Have you seen it happen before in other cases
10	Number 0, please? Do you recognize this document?	10	besides this one?
11	A. Yes. This is a copy of the recorded	11	 I believe so, yes.
12	assignment of deed of trust dated 11 it looks like it	12	Q. In your review of the file, did you see any
13	was recorded 11/23/2011.	13	foreclosure notices besides ones related sorry.
14	Q. Who was this from and who is it to?	14	Strike that.
15	A. It is from Bank of Amarica, N.A. by	15	Did you see any foreclosure notices from a
16	Cal-Western Reconveyance Corporation as attorney in fact	16	homeowners' association or its agent?
17	to U.S. Bank National Association as trustee of the	17	λ. Yes.
18	certificate holders of the Banc of America Mortgage	18	Q. And what did you see?
19	Securities 2008-A Trust, Mortgage Pass-Through	19	A. I saw that there were notices addressed to
20	Certificates, Series 2008-A.	20	Bank of America, N.A. sent for the notice of sale.
21	Q. Is that the same entity from the previous	21	Q. When was that received?
22	assignment?	22	A. I show that one was received on October 12th,
23	A. It appears that Bank of America, N.A.'s	23	2013 and another one October 13th sorry. I said
24	attorney in fact executed this, but it is the same	24	20 I meant October 12 of 2011, October 13th of 2011,
25	entities, yes.	25	October 31st of 2011, and December 21st of 2011. And
	Page 29		Page 30
1	they were all the same notice of sale.	1	Q. (BY MS. EBRCN) How many?
2	Q. In the notices that you saw in the system, I'm	2	A. I saw one.
3	assuming it was a scanned image, is that or those	3	Q. And when was that received?
4	were scanned images; is that correct?	4	A. I don't actually show that it was received.
5	A. Yes.	5	There was no information indicating that it was
6	Q. Did it also include the envelopes?	6	receivad. It was just scanned into the system.
7	A. Yes.	7	Q. When was it scanned?
8	Q. Was there any other information included along	8	A. On December 20th of 2010.
9	with the notice of sale?	9	Q. So it was received sometime before
10	MR. BRENNER: Form.	10	December 20th of 2010 or either on or before that day?
11	A. I'm not sure I	11	A. I don't know how it was given to us because it
12	Q. (BY MS. EBRON) Or any other documents that	12	did not include an envelope or any other information
13	were attached besides the envelope that it was received	13	indicating how we got that item.
14	in?	14	Q. But Bank of America had it in its records as
15	A. No.	15	early as December 20th of 2010?
16	Q. And how do you know what days they were	16	A. I believe so, yes.
17	received?	17	Q. Is there a way for it to show to have been
18	 The images that I looked at had a stamp on 	18	scanned on that date if it was received after that date?
19	them showing stating that they were received that	19	A. Not my understanding, no.
30.	date.	20	Q. What steps did Bank of America take in
21	Q. In your review of the file, did you see any	21	relation to the notice of default after December 20th of
22	notices of default?	22	2010?
23	MR. BRENNER: From the HOA?	23	MR. BRENNER: Form.
24	MS. EBRON: Yes.	24	A. I reviewed the file. I could not find any
25	A. I did.		information about that particular document.
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1	Q. (BY MS. EBRON) Was the document that	1.7	something I know off the top of my head, how long we've
	notice of default, was that noted somewhere in the	2	used CIWI.
3	AS/400 report7	3	Q. Is there somewhere else that you can look to
4	A. The could you repeat the question?	4	obtain an explanation of how the notice of default was
5	(Requested portion read by the reporter.)	5	received?
6	A. It was not.	6	A. I can't think of anywhere else that I would
7	Q. (BY MS. EBRON) What about the notices of	7	look.
8	sale, were those noted in the AS/400 report?	8	Q. Are there systems at Bank of America that you
9	λ. Υας.	9	don't have access to?
10	Q. And what did those notes say?	10	MR. BRENNER: Form.
11	A. It just noted that they were had been	11	A. Yes.
12	received by CINI and then they were routed to just ${\tt I}$	12	Q. (BY MS. EBRON) What systems are those?
13	guess where they were routed.	13	MR. BRENNER: Objection, calls for a
14	Q. Has Bank of America used the same routing	14	narrative, irrelevant, and outside the scope of this
15	system since this loan was originated?	15	deposition, and calls for speculation.
16	MR. BRENNER: Outside the scope of the	16	Go ahead.
	deposition.	17	Q. (BY MS. EBRON) That you know of.
18	 I don't know. 	18	A. I'm not sware of anything of any database
19	Q. (BY MS. EBRON) Do you know if CIWI was used	170	or any information thing that I would not have access
	in 20107	20	to that would pertain to first lien mortgages, any
21	 I don't know. 	21	system that so I believe that I have access to every
22	Q. Do you know who might know that?	22	system, but I wouldn't have outside-of-my-department
23	 X. It would just be something I'd have to look 	23	nen biske ministra og skriverer for stander og skriverer i skriverer og skriverer og skriverer og skriverer og
	up. I believe that I've seen documents that were older	24	Q. What was Bank of America's policy and
	than that in other files, but I am not it's just not	100.00	procedure at the time the notice of default was received
43		23	
-	Page 33 for handling those types of notices from homeowners'		Page 34 aware, the NOA did not send anything to U.S. Bank.
	associations?	1.1	이상 이상은 가장 귀엽을 맞은 일상 것이 없었는데? 가지 않는 것이 가지 않는 것이 있는 것이 없다.
	MR. BRENNER: Outside the scope of this	2	Q. (BY MS. EBRON) Right. But my question is,
3	deposition.	3	why didn't Bank of America send them to U.S. Bank after they received them?
4		4	
5	A. Bank of America's policy would have would	5	A. I don't know.
- 23	have sorry. I'm not sure. The Bank of America's	6	How do you know that U.S. Bank didn't receive
1	policy would have been to handle however they would	2.	any notices?
	handle it however they were instructed by the	8	 I know that they did not receive them because
- 51	beneficiary on the deed of trust to handle these types	9	none of the letters that were in our system were
10	of liens.	10	addrassed to U.S. Bank. Additionally, they have
11	Q. (BY MS. EBRON) And what about in this case.	11	indicated that they have nothing in their files.
12	were there any specific instructions on how to handle	12	Q. Who indicated that?
13	notices of default from homeowners' associations?	13	A. U.S. Bank.
14	 My understanding is that U.S. Bank never 	14	Q. Who at U.S. Bank?
	receives the notices a notice of default or the	15	MR. BRENNER: Calls for speculation.
10.00	notice of sale for this property, so they did not	16	 I'm not sure.
17	provide any specific instructions of what to do with it.	17	Q. (BY MS. EBRON) But you never talked to
18	Q. Why didn't U.S. Bank receive a copy after Bank	18	anybody at U.S. Bank, right?
19	of America received a copy?	19	A. That's true.
20	A. My understanding	20	Q. And did U.S. Bank send any documents that
	MR. BRENNER: Form and foundation.	21	showed information about what mail they received for
21	Go ahead.	22	that loan at ++ during that time frame of December 2010
	ou anono.		
22	Calls for speculation.	23	to December of 20117
22 23		23 24	to December of 20117 MR. BRENNER: Form and foundation.
21 22 23 24 25	Calls for speculation.	12.20	

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	SFR investments Pool 1, L	LC	vs. US Danky IV.A., CI al.
1	it wasn't indicated on that on any information I	1	hadn't been any communication?
2	have.	2	A. So I looked at our
3	Q. (BY MS. EBRON) If they would have sent	3	MR. BRENNER: Hold on. Hold on a second
4	something if U.S. Bank would have sent a document or	4	Lacks foundation, misstates testimony.
5	servicing notes or any kind of notes to Bank of America.	5	Go ahead.
6	you would have had access to them, correct?	6	A. I reviewed the Bank of America servicing notes
7	MR. BRENNER: Calls for speculation,	7	and could not find any communications with U.S. Bank, so
8	lacks foundation, assumes facts not in evidence.	8	I didn't look any further. And then that information
9	A. I don't know.	9	was confirmed to me that they also had not that
10	Q. (BY MS. EBRON) Did you ask for any	10	U.S. Bank had not received any communications as well.
11	communications about this loan with U.S. Bank when you	11	Q. (BY MS. EBRON) And how was that confirmed to
12	were preparing for this deposition?	122	You?
13	MR. BRENNER: Form.	13	A. From that e-mail.
14	A. Are you I'm sorry. I'm not sure if I	14	Q. Is there a document that contains guidelines
15		1.20	pertaining to how Bank of America was to service this
16	Q. (BY MS. EBRON) Did you request from anyone at	· · · · ·	
	Bank of America to be given information about	17	λ. Υσ#.
20		18	Q. And what is that?
	you were preparing for your deposition?	19	A. The pooling and servicing agreement.
20		20	0. Anything else?
	for those communications, no.	23	A. I mean, we would have had internal policies on
21	Q. Why?	21	how to generally service loans for investors. I don't
22	 Because our notes indicated that there had not 		know if that's what you're asking for.
23		58	 Yeah. I'm not sure exactly what I'm asking
24	2222 2월 20일 : 11월 2일 : 11월 2일 : 12월 2일	24	~ 김희 방송 것이 않는 것이 많은 것이 없는 것이 없는 것이 없다.
25		25	for. I'm just checking. I had a deposition yesterday
28	Page 37	-	Page 38
- 72	where somebody said the pooling and servicing agreement	1	 Again, I didn't review that information for
-	didn't contain those guidelines but there was a separate	2	this particular investor, so I don't know.
-73	servicing guideline document, so just asking if there	3	Q. Where would that information be found?
4	was in this case as well.	4	 I believe that most of that would be in the
5	MR. BRENNER: But that wasn't Bank of	1 -	pooling and servicing agreement as to what kind of
6	America, right?	1.0	reporting they would require, and then the mechanism
7	MS. EBRON: No, it wasn't Bank of	7	would be something I'd have to, I guess investigate.
8	America, and it wasn't I think it was U.S. Bank, but	8	Q. Would it surprise you if there wasn't some
9	it wasn't for this same trust.	<u>ت</u>	type of regular reporting to U.S. Bank from Bank of
10	Q. (BY MS. EBRON) Does Bank of America provide	10	America?
11	any type of regular reporting to U.S. Bank about this	11	A. I mean, I just don't know. I haven't really
12	loan?	12	done much research on that topic at all with regards to
13	A. I'm not sure that I reviewed what this what	13	any investors other than like the GOCs and even then I
14	U.S. Bank would have wanted as regards to regular	14	haven't done much research on that, just general
15	reporting.	15	knowledge.
16	Q. But do you know if there has been regular	16	Q. How does U.S. Bank know what's happening with
17	reporting in the past seven years to U.S. Bank?	17	the loan?
18	 Again, I didn't review what kind of reporting 	18	MR. BRENNER: Calls for speculation.
19	we would do for this particular investor so I don't know	19	 I don't know. I'm not sure.
20	if there is what kind of what, if any, reporting	20	Q. (BY MS. EBRON) What did you do to prepare for
21	we would do for this particular investor.	21	Topic Number 17?
	Q. Is there a way that Bank of America	22	A. I looked in the Bank of America, N.A.'s
22	communicates to U.S. Bank about this loan, like a	23	servicing records for any communication and then also
23	certain you know, like a website or somebody at Bank	24	confirmed, you know, with that received information
24		1	confirmed, you know, with that received information that U.S. Bank agreed that they had no communication

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	SFR Investments Fool 1, L	LC	vs. US Dallk, N.A., et al.
1	with us.	1	of the deposition.
2		2	A. I no, I did not.
3	A. It is as of the date that Bank of America,	3	Q. (BY MS. EBRON) What was contained in the
4	N.A. stopped servicing the loan, it was located at	4	collateral file at the time of the last information that
5	U.S. Bank Trust National Association vault.	5	you had on that?
6	Q. Where is that?	6	MR. BRENNER: Also outside the scope of
7	A. I don't know.	7	the deposition.
8	Q. Just a vault somewhere?	8	A. I believe the original notes, the deed of
9	A. That's just not information that was it	9	trust, the original title policy, the original
10	just indicated that it was with U.S. Bank Trust N.A. but	10	assignments of mortgage. I show there was a borrower's
11	not the address.	11	protection plan, so an original copy of that. And ther
12	Q. So you haven't seen a copy of the collateral	12	was a settlement statement that was in there.
13	file or you haven't seen the actual collateral file,	13	Q. (BY MS. EBRON) Were there any other
14	right?	14	assignments besides the ones that we have marked as
15	A. Yes, that's true.	15	Exhibits 7 and 8 in the collateral file?
16	Q. And do you have any information about the	16	A. I believe that there was a 2008 assignment of
17	collateral file since 2013?	17	mortgage.
18	A. I de not.	18	Q. And who was that to?
19	Q. So you don't know if it even still exists,	19	A. I didn't it didn't have that information.
_	right?	20	It said it was blank.
21	A. Yeah, I know that it existed at the time that	21	Q. But it was an original assignment? Or was it
22	it was service transferred.	22	an original assignment?
23	Q. Did you ask anyone about the location of the	23	A. That's what it said it was in the collateral
24	collateral file7	1925	file, yes.
25	MR. BRENNER: This is outside the scope	25	Q. Did you look at the promissory note?
1	Page 41	1	Page 42
1	λ. Yes.	1	Q. Well, did you do anything to prepare for Topic
2	Q. Were there any endorsements on the promissory	1.00	Number 87
_	note?	3	A. Yes.
4	MR. BRENNER: Outside the scope of the	4	O. And what was that?
5	deposition and irrelevant.	5	A. I looked at the type of loan to see whether it
6	A. Yes.	6	was an FRA loan or any other sort of governmental you
7	Q. (BY MS. EBRON) What endorsements are on the		know, part of any other program and looked at the title
-93	promissory note?	1.2	policy for I looked for a title policy.
9	MR. BRENNER: Same objection.	9	Q. And are you aware well, did you determine
10	A. There was I believe an endorsement and blank	1.5	
	from Bank of America, N.A.		underlying promissory note?
11	Q. (BY MS. EBRON) Is U.S. Bank aware of any		 A. I saw that this is not a loan that is insured
12	other entity that currently claims an interest in the	12	
10			by HUD or FHA.
	first deed of trust or the underlying promissory note?	14	Q. Does Fannie Mae have an interest in the deed
15	A. No.		of trust or the underlying promissory note?
16	Q. Is U.S. Bank aware of any entity that	16	 Not that I was able to no, I don't know.
	currently insures the first deed of trust or the	17	Q. Does Freddie Mac have any interest in the dee
	underlying promissory note?		of trust or the underlying promissory note?
19	A. I know that there was a title policy on the	19	λ. Νο.
-	loan, but to the extent that that that would insure.	20	Q. Are there any provisions in the pooling and
21	Q. Is U.S. Bank aware of any entity that claims a		servicing agreement applicable to this property that
22.	contractual interest in the first deed of trust or the	22	are that mention or are applicable to associations,
23	underlying promissory note?	23	association liens, association foreclosures?
24	 I don't can't think of any other entity at 	24	MR. BRENNER: Form.
25	this time.	25	A. I believe that there is a yes, there is a
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	SFR investments root 1, L	a.c.	vs. US Dallk, M.A., Cl al.
1	provision.	1	Q. Besides the five foreclosure notices that were
2	Q. (BY MS. EBRON) Which provision is that?	2	contained in Bank of America's files, has U.S did
3	 I believe it's 3.09, and it's a some 	3	you see any evidence of communications with the
4	subsection.	4	homeowners' association or its agents?
5	THE REPORTER: It's what inspection?	5	MR. BREINER: Form.
б	THE WITNESS: It's a subsection.	6	A. I did not.
7	Q. (BY MS. EBRON) So 3.09 is on page 60. Which	7	Q. (BY MS. EBRON) Did you see any communication
8	subsection are you referring to?	8	in the file with either U.S. Bank or Bank of America an
9	A. It looks like B.	9	the borrower about the homeowners' association lien?
10	Q. B? So that's the part that's applicable here?	10	MR. BRENNER: Form.
11	A. It's the only part of the agreement that	11	A. I I didn't see anything prior to the
12	mentions association dues.	12	foreclosure sale.
13	Q. Does U.S. Bank have any remedies if the	13	Q. (BY MS. EBRON) Were there communications wit
14	servicer doesn't follow the pooling and servicing	14	the borrower about the homeowners' association lien
15	agreement?	15	after the scale?
16	MR. ERENNER: It's outside the scope of	16	MR. BRENNER: Outside the scope of the
17	this deposition.	17	deposition.
1.8	MS. EBRON: No, it isn't. It's in Topic	18	A. Yes.
9	Number 9.	19	Q. (BY MS. EBRON) Do you know what those were?
20	MR. BRENNER: Hold on. Don't answer.	20	MR. BRENNER: Same objection.
21	Disagree.	21	A. I just saw a phone call where the borrower
22	Q. (BY MS. EBRON) Okay. Go ahead.	22	informed us of the foreclosure sale informed Bank of
23	A. I'm not sure I it would if so, I would		America, N.A. of the foreclosure sale after the sale ha
24	imagine it would be in the pooling and servicing	24	already taken place.
	agreement.	25	Q. (BY MS. EBRON) So it was a call initiated by
	Page 45	1	Page 46
1	the borrower?	1	 I mean, they did not receive any notice of the
2	MR. BRENNER: Hold on a second before you	- ~ ·	sale. U.S. Bank did not receive any notice of the sale
	answer that.	3	Q. But its agent did, correct?
4	I think the topic is specifically limited	4	MR. BRENNER: Calls for a legal
-	to prior to the foreclosure sale.		conclusion.
6	MS. EBRON: That's true, but if you know,	6	Q. (BY MS. EBRON) Bank of America received the
2	1'n	1.6-	notices.
8	MR. BRENNER: Well, I think the purpose	6	А. Хея.
	of having a meet and confer is to limit these things.	10	 Do you know why Bank of America did not
.53	And if you limit them and then you go ask questions that	9	attempt to make any payment to the association?
	we limited is completely contrary to what we agreed to.		MR. BRENNER: Outside the scope of this
.1	Go ahead and answer.	11	deposition.
2	A. Yes, I believe so.	1.0	A. I don't know.
.3	Q. (BY MS. EBRON) Did you see any communications	13	양신 - 영향 방양이 가장 방양이 나라서 소가 가장 것이 가장 방안에 가장 드셨다. 정말 것
4	1240 - 1.9250 (1005) (1006) (1006) - 1006) - 1006) (1007) (1007) (1007) (1007)	14	
	with SFR Investments Pool 1, LLC before litigation started?	273	asked U.S. Bank if it should make a payment to the
		1	association?
.7	A. I I wasn't looking, so I don't know.	17	A. I have could you repeat the question?
8	Q. That's fine. Just checking.	18	(Requested portion read by the reporter.
.9	Did U.S. Bank make any monetary payments	19	A. I know that there yes, I know that we did
	to the association or its agents in relation to this	1.000	not make a communication with them. We did not
	property?	1.11	communicate with them.
22	A. No.	22	Q. (BY MS. EBRON) Okay. So just to be clear,
3	Q. Is there a reason why U.S. Bank did not make	1.50	Bank of America, after receiving the foreclosure
	any payments to the association before the association		notices, did not ask U.S. Bank if it should do something
25	foreclosure sale?	25	about those notices?
	Page 47	1	Page 48

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1	A. That's what I our records show, yes.	1	America, N.A. was the original lender so that when it
2	Q. Would you have expected to see evidence of	2	was to acquire its interest, U.S. Bank would have
3	such communication, if one existed, in the documents	3	paid Bank of America.
4	that you reviewed?	4	Q. Okay. So U.S. Bank paid Bank of America.
5	A. Yes.	5	What happened to the money that the borrowers paid
6	Q. Did U.S. Bank attend the association	6	during the time that they were paying on the loan?
7	foreclosure sale?	7	MR. BRENNER: Outside the scope of the
8	A. No.	8	deposition.
9	Q. Why not?	9	 It would have been paid to the investor per
10	A. They were not given notice of the sale. And	10	the pooling and servicing agreement.
11	additional I don't believe that they were given	11	Q. (BY MS. EBRON) Have there been any other
12.77	notice of the new date of when the date moved to the	1.22	funds received by U.S. Bank for this loan that were not
	salo.	13	included in those monthly mortgage payments?
14	Q. Did U.S. Bank participate in any civil or	14	MR. BRENNER: Outside the scope of the
15	administrative action challenging the association lien	1952	deposition.
16	or the association foreclosure sale before the	16	A. I don't know.
17	foreclosure sale?	17	Q. (BY MS. EBRON) Have there been any legal
18	A. No.	1.00	settlements through which U.S. Bank received funds for
19	Q. Has U.S. Bank been paid any money from Bank of	1.775	this loan?
20	America for this loan?	20	λ. No.
21	MR. BRENNER: Form.	21	Q. How do you know that?
22	A. Yes.	22	 Because that's U.S. Bank has informed us of
23	0. (BY MS. EBRON) And what were those payments		that.
24	for? Just when loan payments were received?	24	Q. How did they inform you of that?
25	A. Those, and then additionally, U.S Bank of	25	A. In they communicated that to somebody at
23	Page 49	100	Page 50
- 23	Bank of America, N.A.	1	A. Yes.
2	Q. Who7	2	Q. And did it specifically say U.S. Bank has not
3	A. I'm not sure.	-	received any funds related to this loan from the
4	Q. How did you come to know that there have been		settlement between Bank of America and the SEC or the
- 23	no legal settlements that have involved this loan?		judgment?
2	A. That was, again, in that e-mail that I	6	 I don't believe it was specific, no.
2	received.		(Exhibit 9 was marked.)
	Q. And what did it say specifically about legal		Q. (BY MS. EBRON) Let me show you a document
	settlements?		that's been marked as Exhibit 9. Do you recognize that
10	A. I believe it said that there had been legal	11	document?
11		11	A. I didn't review it.
10000	of America.	12	Q. Do you know what it is?
215	Q. Did U.S. Bank receive any funds from the	13	 Just what it states on the cover.
13	กระบบความสาวสาวสาวสาวสาวที่สาวสาวสาวสาวสาวสาวสาวสาวสาวสาวสาวสาวสาวส	14	Q. Where does U.S. Bank get the information to
14	MR. BRENNER: That's not only outside the	172-22	populate this report?
	scope of the deposition, but subject to the protective	16	MR. BRENNER: Outside the scope of this
10.12	order. If you want to try to rephrase your question	10.00	deposition.
-	specific to this loan, I think we can start to answer,	17.	A. I don't know.
	but that might be within	18	 (BY MS. EBRON) Is it fair to say that Bank of
10.15	Q. (BY MS. EBRON) Specific to this loan?	19	America or the servicer would need to communicate with
20	A. No, I do not believe so, no.	100	U.S. Bank in order to get this information?
21	 Why do you believe that? 		MR. BRENNER: Calls for speculation.
22	 A. Again, it's something that U.S. Bank has told 	22	 A. I don't know what where this report came
23	us.	1223	from, so I don't know.
	5 Gal 18 V 8 K N24	1 m m	O. (BY MS. EBRON) Did you talk to anybody about
25		25	
4	Page 51	1	Page 52

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1			that we can use the time
		1	MS. EBRON: I do. I disagree with all of
	MS. EBRON: Yeah, and it's I believe	1	
		3	that, everything that you just said.
4	that it is not outside the scope. Their ability to	4	MR. BRENNER: What part? That you didn't
5	enforce the promissory note or deed of trust is one of	5	just contact me last night? That wasn't the first time
6	the topics, and if they don't own it, that is completely	6	you didn't agree with the time?
7	within the realm of whether or not U.S. Bank can sustain	7	MS. EBRON: I never agreed to stop at
8	a claim in this case.	8	five o'clock ever, that that was not something. Had I
9	MR. BRENNER: We can meet and confer	9	known there would have been a hard stop at 5:00. I would
10	after, but we're getting close to \$:00, so	10	never have agreed to move this from two o'clock on
11	MS. EBRON: Yeah, well, we'll just finish	11	Monday, spend an extra day here and start at 3:30. I
12	and then we can leave. But you requested that this be	12	just it just occurred to me last night that I wanted
13	at a later time, and I'm going to keep going until we	13	to make sure that you understood that.
14	finish. You can walk out if you want to, but as I said,	14	MR. BRENNER: I don't think that's fair.
15	it's probably going to take a little bit longer because	15	given that every deposition we've taken has been an hour
1	of the issues that we have in this case.		or less. I don't think
16	MR. BRENNER: Well, then I'll say for the		MS. EBRON: No, they haven't, Darren.
17	caracterized and the experimental statistical statistical sectors and the sectors of	17	and a second out of the second se
18	record, A, we started early for you. B, I told you we	18	MR. BRENNER: Depositions have gone
19		19	normal hours. Per case law of Nevada, depositions go
20	D, you didn't tell me until very, very late last night	20	between the hours of 9:00 and 5:00 unless there's an
21	that you were going to need additional time. And I	21	agreement or an order. So
22	apologize, Diana. I just can't accommodate the request.	22	MS. EBRON: And again, the agreement
23	MS. EBRON: Darren, I disagree with your	23	MR. BRENNER: Hold on. Hold on. So it
24	assessment,	24	is completely logical that that would be an assumption
25	MR. BRENNER: Let's just get going so	25	in scheduling, but why don't we just march forward.
1	Page 57		Page 58
1	MS. EBRON: It was that on your part,	1	deposition.
1	MS. EBRON: It was that on your part,	1 °	
2	MS. EBRON: It was that on your part, just an assumption.	2	deposition. A. I'm not sure what U.S. Bank's knowledge
- °	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well	2	deposition. A. I'm not sure what U.S. Bank's knowledge what they would have known about the bankruptcy.
2	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well Q. (BY MS. EBRON) What was Bank of America's	2	<pre>deposition.</pre>
2 3 4 5	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well Q. (BY MS. EBRON) What was Bank of America's or sorry U.S. Bank's involvement with the borrower's	2 3 4 5	<pre>deposition.</pre>
2 3 4 5 6	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well Q. (BY MS. EBRON) What was Bank of America's or sorry U.S. Bank's involvement with the borrower's bankruptcy?	2 3 4 5 6	<pre>deposition.</pre>
2 3 4 5	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well Q. (BY MS. EBRON) What was Bank of America's or sorry U.S. Bank's involvement with the borrower's bankruptcy? MR. BRENNER: I think that's outside the	2 3 4 5 6 7	<pre>deposition.</pre>
2 3 4 5 6	MS. EBRON: It was that on your part, just an assumption. MR. BRENNER: Well Q. (BY MS. EBRON) What was Bank of America's or sorry U.S. Bank's involvement with the borrower's bankruptcy? MR. BRENNER: I think that's outside the scope of the deposition, too. I think that was limited.	2 3 4 5 6 7	<pre>deposition.</pre>
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	SFR investments root 1, L	73 C	
1	MR. BRENNER: Outside the scope of this	1	
2	deposition.	2	much lower than the actual appraised values, that, that
3	 Not not currently. 	3	the notice of sale was given starting the HOA's
4	(Exhibit 13 was marked.)	4	notice of sale was sent out during the bankruptcy action
5	Q. (BY MS. EBRON) Let me show you a document	5	while it was ongoing, that the CCARs had a clause saying
6	that's been marked as Exhibit 13. Do you recognize this	6	that they wouldn't foreclose on the first lien, that the
7	document?	7	sale date was moved without telling D.S. Bank, and thet
8	λ. Υαπ.	8	the notice of sale was executed appears to have been
9	Q. What is it?	9	executed on September 12th of 2011 but it was not sent
10	 It is the first amended answer, counterclaims, 	10	for several weeks later and, again, was not sent was
11	cross claims and third-party complaints in this case.	11	only sent to Bank of America, N.A.
12	Q. Are you aware of the factual basis for	12	Q. Anything else?
13	U.S. Bank's affirmative defenses?	13	A. That's all that I can think of at this moment.
14	A. Yes.	14	Q. Is there any fact that you're aware of that
15	Q. Okay. What about for U.S. Bank's 11th	15	relates to some action or inaction of SFR?
16	affirmative defense, what's the factual basis for that?	16	MR. BREINER: Form, foundation.
17	MR. BRENNER: Calls for a legal	17	A. I'm not sure if I understand your question.
18	conclusion.	18	Q. (SY MS. EBRON) Well, I'm looking at the 11th
19	A. I I just know I just know kind of in	19	affirmative defense, and it says, "SFR" well, this
20	general the factual basis for all of the defenses or for	20	doesn't make any sense. "SFR avers the affirmative
21	just in sort of general knowledge.	21	defense of unclean hands."
22	Q. (BY MS. EBRON) Okay.	22	So is there anything that SFR did to cause
23	A. That the notice of sale was not sent to	23	it to have unclean hands. In the view of U.S. Bank?
24	U.S. Bank as the beneficiary under the deed of trust.	24	MR. BREINNER: Calls for a legal
25	that the notice of sale never included a superlien	25	conclusion.
	Page 61		Page 62
1	A. Again, without I mean, I'm not sure if	1	equity, in your understanding?
2	with the if it's a legal conclusion, I'm not really	2	MR. BRENNER: Calls for a legal
3	sure of it. But I also know we had a that there was	3	conclusion.
4	a recorded deed of trust on file.	4	A. Yeah, I'm not sure that I could would be
5	Q. (BY MS. EBRON) Okay. So all the things that	5	able to answer that question because I'm not sure
6	were listed were things that were done by whoever	6	legally or what that means.
7	conducted the sale, as far as I can tell, or the	7	Q. (BY MS. EBRON) Okay. The 15th affirmative
8	association the association had CC&Rs, the notice of	8	defense is that SFR is not a bona fide purchaser. Is it
9	sale was not prepared by SFR, there was a price, and	9	correct, based on your previous answer, that you're
10	that I guess is related to SFR because they were the	10	saying that SFR is not a bona fide purchaser because the
11		11	deed of trust was recorded?
	like, involving the process or that U.S. Bank believes	12	A. Yes. And I believe also that the amount was
13	SFR did to cause a problem with the sale?	13	commercially unreasonable or that it was so much lower
14	MR. BRENNER: Form.	14	than the actual appraised value at the time of the sale.
15	λ. I'm not sure.	15	Q. Okay. So the facts that you're aware of for
16	Q. (BY MS. EBRON) Did you see anything in your	16	the 15th affirmative defense is that there was a
17	files that evidence some type of fraud by SFR in	17	recorded deed of trust and there was a low purchase
18	connection with the male?	18	price at the muction?
19	 Not in the records that I reviewed, no. 	19	A. Again, not as with any legal conclusion, but
20	Q. Were there in records that you didn't review	20	that's my understanding, yes.
21	that somebody else told you about?	21	Q. I just want to make sure that there aren't any
	λ. Νο.	22	additional facts that I'm unaware of.
22	Q. And I guess the same question would apply to	23	Oh, do you know of any facts because we
	이는 그 것 것은 것을 통해 한 것 것 것 같은 것 같은 것에서 있었다. 가지 않는 것 것 같은 것 같은 것 같은 것 같은 것 같이 있다. 이 것 같은 것 같은 것 같은 것 같은 것 같은 것 같은 것		
22 23 24	the 14th affirmative defense, failure to do equity. Are	24	talked about earlier that the federal you weren't
23 24			talked about earlier that the federal you weren't aware of any federal agencies having an interest in this

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1	loan, correct? Do you know why or what is the basis for	1	property before pursuing deficiency is my general
2	the 23rd affirmative defense?	2	understanding of that.
3	A. Just my general understanding that a bank	3	Q. Okay. So because U.S. Bank couldn't pursue a
4	that the bankruptcy is a federal process, and to the	4	deficiency before foreclosing, that the association
5	extent that the notice of sale was sent while that	5	foreclosure sale is a violation?
6	bankruptcy was still ongoing.	6	A. That
7	Q. Okay, Right, For the 22nd thank you. I	7	MR. BRENNER: Calls for a legal
8	skipped over that.	8	conclusion.
9	Also the 23rd affirmative defense is	9	A. Hy just general understanding of that would be
10	federal preemption. Are you aware of what the basis of	10	the reverse, that we're incapable if the HOA sale
11	that affirmative defense is?	11	could make it incapable of us foreclosing and then
12	MR. BRENNER: She answered that question.	12	and that would make us violate the one Nevada
13	A. I believe that it's	13	one-action rule. I'm not really sure if I understand
14	Q. (BY MS. EBRON) It's also related to the	14	that. None of it would be I don't think there's any
15	bankruptcy?	15	factual. It's all just legal conclusion.
16	A. I believe that's so, but again, not a legal	16	Q. (BY MS. EBRON) Okay. I didn't understand it
17	conclusion, so there could be	17	either, so I think we're both on the same page there.
18	Q. Okay. I just wanted to make sure there was	18	Okay. Let's go to U.S. Bank's claims in
19	no, like, FHFA or FHA implied in that federal	19	the first amended complaint. I want to look at the
20	preemption.	20	third claim, I believe. Do you know the factual basis
21	Do you know the basis of the 24th	21	for the third claim for relief of unjust enrichment
22	affirmative defense?	22	against a lessee in Southern Highlands?
23	A. Again, I think that that's, like, a Nevada	23	MR. BRENNER: Calls for a legal
24	law, so I think all of that is a legal conclusion, just	120	conclusion and it's also irrelevant and not pled against
25	the fact that we were not able to foreclose on the	10.00	SFR.
	Page 65	-	Page 66
1	A. So the third claim?	1	Q. What about the tenth claim for relief,
2	Q. (BY MS. EBRON) Yeah, on page 16.	102	negligent misrepresentation?
3	A. Right. I just think that it's the same facts	3	A. Again, just that it would the facts that
1	that I stated prior.	4	I've already stated plus, you know, what it states in
5	Q. Okay. What about the fourth claim, torticus	5	the complaint itself.
6	interference with contract against a lessee in Southern	6	Q. But nothing else?
1	Highlands, what contract?	7	A. Anything else would I think that I mean,
в	MR. BRENNER: Same objections.	8	if there's a legal conclusion to be said, I wouldn't
9	A. It would is it not indicated in here?	9	know.
10	Q. (BY MS. EBRON) I know. That's why I was	10	Q. Will you go back to Exhibit 9, please.
11	asking.	11	MR. BRENNER: It's now 3:08 and we're
12	A. This is not something that sgain, it's I	10.000	going back to ask the witness questions. I'm noting for
13	think the facts are the facts that I've stated		the record, we're going back 1'm sorry, 5:08. We're
14	previously and that anything else would be a legal	14	going back to ask the witness questions about a document
15	conclusion.	1.0	she said she has no knowledge about. I'm giving this a
	MR. BRENNER: And already pled in the	16	couple more minutes because I'm trying to be fair, but
16	No. 20	175	then we're calling it off.
18	Q. (BY MS. ESRON) All right. Let's go to the	18	Q. (BY MS. EBRON) I want you to look at page 17,
19	eighth claim for relief, please. Do you know the	19	please. I guess it's I think it's at 17 where there
123	factual basis for the breach of contract in Southern	20	are 16 and 17. They list loan numbers of what
20	Highlands? Is it just the CCGRs having a mortgage	20	appears to be information or loans contained within
21	savings clause or mortgage protection clause?	21	the trust. Do you see the loan number for this property
22	A. I believe that that's I mean, I wouldn't	1.5	on either of these two pages?
23	know any more than what it states there or what the	23	 A. I'm not sure if I remember offhand the loan
24		24	number.
25	Page 67	23	Page 68

Depo International, LLC (702) 386-9322 or (800) 982-3299 info@depointernational.com Page 17(65-68)

	SFR Investments Pool 1, L	20	tor ob Duning thinking of this
1	Q. Do you know what the loan number is? Or do	1.7	match I just don't know you'd have to match it up
2	you know where you would be able to look to find the	2	to see whether or not it made sense with this particular
3	loan number?	3	loan number.
4	A. I would have to look in our system, as I'm not	4	(Exhibit 14 was marked.)
5	sure that I'm not sure that the actually, I'm not	5	Q. (BY MS. EBRON) Let me show you a document
6	sure what loan number U.S. Bank is using.	6	that's marked as Exhibit 14. Do you recognize this
7	MR. BRENNER: Are we talk this is	7	document?
8	page 17 and 18?	8	 I did not review it before this deposition.
9	MS. EBRON: 16 and 17 of Exhibit 9.	9	Q. Do you know, did you certify or verify a copy
10	A. And I don't know if the loan number I know	10	of these?
11	that the loan number on the deed of trust does not match	11	A. I did not, no.
12	the loan number that is currently being used in our	12	Q. Do you know if somebody has?
13	system, but I'm not sure which loan number, if they have	13	 I don't know if that's required or not.
14	a separate even another loan number or different loan	14	Q. Well, I'll just represent that it is required
15	number in here.	22	but do you know if anyone at U.S. Bank or Bank of
16	Q. (BY MS, EBRCN) So U.S. Bank are you saying	1.00	America has verified the interrogatories the
17			responses to interrogatories?
26.2	associated with this particular deed of trust or	18	 I did not raview that any of that
		1717	
19	A. Yes.	20	MR. BRENNER: And interrogatories in the
20	Q. Who would be able to who would know that	10.03	question are not within the scope of the deposition.
21	information?	1.1.1	
22		22	Q. (BY MS. EBRON) Is there any litigation
23	A. The new servicer would have given a new losn	1222	between the trust and the servicer of the loan securing
24		17.7	the first deed of trust?
25	the time of the service transfer, and then you'd have to	25	MR. BRENNER: Asked and answered.
	Page 69		Page 70
1	 I know that 		on August 9th and August 30th, there was also one BPO
2	MR. BRENNER: Hold on. It's also outside	-	done like post, in November of 2012. Plus there was an
3	the scope of the deposition and the way it was asked was	3	expert opinion.
4	specifically protected by the Court.	4	And the expert opinion was done just recently
5	 I know that there is there is no litigation 	5	right?
6	for this particular loan between U.S. Bank and Bank of	6	 Yes, but the valuation date was the date of
7	America, N.A.	7	the sale.
8	Q. (BY MS. EBRON) Thank you.	8	Q. Okay. What were the amounts of the valuation
9	Just back to Number 12, you are not aware	9	on August 16, 20127
10	of why this was recorded?	10	A. The appraisal was for \$475,000, and the BPO
11	MR. BRENNER: Asked and answered.	11	had the price as \$567,000.
12	 I'm not specifically aware, no. 	12	Q. Did the borrower's apply for a loan
13	Q. (BY MS, EBRON) I think I'm about done.	13	modification?
14	Were there any valuations in the file?	14	MR. BRENNER: Outside the scope of this
15	A. Yes.	15	deposition.
16	Q. How many?	16	MS. EBRON: No. it's in Topic Number 2.
17	 There were, I believe, two appraisals and 	17	MR. BRENNER: How is it in Topic
	numerous BPOs, I mean, a good handful of BPOs.	100 million (1997)	Number 27
19	Q. Were there any around the time of the	19	Q. (BY MS. EBRON) You can answer.
20		20	MS. EBRON: Unless you're instructing he
21	λ. Υαυ.	1000	not to answer.
	Q. How many?		MR. BRENNER: Well, we're out of time.
22	 A. There was an appraisal and on August 16th, 	22	How many more questions do you have?
23			MS. EBRON: Not that many.
	sons, costs was a bro wich incertor inspection done the	24	mer wanter: more errore marry.
24	same day. Share ways also a has been done about	1000	MU BREWIER, Mail has seen in Breve share
-	same day. There were also a two SPOs done that month Page 71	25	MR. BRENNER: Well, how many is "not that Page 72

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	SFR investments I our 1, D	in c	vs. US Dann, Nicki, Ct al.
1	many"?	1	I told you I've got other things going
2	MS. EBRON: I don't know. It depends on	2	on. I've explained that to you. We could have done
3	how she answers.	3	this differently. You went down this way, so I've
4	MR. BRENNER: Well, I've already let	4	already
5	this I'm going to let this be the last question. I	5	MS. EBRON: No, we couldn't have done it
6	already let this go half an hour after it was noticed.	6	differently because you requested to change it this way
7	MS. EBRON: It wasn't noticed to end at	7	and then all of a sudden you're like, oh, my gosh, we
8	five o'clock, and it was noticed	8	can't go any longer.
9	MR. BRENNER: So you can go until	9	MR. BREINER: Because you asked me at
10	2:00 a.m.?	10	11:00 p.m
11	MS. EBRON: It was noticed at 2:00 p.m.	11	MS. EBRON: No.
12	on Monday, and I moved it at your request, to this time	12	MR. BRENNER: the day before the
13	at your request. It's not even six o'clock yet. It's	13	deposition.
14	not even S:30, so I don't think it's	14	MS. EBRON: No.
15	MR. BRENNER: Well, it's obvious that	15	MR. BRENNER: You knew
16	you've come unprepared. You're not working from notes.	16	MS. EBRON: No.
1	There have been long pauses. You're looking at the	17	MR. BRENNER: You knew that it was a
18	MS. EBRON: That's not even true.	1000	problem or you wouldn't have asked.
19	MR. BRENNER: documents slowly.	19	MS. EBRON: No, no. That's not what
	You're asking questions that you are outside the scope	1	happened.
21	of the notice, that you know are outside the scope of	21	Q. (BY MS. EBRON) So did they apply for a loan
	the notice. You've even agreed on the record. You're	22	
22	asking questions that the Court limited, and now you're		 I believe our records show yes.
23	asking about a loan modification with the borrover which	23	Q. And was that before the association
24	RETAIL TO THE STREAM AND AND COMPLETE	24	foreclosure sale?
25	is completely irrelevant.	25	
	Page 73	_	Page 74
1	λ. Υου.	1	
2	Q. Was part of the loan modification process	2	WITNESS NAME: Jessica Woodbridge DATE: October 21, 2015
3	did that include any reference to the association	3	PAGE LINE CHANGE REASON
4	foreclosure sale or the lien or association assessments?	4	
5	A. No.	5	
6	Q. Were there any communications with the	6	
7	borrower about the homeowners' association lien before	7	1
8	the sale?	8	Middan
9	MR. BRENNER: Asked and answered. This	9	
10	is precisely where before you then tried to ask after	10	
11	the foreclosure sale even though the notice limits it.	11	
12	A. No.	12	
13	MS. EBRON: Okay. I'm going to end this	13	
14	now but reserve my right to recall the witness based on	14	
15	documents that were not provided in advance of the	15	
16	deposition and we can go from there.	16	
17	(Proceeding concluded at 5:18 p.m.)	17	· · · · · · · · · · · · · · · · · · ·
18		18	
19		19	<u> </u>
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25		522125	
[Page 75	1	Page 76
1	tude ()	1.1	E036 10

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30(b)(6) Jessica Woodbridge - 10/21/2015 SFR Investments Pool 1, LLC vs. US Bank, N.A., et al.

1	a manual management have seed the formation	1	DISTRICT COUR	7
1	I, JESSICA WOODBRIDGE, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.	1 2	ALLER CATERON INC.	
15	the and control, unity to note offer	3) Case No. A-12-673671-C
3		4	Nevada limited liability company, Plaintiff,) Dept. No. XXVII
5	JESSICA WOODBRIDGE	5	/ V8 ;	2
6		6	US BANK, N.A., a national banking association as Trustee for the) ORAL DEPOSITION OF) JESSICA WOODBRIDGE, AS
7		7	Certificate Holders of the Banc of America Mortgage Securities) US BANK N.A. JO(b)(6) VOLUME 1
	THE STATE OF)		2008-A Trust, Mortgage Pass-	Date: October 21, 2015
10.02	COUNTY OF)	L°.	2008-A, CAL-WESTERN RECONVEYANCE CORPORATION, a California	}
		3	corporation, SAN SEVING WEST AT SOUTHERN HIGHLANDS HOMEOWNERS	
10		10	ASSOCIATION, a Nevada non-profit corporation, SOUTHERN HIGHLANDS	5
11	Before me,, on	11	COMMUNITY ASSOCIATION, a Nevada	
	this day personally appeared JESSICA WOODBRIDGE, known	12	non-profit corporation, GEORGE A. SHERWOOD, an individual,	1
13	to me (or proved to me under oath or through	13	SHARON L. SHERWOOD, an individual. DOES I through X; and ROE	2
14) (description of identity	14	CORPORATIONS I through X. inclusive,	2
	card or other document)) to be the person whose name is	15	Defendante.	2
	subscribed to the foregoing instrument and acknowledged	16	U.S. BANK, N.A., as Trustee for the Certificate Holders of the Banc	2
15.2	to me that they executed the same for the purposes and	17	2008-A Trust, Mortgaga Pass-Through)
18	consideration therein expressed.	18	Certificates. Series 2008-A, Counterclaimant.)
19	Given under my hand and seal of office this	19	Vil.	2
20	day of	20	SFR INVESTMENTS POOL 1, LLC, m Neveda limited liability company.	2
21		21	DOES 1-10, inclusive: ROE CORPORATIONS 1-10, inclusive.	5
22		22	Counterdefendants.	1
23	NOTARY FUBLIC IN AND FOR	23		¢
24	THE STATE OF	24	REPORTER'S CERTIFIC DEPOSITION OF JESSICA	
25	COMMISSION EXPIRES:	25	OCTOBER 21, 20	
	Page 77			Page 78
1		1	FOR THE DEFENDANTS AND COUNTER	CLAIMANTS:
2	I, April R. Eichelberger, Certified Shorthand	2	Mr. Darren Brenner AKERMAN, L.L.P.	
	Reporter in and for the State of Texas, hereby certify	3	1160 Town Center Drive, S	uite 330
3	to the following:	4	702,634.5000 darren.brenner@akerman.co	ė.
5	That the witness, JESSICA WOODBRIDGE, was daily sworn	5	That 5 is the deposi	tion officer's charges
1.00	by the officer and that the transcript of the oral	1.7	to the Plaintiff for preparing the	
	deposition is a true record of the testimony given by	1 × *	transcript and any copies of exhibi	
1.5	the witness;	a	I further certify that I am no	ither counsel for,
9	I further certify that the examination and signature		related to, nor employed by any of	
	by the deponent was requested by the deponent or a party	1° * 1	attorneys in the action in which th	
11	a an		taken, and further that I am not fi	
12	submitted on, 2015, to the witness	12	otherwise interested in the outcome	of the action.
13	or to the attorney for the witness for examination and	13	Certified to by me this	
14	signature before any notary public and to be returned to	14	. 2015.	
	me within days from date of receipt of the	15		
16	transcript. If returned, the attached Changes and	16		
17	Signature Page contains any changes and the reasons	17		
18	therefore;	18	April R. Eic Texas CSR No	, 7495
19	That pursuant to information given to the deposition	19	Depo Interna	
1000	officer at the time said testimony was taken, the	20	702-386-9322	
20	and a second second second second second	20		
1000	FOR THE PLAINTIPF AND COUNTERDEFENDANT:	22		
22	Ms. Diana S. Ebron HOWARD KIM & ASSOCIATES			
23	1055 Whitney Ranch Drive, Suite 110 Henderson, Nevada 89014	23		
24	702.465.3300, 702.485.3301 (Fax)	24		
25		25		Dama 00
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Depo International, LLC (702) 386-9322 or (800) 982-3299 info@depointernational.com Page 20 (77-80) JA_0839

Ex. A-4

EXHIBIT A-4

Discharge of Assignment

Ex. A-4

TAX PARCEL: 191-05-217-040 This Instrument was prepared by: JOANN NORMAN	Linst #: 20150413-0001690 Fees: \$17.00 N/C Fee: \$25.00 04/13/2015 11:43:57 AM Receipt #: 2382632					
WHEN RECORDED MAIL TO : CORELOGIC 450 EAST BOUNDARY STREET CHAPIN, SC 29036	Requestor: CORELOGIC Recorded By: MAT Pgs: 1 DEBBIE CONWAY CLARK COUNTY RECORDER					
Loan No <u>1008707928272005N</u>						
Mortgagor: GEORGE A SHERWOOD and SHARON & SHERWOOD						
31645524 DISCHARG	E OF ASSIGNMENT					
KNOWN ALL MEN BY THESE PRESENTS,						
THAT THE ASSIGNMENT OF MORTGAGE/DEED OF TRUST DATED <u>11/21/2011</u> FROM BANK DE AMERICA, N.A. BY CAL-WESTERN RECONVEYANCE CORPORATION AS ATTORNEY-IN-EACT WHOSE ADDRESS IS <u>1800 TAPD CANYON ROAD, SIMI VALLEY, CA 93063</u> TO <u>U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE BANC OF AMERICA</u> MORTGAGE SECURITIES 2008-A TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2008-A WHOSE ADDRESS IS <u>1 FEDERAL STREET. FL 3, BOSTON, MA 02110-2012</u> RECORDED ON <u>11/23/11</u> INSTRUMENT #201111230000496, BOOK# N/A, PAGE# N/A, IN PUBLIC RECORDS OF CLARK COUNTY, STATE OF NV, IS HEREBY DISCHARGED OF RECORD FOR THE REASON THAT SAID ASSIGNMENT OF MORTGAGE/DEED OF TRUST WAS ERRONEOUSLY RECORDED AND THE SPECIFIED THEREIN WAS RECORDED WAS NOT INTENDED TO BE ASSIGNED OR TRANSFERRED. THE UNDERLYING LOAN HAVING NEVER PURCHASED BY U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE BANC OF AMERICA MORTGAGE SECURITIES 2008-A TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2008-A						
IN WITNESS WHEREOF , BANK OF AMERICA, N.						
HAS CAUSED THIS DISCHARGE OF ASSIGNMENT TO BE SIGNED TH	IS DATE 11/25/14 BY: John Manual John Norman - ASSISTANT VICE PRESIDENT					
STATE OF CALIFORNIA COUNTY OF VENTURA						
ON <u>11/25/19</u> BEFORE ME,C. SANTOS, NOTARY PUBLIC, PERSONALLY APPEARED JOANN NORMAN, WHO'PROVED TO ME ON THE BASIS DATE OF SATISFACTORY EVIDENCE TO BE THE PERSON(5) WHOSE NAME(5) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME						
	AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE					
INSTRUMENT THE PERSON(S), OR ENTITY UPON BEHALF OF WHIC	TH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.					
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS	S OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND					
SIGNATURE C. SANTOS - Notary Public	C. SANTOS COMM.# 2061540 NOTARY PUBLIC - CALIFORMA VENTURA COMPTY					
and the state of a particular particular	In Comm. Smither 17 2018					

Ex. A-5

EXHIBIT A-5

Ortwerth Deposition Transcript

Ex. A-5

In The Matter Of: SFR Investments Pool 1, LLC vs. Morgan Stanley, et al. Katherine Ortwerth April 5, 2016 depo international worldwide deposition services **Min-U-Script®** with Word Index

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2	CLARK CO	UNTY, NEVADA	2	WITNESS PAGE
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-	SFR INVESTMENTS POOL 1,)		
4	LLC a Nevada limited liability company,)	4	Examination by Ms. Ebron 4
5	Plaintiff,) Case No. A-12-673418-C	5	EXHIBIT INDEX
6		<u>}</u>	6	EXHIBIT NO. 1 Marked, Notice Of 30(b)(6) Deposition
7	vs.)	7	Of HSBC Bank USA, N.A11
8	MORGAN STANLEY DEAN WITTER CREDIT)	8	EXHIBIT NO. 2 Marked, HSBC000001 through HSBC00000416
9	CORPORATION, a Delaware		9	EXHIBIT NO. 3 Marked, HSBC000005 through HSBC000002216
_	corporation, HSBC BANK USA, N.A., a national)	-	EXHIBIT NO. 4 Marked, HSBC0000031 through HSBC000003218
10	banking association, as Trustee for Sequoia)	10	EXHIBIT NO. 5 Marked, Notice Of Claim of Lien For
11	Mortgage Trust 2007-3; NATIONAL DEFAULT)	11	Solid Waste Service21
12	SERVICING CORPORATION,	5	12	EXHIBIT NO. 6 Marked, Notice Of Violation (Lien)22
13	an Arizona corporation, REPUBLIC SILVER STATE)	13	EXHIBIT NO. 7 Marked, HSBC000002623
14	DISPOSAL, INC., a Nevada corporation,		14	EXHIBIT NO. 8 Marked, HSBC000002323
	SOUTHERN HIGHLANDS	, ,		
15	a Nevada non-profit	,)	15	EXHIBIT NO. 9 Marked, HSBC000002724
	cooperative corporation and MICHAEL K. SOMDAHL,)	16	EXHIBIT NO. 10 Marked, HSBC0000028 through HSBC0000029.25
17	an individual, DOES I through X; and ROE)	17	EXHIBIT NO. 11 Marked, Copy of certified mail envelope addressed to National Default Servicing Corporation
18	CORPORATIONS I through		18	and copy of an envelope addressed to Saxon Mortgage27
19	X, inclusive,)	19	EXHIBIT NO. 12 Marked, HSBC0000039 through HSBC0000040.29
20	Defendants.)	20	EXHIBIT NO. 13 Marked, HSBC000003534
21		,	21	
				EXHIBIT NO. 14 Marked, HSBC0000036 through HSBC0000038.34
22		KATHERINE ORTWERTH day, April 5, 2016	22	EXHIBIT NO. 15 Marked, Affidavit Of Debt40
23	At 1	:06 p.m. tin Drive, Suite 110	23	EXHIBIT NO. 16 Marked, Saxon System Printout47
24		gas, Nevada	24	EXHIBIT NO. 17 Marked, LPS Screenshot49
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	APPEARANCES:	Ĵ	1	Page 4 PROCEEDINGS
1 2	A P P E A R A N C E S: For SFR Investments Pool 1	Ĵ	1 2	PROCEEDINGS (Prior to the commencement of the deposition proceedings,
	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ.	Ĵ		PROCEEDINGS (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive
2	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7625 Dean Martin Drive,	, LLC Suite 110	2	P R O C E E D I N G S (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court
2	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron	, LLC Suite 110	2 3	PROCEEDINGS (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive the reporter requirements under Rule 30(b)(4).)
2 3 4	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7625 Dean Martin Drive, Las Vegas, Nevada 89139 Email: diana@kgelegal.co	, LLC Suite 110	2 3 4	P R O C E E D I N G S (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive the reporter requirements under Rule 30(b)(4).) (Witness sworn.) KATHERINE ORTWERTH,
2 3 4 5 6	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7625 Dean Martin Drive, Las Vegas, Nevada 89139 Email: diana@kgelegal.co For HSBC BANK USA, N.A.	, LLC Suite 110 om	2 3 4 5 6	PROCEEDINGS (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive the reporter requirements under Rule 30(b)(4).) (Witness sworn.) KATHERINE ORTWERTH, having been first duly sworn, was examined and
2 3 4 5 6 7	For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7625 Dean Martin Drive, Las Vegas, Nevada 89139 Email: diana@kgelegal.co For HSEC BANK USA, N.A. JEFFREY S. ALLISON, ESQ LINDSEY E. PENA, ESQ.	, LLC Suite 110 om	2 3 4 5 6 7	PROCEEDINGS (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive the reporter requirements under Rule 30(b)(4).) (Witness sworn.) KATHERINE ORTWERTH, having been first duly sworn, was examined and testified as follows:
2 3 4 5 6 7 8	<pre>For SFR Investments Pool 1 DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7625 Dean Martin Drive, Las Vegas, Nevada 89139 Email: diana@kgelegal.cd For HSBC BANK USA, N.A. JEFFREY S. ALLISON, ESQ LINDSEY E. PENA, ESQ. HOUSEr & Allison, APC</pre>	, LLC Suite 110 om	2 3 4 5 6	PROCEEDINGS (Prior to the commencement of the deposition proceedings, a discussion was held off the record among the court reporter and counsel, wherein counsel stipulated to waive the reporter requirements under Rule 30(b)(4).) (Witness sworn.) KATHERINE ORTWERTH, having been first duly sworn, was examined and
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	SFR Investments Pool 1, LI		s. Morgan Stanley, et al.
	Page 5		Page 7
1	Q. So you are familiar with the ground rules for a	1	for University of Illinois College of Law.
2	deposition?	2	Q. What were the dates that you did recruiting for
3	A. Yes.	3	the University of Illinois College of Law?
4	Q. Okay. I will just remind you that everything	4	A. I think August 2009 to February 2010.
5	you say today is under oath, and that oath has the same	5	Q. Were you employed before that?
	force and effect as if we were sitting in a courtroom in	6	A. Yes.
6	-		Q. Where?
7	front of a judge, even though there isn't one here today.	7	
8	Do you understand?	8	A. I worked for Law Offices of Kent Follmer part
9	A. Yes.	9	time from June 2008 to May 2009, I think.
10	Q. Great. If you need to take a break at any time	10	Q. Did you have any other experience in the
11	or anything else, you need a drink, just let me know. If	11	mortgage or banking industry other than Ocwen and
12	there is a pending question I will have you answer that	12	OneWest?
13	question before we take a break. But, other than that,	13	A. No.
14	let's get started.	14	Q. Did you graduate high school?
15	A. Okay.	15	A. Yes.
16	Q. How long have you been employed with Ocwen?	16	Q. Where?
17	A. January 2014.	17	A. Klein Forest High School in Houston.
18	Q. What's your position?	18	Q. When was that?
19	A. Loan analyst.	19	A. 2001.
20	Q. Have you held any other positions at Ocwen?	20	Q. Did you attend college?
21	A. No.	21	A. Yes.
22	Q. Were you employed before Ocwen?	22	Q. Where?
23	A. OneWest Bank.	23	A. University of Texas.
24	Q. What were the dates of employment?	24	Q. What dates?
25	A. April 2012 to November 2013.	25	A. Fall 2001 through fall 2004.
2.5	A. April 2012 to November 2015.	25	A. Fan 2001 through fan 2004.
	Page 6		Page 8
1	Page 6	1	Page 8
1	Q. What was your position?	1	Q. Did you earn a degree at University of Texas?
2	Q. What was your position?A. Default litigation specialist.	2	Q. Did you earn a degree at University of Texas?A. Yes.
2 3	Q. What was your position?A. Default litigation specialist.Q. Did you have any other positions besides the	2 3	Q. Did you earn a degree at University of Texas?A. Yes.Q. What?
2 3 4	 Q. What was your position? A. Default litigation specialist. Q. Did you have any other positions besides the default litigation specialist at OneWest? 	2 3 4	 Q. Did you earn a degree at University of Texas? A. Yes. Q. What? A. BA in English.
2 3 4 5	 Q. What was your position? A. Default litigation specialist. Q. Did you have any other positions besides the default litigation specialist at OneWest? A. No. 	2 3 4 5	 Q. Did you earn a degree at University of Texas? A. Yes. Q. What? A. BA in English. Q. Do you have any other degrees?
2 3 4 5 6	 Q. What was your position? A. Default litigation specialist. Q. Did you have any other positions besides the default litigation specialist at OneWest? A. No. Q. Were you employed before OneWest? 	2 3 4 5 6	 Q. Did you earn a degree at University of Texas? A. Yes. Q. What? A. BA in English. Q. Do you have any other degrees? A. Yes, I have a J.D. in law from the University of
2 3 4 5	 Q. What was your position? A. Default litigation specialist. Q. Did you have any other positions besides the default litigation specialist at OneWest? A. No. Q. Were you employed before OneWest? A. Yes. 	2 3 4 5	 Q. Did you earn a degree at University of Texas? A. Yes. Q. What? A. BA in English. Q. Do you have any other degrees? A. Yes, I have a J.D. in law from the University of Illinois.
2 3 4 5 6 7 8	 Q. What was your position? A. Default litigation specialist. Q. Did you have any other positions besides the default litigation specialist at OneWest? A. No. Q. Were you employed before OneWest? A. Yes. Q. Where? 	2 3 4 5 6 7 8	 Q. Did you earn a degree at University of Texas? A. Yes. Q. What? A. BA in English. Q. Do you have any other degrees? A. Yes, I have a J.D. in law from the University of Illinois. Q. What year did you get your degree from the
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	SFR Investments Pool 1, LI		s. Wiorgan Stanley, et al.
	Page 9		Page 11
1	Q. When you worked at OneWest Bank did you work on	1	(Notice Of 30(b)(6) Deposition Of HSBC
2	files that were dealing with loans in Nevada?	2	Bank USA, N.A. was marked as Exhibit 1, for
	A. Probably, but I don't know for sure.	3	identification, as of this date.)
3	Q. What office or what state was the office that	4	Q. It's double-sided, so you can look at both
4			
5	you worked at for OneWest Bank?	5	sides.
6	A. Austin, Texas.	6	Do you recognize this document?
7	Q. What's your current business address at Ocwen?	7	A. I do.
8	A. 1661 Worthington, W-o-r-t-h-i-n-g-t-o-n, Road,	8	Q. What is it?
9	Suite 100, West Palm Beach, Florida.	9	A. A Notice of 30(b)(6) Deposition of HSBC Bank
10	Q. What are your duties as a loan analyst?	10	USA, N.A.
11	A. Kind of my job has two parts, one which is	11	Q. Have you had a chance to review this before
12	appearing on behalf of Ocwen and the investors on	12	today?
13	litigated files, depos, trials, hearings, mediations,	13	A. I have.
14	stuff like that.	14	Q. What is HSBC Bank USA, N.A.'s relationship with
15	The other half is doing in-office stuff. I'm	15	Ocwen such that you would be testifying on its behalf
16	either preparing for those appearances or I'm reviewing	16	today?
17	and signing documents for litigation such as	17	A. So, just so we can clarify, it's all one HSBC
18	verifications, affidavits, declarations.	18	Bank USA, N.A. as Trustee for Sequoia Mortgage Trust 2003
19	I also do research on litigated files. If the	19	(sic), I am going to refer to as "the trust" from now on,
20	attorneys need something looked into, I will get assigned	20	that whole name, because HSBC Bank isn't here as HSBC
21	it.	21	Bank; it's for them as trustee for this trust. And we
22	Q. Anything else?	22	have a power of attorney for them, and we service the
23	A. That's pretty much it.	23	loan on their behalf.
24	Q. You mentioned that you appear on behalf of Ocwen	24	Q. On Page 2 of the notice there are some
25	and investors. I'm assuming in depositions as well as at	25	definitions. It defines the property as the real
23	and investors. The assuming in depositions as were as at	23	definitions. It defines the property us the real
	Page 10		Page 12
	Page 10		Page 12
1	trial; is that right?	1	property located at 6023 Aromatico Court, Las Vegas,
1 2	trial; is that right? A. Yes.	1 2	property located at 6023 Aromatico Court, Las Vegas, Nevada 89141, Parcel No. 176-36-417-040.
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	SFR Investments Pool 1, LI	LC vs	s. Morgan Stanley, et al.
	Page 13		Page 15
1	Q. Also, I may refer to Alessi & Koenig, LLC as	1	recorded documents related to this property, and I
2	"Alessi," if that's okay with you?	2	reviewed discovery responses.
3	A. That's fine.	3	Q. Anything else?
4	Q. What did you do to prepare for your deposition?	4	A. I think that's it.
5	A. I reviewed our servicing records on this loan.	5	Q. If you think of anything else, you can go ahead
6	I reviewed the prior servicer's records on this loan. I	6	and let me know.
7	reviewed documents that we produced in discovery, and I	7	A. Okay.
8	had prep sessions with counsel.	8	Q. Do you know what types of documents were
9	Q. About how long did you spend preparing for your	9	included in the prior servicer's records?
10	deposition?	10	A. So anything that happened on this loan prior to
11	A . I just got notified Thursday night. So I flew	11	April 2012 we would have had incorporated into our
12	up here yesterday and spent all day yesterday preparing	12	business records.
13	for it and then all this morning.	13	So it would have been I mean, there are
14	Q. Other than counsel, did you speak to anyone else	14	certain things in the prior servicer that I didn't go
15	in preparation for your deposition?	15	through such as letters to the borrower because they
16	A. No.	16	weren't really relevant to this litigation. But the
17	Q. Did you email with anyone besides counsel to get	17	comments log and transaction history would have been from
18	information for your deposition?	18	the prior servicer, and I did review those.
19	A. We did, but we didn't get those answers yet, so	19	Q. You mentioned that you reviewed Ocwen's system.
20	it's not anything that I would be testifying to today.	20	Does that have a particular name?
21	Q. Okay. Were you able to speak with anyone or	21	A. REALServicing.
22	communicate with anyone from HSBC Bank USA in preparation	22	Q. And when you reviewed the other documents in the
23	for your deposition?	23	system like the BPOs and the recorded docs, were those
24	A. No.	24	imaged files or hard copies?
25	Q. Did you speak to the previous servicer or email	25	A. They were copies that I made sure they were in
	Page 14		Page 16
1	Page 14 with the previous servicer in preparation for your	1	Page 16 our system as well, but I reviewed them as copies and
1 2		1 2	-
	with the previous servicer in preparation for your		our system as well, but I reviewed them as copies and
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	Page 17		Page 19
			Tage 13
1	Q. What is it?	1	in to show the transfer to HSBC Bank USA?
2	A. It's a copy of the deed of trust for the	2	A. I believe that's the case, but I don't know for
3	property.	3	sure. I haven't seen any documentation as to that. I
4	Q. These two documents, Exhibits 2 and 3, is it	4	have not seen the blank one, if there was a blank one.
5	your understanding that these make up the loan or the	5	Q. But it does look like the page that's Bates
6	mortgage?	6	stamped HSBC0000032 has printed information as well as
7	MR. ALLISON: Objection. Vague.	7	handwritten information?
8	A. I don't know what you mean by that question.	8	A. Yes.
	Q. Okay. Both of these, the note and the deed of	9	Q. You mentioned earlier that you couldn't find the
9			· · · · · · · · · · · · · · · · · · ·
10	trust relate to the property on Aromatico; correct? A. Yes.	10	pooling and servicing agreement for the trust; right? A. Yes.
11		11	
12	Q. And the promissory note marked as Exhibit 2 was	12	Q. And the trust is the Sequoia Mortgage Trust
13	secured by the deed of trust; is that your understanding?	13	2007-3?
14	A. Yes.	14	A. Yes.
15	Q. Who was the originating lender?	15	Q. Why did you say you think that it was put into
16	A. Morgan Stanley Dean Witter Credit Corporation.	16	the trust sometime around 2007?
17	Q. When was this loan originated?	17	A. Generally the name of the trust has the date
18	A. I'm trying to find the date on here.	18	that all of the 2007 trusts are 2007 dash something.
19	September 16, 2004.	19	Just generally based on the name they usually have the
20	Q. When did HSBC first attain an interest in this	20	year in the name.
21	loan?	21	Q. So this isn't a loan that was originated and
22	A. We haven't been able to find the pooling and	22	then put immediately into a trust, like some that I have
23	service agreement for this, so I don't know the date they	23	seen, there was one that was originated and then it was
24	got the interest. It would have been around 2007, just	24	several years later before it was put into a trust?
25	based on the name of the trust, and then the assignment I	25	MR. ALLISON: Objection. Speculation.
			5 1
	Page 18		Page 20
1	-	1	-
1	believe was done, which just memorialized the purchase,	1	A. I don't know.
2	believe was done, which just memorialized the purchase, was I believe was done in 2004.	2	A. I don't know.Q. Where did you look to see if you could find the
2 3	believe was done, which just memorialized the purchase, was I believe was done in 2004. Q. What do you mean?	2 3	A. I don't know.Q. Where did you look to see if you could find the pooling and servicing agreement?
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(5) Pages 17 - 20 JA_0848

_	SFR Investments Pool 1, LI		, norgan staniej, et an
	Page 21		Page 23
1	A. I do not.	1	Q. Let's look at this document that we will mark as
2	Q. And this was recorded after Ocwen serviced the	2	Exhibit 7.
3	loan?	3	(HSBC0000026 was marked as Exhibit 7, for
4	A. Yes.	4	identification, as of this date.)
5	Q. So it could have been Ocwen?	5	Q. Do you recognize this document?
6	A. Could have been, yes.	6	A. I believe so.
7	Q. Now I'm just going to go through some of the	7	Q. Is this something that was contained in HSBC's
8	recorded documents	8	business records before counsel pulled publically
9	A. Okay.	9	recorded documents?
10	Q with you. I'm trying to do them basically in	10	A. No.
11	date order. I will show you some documents that have	11	Q. I'm going to show you a document that we will
12	been marked as Exhibit 5.	12	mark as Exhibit 8.
13	(Notice Of Claim of Lien For Solid Waste Service	13	(HSBC0000023 was marked as Exhibit 8, for
14	was marked as Exhibit 5, for identification, as of this	14	identification, as of this date.)
15	date.)	15	Q. Do you recognize this document?
16	Q. Do you recognize these documents?	16	A. Yes.
17	A. I don't know that I have seen all four of these,	17	Q. What is it?
18	but I have seen at least some of them.	18	A. It's a notice of default and election to sell
19	Q. What are they?	19	for the property from Saxon at the time.
20	A. They are notice of claim of lien for solid waste		Q. And this relates to the deed of trust that we
21	services on the property.	20	marked as Exhibit 3?
22	Q. Are these something that are contained in HSBC's	22	A. Yes.
23	business records?	23	Q. On the page that is Bates stamped HSBC0000024,
24	A. I don't know that they would have been unless	24	in the paragraph that is second from the bottom, it
25	they had been sent to the servicer.	25	mentions that there was a "Failure to pay the installment
10	they had been sent to the set vicer.	23	mentions that there was a T anale to pay the instantion
	Page 22		Page 24
	Page 22		Page 24
1	Q. Are these something that are contained in	1	of principal, interest and impounds which became due on
2	Q. Are these something that are contained in Ocwen's business records?	2	of principal, interest and impounds which became due on November 1, 2009" Do you see that?
2 3	Q. Are these something that are contained in Ocwen's business records?A. I don't believe that we had copies of these. I	2 3	of principal, interest and impounds which became due on November 1, 2009" Do you see that? A. Yes.
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	SFR Investments Pool 1, LI		
	Page 25		Page 27
1	outside of counsel pulling this from the recordings. I	1	Q. So the one that we have in Exhibit 10 has an
2	don't know if it was part of any litigation documents or	2	attachment to it. There is the page Bates stamped
3	not, but I know it's not something that we ever received	3	HSBC0000029. Is it your understanding that Alessi &
4	outside of the litigation.	4	Koenig mailed a copy of this notice of sale to National
5	Q. This was recorded in February of 2011, right?	5	Default Servicing Corporation?
6	A. Yes.	6	MR. ALLISON: Objection. Speculation.
7	Q. And that was before Ocwen took over servicing?	7	A. They appear to have.
8	A. Yes.	8	Q. And then you mentioned that Saxon Mortgage had
9	Q. Do you know if Saxon received a copy of this?	9	received a copy of the notice of sale; is that right?
10	A. It's not included in any of the business records	10	A. Yes.
11	we got from Saxon when we took over servicing the loan,	11	Q. I'm going to show you a document that we will
12	and there is no reference to it in the comments log.	12	mark as Exhibit 11.
13	Q. Okay. So no reference in the comments logs, and	13	(Copy of certified mail envelope addressed
14	there isn't, like, a scanned image of it?	14	to National Default Servicing Corporation and copy
15	A. Correct.	15	of an envelope addressed to Saxon Mortgage were
16	Q. I show you a document that we will mark as	16	marked as Exhibit 11, for identification, as of
17	Exhibit 10.	17	this date.)
18	(HSBC0000028 through HSBC0000029 was	18	Q. Have you seen this document before?
19	marked as Exhibit 10, for identification, as of	18	A. I have.
20	this date.)	20	Q. These ones aren't Bates numbered, they were
20	Q. Now, this is not a recorded document, but do you	20	attached to the request for production of documents.
22	recognize it?	21	Is that your understanding?
22	A. I don't know if I have seen the recorded version	22	A. I don't know what they were attached to. I know
23 24	or this version, but I have seen the document, yes.	23 24	they were in our business records.
24 25	Q. And this first page that is Bates stamped	24 25	Q. Okay. So it looks to me that the first page of
25	Q. And this first page that is Dates stamped	23	Q. Okay. So it looks to life that the lifst page of
	Page 26		Page 28
1		1	-
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2	HSBC0000028; what is it? A. A "Notice of Trustee's Sale."	2	Exhibit 11 is the same or a copy of the same document that was on in Exhibit 10, the second page.
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	SFR Investments Pool 1, L1	LC VS	. Morgan Stanicy, et al.
	Page 29		Page 31
1	Q. Now, earlier you mentioned when we were looking	1	system to make sure it was boarded correctly, and they
2	at the notice of default in Exhibit 9 that you didn't see	2	match up our information against the information they got
3	any record of the notice of default?	3	from the prior servicer as well.
4	A. Correct.	4	Q. Is there some kind of a process or procedure
	Q. Can you say for sure that Saxon did not receive		that Ocwen goes through when it takes over servicing a
5	a copy of this notice of default?	5	loan to see if there is action that needs to be taken on
6		-	
7	A. They appear to have imaged it, imaged the notice	7	a file right away?
8	of trustee's sale which tells me that they image things	8	A. The prior servicer is supposed to let us know
9	they receive, and this was never imaged into the system,	9	whether there is something pending on the loan. So, for
10	so my best guess is that they never received it.	10	example, if the borrower was in sort of a loss mitigation
11	Q. But you can't say for sure, right?	11	or dual proceeding they would let you know where they
12	A. I cannot, no.	12	were at and provide us with all the documents.
13	Q. Let me show you a document that we will mark as	13	If it was in foreclosure they'd code it as
14	Exhibit 12.	14	foreclosure and let us know who the foreclosure firm they
15	(HSBC0000039 through HSBC0000040 was	15	were using is, and then we would usually transfer to one
16	marked as Exhibit 12, for identification, as of	16	of our vendors unless it was close to being done, and
17	this date.)	17	then we would keep it.
18	Q. Do you recognize this document?	18	Same with if there was pending litigation, they
19	A. I believe so.	19	would let us know who the attorneys handling the
20	Q. What is it?	20	litigation were and what the status of the litigation
21	A. "Trustee's Deed Upon Sale."	21	was.
22	Q. Is this contained in HSBC's business records?	22	Q. So for this file there would have been a
23	A. I do not believe so.	23	foreclosure started, so that would have been flagged; is
24	Q. Do you know when HSBC first obtained a copy of	24	that correct?
25	the trustee's deed upon sale?	25	A. Yes.
	_		
	Page 30		Page 32
1		1	
1	A. I do not, but I believe it was as part of this	1	Q. Was the borrower in loss mitigation at this
2	A. I do not, but I believe it was as part of this litigation.	2	Q. Was the borrower in loss mitigation at this time?
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	SFR Investments Pool I, LI		
	Page 33		Page 35
1	A. No, we wouldn't do that unless it was part of	1	marked as Exhibit 14, for identification, as of
2	if we were in the part of the foreclosure process where	2	this date.)
3	we were running title.	3	Q. Do you recognize this document?
4	Q. In your review of Saxon's records, did you see	4	A. I do.
5	any information about any action taken in relation to the	5	Q. What is it?
6	association lien after the receipt of the foreclosure	6	A. A "Notice of Trustee's Sale."
7	notice?	7	Q. Does this notice of trustee's sale give notice
8	A. I did not.	8	of a sale to take place under the deed of trust that we
			marked as Exhibit 3?
9	Q. Has HSBC made any payments to the association	9	
10	before the date of the association foreclosure sale?	10	A. Yes.
11	A. I don't believe so.	11	Q. This was recorded on behalf of HSBC; is that
12	Q. And why don't you believe so?	12	right?
13	A. I don't see any records in the transaction	13	A. Yes.
14	history showing that or any reference in the comments	14	Q. It states that there is date and time of sale on
15	logs.	15	December 26, 2012. Do you see that?
16	Q. Did HSBC, through either Saxon or Ocwen, ever	16	A. Yes.
17	communicate with Alessi & Koenig about the association	17	Q. Did that sale go forward?
18	foreclosure sale?	18	A. No.
19	A. Not that I am aware of.	19	Q. Do you know why not?
20	Q. Did HSBC or its servicers ever communicate with	20	A. I know that they were just, from my review of
21	the association about this property?	21	the records, they were looking for the assignment of
22	A. I don't believe so.	22	mortgage or trying to get an assignment of mortgage
23	Q. Were the taxes and insurance escrowed for this	23	drafted. I don't know if that was before or after this
24	loan?	24	time period.
25	A. The taxes were always escrowed. The insurance	25	There was also some we were talking to the
	Page 34		Page 36
1		1	Page 36
1	was escrowed after Ocwen started servicing it, I believe.	1	borrower about loss mitigation, so we put the sale on
2	was escrowed after Ocwen started servicing it, I believe. Q. Were the association dues ever escrowed for this	2	borrower about loss mitigation, so we put the sale on hold for that.
2 3	was escrowed after Ocwen started servicing it, I believe. Q. Were the association dues ever escrowed for this loan?	2 3	borrower about loss mitigation, so we put the sale on hold for that. And then there was the investor put a hold or
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	Page 37		Page 3
1	legal necessity they have.	1	Do you see that?
2	Q. Fair enough. On the second page, the one that's	2	A. Yes.
3	Bates stamped HSBC0000037.	3	Q. Do you know why that was included?
4	A. Yes.	4	MR. ALLISON: Objection. Speculation. Lega
5	Q. There is a paragraph that says, "Said sale will	5	conclusion.
	be made, in an 'as is' condition, without covenant or	6	A. I do not.
	warranty, express or implied, regarding title, possession	7	Q. And you mentioned before that the taxes were
	or encumbrances" Do you see that?	8	escrowed, but the assessments to the association were not
9	A. Yes.	9	escrowed?
10	Q. Do you know why that's included?	10	A. Correct.
11	A. I do not. I just know that we always do	11	Q. Do you know why they were not?
	foreclosure sales as is.	12	A. They usually are not, but I don't know
13	Q. Okay. And so this language is something that's	13	specifically in this case.
	always included or usually included in notices of	14	Q. If you turn to the page in Exhibit 3 that is
	trustee's sale?	15	Bates stamped HSBC0000018.
16	A. Again, I don't know if it's usually included. I	16	A. Okay.
	would assume that's something that's state by state	17	Q. Do you recognize that portion of the document
	whether it needs to be included or not, or maybe even	18	A. Yes.
	foreclosure firm by foreclosure firm whether it needs to	19	Q. What is it?
	be included or not. But I know we generally only sell	20	A. "Planned Unit Development Rider."
	things as is.	21	Q. Do you have an understanding of why a planned
22	I'm going to run to the bathroom real quick.	22	unit development rider would have been attached to this
23	Q. Sure.	23	deed of trust?
24	MR. ALLISON: Can we take a five-minute break.	24	
25	MS. EBRON: Absolutely.	25	Q. Do you see in Exhibit F sorry, not Exhibit F
	Page 38		Page 4
1	-	1	Ŭ
1	(Whereupon, a recess was taken at this time.)	1	Paragraph F, which is on the page Bates stamped
2	(Whereupon, a recess was taken at this time.) BY MS. EBRON:	2	Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not
2 3	(Whereupon, a recess was taken at this time.) BY MS. EBRON: Q. Let's take a look at Exhibit 3 first before we	2 3	Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not pay PUD dues and assessments when due, then the Lender
2 3 4	(Whereupon, a recess was taken at this time.) BY MS. EBRON: Q. Let's take a look at Exhibit 3 first before we move on to any additional documents. I wanted to ask you	2 3 4	Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not pay PUD dues and assessments when due, then the Lender may pay them."
2 3 4 5	(Whereupon, a recess was taken at this time.) BY MS. EBRON: Q. Let's take a look at Exhibit 3 first before we move on to any additional documents. I wanted to ask you a couple of questions about the deed of trust.	2 3 4 5	Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not pay PUD dues and assessments when due, then the Lender may pay them." A. Yes.
2 3 4 5 6	(Whereupon, a recess was taken at this time.)BY MS. EBRON:Q. Let's take a look at Exhibit 3 first before we move on to any additional documents. I wanted to ask you a couple of questions about the deed of trust. Now, on the page that is Bates stamped	2 3 4 5 6	 Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not pay PUD dues and assessments when due, then the Lender may pay them." A. Yes. Q. "Any amounts disbursed by Lender under this
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 (Whereupon, a recess was taken at this time.) BY MS. EBRON: Q. Let's take a look at Exhibit 3 first before we move on to any additional documents. I wanted to ask you a couple of questions about the deed of trust. Now, on the page that is Bates stamped HSBC000007 it has uniform covenants. Do you see that? A. Yes. Q. And then in paragraph 1 it says, "Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges." Do you see that? A. Yes. Q. In the second sentence of that section it says, "Borrower shall pay" or "shall also pay funds for Escrow Items pursuant to Section 3." A. Yes. Q. If you skip down to Section 3 it says, "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 to provide for payment 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Paragraph F, which is on the page Bates stamped HSBC0000019, it says, "Remedies. If Borrower does not pay PUD dues and assessments when due, then the Lender may pay them." A. Yes. Q. "Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrowe secured by the Security Instrument." A. Yes. Q. Is it your understanding that this planned unit development rider gives the borrower notice that it has a responsibility to pay dues to the association; and that if the borrower does not pay, then the lender has the ability to pay them if it chooses; and then add whatever payments it made to the association as additional deb secured by the deed of trust? A. That appears to be what it says, yes. Q. Look at the document that we marked as Exhibit 15. (Affidavit Of Debt was marked as Exhibit 15, for identification, as of this date.) A. Yes.

(10) Pages 37 - 40 JA_0853

	STR Investments 1 001 1, EI		
	Page 41		Page 43
1	A. Yes.	1	A. Continued interest and then it has fees on the
2	Q. What is an affidavit of debt?	2	property.
3	A. It's basically just something that we can run in	3	Q. So the description of the fees on the property
	our system to show what is the debt in the property and	4	appear to be property inspection fees, and then there is
4			
5	how it's broken down.	5	a property valuation fee?
6	Q. Okay. So this is showing that as of April 1,	6	A. There is two, but, yes.
7	2016, that the principal balance of the loan is	7	Q. A couple of those?
8	\$338,000 \$338,601.24?	8	A. Yes.
9	A. Yes.	9	Q. And then it says prior servicer fees of
10	Q. And that there is a negative escrow balance; is	10	\$1,251.52; is that right?
11	that right?	11	A. Yes.
12	A. Yes.	12	Q. What does the column all the way to the right
13	Q. So the advances made on behalf of borrower are	13	mean, like r-e-g-p-m-t-b-a-l?
14	shown at the bottom part of that page; is that right?	14	A. I don't know.
			Q. Okay. And then on Page 6 of the affidavit of
15	A. The bottom part of that page and the top part of the next next.	15	
16	the next page.	16	debt, those are additional property inspection fees and
17	Q. So is it your understanding that all of the	17	BPO fees?
18	amounts that were advanced on behalf of this loan would	18	A. So those aren't additional. Again, this is just
19	be included somewhere within this six pages?	19	a situation where the first thing is all of them, and
20	A. Just the amounts that Ocwen advanced.	20	then it's supposed to be broken down between prior and
21	Q. Where would the amounts that the previous	21	current, but since the prior fees aren't included in this
22	servicer advanced be found?	22	the current just matches up exactly with all.
23	A. In the Saxon payment history, which starts	23	Q. The next document appears to be a detailed
24	but	24	transaction history, and it looks like it's one page.
25	Q. We will get there in a second.	25	A. Yes.
23	Q. We will get there in a second.	23	
	Page 42		Page 44
	Page 42		Page 44
1	A. Yeah.	1	Q. What is this?
1 2		1 2	-
	A. Yeah.		Q. What is this?
2	A. Yeah.Q. On the affidavit of debt, Page 3, do you know what's included on that page?	2	Q. What is this?A. This is Ocwen transaction history.Q. And what's included what type of information
2 3	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included 	2 3	Q. What is this?A. This is Ocwen transaction history.Q. And what's included what type of information is included in the transaction history?
2 3 4 5	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. 	2 3 4 5	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the
2 3 4 5 6	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? 	2 3 4 5 6	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included,
2 3 4 5 6 7	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in 	2 3 4 5 6 7	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So
2 3 4 5 6 7 8	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it 	2 3 4 5 6 7 8	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements.
2 3 4 5 6 7 8 9	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. 	2 3 4 5 6 7 8 9	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this
2 3 4 5 6 7 8 9	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph 	2 3 4 5 6 7 8 9 10	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too.
2 3 4 5 6 7 8 9 10 11	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on 	2 3 4 5 6 7 8 9 10 11	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan?
2 3 4 5 7 8 9 10 11 12	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on behalf of the borrowers all, and then they are supposed 	2 3 4 5 6 7 8 9 10 11 12	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan? A. Not that I am aware of.
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2 3 4 5 7 8 9 10 11 12	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on behalf of the borrowers all, and then they are supposed to be broken down between prior service and current servicer, but since this one only has Ocwen, it only has 	2 3 4 5 6 7 8 9 10 11 12	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan? A. Not that I am aware of. Q. In the column that's marked "Description," all the way third from the bottom, it says, "Expense
2 3 4 5 7 8 9 10 11 12 13	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on behalf of the borrowers all, and then they are supposed to be broken down between prior service and current servicer, but since this one only has Ocwen, it only has the current servicer, so that paragraph is or that 	2 3 4 5 6 7 8 9 10 11 12 13	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan? A. Not that I am aware of. Q. In the column that's marked "Description," all
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on behalf of the borrowers all, and then they are supposed to be broken down between prior service and current servicer, but since this one only has Ocwen, it only has the current servicer, so that paragraph is or that section is essentially the same as the advances made on behalf of borrower all section. The entries are the same. Q. Are we looking at oh, Page 2. A. Oh, you are on Page 3. So 3 is going to be interest. Q. Okay. And then what's included what type of information is included on Page 4? A. That is continued interest. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan? A. Not that I am aware of. Q. In the column that's marked "Description," all the way third from the bottom, it says, "Expense waive." Do you know what that means? It's the one that's dated, it looks like, 7/29/15 or '13. A. It appears that they were credited 875 for some sort of expense, but I don't know what it was. If you go to the third column or the third column after that it says, "total amount" and it says, "875." Q. And then MR. ALLISON: Just for clarification, that's \$8.75.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yeah. Q. On the affidavit of debt, Page 3, do you know what's included on that page? A. So those are actually it's kind of included twice for some reason. Q. What's included twice? A. This is kind of the same information that's in the other paragraph, they are just like like it matches up. Q. When you say the other paragraph A. The advances. So there is advances made on behalf of the borrowers all, and then they are supposed to be broken down between prior service and current servicer, but since this one only has Ocwen, it only has the current servicer, so that paragraph is or that section is essentially the same as the advances made on behalf of borrower all section. The entries are the same. Q. Are we looking at oh, Page 2. A. Oh, you are on Page 3. So 3 is going to be interest. Q. Okay. And then what's included what type of information is included on Page 4? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. What is this? A. This is Ocwen transaction history. Q. And what's included what type of information is included in the transaction history? A. Disbursements on the account, late fees, if the borrower were making payments those would be included, but the borrower never made any payments to Ocwen. So tax disbursements, insurance disbursements. If we were paying if there was PMI on this loan, mortgage insurance, it would be on here too. Q. Is there mortgage insurance on this loan? A. Not that I am aware of. Q. In the column that's marked "Description," all the way third from the bottom, it says, "Expense waive." Do you know what that means? It's the one that's dated, it looks like, 7/29/15 or '13. A. It appears that they were credited 875 for some sort of expense, but I don't know what it was. If you go to the third column or the third column after that it says, "total amount" and it says, "875." Q. And then MR. ALLISON: Just for clarification, that's

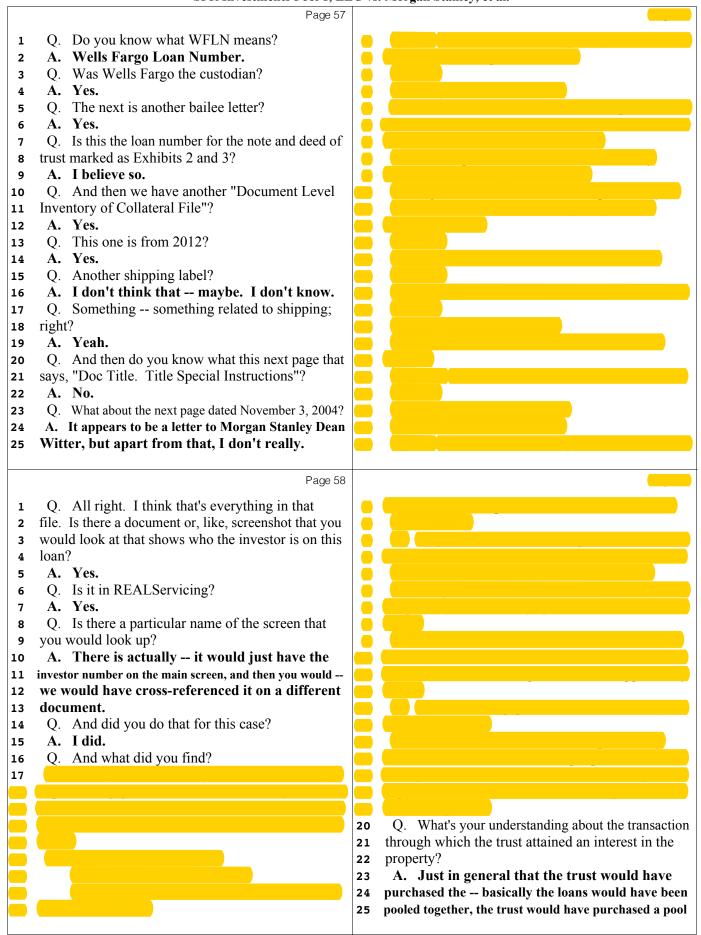
(11) Pages 41 - 44 JA_0854

	SFR Investments Pool 1, LLC vs. Morgan Stanley, et al.				
	Page 45		Page 47		
1	Q. There is the one right above that, it looks like	1	it says, "Note, Principal balance, escrow balance, late		
2	2/12/13, it says, "Tax escrow disbursement"; is that	2	charge balance and unapplied funds balance for		
	right?	3	transactions after August 2010 will be blank."		
3	A. Yes.		Do you know what that means?		
4		4	•		
5	Q. And then that means if you go over to that	5	A. I do not.		
6	total amount column, what was the tax escrow disbursement	6	Q. The borrower didn't make any payments after		
7	for that?	7	Ocwen began servicing; right?		
8	A. It's hard to read, but it looks like 575.65	8	A. Correct.		
9	or could be a 5 or it could be 3. I don't know.	9	Q. Did you see anything in this Saxon payment		
10	Q. Five, three or a dollar sign?	10	history that indicated that any payments were made to an		
11	A. It's definitely not a dollar sign.	11	association?		
12	Q. Okay. And then right above that, above the tax	12	A. No.		
13	escrow disbursement it says, "Investor pool/pool" I	13	Q. Let's look at the document that is marked as		
14	think "T"?	14	Exhibit 16.		
15	A. Yeah, "T." Transfer out and transfer in. This	15	(Saxon System Printout was marked as		
16	is where some money was moved around. We had been trying	16	Exhibit 16, for identification, as of this date.)		
17	to get some explanation for this and we haven't been able	17	A. Okay.		
18	to get it yet.	18	Q. Do you know what this is?		
19	Q. What do you mean the money was moved around?	19	A. This seems like a Saxon system printout, but I		
20	A. It was just transferred from one investor pool	20	can just I know as much about it as you do.		
	to another, but it doesn't appear to have ever we	20	Q. Okay.		
21	• • •		A. But it is what it is.		
22	don't know if it was actually transferred or if they were	22			
23	just fixing things on the account or what.	23	Q. This is something that Ocwen received from the		
24	Q. Can you tell what date that it was moved?	24	previous servicer?		
25	A. It looks like 1/12/2015.	25	A. Yes.		
	Page 46				
	1 090 10		Page 48		
1	Q. And was that did both of those investor	1	Q. And then on the next page, and I think that		
1 2	, i i i i i i i i i i i i i i i i i i i	1 2	° °		
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. And was that did both of those investor pools, did those both happen on the same date? A. Yes. Q. I couldn't tell, some of those look like 5s and 3s. So the tax escrow disbursements, that's any time that taxes were paid? A. Yes. Q. And this is where you would have looked to see if there were any disbursements to a homeowners association? A. Yes. Q. But there weren't, right? A. Correct. Q. The next page looks like it's titled "Saxon Payment History." It says, "Page 1 of 17." A. Yes. Q. What is this? A. It's basically the same thing as Ocwen's payment history, just in whatever system Saxon used at the time. Q. And is it your understanding that the date in the bottom left-hand corner or do you know what your understanding is of that date, Thursday, November 8, 2012? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. And then on the next page, and I think that these may go together, at least they were put together in the documents and disclosed that way, do you know what this is? A. It appears to be a printout of a property account summary for taxes for the county. Q. Is this something that was contained in the file that Ocwen received from Saxon? A. Yes. Q. And do you have any reason to doubt that the date in the bottom right-hand corner of September 22, 2010 is when this was printed? A. It appears they were printed separately, just based on the date on the top right on the screenshot. Q. Oh, sorry, on the top right of the screenshot we are talking about the first page of Exhibit 16? A. Yes. Q. And that is August 9, 2010, right? A. Yes. Q. And then on the bottom right-hand side of the property account inquiry it's September 22, 2010? A. That's what it appears to be, yes. Q. Do you know why this information would have been 		

	SFR Investments Pool 1, LLC vs. Morgan Stanley, et al.				
	Page 49		Page 51		
1	it to us. I don't know why it was in their imaging	1	Q. Okay. Do you know what these documents are?		
2	system.	2	A. It appears to be a scan of everything contained		
	Q. Can you look at what's been marked as	2 3	in the collateral file.		
3	Exhibit 17.	-			
4		4	Q. So if we could go through just the pages the		
5	(LPS Screen Shot was marked as Exhibit 17,	5	first page is something indicating when, like, the dates		
6	for identification, as of this date.)	6	that the collateral file was scanned; is that right?		
7	A. Yes.	7	A. It's, like, basically the front page of the		
8	Q. Do you recognize that document?	8	folder.		
9	A. Yes.	9	Q. Okay. So the collateral file has a folder and		
10	Q. What is it?	10	the first page and the last page are the outside of the		
11	A. It appears to be a screenshot from LPS, but,	11	folder?		
12	again, this was screenshot was included in the image	12	A. Yes.		
13	records from the prior servicer, and I don't know why	13	Q. And then inside the first page looks like a		
14	they specifically imaged this document.	14	shipping label. Does that mean that the collateral file		
15	Q. What is LPS?	15	was shipped?		
16	A. It is a platform that we use or that servicers	16	A. Yes.		
17	use to communicate with vendors such as foreclosure	17	Q. Same thing with the next page?		
18	trustees.	18	A. Yes.		
19	Q. And have you seen similar screens?	19	Q. And then after that there is a letter?		
20	A. We used LPS at OneWest, so I have.	20	A. It's a bailee letter.		
21	Q. Okay. So is it your understanding that this	21	Q. Bailee letter. And then if you go past the		
22	would have been something related to National Default	22	bailee letter it says, "Original document level inventory		
23	Servicing based on the identification of the vendor on	23	of collateral file"?		
24	the top right?	24	A. Yes.		
25	A. Yes.	25	Q. And so the checkmarks are the documents that are		
25	7 x. 1 03.	25	Q. And so the encekinarks are the documents that are		
_					
	Page 50		Page 52		
	Page 50		Page 52		
1	Q. Do you know if the start on the it's like in	1	included?		
1 2	Q. Do you know if the start on the it's like in the top rectangle right underneath mortgagor, it says,	1 2	included? A. The original documents that are included, yes.		
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	SFR Investments Pool I, LI	10 13	
	Page 53		Page 55
1	association when it originated the loan?	1	Do you see that?
2	A. I can just speculate that they did based on the	2	A. Trying to find that page.
3	PUD rider, but apart from that I don't know anything that	3	Q. This is 1 of 2.
4	they did or did not know.	4	A. I got it. Yes.
5	Q. Was there a copy of the CCNRs included in the	5	Q. It says, "Covenants, conditions or restrictions
6	origination file?	6	under which the lien of the mortgage referred to in
7	A. I haven't reviewed that, so I don't know.	7	Schedule A can be cut off, subordinated, or otherwise
8	Q. Do you know if the originating lender relied on	8	impaired."
9	any provisions in the CCNRs when it originated the loan?	9	A. That's what it says.
	A. I do not.	10	Q. On Page 3 that was page this makes no
10	Q. Do you know if HSBC was relying on any	11	sense. Okay. It says Page 1 of 2, but then the next
11			
12	particular provision of the CCNRs when it purchased the loan?	12	page is Schedule B, and it says Page 4, and then it says
13		13	Schedule B, Page 3.
14	A. So HSBC, the trust, again, purchased this as	14	A. It's probably just out of order in the
15	part of a pool of loans; they didn't purchase this loan	15	collateral file.
16	specifically. So my best guess is that they would not	16	Q. Okay. On the Schedule B that's marked as
17	have known anything about the specifics of CCNRs related	17	Page 3, it includes covenants, conditions and
18	to this loan when they purchased the pool.	18	restrictions as an exception.
19	Q. Do you know how much the trust paid for its	19	Do you see that?
20	interest in the loan?	20	A. Yes.
21	MR. ALLISON: Objection. Speculation. Legal	21	Q. Then it looks like there is another copy of the
22	conclusion. Relevance.	22	deed of trust?
23	A. I do not. Again, they purchased they had one	23	A. Yes.
24	price that they paid for the whole pool. It wasn't	24	Q. And this one has a stamp Fidelity National Title
25	broken up between loans, and I do not know what that	25	on it?
	Page 54		Page 56
1		1	-
1	price was.	1	A. Yes.
2	price was. Q. How do you know that this loan was included in	2	A. Yes.Q. Then we got a preliminary title report?
2 3	price was. Q. How do you know that this loan was included in the pool that was purchased?		A. Yes.Q. Then we got a preliminary title report?A. Yes.
2 3 4	price was.Q. How do you know that this loan was included in the pool that was purchased?A. Again, I haven't seen the PSA or the MLS in this	2 3 4	 A. Yes. Q. Then we got a preliminary title report? A. Yes. Q. This would have been with the origination file?
2 3 4 5	price was.Q. How do you know that this loan was included in the pool that was purchased?A. Again, I haven't seen the PSA or the MLS in this one, so I don't know for sure because I haven't been able	2 3 4 5	 A. Yes. Q. Then we got a preliminary title report? A. Yes. Q. This would have been with the origination file? A. All of this is contained in the collateral file.
2 3 4 5 6	 price was. Q. How do you know that this loan was included in the pool that was purchased? A. Again, I haven't seen the PSA or the MLS in this one, so I don't know for sure because I haven't been able to get those documents yet. 	2 3 4 5 6	 A. Yes. Q. Then we got a preliminary title report? A. Yes. Q. This would have been with the origination file? A. All of this is contained in the collateral file. Q. Would this title report have been attained
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 price was. Q. How do you know that this loan was included in the pool that was purchased? A. Again, I haven't seen the PSA or the MLS in this one, so I don't know for sure because I haven't been able to get those documents yet. Q. You said the PSA or the what? A. The MLS. Pooling and Service Agreement or Mortgage Loan Schedule. Q. And the mortgage loan schedule would be attached to the pooling and servicing agreement to let you know what loans were included in the pool? A. It would be an exhibit, yes. Q. So still in Exhibit 18, it looks like there is an endorsement to the title policy. Is it your understanding that all of the maps at Southern Highlands, those are all included with the title policy? A. It's my understanding, yes. Q. There is a page, it says, "Endorsement attached to policy" and then it says, "The company hereby insures the owner of the indebtedness secured by the insured mortgage against loss or damage which the insured shall 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. Then we got a preliminary title report? A. Yes. Q. This would have been with the origination file? A. All of this is contained in the collateral file. Q. Would this title report have been attained either at or before origination? A. Generally, yes. Q. Do you have any reason to believe that in this case that it wouldn't have been attained at or before origination? A. No. Q. Then do you know what this there is a request for release of documents. What is that? A. It's basically Ocwen requesting that they send the documents to us from the custodian. Q. And then the reason for requesting the documents at that time was foreclosure? A. Yes. Q. And that was in October of 2012? A. Yes. Q. Do you know what that next page is?

(14) Pages 53 - 56 JA_0857



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(15) Pages 57 - 60 JA 0858

	SFR Investments Pool 1, LLC vs. Morgan Stanley, et al.				
	Page 61		Page 63		
1	and then appointed a trustee, in this case HSBC is	1	foreclosure?		
2	trustee for both, and then they would have a servicer	2	A. I just believe a couple of times when he was		
3	that actually does all the day-to-day activity on the	3	talking about loss mitigation he just mentioned that it		
4	loan.	4	happened and that he wanted to keep the property, but no		
5	Q. Are there any other entities of which HSBC is	5	specifics were ever discussed.		
6	aware that currently claim an interest in the deed of	6	Q. Did the borrower ever give any information about		
7	trust?	7	the facts or circumstances surrounding the sale?		
8	A. No.	8	A. I don't believe so.		
9	Q. Are there any other entities of which HSBC is	9	Q. Did the borrower ever say that he was not		
10	aware that, at the time of the association foreclosure	10	delinquent on the association dues?		
11	sale, claimed an interest in the deed of trust?	11	A. I don't believe so.		
12	A. Not that I am aware of.	12	Q. Do you have any reason to believe that the		
13	Q. Same thing but for the promissory note?	13	borrower was not delinquent?		
14	A. Not that I am aware of.	14	A. I do not.		
15	Q. Is there any entity that currently ensures the	15	Q. Does HSBC have any reason to believe that the		
16	deed of trust or promissory note?	16	notice of delinquent assessments that we looked at as		
17	A. Just the title policy, but not anything besides	17	Exhibit 7 was not mailed to the borrower?		
18	that.	18	A. We wouldn't know one way or the other whether it		
19	Q. Do you know if there has been any claims made	19	was mailed to the borrower.		
20	against the title policy?	20	Q. Does HSBC have any reason to believe that the		
21	A. Just from prepping this I believe we tried to	21	notice of default recorded by the association that we		
22	make a title policy claim regarding this litigation, but	22	marked as Exhibit 9 was not mailed to the borrower?		
23	other than that I don't think so.	23	A. We wouldn't know whether it was mailed to the		
24	Q. Do you know if that claim was accepted or	24	borrower.		
25	rejected?	25	Q. Does HSBC have any reason to believe that the		
	Page 62		Page 64		
1	A. I do not know.	1	notice of default was not posted on the property?		
	Q. Are there servicing guidelines applicable to				
2	Q. Are more servicing guidennes applicable to	2	MR. ALLISON: Can you repeat that?		
3	HSBC's deed of trust?				
		2	MR. ALLISON: Can you repeat that?		
3	HSBC's deed of trust?	2 3	MR. ALLISON: Can you repeat that?Q. Does HSBC have any reason to believe that the		
3 4	HSBC's deed of trust?A. Those would be contained in the PSA.	2 3 4	MR. ALLISON: Can you repeat that? Q. Does HSBC have any reason to believe that the notice of default, the one that we marked as Exhibit 9,		
3 4	HSBC's deed of trust?A. Those would be contained in the PSA.Q. And since we don't have copies of those we can't say for sure if there are any provisions that mention or are applicable to associations, association liens or	2 3 4 5	 MR. ALLISON: Can you repeat that? Q. Does HSBC have any reason to believe that the notice of default, the one that we marked as Exhibit 9, was not posted on the property? A. I don't believe we know one way or the other whether it was or was not. 		
3 4 5 6	HSBC's deed of trust?A. Those would be contained in the PSA.Q. And since we don't have copies of those we can't say for sure if there are any provisions that mention or are applicable to associations, association liens or association foreclosures, right?	2 3 4 5 6	 MR. ALLISON: Can you repeat that? Q. Does HSBC have any reason to believe that the notice of default, the one that we marked as Exhibit 9, was not posted on the property? A. I don't believe we know one way or the other whether it was or was not. Q. Does HSBC have any reason to believe that the 		
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	SFR Investments Pool 1, LLC vs. Morgan Stanley, et al.					
	Page 65		Page 67			
1	A. We don't know whether it was or was not.	1	Q. But it was included in Saxon's servicing notes?			
2	Q. Did HSBC or any of its servicers or agents	2	A. Yes.			
3	attend the scheduled foreclosure sale on October 26,	3	Q. Did HSBC have practices, policies or procedures			
4	2011?	4	applicable to the property for handling association liens			
5	A. Not that I am aware of.	5	at the time of the association foreclosure sale and			
6	Q. Did HSBC or any of its agents attend the	6	during the time that it was noticing the foreclosure?			
7	association foreclosure sale on July 11, 2012?	7	A. So it would have been the servicer policies and			
8	A. Not that I am aware of.	8	procedures; they rely on the servicer to handle things			
9	Q. Did HSBC or any of its servicers or agents	9	like that.			
10	participate in any civil or administrative action	10	I don't know specifically what Ocwen's policies			
11	challenging the association lien or foreclosure sale	11	and procedures were from April 2012 to July 2012 period,			
12	before July 11, 2012?	12	and I certainly don't know what Saxon's procedures were.			
13	A. Not that I am aware of.	13	Q. Who would know what Ocwen's policies and			
14	Q. Did HSBC ever communicate with the association?	14	procedures were during that time period?			
15	A. Not that I am aware of.	15	A. That department, I don't know who is in that			
16	Q. Did HSBC ever communicate with Alessi & Koenig	16	department or what it is called.			
17	about this property?	17	Q. What department?			
18	A. Not that I am aware of.	18	A. Whoever handles HOA liens. I'm sure there is a			
19	Q. Does HSBC allege that Saxon took any action to	19	department.			
20	protect the deed of trust after learning of the	20	Q. In preparation for your deposition did you check			
20	association foreclosure sale?	20	to see if there was a specific department that handled			
22	MR. ALLISON: Objection. Vague. Speculative	22	HOA foreclosures?			
23	and sorry, could you repeat that one more time.	23	A. I did not.			
24	(Whereupon, the record was read by the	23 24	Q. Do you know HSBC's factual basis for its			
25	reporter.)	25	allegation that the first deed of trust was not			
2.5		25	unegation that the first deed of trust was not			
	Page 66		Page 68			
	, i i i i i i i i i i i i i i i i i i i		•			
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1	MR. ALLISON: Further, I don't believe HSBC	1	extinguished by the association foreclosure?			
2	alleges anything as a plaintiff in this action.	2	A. I know that we are pending the deposition of the			
2 3	alleges anything as a plaintiff in this action.A. I can just tell you what we did to protect our	2 3	A. I know that we are pending the deposition of the HOA to get a breakdown of the fees, and we are waiting on			
2 3 4	alleges anything as a plaintiff in this action.A. I can just tell you what we did to protect our interest in the deed of trust. We continued paying taxes	2 3 4	A. I know that we are pending the deposition of the HOA to get a breakdown of the fees, and we are waiting on that to really determine things from there.			
2 3 4 5	alleges anything as a plaintiff in this action.A. I can just tell you what we did to protect our interest in the deed of trust. We continued paying taxes on an interest to protect the property and make sure that	2 3	A. I know that we are pending the deposition of the HOA to get a breakdown of the fees, and we are waiting on that to really determine things from there. Also, I know that there is a question about			
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	SFR Investments Pool 1, LLC vs. Morgan Stanley, et al.				
	Page 69		Page 71		
1	A. Generally, yes.	1	Q. Is there anything about the facts and		
2	Q. Do you know if this was a loan that allowed,	2	circumstances surrounding the association foreclosure		
3	like, 100 percent financing?	3	sale that HSBC alleges constitutes fraud?		
4	A. I do not. I know that this was a refi, and I	4	A. Again, we are waiting to speak with them about		
5	think that's it.	5	their breakdown of the amounts owed, and we won't know		
6	Q. Do you know if the borrower received cash out?	6	that information until we do their depo.		
7	A. I do not. I have not seen the settlement	7	Q. But as far as information from HSBC's business		
8	statement.	8	records, is there anything contained in those records		
9	Q. I guess I keep saying borrower, but it's	9	that suggests that the facts and circumstances		
10	actually two people, Michael Somdahl and Joanna Somdahl.	10	surrounding the sale constitute fraud?		
11	A. Right.	11	MR. ALLISON: Objection. Legal conclusion.		
12	Q. In your review of the file did you see any	12	A. I'm not aware of any.		
13	information about SFR Investment Pool 1, LLC that	13	Q. Does HSBC have any information about any		
14	predated any litigation?	14	collusion associated with the sale?		
15	A. No.	15	MR. ALLISON: Objection to legal conclusion.		
16	Q. Does HSBC have any information in its records,	16	A. I'm not aware of any.		
17	its own business records that suggest that SFR had a	17	Q. Does HSBC have any information that it believes		
18	relationship with the association beyond being a	18	supports an allegation that the association foreclosure sale was oppressive?		
19	homeowner and a purchaser of association foreclosure properties?	19 20	MR. ALLISON: Objection. Legal conclusion.		
20 21	A. Not that I am aware of.	20 21	A. I'm not aware of any.		
22	Q. Does HSBC have any information in its records	22	Q. Is there any information contained in HSBC's		
23	that suggest that SFR has or had a relationship with	23	business records that it believes supports an allegation		
24	Alessi & Koenig, LLC except for purchasing properties at	24	of unfairness in the circumstances surrounding the		
25	association foreclosure sales or from associations?	25	foreclosure sale?		
	Page 70		Page 72		
1	-	-	-		
1	A. Not that I am aware of.	1	MR. ALLISON: Same objection.		
2	A. Not that I am aware of.Q. You mentioned some communications with	2	MR. ALLISON: Same objection.A. I believe I would say the one thing is, again,		
	A. Not that I am aware of.		MR. ALLISON: Same objection. A. I believe I would say the one thing is, again, as far as we were concerned it was at least were 229-,		
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Page 73 CERTIFICATE OF DEPONENT PAGE LINE CHANGE REASON I, KATHERINE ORTWERTH, deponent herein, do hereby certify and declare under penalty of perjury the within and foregoing transcription to be my deposition in said action; that I have read, corrected and do hereby affix my signature to said deposition. KATHERINE ORTWERTH Deponent Subscribed and sworn to before me the 2016. day of Notary Public Page 74 REPORTER'S CERTIFICATE STATE OF NEVADA COUNTY OF CLARK I, Lori-Ann Landers, a duly commissioned Notary Public, Clark County, State of Nevada, do hereby certify: That I reported the taking of the deposition of the witness, KATHERINE ORTWERTH, at the time and place aforesaid; That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; That I thereafter transcribed my shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of my said shorthand notes taken down at said time to the best of my ability I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in the action; and that transcript review NRCP 30(e) was requested. IN WITNESS WHEREOF, I have hereunto set my hand in the County of Clark, State of Nevada, this 5th day of April 2016. LORI-ANN LANDERS, CCR 792, RPR

\$ \$1,251.52 (1) 43:10 \$338,000 (1) 41:8 \$338,601.24 (1) 41:8 \$8.75(1) 44:24 Α ability (1) 40:14 able (5) 13:21;17:22;20:7;45:17; 54:5 above (3) 45:1,12,12 Absolutely (1) 37:25 accepted (1) 61:24 access (1) 59:1 according (1) 68:11 account (4) 44:5;45:23;48:6,21 across (2) 10:12,13 acting (1) 26:23 action (6) 31:6;32:20;33:5;65:10,19; 66:2 activity (1) 61:3 actual (1) 14:23 actually (9) 12:8;32:12;42:4;45:22; 58:10,17;59:8;61:3;69:10 add (1) 40:14 additional (5) 38:4:40:7,15:43:16,18 address (3) 9:7;28:8,10 addressed (3) 27:13,15:28:5 adjustable (1) 16:18 administrative (1) 65:10 advanced (3)

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Ex. A-6

# EXHIBIT A-6

## **Kovalic Deposition Transcript**

Ex. A-6

JA_0875

### In The Matter Of:

Deutsche Bank National Trust, et al. vs. SFR Investments Pool 1, LLC, et al.

> Keith Kovalic August 2, 2016



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Keith Kovalic - August 2, 2016
Deutsche Bank National Trust, et al. vs. SFR Investments Pool 1, LLC, et al.

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25       Reported by: Jane V. Efaw, CCR #601, RPR       25       Exhibit 11       Substitution of Trustee Nevada         Page 2         1       Appearances:       1       E X H I B I T S (cont'd)         2       For the Plaintiff:       2       NUMBER       DESCRIPTION         3       ROCK K. JUNG, ESQ.       3       Exhibit 12       Rescission of Election to Declare Default Nevada         4       7785 wato Sahara Avenue 5       1       Assessment Lien       4         5       Las Verges, Nevada 89117 (702) 475-7964       6       Exhibit 13       Notice of Delinquent Assessment Lien         6       For the Defendant:       7       Satisfy Notice of Delinquent Assessment Lien       Assessment Lien         7       DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 7 (722) 485-3300       Exhibit 15       Notice of Trustee's Sale         10       (702) 485-3300       Exhibit 16       Notice of Trustee's Sale         12       *******       12       Exhibit 19       Trustee's Deed upon Sale         13       Exhibit 20       Substitution of Trustee       13         14       *******       12       Exhibit 20       Substitution of Trustee         15       Exhibit 20       Substitution of Trustee       14         16<	_	On Tuesday, August 2, 2016 At 10,19 a.m.			Exhibit 10	Corporation Assignment of Deed	34
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6(702) 475-796466For the Defendant:67DIANA CLINE EBRON, ESQ. Kim Gilbert Ebron 968Kim Gilbert Ebron 7625 Dean Martin Drive 969Suite 110 10Las Vegas, Nevada 89139 (702) 485-330010(702) 485-330011* * * * * * * *12* * * * * * * *13* * * * * * * *141515Exhibit 1916Trustee's Deed upon Sale17I6181919Exhibit 2419Title Insurance Policy19Exhibit 2510Chain of Letters from Miles, Bauer, Bergstrom & Winters		Suite 200			Exhibit 13		41
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11* * * * * * *11Exhibit 17Substitution of Trustee12* * * * * * *12Exhibit 18Notice of Violation (Lien)131413Exhibit 19Trustee's Deed upon Sale1413Exhibit 20Substitution of Trustee151615Exhibit 21Assignment of Deed of Trust16161617Exhibit 22Request for Notice Pursuant to NRS 116.311681718181818Exhibit 24Title Insurance Policy1919Exhibit 25Chain of Letters from Miles, Bauer, Bergstrom & Winters	_	Las Vegas, Nevada 89139		-	Exhibit 16	Notice of Trustee's Sale	49
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19 19 Exhibit 25 Chain of Letters from Miles, Bauer, Bergstrom & Winters	17			17	Exhibit 23	Notice of Lis Pendens	66
Bauer, Bergstrom & Winters	18			18	Exhibit 24	Title Insurance Policy	66
20 Z0	19			19	Exhibit 25		67
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25 25	25			25			
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1	Thereupon	1	the property on Melva Blue Court. Is that okay?
2	KEITH KOVALIC	2	A. Yes.
3	was called as a witness by the Defendant, and having	3	Q. Also, definition Number 4 defines "the
4	been first duly sworn, testified as follows:	4	association" as Centennial Point Community
5		5	Association, Inc.
6	EXAMINATION	6	So unless otherwise specified, whenever I
7	BY MS. EBRON:	7	refer to "the association" or "HOA," I'll be talking
8	Q. Can you please state your name for the	8	about the Centennial Point Community Association,
9	record?	9	Inc. Okay?
10	A. Keith, K-e-i-t-h. Last name's Kovalic,	10	A. Yes.
11	K-o-v, as in Victor, a-l-i-c.	11	Q. Also, we're here to talk about an
12	Q. Are you employed?	12	association foreclosure sale. When I reference the
13	A. Yes.	13	association foreclosure sale, I'm talking about the
14	Q. Who is your employer?	14	auction held on September 11th, 2013, by Alessi &
15	A. Nationstar Mortgage, LLC.	15	Koenig, LLC, on behalf of the association.
16	Q. I've taken your deposition quite a few	16	So whenever I look for anything that
17	times. Before the deposition, we discussed	17	happened before the association foreclosure sale, I'm
18	incorporating your background testimony from	18	looking to that date of September 11th, 2013. Okay?
19	December 15th of 2015, Case Number 2:15-cv-01146, the	19	A. Yes.
20	Cayman Beach Street property where the Medlocks were	20	Q. If I reference the borrowers in this case,
21	the borrowers.	21	I'm talking about Mark Kitchen or Nicole Kitchen.
22	Is it okay if we incorporate your background	22	Okay?
23	testimony from that deposition?	23	A. Okay.
24	A. Yes.	24	Q. And then if I talk about the Trust, I'll be
25	<b>MS. EBRON:</b> I'm going to mark that as	25	talking about the Harborview 2004-8 Trust Fund for
	Page 6		Page 8
	Page 6		Page 8
1	Exhibit 1.	1	Deutsche Bank as the Trustee. Okay?
2	Exhibit 1. (Thereupon Defendant's Exhibit 1	2	Deutsche Bank as the Trustee. Okay? A. Okay.
2 3	Exhibit 1. (Thereupon Defendant's Exhibit 1 was marked for identification.)	2 3	<ul><li>Deutsche Bank as the Trustee. Okay?</li><li>A. Okay.</li><li>Q. And then just to be clear. Would it be</li></ul>
2 3 4	Exhibit 1. (Thereupon Defendant's Exhibit 1 was marked for identification.) BY MS. EBRON:	2 3 4	<ul><li>Deutsche Bank as the Trustee. Okay?</li><li>A. Okay.</li><li>Q. And then just to be clear. Would it be accurate to say that the Trust is called the</li></ul>
2 3 4 5	<ul> <li>Exhibit 1. (Thereupon Defendant's Exhibit 1 was marked for identification.)</li> <li>BY MS. EBRON:</li> <li>Q. I'm going to show you a document that we'll</li> </ul>	2 3 4 5	<ul><li>Deutsche Bank as the Trustee. Okay?</li><li>A. Okay.</li><li>Q. And then just to be clear. Would it be accurate to say that the Trust is called the Harborview Mortgage Loan Trust 2004-8 Mortgage Loan</li></ul>
2 3 4 5 6	<ul> <li>Exhibit 1. (Thereupon Defendant's Exhibit 1 was marked for identification.)</li> <li>BY MS. EBRON:</li> <li>Q. I'm going to show you a document that we'll mark as Exhibit 2.</li> </ul>	2 3 4 5 6	<ul> <li>Deutsche Bank as the Trustee. Okay?</li> <li>A. Okay.</li> <li>Q. And then just to be clear. Would it be accurate to say that the Trust is called the Harborview Mortgage Loan Trust 2004-8 Mortgage Loan Pass-Through Certificates, Series 2004-8?</li> </ul>
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#### Keith Kovalic - August 2, 2016 Deutsche Bank National Trust, et al. vs. SFR Investments Pool 1, LLC, et al.

	Deutsche Bank National Trust, et al.	5. 51	
	Page 9		Page 11
1	associated with this file, is there a particular	1	THE WITNESS: Okay.
2	location that you looked to find those documents?	2	BY MS. EBRON:
3	A. Nationstar has a system called FileNet,	3	Q. Do you recognize this document?
4	where all of the imaged documents are held. So I	4	A. I do not.
5	reviewed that system.	5	Q. I'm sorry?
6	Q. Anything else?	6	A. I do not.
7	A. No. I'm sorry. In terms of documentation?	7	Q. When you were reviewing the file, did you
8	Q. Correct.	8	see any declarations of covenants, conditions and
9	A. No. Everything any document associated	9	restrictions?
10	with this file would be in FileNet.	10	A. I did not.
11	Q. Did you look at any screen shots to learn	11	Q. So you didn't see any for Centennial Point?
12	any information for your testimony today?	12	A. No.
13	A. What do you mean? Did I look at any	13	Q. Do you know if Deutsche Bank reviewed a copy
14	Q. Did you look at a system of record?	14	of the declaration of covenants, conditions and
15	A. Yes. As I stated, I reviewed Nationstar's	15	restrictions before it obtained its interest in the
16	system of record.	16	property?
17	Q. And what's that called?	17	A. I do not.
18	A. LSAMS, L-S-A-M-S.	18	Q. Do you know who would know that?
19	Q. Were there any particular screens you looked	19	MR. JUNG: Objection. Speculation.
20	at on LSAMS?	20	THE WITNESS: I do not.
21	A. I looked at the general servicing notes	21	BY MS. EBRON:
22	regarding communications between the homeowner and	22	Q. Do you know if there are any particular
23	the servicer, Nationstar, and Nationstar and the	23	provisions contained in the declaration of covenants,
24	homeowners. I looked at the payment history.	24	conditions and restrictions for Centennial Point that
25	Q. Anything else?	25	Deutsche Bank relied on at any point after it
			Deutsene Duint reneu en ur ung point urter it
	Page 10		
			Page 12
			Page 12
1	A. Not that I recall.	1	obtained its interest in the Deed of Trust?
2	<ul><li>A. Not that I recall.</li><li>Q. When did Nationstar become a servicer for</li></ul>	2	<ul><li>obtained its interest in the Deed of Trust?</li><li>A. Like I said, I've never seen this document.</li></ul>
2 3	<b>A. Not that I recall.</b> Q. When did Nationstar become a servicer for this loan?	2 3	obtained its interest in the Deed of Trust? A. Like I said, I've never seen this document. It wasn't in any system of record. So I don't know
2 3 4	<ul> <li>A. Not that I recall.</li> <li>Q. When did Nationstar become a servicer for this loan?</li> <li>A. I do not recall the exact date. I</li> </ul>	2 3 4	obtained its interest in the Deed of Trust? A. Like I said, I've never seen this document. It wasn't in any system of record. So I don't know how anybody would have been able to rely on something
2 3 4 5	<ul> <li>A. Not that I recall.</li> <li>Q. When did Nationstar become a servicer for this loan?</li> <li>A. I do not recall the exact date. I apologize.</li> </ul>	2 3 4 5	obtained its interest in the Deed of Trust? A. Like I said, I've never seen this document. It wasn't in any system of record. So I don't know how anybody would have been able to rely on something that I don't see a record of existing in any system
2 3 4 5 6	<ul> <li>A. Not that I recall.</li> <li>Q. When did Nationstar become a servicer for this loan?</li> <li>A. I do not recall the exact date. I apologize.</li> <li>Q. Do you know an approximate date?</li> </ul>	2 3 4 5 6	obtained its interest in the Deed of Trust? A. Like I said, I've never seen this document. It wasn't in any system of record. So I don't know how anybody would have been able to rely on something that I don't see a record of existing in any system of record for Deutsche Bank.
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	Deutsche Bank National Trust, et al. v	3. 51	
	Page 13		Page 15
1	such that you, as an employee of Nationstar, would be	1	audited is missing, you don't know to ask for
2	testifying on Deutsche Bank's behalf?	2	something if you don't know it exists.
3	A. Nationstar under the pooling and servicing	3	Q. In preparation for your deposition, did you
4	agreement conducts all front-facing functions or any	4	speak to anyone at Bank of America to see if there
5	customer-facing functions on behalf of the investor,	5	were any additional documents or information that
6	Deutsche Bank.	6	would be helpful in preparation for these topics?
7	So one of those things is if a lawsuit is to	7	A. I did not.
8	arise, the current servicer is given the right to	8	Q. I'm going to show you a document that we
9	handle all the litigation on behalf of Deutsche Bank.	9	will mark as Exhibit 5.
10	So as an employee of Nationstar, I'm speaking on	10	(Whereupon Defendant's Exhibit 5
11	behalf of Deutsche Bank.	11	was marked for identification.)
12	Q. In preparation for your deposition, did you	12	BY MS. EBRON:
13	speak to anyone from Deutsche Bank?	13	Q. Do you recognize this document?
14	A. I did not.	14	A. Yes.
15	Q. Is it accurate to say that anything dealing	15	Q. What is it?
16	with this particular loan should be available to you	16	A. This is the Deed of Trust for the subject
17	in Nationstar's business records?	17	property.
18	MR. JUNG: Objection. Form. You can	18	Q. Who was the originating lender?
19	answer, Keith.	19	A. The originating lender was Full Spectrum
20	THE WITNESS: If by "anything" you mean	20	Lending, Incorporated.
21	recorded documents or things of that nature, when a	21	Q. And the borrowers were?
22	loan's originated, there are certain documents. And	22	A. Mark and Nicole Kitchen, husband and wife.
23	then as the loan is transferred, some documents are	23	Q. When was this loan originated?
24	transferred. Some are not.	24	A. The Deed of Trust is dated January 26th,
25	I'm not here to place blame on anybody, but	25	2004, and is notarized the same date on the page
-			
	Page 14		Page 16
1	-	1	Ű
1	I can only review what documents Nationstar has on	1	Bates-stamped SFR 20. So January 26th, 2004.
	I can only review what documents Nationstar has on hand. So whatever Nationstar has today, that would		<b>Bates-stamped SFR 20. So January 26th, 2004.</b> Q. Can you tell me what the relationship to
2	I can only review what documents Nationstar has on hand. So whatever Nationstar has today, that would be the documents that Deutsche Bank would also be	2	<b>Bates-stamped SFR 20. So January 26th, 2004.</b> Q. Can you tell me what the relationship to this Deed of Trust is with Mortgage Electronic
2 3	I can only review what documents Nationstar has on hand. So whatever Nationstar has today, that would	2 3	<b>Bates-stamped SFR 20. So January 26th, 2004.</b> Q. Can you tell me what the relationship to this Deed of Trust is with Mortgage Electronic Registration Systems, Inc.?
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(4) Pages 13 - 16 JA_0880

	Page 17		Page 19
	Tage 17		Tage 13
1	BY MS. EBRON:	1	THE WITNESS: I don't. Not that I recall.
2	Q. Do you know what the identification number	2	BY MS. EBRON:
3	is used for?	3	Q. Do you know the purpose of including a
4	A. As I've never been an employee of MERS, I	4	planned unit development rider, like the one that's
5	don't know everything that it's used for. But on a	5	on the page Bates-stamped SFR 22 through SFR 25?
6	surface level, it's essentially their loan number,	6	MR. JUNG: Objection. Form. Calls for
7	their record name for the loan or for this Deed of	7	speculation.
8	Trust rather.	8	THE WITNESS: If the property is in a
9	Q. And is it fair to say that if someone mails	9	neighborhood that is usually governed by a homeowners
10	a document to MERS at the address listed here in the	10	association that may or may not require dues, which
11	Deed of Trust in paragraph E and they include that	11	would be considered a planned unit development, the
12	MIN number, that the document would be forwarded to	12	property the Deed of Trust would have a planned
13	the current servicer?	13	unit development rider.
14	MR. JUNG: Objection. Form. And it calls	14	BY MS. EBRON:
15	for speculation.	15	Q. Is it fair to say that the Planned Unit
16	<b>THE WITNESS:</b> I can't I don't know.	16	Development Rider in paragraph A notifies the
17	BY MS. EBRON:	17	borrower that they have obligations under the CC&Rs?
18	Q. Is it accurate to state that this Deed of	18	MR. JUNG: Objection. The document speaks
19	Trust allows the lender to create an escrow? I'm	19	for itself.
20	looking on	20	THE WITNESS: I'm sorry. Could you read the
21	A. Yes, it does.	21	question back?
22	Q page 3 of 16 and looking on page 6 of 16,	22	(Whereupon the pending question
23	which is Bates-stamped SFR 10.	23	was read by the reporter.)
24	A. And your question was does it allow the	24	<b>THE WITNESS:</b> The document says that the
25	lender to create an escrow account?	25	borrower shall perform all the borrower's obligations
			content et shan perform an die contente i s congations
	Page 18		Page 20
1	Q. Yes.	1	under the planned unit development's constituent
2	<ul><li>Q. Yes.</li><li>A. Yes, it does.</li></ul>	2	under the planned unit development's constituent documents. And, again, constituent documents are, 1,
2 3	<ul><li>Q. Yes.</li><li>A. Yes, it does.</li><li>Q. In paragraph 4 on page 6 of 16, it says,</li></ul>	2 3	under the planned unit development's constituent documents. And, again, constituent documents are, 1, the declaration; 2, articles of incorporation, trust
2 3 4	<ul> <li>Q. Yes.</li> <li>A. Yes, it does.</li> <li>Q. In paragraph 4 on page 6 of 16, it says,</li> <li>"Discharges and liens. Borrower shall pay all taxes,</li> </ul>	2 3 4	under the planned unit development's constituent documents. And, again, constituent documents are, 1, the declaration; 2, articles of incorporation, trust instrument, or any equivalent document which creates
2 3 4 5	<ul> <li>Q. Yes.</li> <li>A. Yes, it does.</li> <li>Q. In paragraph 4 on page 6 of 16, it says,</li> <li>"Discharges and liens. Borrower shall pay all taxes, assessments, charges, fines and impositions</li> </ul>	2 3 4 5	under the planned unit development's constituent documents. And, again, constituent documents are, 1, the declaration; 2, articles of incorporation, trust instrument, or any equivalent document which creates the owners association; and, 3, any bylaws or other
2 3 4 5 6	<ul> <li>Q. Yes.</li> <li>A. Yes, it does.</li> <li>Q. In paragraph 4 on page 6 of 16, it says,</li> <li>"Discharges and liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the property, which can obtain</li> </ul>	2 3 4 5 6	under the planned unit development's constituent documents. And, again, constituent documents are, 1, the declaration; 2, articles of incorporation, trust instrument, or any equivalent document which creates the owners association; and, 3, any bylaws or other rules or regulations of the owners association.
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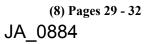
Keith Kovalic - August 2, 2016 Deutsche Bank National Trust, et al. vs. SFR Investments Pool 1, LLC, et al.

	Deutsche Bank National Trust, et al. v	5. 51	K Investments I out 1, LLC, et al.
	Page 21		Page 23
1	other terms of payment, those amounts shall bear	1	A. Yes, I do.
2	interest from the date of disbursement at the note	2	Q. What is it?
3	rate and shall be payable, with interest, upon notice	3	A. Notice of Default/Election to Sell under
4	from lender to borrower requesting a payment.	4	Deed of Trust.
5	BY MS. EBRON:	5	Q. Is this something that was contained in your
6	Q. Thank you. Have you seen the promissory	6	business records?
7	note that this Deed of Trust secured?	7	A. Yes.
8	A. I've seen a digital copy of it.	8	Q. And this relates to the Deed of Trust that
9	Q. And that was in FileNet?	9	we marked as Exhibit 5?
10	A. Yes.	10	A. Yes, it is.
11	Q. Were there any endorsements?	11	MS. EBRON: Off the record.
12	A. Yes.	12	(Off the record.)
13	Q. How many?	13	MS. EBRON: We'll come back to the Notice of
14	A. I believe just one.	14	Default in a second.
15	Q. And who was it to and from?	15	BY MS. EBRON:
16	A. I believe it was from Full Spectrum Lending	16	Q. I'll show you a document that we're going to
17	and then an endorsement in blank.	17	mark as Exhibit 8.
18	Q. Do you know when that copy of the promissory	18	(Thereupon Defendant's Exhibit 8
19	note with the blank endorsement from Full Spectrum	19	was marked for identification.)
20	Lending was scanned into your files?	20	MR. JUNG: And, Diana, per our discussion
21	A. I don't know the exact date. But it would	21	before we went back on the record, Keith is going to
22	have been within 90 days of the service transfer.	22	have an opportunity just to clarify his earlier
23	Q. And that was, again, sometime before the	23	remarks about the servicing dates.
24	association foreclosure sale?	24	MS. EBRON: Correct. Go ahead.
25	A. That's correct.	25	<b>THE WITNESS:</b> Do you want me to clarify the
	Page 22		Page 24
_		_	-
1	Q. I'm going to show you a document that we'll	1	Deed of Trust, or are you going to go through the
2	Q. I'm going to show you a document that we'll mark as Exhibit 6.	2	Deed of Trust, or are you going to go through the line of questioning again?
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	Page 25		Page 27
1	A. And also you asked a question about the	1	A. That is correct.
2	note. The note is from Countrywide to endorsement in	2	Q. You mentioned that you reviewed the payment
3	blank. Just to clear that up.	3	history; right?
4	Q. Okay. Let's go there. I'll probably just	4	A. That is correct.
5	ask you that again after we go through this Deed of	5	Q. In this Notice of Default, it mentions a
6	Trust.	6	delinquency date of September 1st, 2009. Do you see
7	Is it your understanding that the Deed of	7	that?
8	Trust that was marked as Exhibit 5 was reconveyed?	8	A. Yes.
9	A. I don't know.	9	Q. Does that coincide with what you saw on the
10	Q. Is it your understanding that this is a	10	payment history?
11	subsequent Deed of Trust that secured a loan on the	11	A. Yes.
	property?	12	Q. Who is Recontrust Company, NA?
12	A. Yes.		· · · · ·
13		13	A. They were as it states on the first line
14	Q. Who is the originating lender?	14	of Exhibit 7, Recontrust NA is acting as an agent for
15	A. Countrywide Home Loans, Incorporated.	15	the beneficiary under the Deed of Trust dated
16	Q. And are the borrowers Mark Kitchen and	16	8/25/2004.
17	Nicole Kitchen in this one too?	17	They sent notices and things of this nature
18	A. Yes. Husband and wife as joint tenants.	18	on behalf of Countrywide and subsequently Bank of
19	Q. And the amount of the note is how much?	19	America after they had merged.
20	A. \$258,750.	20	Q. Going back to the promissory note. Did you
21	Q. This Deed of Trust also contains	21	see the original promissory note?
22	authorization to create an escrow account; correct?	22	MR. JUNG: Objection. Asked and answered.
23	A. That is correct.	23	THE WITNESS: No. As I stated, I saw a
24	Q. And were your answers before about the	24	digital copy.
25	escrow account related to this particular Deed of	25	///
	Page 26		Page 28
1		1	-
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2 3	Trust rather than the one marked as Exhibit 5? A. The MR. JUNG: Objection. Vague as to which	2 3	<b>BY MS. EBRON:</b> Q. Do you know where the original promissory note is?
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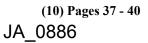
	Page 29	5. 51	Page 31
	-		-
1	BY MS. EBRON:	1	mean they were investing in every single loan that
2	Q. Do you recognize this document?	2	they originated.
3	A. Yes, I do.	3	So it's normally the case that they're not
4	Q. And this is something that I printed off of	4	going to be the investor on every single loan or
5	the internet, off the SEC website?	5	probably even on the majority of their loans. That's
6	A. Okay.	6	speculation. But from working there and originating
7	Q. And you had a chance to review this before	7	loans there, it was rare that Countrywide was an
8	your deposition and verify that this is a copy of the	8	investor on their own loans.
9	pooling and servicing agreement applicable to the	9	So even though they were the lender and the
10	Harborview Mortgage Loan Trust 2004-8 Mortgage Loan	10	servicer, they might not have been the investor.
11	Pass-Through Certificates, Series 2004-8?	11	They were servicing on behalf of whoever provided
12	A. That is correct.	12	that product.
13	Q. Does the pooling and servicing agreement	13	Q. Okay. So even though the Deed of Trust says
14	give you any additional information on when this loan	14	Countrywide is the lender, that means that maybe
15	would have been put into the trust or a time frame	15	Countrywide didn't front the money for the loan?
16	that that would have happened?	16	THE WITNESS: The lender is
17	MR. JUNG: Objection. Form.	17	MR. JUNG: Objection. Form. Speculation.
18	THE WITNESS: I can tell you the Pooling and	18	THE WITNESS: It's my understanding that the
19	Servicing Agreement is dated October 1st, 2004, which	19	lender is who originated the loan. It could be
20	is on the fourth page of the document. So it would	20	Countrywide. It could be Wells Fargo. It could be
20	have been on or around that time. I mean, without	20	ABC Mortgage Company. It could be John Smith's
22	going through this page by page	22	Brokerage Shop. That doesn't necessarily mean that
23	BY MS. EBRON:	23	they lent the money. They were doing that front
23	Q. Let me just ask you this. Is it your	23 24	facing function of originating the loan on behalf of
24	understanding that the loan would have been put into	24 25	an investor.
25	understanding that the toan would have been put into	23	an investor.
	Page 30		Page 32
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1	Deutsche Dank Futtohar Frust, et al. (		
	Page 33		Page 35
1	there's 97 pages. The last page is numbered 97 of 97	1	speculation.
2	on the copy you printed out.	2	<b>THE WITNESS:</b> I mean, there's obviously some
3	Q. That's the only one that you saw. Did you	3	abbreviations here. It says "SND," which I'm not
4	see any copy with any schedules attached in your	4	going to speculate what that means. Then it says
5	business records?	5	"FCLR." I'm not going to speculate what that means.
6	And what I'm getting at is on page 23 of 97,	6	"Notice to Wells Fargo. Once notice is sent, proceed
7	it defines mortgage loan schedule, "As of any day the	7	with," and then once again "FCLR," which I'm not
	list of mortgage loans included in the Trust Fund on	8	going to speculate on that.
8	such date attached hereto as Schedule 1." So I'm	9	BY MS. EBRON:
9		-	
10	looking for whether or not you saw Schedule 1.	10	Q. But it's your understanding that that isn't
11	A. I did see a loan schedule with this loan	11	supposed to be part of the title of the entity that
12	number in there or with this mortgage in there	12	the Deed of Trust was assigned to?
13	rather. I do apologize.	13	<b>MR. JUNG:</b> Objection. Misstates prior
14	Q. How many loans were listed on Schedule 1?	14	testimony.
15	A. I wasn't looking for the total number. I	15	THE WITNESS: Could you rephrase your
16	apologize. I was just looking to ensure that this	16	question?
17	file was in the trust.	17	BY MS. EBRON:
18	Q. Do you know if it was more than one page of	18	Q. When I asked you who the assignment was to
19	loan numbers?	19	and from, you stopped at "Trust Fund."
20	A. I honestly today assign function for	20	A. Right.
21	information. So I don't know.	21	Q. And you didn't
22	BY MS. EBRON:	22	A. It appears that that is a note. Once again,
23	Q. I'm going to show you a document that we'll	23	I don't know what that note means because of the
24	mark as Exhibit 10.	24	truncated words. But I've never seen anything like
25	///	25	that in my career under the name of somebody taking
			i i e
	Page 34		Page 36
			-
1	(Whereupon Defendant's Exhibit 10	1	the beneficial interest in a property.
2	was marked for identification.)	2	Q. I haven't had that either. That's a first.
3	BY MS. EBRON:	3	Do you know Khadija Gulley?
		-	
4	Q. Do you recognize that document?	4	A. I do not.
4 5	<ul><li>Q. Do you recognize that document?</li><li>A. Yes, I do.</li></ul>		
	· · ·	4	A. I do not.
5	A. Yes, I do.	4 5	<ul><li>A. I do not.</li><li>Q. I'm going to show you a document that we'll</li></ul>
5 6	<ul><li>A. Yes, I do.</li><li>Q. What is it?</li></ul>	4 5 6	<ul><li>A. I do not.</li><li>Q. I'm going to show you a document that we'll mark as Exhibit 11.</li></ul>
5 6 7	<ul> <li>A. Yes, I do.</li> <li>Q. What is it?</li> <li>A. Corporation Assignment of Deed of Trust for the State of Nevada.</li> </ul>	4 5 6 7	<ul> <li>A. I do not.</li> <li>Q. I'm going to show you a document that we'll mark as Exhibit 11.</li> <li>(Thereupon Defendant's Exhibit 11 was marked for identification.)</li> </ul>
5 6 7 8	<ul> <li>A. Yes, I do.</li> <li>Q. What is it?</li> <li>A. Corporation Assignment of Deed of Trust for</li> </ul>	4 5 6 7 8	A. I do not. Q. I'm going to show you a document that we'll mark as Exhibit 11. (Thereupon Defendant's Exhibit 11
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	Deutsche Dank National Trust, et al.	5. 51	
	Page 37		Page 39
1	trust again, Exhibit 8.	1	rescinded?
2	A. Okay.	2	A. I do not.
3	Q. Does Fannie Mae have an interest in this	3	Q. Where would you look to find that out?
4	loan?	4	A. I would need to refer to whatever records
5	MR. JUNG: Objection. Calls for	5	Bank of America provided to Nationstar at the time of
6	speculation.	6	the servicing transfer in April of 2014.
7	THE WITNESS: No.	7	Q. When you prepared for this deposition, did
	BY MS. EBRON:		you open up every document that was in the file on
8		8	
9	Q. Does that call for speculation? I mean, you	9	A. Yes, I did.
10	would know if Fannie Mae had an interest; right?	10	Q FileNet. And were there documents that
11	A. Yes. It would be on that Pooling and	11	were received by Bank of America?
12	Servicing Agreement, there would be references to	12	A. Yes, there were.
13	Fannie Mae. Are you asking because of the form?	13	Q. Did those documents include AS-400 notes?
14	Q. Yes. Can you explain to me why it says	14	A. I don't recall. I don't recall. And
15	Fannie Mae and Freddie Mac?	15	oftentimes Nationstar's system will reference AS-400
16	A. Once again, it is my understanding that it's	16	notes if things come up. Well, there's a subsequent
17	a uniform instrument. And seeing as how at the time	17	servicer, and I didn't see any references to any
18	that this was originated Fannie Mae and Freddie Mac	18	AS-400 notes in Nationstar's collection history, or
19	were just kind of the standard barriers of the	19	profile is what they call it. It's really just a
20	mortgage industry. So their forms were used by most	20	comments log.
21	companies.	21	Q. So the only comments log that you saw were
22	Q. Okay. So just because it says Fannie Mae	22	from April of 2014 going forward?
23	and Freddie Mac, it doesn't mean that Fannie or	23	A. That I can say with certainty. Once again,
24	Freddie had an interest in a particular loan?	24	I'm not saying they weren't there. There's
25	A. Correct. It's just a form they created that	25	nothing I did open everything in FileNet. If
	Page 38		Page 40
1		1	-
1	is available for public use. It's like calling	1	there were notes, there was nothing in them that
2	is available for public use. It's like calling tissue "Kleenex" or a bandage a "Band-Aid." It's	2	there were notes, there was nothing in them that jumped out at me or that I recall that jumped out at
2 3	is available for public use. It's like calling tissue "Kleenex" or a bandage a "Band-Aid." It's just a Fannie Mae form.	2 3	there were notes, there was nothing in them that jumped out at me or that I recall that jumped out at me.
2 3 4	is available for public use. It's like calling tissue "Kleenex" or a bandage a "Band-Aid." It's just a Fannie Mae form. Q. Great. Does Freddie Mac has an interest in	2 3 4	there were notes, there was nothing in them that jumped out at me or that I recall that jumped out at me. Q. And when you were looking for the documents,
2 3 4 5	is available for public use. It's like calling tissue "Kleenex" or a bandage a "Band-Aid." It's just a Fannie Mae form. Q. Great. Does Freddie Mac has an interest in this loan?	2 3 4 5	<ul><li>there were notes, there was nothing in them that jumped out at me or that I recall that jumped out at me.</li><li>Q. And when you were looking for the documents, or looking for information for your deposition and</li></ul>
2 3 4 5 6	<ul> <li>is available for public use. It's like calling tissue "Kleenex" or a bandage a "Band-Aid." It's just a Fannie Mae form.</li> <li>Q. Great. Does Freddie Mac has an interest in this loan?</li> <li>A. No.</li> </ul>	2 3 4 5 6	<ul><li>there were notes, there was nothing in them that jumped out at me or that I recall that jumped out at me.</li><li>Q. And when you were looking for the documents, or looking for information for your deposition and you were opening up documents, you were looking for</li></ul>
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	Deutsche Bank National Trust, et al. v		, ,
	Page 41		Page 43
1	A. I guess I don't understand your question.	1	that they were most likely delinquent on their
2	Q. There was a Notice of Default that was	2	homeowners association fees.
3	filed or recorded against the property, which was	3	Q. Okay. But you didn't see anything in the
4	the beginning of a foreclosure of the Deed of Trust?	4	file that was like
5	A. Right.	5	A. They didn't call in and say, "Why are we
6	Q. Did you see any notes on that?	6	getting these? We paid our fees," or anything.
	A. I don't recall anything specific.	7	Q. So you didn't see anything like that?
7	Q. Okay. I'm going to show you a document that		A. No.
8	we'll mark as Exhibit 13.	8	
9		9	Q. Okay. And I think I meant to ask this
10	(Whereupon Defendant's Exhibit 13	10	before when we were looking at Exhibit 12, the
11	was marked for identification.)	11	Recision of the Notice of Default.
12	BY MS. EBRON:	12	Is it your understanding that the borrowers
13	Q. Do you recognize this document?	13	were still delinquent when the Notice of Default was
14	A. I believe I saw a couple of these. I don't	14	rescinded?
15	know if they were I don't recall if they were the	15	A. Based on my recollection of the payment
16	same or different or if this is one of the exact	16	history, I don't believe they ever became current.
17	notice of delinquent assessment liens that I saw.	17	Q. Thank you.
18	But I did see a notice of delinquent assessment lien.	18	A. Like I said, though, obviously based on just
19	Q. Is that something that was contained in your	19	what you provided and documents today, this is a very
20	business records?	20	document intensive file. So that's just based on my
21	A. Yes.	21	recollection.
22	Q. Do you know when it became a part of your	22	Q. But when you looked at the payment history,
23	business records?	23	did you see any payments after I think it was
24	A. It became a part of when you say "you,"	24	sometime in 2009 that was listed on the NOD; right?
25	you're talking about Deutsche Bank?	25	September 1st, 2009?
	Page 42		Page 44
1		1	-
1	Q. Correct.	1	MR. JUNG: Objection. Vague as to "any
2	<ul><li>Q. Correct.</li><li>A. It became a part of Bank of America's</li></ul>	2	<b>MR. JUNG:</b> Objection. Vague as to "any payments."
2 3	<ul> <li>Q. Correct.</li> <li>A. It became a part of Bank of America's business records and subsequently Nationstar's upon</li> </ul>	2 3	MR. JUNG: Objection. Vague as to "any payments." BY MS. EBRON:
2 3 4	<ul> <li>Q. Correct.</li> <li>A. It became a part of Bank of America's business records and subsequently Nationstar's upon the service transfer in April of 2014.</li> </ul>	2 3 4	<ul><li>MR. JUNG: Objection. Vague as to "any payments."</li><li>BY MS. EBRON:</li><li>Q. Any payments from the borrower to the loan</li></ul>
2 3	<ul> <li>Q. Correct.</li> <li>A. It became a part of Bank of America's business records and subsequently Nationstar's upon the service transfer in April of 2014. But I believe it was the latter half of</li> </ul>	2 3 4 5	<ul><li>MR. JUNG: Objection. Vague as to "any payments."</li><li>BY MS. EBRON:</li><li>Q. Any payments from the borrower to the loan that was secured by the Deed of Trust we marked as</li></ul>
2 3 4 5 6	<ul> <li>Q. Correct.</li> <li>A. It became a part of Bank of America's business records and subsequently Nationstar's upon the service transfer in April of 2014. But I believe it was the latter half of November 2011 or possibly in early December 2011. On</li> </ul>	2 3 4 5 6	MR. JUNG: Objection. Vague as to "any payments." BY MS. EBRON: Q. Any payments from the borrower to the loan that was secured by the Deed of Trust we marked as Exhibit 8.
2 3 4 5 6 7	<ul> <li>Q. Correct.</li> <li>A. It became a part of Bank of America's business records and subsequently Nationstar's upon the service transfer in April of 2014. But I believe it was the latter half of November 2011 or possibly in early December 2011. On or about when this is dated.</li> </ul>	2 3 4 5 6 7	<ul> <li>MR. JUNG: Objection. Vague as to "any payments."</li> <li>BY MS. EBRON:</li> <li>Q. Any payments from the borrower to the loan that was secured by the Deed of Trust we marked as Exhibit 8.</li> <li>A. I don't recall exactly if the payments just</li> </ul>
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	Page 45		Page 47
1	Q. Is this something that was contained in	1	BY MS. EBRON:
2	records you received from Bank of America?	2	Q. Do you have any knowledge about whether the
3	A. Yes, it was. And just like the previous	3	Notice of Default we marked as Exhibit 14 was posted
4	exhibit, Exhibit 13, I believe there were a couple of	4	on the property?
5	these I don't recall if this is the exact one I	5	A. I do not.
6	saw, but I have no reason to believe that it's not	6	Q. Do you have any knowledge as to whether the
7	legitimate.	7	Notice of Default and Election to Sell Real Property
8	Q. Do you see any evidence of when it was	8	was mailed to any of the other subordinate
9	received by Bank of America?	9	lienholders on the property?
10	A. On or about when it was dated. Shortly	10	<b>MR. JUNG:</b> Objection. Speculation.
11	thereafter. So like February, early March 2012.	11	THE WITNESS: I do not.
12	Q. Did you see any copies of this Notice of	12	BY MS. EBRON:
13	Default that were paired with envelopes or	13	Q. Do you have any reason to dispute that the
14	Bates-stamped?	14	Notice of Default was mailed to
15	A. I did not.	15	A. I'm sorry. What was your previous question?
16	Q. And did you see any AS-400 notes about the	16	Q. Any subordinate lienholders.
17	receipt of the Notice of Default?	17	A. Am I aware that it was sent to any or
18	A. I did see some mention of the Notice of	18	Q. Do you have any knowledge?
19	Default and Election to Sell because there were	19	A. Okay. Not do I dispute?
20	attempts to cure that.	20	Q. Right. Do you have any knowledge of it?
21	Q. And where did you see those?	21	A. I do not, no.
22	A. In the AS-400 notes, I believe. Once again,	22	Q. Okay. Do you have any reason to dispute
23	it's a very document heavy file.	23	that the Notice of Default we marked as Exhibit 14
24	Q. Do you know how many notes there were about	24	was mailed to the address on the Assignment we marked
25	the Notice of Default?	25	as Exhibit 10?
	Page 46		Page 48
1	Page 46 A. I don't recall the exact number.	1	Page 48 A. As it's been in the system of record, it got
1 2	-	1 2	
	A. I don't recall the exact number.		A. As it's been in the system of record, it got
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	Faye 49		raye 51
1	BY MS. EBRON:	1	be different.
2	Q. Okay. Thank you. I'm going to show you a	2	BY MS. EBRON:
3	document that we will mark as Exhibit 16.	3	Q. Do you have any reason to believe that there
4	(Thereupon Defendant's Exhibit 16	4	wasn't a delinquency?
5	was marked for identification.)	5	MR. JUNG: Objection. Speculation.
6	BY MS. EBRON:	6	THE WITNESS: Just as we've talked about
7	Q. Do you recognize this document?	7	multiple times now, the owners were still delinquent
8	A. Yes, I do.	8	on their property. I don't think it's outside the
9	Q. What is it?	9	realm of possibility that they were still delinquent
10	A. A Notice of Trustee's Sale.	10	on their homeowners association fees.
11	Q. Is this something that's contained in your	11	But, once again, I know Bank of America
12	business records?	12	acquired outside or obtained outside counsel to
13	A. Yes, I believe so.	13	tender payment for the super-priority amount of the
14	Q. And it's something that would have been	14	HOA's lien.
15	received by Bank of America and then forwarded to	15	BY MS. EBRON:
16	Nationstar upon the servicing transfer?	16	Q. Did Deutsche Bank or any of its agents go to
17	A. That is correct.	17	9500 West Flamingo Road, Suite Number 205, Las Vegas,
18	Q. Did you see any notes in the AS-400 report	18	Nevada 89147 at 2:00 p.m. on May 8th, 2013?
19	about this Notice of Trustee's Sale?	19	MR. JUNG: Objection. Speculation. Form.
20	A. I believe it was the same type of notes.	20	THE WITNESS: I don't know.
21	Once again, if they're in front of me, I could give	21	BY MS. EBRON:
22	you a definite answer.	22	Q. If somebody had attended the noticed
23	But between the Notice of Default and the	23	foreclosure sale, is that something that you would
24	Notice of Sale, there were notes as to the file being	24	have expected to have seen in the business records?
25	referred to outside counsel to tender the	25	A. Not necessarily.
			·
	Page 50		Page 52
1	-	1	
1	super-priority amount of the lien.	1	Q. Why not?
2	<pre>super-priority amount of the lien. Q. Do you know when that attempt happened?</pre>	2	<ul><li>Q. Why not?</li><li>A. It's in my experience, I have never seen</li></ul>
2 3	<ul><li>super-priority amount of the lien.</li><li>Q. Do you know when that attempt happened?</li><li>A. If I had some documentation in front of me,</li></ul>	2 3	<ul><li>Q. Why not?</li><li>A. It's in my experience, I have never seen where it says John Smith attended sale date at</li></ul>
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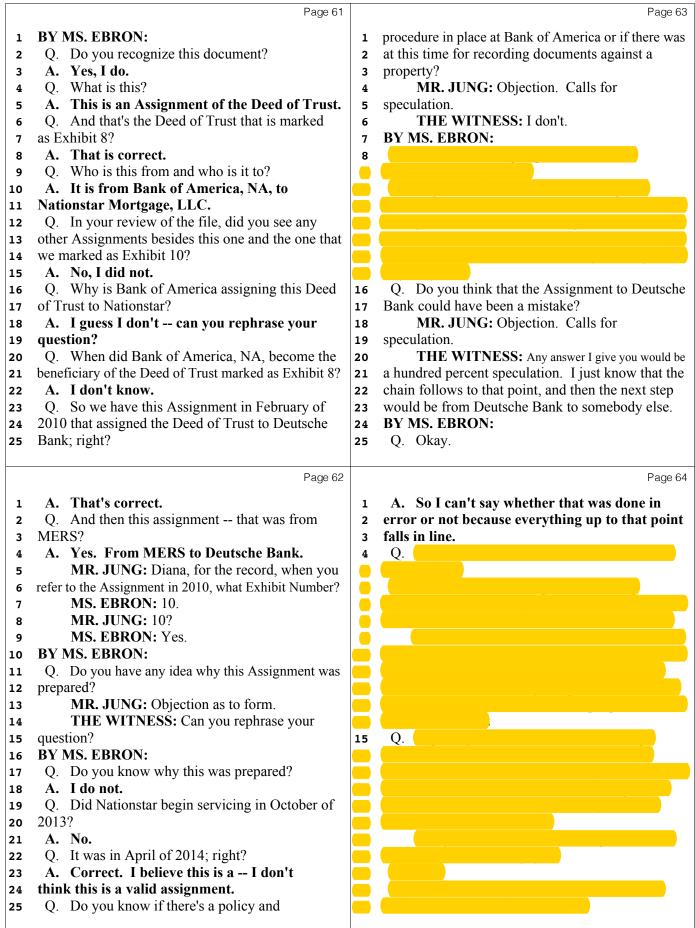
(13) Pages 49 - 52 JA_0889

	Deutsche Bank National Trust, et al. v	s. Sr	r investments Pool 1, LLC, et al.
	Page 53		Page 55
1	MR. JUNG: Objection. Calls for	1	America's policy and procedure for handling
2	speculation.	2	association liens?
3	THE WITNESS: I do not.	3	A. From previously talking with Bank of America
4	BY MS. EBRON:	4	regarding what their policies and procedures were at
	Q. Do you have any knowledge or information	5	that time.
5	about whether the Notice of Trustee's Sale was mailed	_	
6		6	Q. Did you ever talk to anyone at Bank of
7	to the borrowers?	7	America about whether or not their policies and
8	MR. JUNG: Calls for speculation.	8	procedures changed after December 12th, 2012, when
9	Objection.	9	NRED issued its advisory opinion about the
10	THE WITNESS: I do not.	10	super-priority?
11	BY MS. EBRON:	11	A. I just asked a general question about a
12	Q. Do you have any knowledge or information	12	general time period, which I believe was from when I
13	about whether the information contained in the Notice	13	worked at Bank of America until 2012, 2013 roughly.
14	of Trustee's Sale was published in any newspaper?	14	So until 2012.
15	MR. JUNG: Objection. Calls for	15	So I believe I asked what the policies and
16	speculation.	16	procedures were from 2012 to current when I talked to
17	THE WITNESS: I do not.	17	them. And they are as I just explained.
18	BY MS. EBRON:	18	Q. And did they mention if they had any
19	Q. Did you see any evidence that someone from	19	procedure changes after NRED's advisory opinion?
20	Deutsche Bank, Bank of America, or anyone they hired	20	A. Not specifically, no.
21	called Alessi & Koenig at the number listed on this	21	Q. Did you talk to them about whether or not
22	Notice of Trustee's Sale?	22	there were changes after the SFR and U.S. Bank
23	A. Do I have knowledge that they called them?	23	decision in September of 2014?
24	Q. Right.	24	A. No, I did not. But I believe there's no
24 25	A. No. But I know that there was written	24	but. Never mind.
25	A. NO. Dut I know that there was written	25	but. Nevel minu.
	Page 54		Page 56
	Page 54		Page 56
1	correspondence.	1	Q. Do you know if they had a policy change?
2	<b>correspondence.</b> Q. How do you know that?	2	<ul><li>Q. Do you know if they had a policy change?</li><li>A. I do not.</li></ul>
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(14) Pages 53 - 56 JA_0890

	Page 57		Page 59
_		-	-
1	MS. EBRON: 18.	1	sale?
2	<b>MR. JUNG:</b> That's the Notice of Violation	2	MR. JUNG: Objection. Calls for
3	Lien? MS. EBRON: Correct.	3	speculation.
4		4	THE WITNESS: No.
5	<b>MR. JUNG:</b> And the Substitution of Trustee, that would have been Exhibit 17?	5	BY MS. EBRON:
6	MS. EBRON: Correct.	6	Q. Do you have any knowledge about any of the actual events of the sale?
7		7	A. No.
8	MR. JUNG: Thank you. BY MS. EBRON:	8	
9	Q. During this time period in 2013, do you know	9	Q. Do you have any reason to doubt that SFR paid the winning bid?
10 11	if Deutsche Bank through its servicer was maintaining	10 11	<b>MR. JUNG:</b> Objection. Calls for
12	the property?	12	speculation.
13	A. I don't recall.	13	THE WITNESS: According to this Trustee's
14	Q. Do you know if they sent anyone by to check	14	Deed, the buyer was SFR Investments Pool 1, LLC, who
15	on the property?	15	you represent. So I assume they purchased it, but
16	A. I know there were property inspections done,	16	that is an assumption.
17	numerous property inspections. Nothing jumped out at	17	BY MS. EBRON:
18	me, though, regarding anything where the lender would	18	Q. Do you have any information about the
19	have I don't recall anything where the lender	19	identity of the other bidders at the sale?
20	would have had to step in and change the locks or mow	20	A. I do not.
21	the grass or anything like that. I don't recall	21	Q. Do you have any reason to believe that the
22	seeing any notes of that nature.	22	bidders at the sale colluded with SFR so that SFR
23	Q. I'm going to show you another document we'll	23	could purchase the property for \$15,000?
24	mark as Exhibit 19.	24	A. I don't know.
25	///	25	Q. Do you have any reason to believe that SFR
	Page 58		
	Ŭ		Page 60
1	(Whereupon Defendant's Exhibit 19	1	Investments Pool 1, LLC, colluded with Alessi &
1 2		1 2	-
	(Whereupon Defendant's Exhibit 19		Investments Pool 1, LLC, colluded with Alessi &
2	(Whereupon Defendant's Exhibit 19 was marked for identification.)	2	Investments Pool 1, LLC, colluded with Alessi & Koenig, LLC, so that it could pay \$15,000 as the
2 3	(Whereupon Defendant's Exhibit 19 was marked for identification.) <b>BY MS. EBRON:</b>	2 3	<ul> <li>Investments Pool 1, LLC, colluded with Alessi &amp; Koenig, LLC, so that it could pay \$15,000 as the highest bid?</li> <li>A. I don't know.</li> <li>Q. Do you have any reason to believe that SFR</li> </ul>
2 3 4	<ul><li>(Whereupon Defendant's Exhibit 19 was marked for identification.)</li><li>BY MS. EBRON:</li><li>Q. Do you recognize this document?</li></ul>	2 3 4	Investments Pool 1, LLC, colluded with Alessi & Koenig, LLC, so that it could pay \$15,000 as the highest bid? A. I don't know.
2 3 4 5	<ul> <li>(Whereupon Defendant's Exhibit 19 was marked for identification.)</li> <li>BY MS. EBRON:</li> <li>Q. Do you recognize this document?</li> <li>A. Yes, I do.</li> <li>Q. What is it?</li> <li>A. The Trustee's Deed upon Sale.</li> </ul>	2 3 4 5	<ul> <li>Investments Pool 1, LLC, colluded with Alessi &amp; Koenig, LLC, so that it could pay \$15,000 as the highest bid?</li> <li>A. I don't know.</li> <li>Q. Do you have any reason to believe that SFR</li> </ul>
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	Page 65		Page 67
	r age ou		-
1		1	MS. EBRON: Oh, I'm not sure if I mentioned
		2	this specifically.
		3	THE WITNESS: And just for the record, I
		4	didn't I saw this as it's part of the collateral
5	Q.	5	file, but I didn't see anything in here that
		6	referenced title. So it's nothing that I looked at
		7	other than to make sure that we had a copy of it.
		8	BY MS. EBRON:
9	Q. I'm showing you a document that we'll mark	9	Q. Do you know if there were any claims made on
10	as Exhibit 22.	10	it?
11	(Thereupon Defendant's Exhibit 22	11	A. I don't. And it's not something that I
12	was marked for identification.)	12	Q. Do you know where you would look to find
13	BY MS. EBRON:	13	that information out?
14	Q. Do you recognize this document?	14	A. The systems of record for all the servicers
	A. I believe that this yes.	14	since origination. Or contacting the title and title
15	Q. Wright Finlay & Zak, LLP is a law firm	15	company directly.
16			
17	retained by Nationstar; correct?	17	Q. I'm showing you a document that we'll mark
18	A. That is correct.	18	as Exhibit 25.
19	Q. And they would have recorded this on behalf	19	(Whereupon Defendant's Exhibit 25
20	of Nationstar?	20	was marked for identification.)
21	A. That is correct.	21	BY MS. EBRON:
22	Q. And Nationstar directed them to do it in	22	Q. And these were part of the responses to
23	their capacity as servicer for Deutsche Bank?	23	requests for production of documents. Did you review
24	A. That is correct.	24	the responses to requests for production of
25	Q. I'm showing you a document that we'll mark	25	documents?
		_	
	Page 66		Page 68
1	Page 66 as Exhibit 23.	1	Page 68 A. Yes.
	as Exhibit 23.	1	A. Yes.
2	as Exhibit 23. (Whereupon Defendant's Exhibit 23	1 2	<ul><li>A. Yes.</li><li>Q. Did you also review the interrogatories?</li></ul>
	as Exhibit 23. (Whereupon Defendant's Exhibit 23 was marked for identification.)	1	<ul><li>A. Yes.</li><li>Q. Did you also review the interrogatories?</li><li>A. Yes.</li></ul>
2 3 4	as Exhibit 23. (Whereupon Defendant's Exhibit 23 was marked for identification.) <b>BY MS. EBRON:</b>	1 2 3 4	<ul> <li>A. Yes.</li> <li>Q. Did you also review the interrogatories?</li> <li>A. Yes.</li> <li>Q. Do you know who AJ Loll is?</li> </ul>
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2	Miles, Bauer, Bergstrom & Winters, who are the law	2	BY MR. JUNG:
3	firm obtained by Bank of America to address the issue	3	Q. Mr. Kovalic, for the record, could you state
	of the super-priority amount of the homeowners	4	when the HOA sale took place?
4	association lien. So the first document is		A. September 11th, 2013.
5		5	A
6	Q. Let me just ask you real quick. Are any of	6	Q. When did Nationstar start servicing the
7	these documents ones that were contained in your	7	subject loan?
8	business records?	8	A. April 1st, 2014.
9	A. These were provided by counsel.	9	Q. At the time of the HOA sale on September 11,
10	Q. Do you know where they came from?	10	2013, was Bank of America the servicer?
11	A. I do not.	11	A. Yes.
12	Q. Do you have anyone to authenticate them	12	Q. And did Bank of America reach out to the HOA
13	through your business records?	13	trustee, who at the time was Asset Recovery Services,
14	A. Because they were provided to me by counsel,	14	after receiving a copy of the recorded Notice of
15	I didn't I wasn't looking for them when I was	15	Default that was recorded on March 6th, 2012?
16	going through the thousands of documents in FileNet.	16	MS. EBRON: Calls for speculation.
17	Q. But you opened up the web page?	17	BY MR. JUNG:
18	A. Right.	18	Q. I'd like to point you back to Exhibit Number
19	Q. And you would have made a note if there was	19	25.
20	something referencing a homeowners association lien?	20	A. Okay.
21	A. Yes.	21	MS. EBRON: He's already testified that he
22	Q. Do you have any information about any	22	just received this from counsel, and it wasn't part
	efforts to make any payments to the association on	22	of the business records. So I don't think we need to
23	behalf of this property other than these documents?		
24		24	go through any of the details on here.
25	A. I believe there was like I said, there	25	<b>MR. JUNG:</b> Right. But he won't have to
	<b>D -</b>		<b>D -</b>
	Page 70		Page 72
1		1	-
1	were notes in AS-400 regarding Miles Bauer and	1	speculate because it's actually right here on
2	were notes in AS-400 regarding Miles Bauer and retaining them to acquire a payoff, which Centennial	2	speculate because it's actually right here on Exhibit 25.
2 3	were notes in AS-400 regarding Miles Bauer and retaining them to acquire a payoff, which Centennial Point Homeowners Association provided on the SOB,	2 3	speculate because it's actually right here on Exhibit 25. MS. EBRON: Expect for he can't verify or
2 3 4	were notes in AS-400 regarding Miles Bauer and retaining them to acquire a payoff, which Centennial Point Homeowners Association provided on the SOB, technically page 2, 3 and 4. But nothing in there	2 3 4	speculate because it's actually right here on Exhibit 25. <b>MS. EBRON:</b> Expect for he can't verify or authenticate any of these business records. He's not
2 3 4 5	were notes in AS-400 regarding Miles Bauer and retaining them to acquire a payoff, which Centennial Point Homeowners Association provided on the SOB, technically page 2, 3 and 4. But nothing in there actually says what the super-priority amount is.	2 3 4 5	speculate because it's actually right here on Exhibit 25. <b>MS. EBRON:</b> Expect for he can't verify or authenticate any of these business records. He's not an appropriate witness to do that. Anything that's
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	Page 73		Page 75
1	Bergstrom & Winters did that in this situation?	1	<b>THE WITNESS:</b> Based on the information, yes,
2	<b>MS. EBRON:</b> Form. Calls for speculation.	2	and based on my review in preparation.
3	<b>THE WITNESS:</b> Based on the copy of the check	3	BY MR. JUNG:
4	that is in Exhibit 25, it appears that a check in the	4	Q. And based on your experience working for
5	amount of \$558, which is the equivalent of	5	Nationstar, Miles, Bauer, Bergstrom & Winters is a
6	nine months of assessments, was made to Asset	6	law firm that has in the past tendered super-priority
7	Recovery Services.	7	amount checks to HOAs or HOA trustees on behalf of
8	BY MR. JUNG:	8	banks or First Deed of Trust lienholders?
9	Q. And then based on the documents that you	9	MS. EBRON: Calls for speculation. Form.
10	reviewed and also contained in Exhibit Number 25,	10	THE WITNESS: Based on my experience, yes.
11	would you agree that there was a payoff demand	11	BY MR. JUNG:
12	provided by the HOA trustee at the time, which was	12	Q. Do you have any reason to doubt the
13	Asset Recovery Services?	13	authenticity of the documents that counsel presented
14	MS. EBRON: Form. Calls for speculation.	14	as Exhibit 25 or documents you reviewed prior to this
15	THE WITNESS: The first sentence of the	15	deposition?
16	second page of Exhibit 25 says, "We are in receipt of	16	A. No.
17	your demand for payoff regarding the above-referenced	17	Q. Earlier counsel asked you if you had come
18	property." And then they provide the total amount.	18	across any records that would indicate any
19	And then they provide the monthly assessment. And	19	improprieties with the HOA sale including but not
20	then there is a full ledger on the third page. It	20	limited to collusions on the part of HOA trustee and
21	continues onto the fourth page.	21	SFR or between other bidders at the HOA sale and SFR;
22	BY MR. JUNG:	22	is that correct?
23	Q. And going back to that first sentence. When	23	A. Yes. Are you asking whether those questions
24	was that demand for payoff dated?	24	were asked?
25	A. March 23rd, 2012.	25	Q. Yes.
-	Da		
	Page 74		Page 76
1	-	1	-
1	Q. And when was the letter from Miles, Bauer	1	A. Yes, they are.
1 2 3	-		<ul><li>A. Yes, they are.</li><li>Q. And I believe you said you didn't at this</li></ul>
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2 3	Q. And when was the letter from Miles, Bauer Bergstrom & Winters with a copy of the tendered check	2 3	<ul><li>A. Yes, they are.</li><li>Q. And I believe you said you didn't at this point in time, you had not come across any such</li></ul>
2 3 4	Q. And when was the letter from Miles, Bauer Bergstrom & Winters with a copy of the tendered check dated? <b>MS. EBRON:</b> Calls for speculation.	2 3 4	<ul><li>A. Yes, they are.</li><li>Q. And I believe you said you didn't at this point in time, you had not come across any such information; correct?</li></ul>
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	Deutsche Bank National Trust, et al. v	's. 5r	K investments Fool 1, LLC, et al.
	Page 77		Page 79
1	from Miles Bauer dated July 29th, 2016. It's still	1	<b>MR. JUNG:</b> Thank you. No further questions.
2	questioning the	2	
3	Q. Do you have any information of whether or	3	FURTHER EXAMINATION
4	not the check was accepted?	4	BY MS. EBRON:
	A. I don't have any information.	5	Q. None of those cases where there was an
5	•		
6	Q. Okay. Are you aware that Bank of America's	6	attempt to pay were ones where Nationstar attempted
7	policies and procedures were to make a payment with a	7	to pay; correct?
8	letter containing the same language as in this letter	8	A. I'm sorry?
9	and then if it was rejected, to go ahead and just	9	Q. All those cases that you were talking about,
10	close the file?	10	the 75 percent that included some type of attempt to
11	A. I'm not aware of it. And that would have	11	pay.
12	been no, I don't know.	12	A. Uh-huh.
13	MS. EBRON: Okay. That's all I have.	13	Q. All those were with Bank of America, not
14		14	with Nationstar. Correct?
15	FURTHER EXAMINATION	15	MR. JUNG: Objection. Form.
16	BY MR. JUNG:	16	THE WITNESS: They weren't solely with Bank
17	Q. One more follow-up question, Mr. Kovalic.	17	of America, but they were not with Nationstar. Are
18	Are you aware that it was the practice and procedures	18	you asking
19	of HOA trustees to not accept any amount less than	19	BY MS. EBRON:
20	the full amount shown on the payoff demands they	20	Q. Has Nationstar ever tried to pay a
21	provided?	21	homeowners association lien?
22	MS. EBRON: Form. Calls for speculation.	22	A. No. But prior servicers have.
23	<b>THE WITNESS:</b> Could you rephrase that?	23	Q. Right. So Nationstar doesn't have any
24	BY MR. JUNG:	24	firsthand knowledge of attempts to pay homeowners
25	Q. Sure. I'm sorry.	25	association liens in 2012 and '13; correct?
23	Q. Bule. Initionly.	23	ussociation nens in 2012 and 13, confect.
	D 70		
	Pade /8		Page 80
	Page 78		Page 80
1	A. That one I don't understand.	1	A. Not that I'm aware of, no.
1 2	<ul><li>A. That one I don't understand.</li><li>Q. Are you aware that as a practice the HOA</li></ul>	1 2	
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2	<ul> <li>A. That one I don't understand.</li> <li>Q. Are you aware that as a practice the HOA trustees or HOAs in Nevada did not accept nine months' worth of common assessments for the</li> </ul>	2	A. Not that I'm aware of, no. MS. EBRON: Okay. FURTHER EXAMINATION
2 3	A. That one I don't understand. Q. Are you aware that as a practice the HOA trustees or HOAs in Nevada did not accept nine months' worth of common assessments for the super-priority amount?	2 3	A. Not that I'm aware of, no. MS. EBRON: Okay. FURTHER EXAMINATION BY MR. JUNG:
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(20) Pages 77 - 80 JA_0896

	Page 81		Page 83
_	the summary sufference could have to see UOA Keep and them	1	REPORTER'S CERTIFICATE
1	the property was sold due to an HOA lien, yes, then	2	STATE OF NEVADA )
2	documents would be requested from prior servicers by	3	) SS: COUNTY OF CLARK )
3	Nationstar in order to see, you know, if there was an	4	I, Jane V. Efaw, CCR No. 601, do hereby certify:
4	attempt to tender payment.	5	That I reported the taking of the deposition of
5	However, now that most of these files have	6	the witness, KEITH KOVALIC, at the time and place
6	been identified and they are usually flagged in some	7	aforesaid;
7	sort of way during the onboarding process that, you	8	That prior to being examined, the witness was by
8	know, an HOA sale was held on date X, you know,	9	
9	they're going to request that documentation a lot	-	me duly sworn to testify to the truth, the whole
10	quicker now than they would have four years ago.	10	truth, and nothing but the truth;
11	MR. JUNG: Understood. Thank you. No	11	That I thereafter transcribed my shorthand notes
12	further questions.	12	into typewriting and that the typewritten transcript
13	MS. EBRON: Okay. We're done. I would like	13	of said deposition is a complete, true and accurate
14	an e-tran.	14	transcription of said shorthand notes taken down at
15	<b>THE REPORTER:</b> And would you like a copy of	15	said time, and that a request has been made to review
16	the transcript, Mr. Jung?	16	the transcript.
17	MR. JUNG: Yes, please.	17	I further certify that I am not a relative or
18	<b>THE REPORTER:</b> Would you like an e-tran?	18	employee of counsel of any party involved in said
19	<b>MR. JUNG:</b> I'll go with e-tran. That's	19	action, nor a relative or employee of the parties
20	fine. Sure.	20	involved in said action, nor a person financially
21	(Thereupon the taking of the	21	interested in the action.
22	deposition was concluded at	22	Dated at Las Vegas, Nevada, this day of
23	12:32 p.m.)	23	, 2016.
24	* * * * *	24	
25		25	Jane V. Efaw, CCR #601
_	Page 82	-	
1	CERTIFICATE OF DEPONENT		
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2 3	CERTIFICATE OF DEPONENT		
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2 3 4 5 6 7 8 9 10 11 12 13 14	CERTIFICATE OF DEPONENT		
2 3 4 5 6 7 8 9 10 11 12 13 14	CERTIFICATE OF DEPONENT PAGE LINE CHANGE REASON * * * * * * I, KEITH KOVALIC, deponent herein, do hereby		
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	CERTIFICATE OF DEPONENT PAGE LINE CHANGE REASON * * * * * 1, KEITH KOVALIC, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action;		
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	CERTIFICATE OF DEPONENT PAGE LINE CHANGE REASON * * * * * * 1, KEITH KOVALIC, deponent herein, do hereby certify and declare the within and foregoing		
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		25th (1)	8th (2)
1	2	26:19	51:18;52:16
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Ex. B

## EXHIBIT B

Order and Motion

Ex. B

JA_0910

## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

DITECH FINANCIAL LLC,

Plaintiff(s),

v. SFR INVESTMENTS POOL 1, LLC, et al., Defendant(s). Case No. 2:16-cv-00127-GMN-NJK ORDER (Docket No. 91)

Pending before the Court is Plaintiff's motion to substitute parties. Docket No. 91. Defendant SFR filed a response in opposition, and Plaintiff filed a reply. Docket Nos. 93, 96. The Court finds the motion properly decided without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion is hereby **DENIED** without prejudice.

Whether to permit substitution of parties upon a transfer of interest is a matter entrusted to the Court's discretion. Fed. R. Civ. P. 25(c). The motion acknowledges that discretionary consideration, but provides in total two sentences of "legal argument." Docket No. 91 at 4. After SFR noted several factual concerns, the reply attempts to bolster the motion by contending for the first time that its "Assignment of Deed of Trust" constitutes competent evidence of a transfer of interest subject to judicial notice and that various "instructive" factors support substitution. Docket No. 96 at 2-5. As to the former issue, Plaintiff cites provisions in the Federal Rules of Evidence regarding judicial notice, but provides no legal authority of any kind interpreting those rules as allowing judicial notice of documents similar to the Assignment at issue here. Docket No. 96 at 3. This shortcoming is especially problematic

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since the thrust of SFR's response is that the accuracy of such documentation is the subject of reasonable questioning. *Compare id.* (noting standard for judicial notice) *with* Docket No. 93 at 3-5 (noting potential for inaccuracy). With respect to the newly identified discretionary factors, Plaintiff provides no explanation as to why such discussion was not provided in its motion. The Court declines to consider arguments that were raised in reply for the first time. *See, e.g., Bazuaye v. I.N.S.*, 79 F.3d 118, 120 (9th Cir. 1996).

Accordingly, the motion to substitute is hereby **DENIED** without prejudice. Any renewed motion must provide meaningfully developed argument showing (1) that a transfer of interest has been established through the motion and any exhibits thereto, and (2) that the Court should exercise its discretion to afford the relief sought.

IT IS SO ORDERED.

DATED: November 8, 2017

NANCY J. KOPPE United States Magistrate Judge

	Case 2:16-cv-00127-GMN-NJK Document	93 Filed 10/30/17 Page 1 of 7
1 2 3 4 5 6 7 8 9	DIANA S. EBRON, ESQ. Nevada Bar No. 10580 E-mail: diana@kgelegal.com JACQUELINE A. GILBERT, ESQ. Nevada Bar No. 10593 E-mail: jackie@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, Nevada 89139 Telephone: (702) 485-3300 Facsimile: (702) 485-3301 Attorneys for SFR Investments Pool 1, LLC UNITED STATES	DISTRICT COURT
10	DISTRICT	OF NEVADA
11	DITECH FINANCIAL, LLC,	Case No. 2:16-cv-00127-GMN-NJK
12	Plaintiff, vs.	
13		
14 15 16 17	SFR INVESTMENTS POOL 1, LLC; BOULDER RANCH MASTER ASSOCIATION; TWILIGHT HOMEOWNERS ASSOCIATION; HOMEOWNER ASSOCIATIONS SERVICES, INC.; HARMESH SINGH; KULJIT KAUR; DOES 1-10, inclusive,	SFR INVESTMENTS POOL 1, LLC'S OPPOSITION TO MOTION FOR SUBSTITUTION OF BONY MELLON AS PLAINTIFF/COUNTER-DEFENDANT/ CROSS-DEFENDANT [ECF NO. 91]
18	Defendants. SFR INVESTMENTS POOL 1, LLC,	
19	Counter/Cross Claimant,	
20	VS.	
21	DITECH FINANCIAL, LLC; BANK OF NEW YORK MELLON, FKA THE BANK OF	
22	NEW YORK as Trustee for the CERTIFICATEHOLDERS CWABS, INC., ALTERNATIVE LOAN TRUST 2005-J12	
23	ASSET-BACKED CERTIFICATES SERIES 2005-17; HOUSEHOLD FINANCE REALTY	
24	CORPORATION OF NEVADA; HARMESH SINGH, an individual; and KULJIT KAUR, an	
25	individual, Counter/Cross Defendants.	
26		hereby opposes the Motion for Substitution filed
27		BANK OF NEW YORK MELLON, FKA THE
28		DATA OF THE TORK WILLEON, TRA THE
	-	1 -
		JA_0913

KIM GILBERT EBRON 7625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 (702) 485-3300 FAX (702) 485-3301

BANK OF NEW YORK as Trustee for the CERTIFICATEHOLDERS CWABS, INC., 1 ALTERNATIVE LOAN TRUST 2005-J12 ASSET-BACKED CERTIFICATES SERIES 2005-2 3 17 ("BNY Mellon") as ECF No. 91. This opposition is based on the pleadings and papers on file herein, the following memorandum of points and authorities, the Declaration of Diana S. Ebron 4 5 ("Ebron Decl."), a true and correct copy of which is attached as **Exhibit A**, and any oral argument this Court should entertain. 6

## **MEMORANDUM OF POINTS AND AUTHORITIES** I. **INTRODUCTION**

The motion to substitute parties should be denied because BNY Mellon has not sufficiently demonstrated an interest in the Deed of Trust. To date, neither Ditech nor BNY Mellon have produced the original, wet-ink signature promissory note for inspection. Similarly, no trust documents-like an executed pooling and servicing agreement and/or trust agreement containing a loan schedule identifying the loan underlying the Deed of Trust-have been disclosed in this case.

Moreover, the assignments of the Deed of Trust are questionable at best. A review of 15 the face of the recorded assignments of deed of trust indicate that the loan related to this Property 16 was first placed into a 2005 trust sometime in 2011. Although SFR disputes the efficacy of such 17 a transfer, this raises various questions regarding any purported interest that BNY Mellon, or 18 19 any other bank for that matter, may have in the underlying loan. These questions require 20 additional evidentiary support, which Ditech/BNY Mellon failed to provide. Neither Ditech nor BNY Mellon have produced any competent documentation reflecting BNY Mellon's alleged interest in the Property. Ditech and BNY Mellon failed to attach an affidavit from BNY 22 Mellon substantiating BNY Mellon's purported interest in the Deed of Trust or explaining the 23 assignments.¹ As such, the motion should be denied. 24

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²⁷ ¹ Even if testimony in the form of an affidavit were provided, SFR submits that without the appropriate documents, this would still not be sufficient to prove BNY Mellon's alleged interest, as the underlying 28 evidence must still be provided.

**KIM GILBERT EBRON** 

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### II. LEGAL ARGUMENT

This Court should deny Ditech and BNY Mellon's motion to substitute as they have not established a transfer of interest as required pursuant to FRCP 25(c). According to FRCP 25(c):

(c) Transfer of Interest. If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in Rule 25(a)(3).

FRCP 25(c) (emphasis added).

Under FRCP 25(c), substitution must be denied. BNY Mellon's interest has not been established by competent evidence. The Motion merely states that subsequent to Ditech filing its complaint, Ditech allegedly transferred its entire interest to BNY Mellon and the only evidence attached is a copy of an Assignment of Deed of Trust. See Motion, Ex. 1. No affidavit from BNY Mellon is provided to substantiate this purported transfer of interest. No further documentation was attached to the motion, nor has it been produced in discovery

It is a matter of public record that the originating lender (Countrywide Home Loans, Inc.) and other alleged mortgage holders /servicers engaged in serious misconduct that drew into question the validity of documentation underlying their property transactions. In 2012, the Office of Inspector General, Department of Housing & Urban Development issued its Memorandum No. 2012-CH-1803. See Ebron Decl., Exhibit A-1 ("OIG Report"). The OIG Report summarizes the misconduct of five major lender / servicers. The summary findings were illuminating.

The five servicers did not establish effective control over their foreclosure process. This failure permitted a control environment in which:

- Affiants routinely signed foreclosure documents, including affidavits, certifying that they had personal knowledge of the facts when they did not and without reviewing the supporting documentation referenced in them. Affiants . . . consistently failed to verify the accuracy of the foreclosure documents they signed.
- A number of employees . . . engaged as "robosigners," had little or no education beyond high school and little or no experience in banking or real estate. . . . work histories revealed a lack of qualifications to hold the titles held by affiants. Interviews ... disclosed that employees were given titles such as vice president for the sole purpose of allowing the individuals to sign documents, and the titles came with no other duties or authority.
- Notaries public for three of the servicers . . . routinely notarized documents without witnessing affiant signatures. * * *

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The five servicers failed to follow HUD requirements for properties they foreclosed upon in judicial foreclosure States and jurisdictions . . . [which] required these services to obtain and convey to the Secretary of HUD good and marketable title to properties. The mortgage servicers may have conveyed flawed or improper titles to HUD because they did not establish a control environment which ensured that affiants performed a due diligence review of the facts submitted to the courts and that employees properly notarized documents.

See Exhibit A-1, OIG Report at 5-6 (emphasis added).

SFR has encountered these types of problems in its recent litigation. In one case, a bank 7 8 was unable to definitively verify that a particular loan was contained in the trust at issue, or which entity the deed of trust belonged to.² In another case, a bank recorded a 2015 discharge of its 2011 9 assignment to U.S. Bank that included a statement that the assignment was recorded in error 10 because U.S. Bank had never purchased the underlying loan.³ This "discharge of assignment" was 11 recorded after years of litigation. In another case, a bank witness testified the loan servicer's 12 internal records showed the recorded assignment of a deed of trust was to a different entity than 13 the loan's owner.⁴ In yet another case, a bank's deposition witness stated an assignment from 14 Deutsche Bank to Bank of America was an invalid "ghost assignment," later confirmed having 15 seen a "rogue assignment" by Bank of America more than once, and agreed that he had seen 16 situations in the past where "an Assignment ... doesn't necessarily match up with reality."⁵ 17

Even if the assignments of the Deed of Trust in this case are taken at face value, there are still problems with BNY Mellon's purported interest without further explanation. Pursuant to the Pooling and Servicing Agreement that SFR located online, the **closing date for the Trust is listed as December 29, 2005**. *See* Pooling and Servicing Agreement ("PSA") attached hereto as **Exhibit** 

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 ² See Ebron Decl., ¶6(b) & Exhibit A-2 (U.S. Bank unable to explain the 2007 reconveyance of the purported first deed of trust or the 2013 rescission of the 2007 reconveyance; unable to explain how J.P. Morgan became the depositor for a loan originated by Countrywide and explaining that a single code in the bank's system of record served the basis for the bank's position that the loan is contained in the trust and to determine in which entity the deed of trust should be assigned).

^{25 &}lt;sup>3</sup> <u>See</u> Ebron Decl., ¶6(c) & Exhibit A-3 and Exhibit A-4.

 ⁴ See Ebron Decl., ¶6(d) & Exhibit A-5 (bank's written discovery responses and recorded assignment stated HSBC Bank USA, N.A. a Trustee for Sequoia Mortgage Trust 2007-3 was owner of loan while bank witness testified that bank system of record showed the loan to be contained in a different trust)

^{28 &}lt;sup>5</sup> See Ebron Decl.,  $\P6(e)$  & Exhibit A-6.

A-7 at 32 of 238 and available at <u>https://www.sec.gov/Archives/edgar/data/1348455/00009</u>
 0514806000821/efc6-0317 5809806ex41.txt (last accessed 10/30/17).

However, the assignment which Ditech alleges first placed this loan into the Trust was not recorded until **October 24, 2011** as Instrument No. 201110240000999, *nearly 6 years after* the closing date listed within the PSA.

Adding to the confusion, there is another purported assignment of the Deed of Trust from MERS to BNY Mellon recorded against the Property on June 16, 2011 as Instrument No. 201106160001921. Neither Ditech nor BNY Mellon provided any explanation for this assignment, as this additional assignment to BNY Mellon was <u>entirely ignored</u> in Ditech's motion.

Furthermore, neither Ditech nor BNY Mellon have produced the Trust agreement which gives BNY Mellon the power to act as trustee for the Trust. This agreement should delineate the parameters for BNY Mellon's power as it relates to the Trust and its assets, including whether or not BNY Mellon has the ability to receive and place assets within the Trust or transfer assets out of the Trust after the closing date.

This failure to produce the Trust agreement specifically calls into question the efficacy of 16 the assignments above, as well as the Assignment of Deed of Trust recorded on May 15, 2015 as 17 Instrument No. 201505150001470, wherein BNY Mellon purportedly transferred the interest in 18 19 the deed of trust and underlying promissory note to Green Tree Servicing, LLC, and the 20 Assignment of Deed of Trust recorded on September 6, 2017 as Instrument No. 20170906-0000378, purportedly transferring the interest in the deed of trust and underlying promissory note 21 back to BNY Mellon. Given the perpetual shuttling of this loan in and out of the Trust, the Trust 22 23 agreement is of paramount importance and must be produced.

As outlined above, there are serious questions as to whether BNY Mellon holds any actual interest in the underlying loan. Given the current state of uncertainty, and frankly, utter lack of competent evidence that BNY Mellon retains any interest in the Deed of Trust, this Court should deny the Motion because both Ditech and BNY Mellon have failed to establish that any interest was transferred, let alone a sufficient interest in the subject matter of this litigation.

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## III. CONCLUSION

For the reasons stated above, SFR requests that the Motion for Substitution [ECF No. 91]

be denied.

DATED this 30th day of October, 2017.

## KIM GILBERT EBRON

/s/ Diana S. Ebron Diana S. Ebron, Esq. Nevada Bar No. 10580 Jacqueline A. Gilbert, Esq. Nevada Bar No. 10593 Karen L. Hanks, Esq. Nevada Bar No. 09578 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 Phone: (702) 485-3300 Fax: (702) 485-3301 Attorneys for SFR Investments Pool 1, LLC

	Case 2:16-cv-00127-GMN-NJK Document 93 Filed 10/30/17 Page 7 of 7
1	CERTIFICATE OF SERVICE
2	I HEREBY CERTIFY that on this <u>30th</u> day of October, 2017 pursuant to FRCP 5, I served
2	via the CM-ECF electronic filing system the foregoing SFR INVESTMENTS POOL 1, LLC'S
4	OPPOSITION TO MOTION FOR SUBSTITUTION OF BONY MELLON AS
5	PLAINTIFF/COUNTER-DEFENDANT/CROSS-DEFENDANT [ECF NO. 91] to the
6	following parties:
7	Michael R. Brooks, Esq. Email: mbrooks@klnevada.com
8	Kolesar and Leatham
9	400 S. Rampart Boulevard Suite 400
10	Las Vegas, NV 89145 702-362-7800
11	Fax: 702-362-9472
12	Kyle Nicholas Foster, Esq. Email: kfoster@brookshubley.com
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26	Las Vegas, NV 89144 Attorney for Twilight Homeowners Association
27	/s/ Diana S. Ebron
28	an employee of Kim Gilbert Ebron
	- 7 -

Ex. C

# EXHIBIT C

## Declaration of Christopher Hardin

Ex. C

JA_0920

1 **DECLARATION OF CHRISTOPHER HARDIN** 2 I, Christopher Hardin, declare as follows: I am over the age of eighteen years old and competent to testify. 1. 3 2. I am a resident of Clark County, Nevada. 4 3. Unless otherwise stated, I have personal knowledge of the facts set forth in this 5 declaration, and for those facts stated on information and belief, I believe them to be true. 6 4. 7 I am the manager at SFR Investments Pool 1, LLC ("SFR"). 5. 8 I make this declaration in support of SFR's Motion for Summary Judgment. 9 6. SFR maintains records related to real property located at 5327 Marsh Butte Street, Las Vegas, Nevada 89148 (the "Property"). As manager of SFR, I am familiar with the type of 10 records maintained by SFR. I have personal knowledge of SFR's procedure for obtaining and 11 12 keeping these records, which are kept and maintained in the ordinary course of SFR's business. 7. As part of my duties as the manager for SFR, I have attended and bid on real 13 property at multiple public foreclosure auctions held on behalf of homeowners' associations by 14 their agents. 15 8. Based on NRS 116.3116(2), it was my understanding and belief that the 16 homeowner's association liens being foreclosed upon at the auctions I attended include amounts 17 that were prior to any first security interest recorded on the properties. 18 9. 19 Typically, prior to attending these auctions, I researched which properties would be 20 available for sale through searches on Foreclosure Radar, Nevada Legal News and Clark County Legal News. 21 10. Based on a review of SFR's business records as well as documents produced in this 22 23 litigation, on January 8, 2014, I attended a public foreclosure auction of the Property conducted by Alessi & Koenig, LLC ("A&K") on behalf of on behalf of Shadow Mountain Ranch Community 24 Association (the "Association"). 25 11. Based on a review of SFR's business records as well as documents produced in this 26 27 litigation, at the publicly noticed auction, I placed the highest bit for \$59,000, which I paid on behalf of SFR. 28

JA 0921

12. After the auction, SFR received a foreclosure deed. A true and correct copy of the 1 Association foreclosure deed is attached hereto as Exhibit C-1. 2 13. SFR has no reason to doubt the recitals in the foreclosure deed. 3 If there were any issues with delinquency or noticing, none of these were 14. 4 communicated to SFR before the sale. 5 15. I never attended a sale where there was only one qualified bidder in attendance. 6 Neither SFR nor I have any relationship with or interest in the Association other 7 16. 8 than now owning property within the community. 9 17. Neither SFR nor I have any relationship with or interest in A&K, outside of SFR's attendance at auctions, bidding, and purchasing properties at publicly-held auctions conducted by 10 A&K or having purchased some reverted properties through arm's-length negotiations. 11 18. Based on my research, there was no lis pendens recorded against the Property at 12 the time of the foreclosure. 13 19. 14 Based on my research, there was no release of the super-priority portion of the Association's lien recorded against the Property prior to the foreclosure sale. 15 20. SFR has been paying the Association's assessments since SFR acquired the 16 17 Property. 21. I do not recall any announcement at the Association sale regarding payments of any 18 19 kind prior to the Association foreclosure sale. 20 22. I have no knowledge of any attempted or actual payments by anyone prior to the Association foreclosure sale. 21 23. I do not recall any announcement at the Association sale regarding payments of any 22 kind prior to the Association foreclosure sale. 23 I declare under penalty of perjury that the foregoing is true and correct. 24 25 DATED this 19th day of July, 2018. 26 /s/ Christopher Hardin 27 Christopher Hardin 28 - 2 -

625 DEAN MARTIN DRIVE, SUITE 110 LAS VEGAS, NEVADA 89139 **KIM GILBERT EBRON** 

(702) 485-3300 FAX (702) 485-330

JA 0922

Ex. C-1

# EXHIBIT C-1

Trustee's Deed Upon Sale

Ex. C-1

JA_0923

Inst #: 201401130001460 Fees: \$17.00 N/C Fee: \$0.00 RPTT: \$1519.80 Ex: # 01/13/2014 01:10:44 PM Receipt #: 1899989 Requestor: ALESSI & KOENIG, LLC Recorded By: SUO Pgs: 2 DEBBIE CONWAY CLARK COUNTY RECORDER

When recorded mail to and Mail Tax Statements to: SFR Investments Pool 1, LLC 5030 Parasdise Road, B-214 Las Vegas, NV 89119

A.P.N. No.163-30-312-007

TS No. 6601

### TRUSTEE'S DEED UPON SALE

The Grantee (Buyer) herein was: SFR Investments Pool 1, LLC The Foreclosing Beneficiary herein was: Shadow Mountain Ranch Community Association The amount of unpaid debt together with costs: \$8,499.11 The amount paid by the Grantee (Buyer) at the Trustee's Sale: \$59,000.00 The Documentary Transfer Tax: \$1,519.80 Property address: 5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669 Said property is in [ ] unincorporated area: City of LAS VEGAS Trustor (Former Owner that was foreclosed on): STACY MOORE

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded September 11, 2012 as instrument number 0002023, in Clark County, does hereby grant, without warranty expressed or implied to: SFR Investments Pool 1, LLC (Grantee), all its right, title and interest in the property legally described as: SECTION 30 R2-60 70 #5 LOT 7 BLOCK 1, as per map recorded in Book 102, Pages 28 as shown in the Office of the County Recorder of Clark County Nevada.

#### TRUSTEE STATES THAT:

This conveyance is made pursuant to the powers conferred upon Trustee by NRS 116 et seq., and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the recorder of said county. All requirements of law regarding the mailing of copies of notices and the posting and publication of the copies of the Notice of Sale have been complied with. Said property was sold by said Trustee at public auction on January 8, 2014 at the place indicated on the Notice of Trustee's Sale.

Huong Lam,	Esq. Ale		
Signature of	AUTHORIZED A	GENT for Alessi &	Koenig, Lle.

State of Nevada	
County of Clark	

)

<b>1</b>		
SUBSCRI	BED and SWORN before me JAN	1 3, 2014 by Huong Lam
	S my hand and official seal.	Mide
(Seal)	NOTARY PUBLIC HEIDIA, HAGEN	(Signature)
	STATE OF NEVADA - COUNTY OF CLARK MY APPOINTMENT EXP. MAY 17, 2017 No: 13-10829-1	

### STATE OF NEVADA DECLARATION OF VALUE

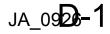
1. Assessor Parcel Number(	s)		
a. 163-30-312-007	~		
b			
c.			
d.			
2. Type of Property:			
a. Vacant Land b.	✓ Single Fam. Res.	FOR RECORDERS	S OPTIONAL USE ONLY
c. Condo/Twnhse d.	2-4 Plex		Page:
e. Apt. Bldg f.	Comm'l/Ind'l		1 uge
	Mobile Home	Notes:	
g. Agricultural h. Other	Woone nome	Notes:	
3.a. Total Value/Sales Price of	of Property	\$ 59,000.00	
b. Deed in Lieu of Foreclos		perty(	)
c. Transfer Tax Value:	are only (rance or proj	\$ 297,577.00	
d. Real Property Transfer Ta	ix Due	\$ 1,519.80	
		•	
<ol> <li>If Exemption Claimed: a. Transfer Tax Exemption</li> </ol>	ion per NRS 375.090, 8	Section	
<li>b. Explain Reason for Explain Reason</li>	xemption:		
5. Partial Interest: Percentag			
The undersigned declares and			
and NRS 375.110, that the in			
and can be supported by doct			
Furthermore, the parties agree			
additional tax due, may result			
to NRS 375.030, the Buyer at	1d-Syller shall be jointl	y and severally liable for	any additional amount owed.
N N	<u> </u>		
Signature <u>A</u>	$\sim$	Capacity: Grantor	
Signature		Capacity:	
Bighature		Capacity;	
SELLER (GRANTOR) INF	ORMATION	BUVER (CRANT)	EE) INFORMATION
(REQUIRED			UIRED)
Print Name: Alessi & Koenig			vestments Pool 1, LLC
Address:9500 W. Flamingo			asdise Road, B-214
City: Las Vegas	Ru., Ste. 205	City: Las Vegas	asaise maa, D-214
	: 89147	State: NV	Zip:89119
COMPANY/PERSON REQ	UESTING RECORE	ING (Required if not s	eller or buyer)
Print Name: Alessi & Koenic		Escrow # N/A Fore	
Address: 9500 W. Flamingo			
City: Las Vegas		State:NV	Zip: 89147
		the best of the second s	

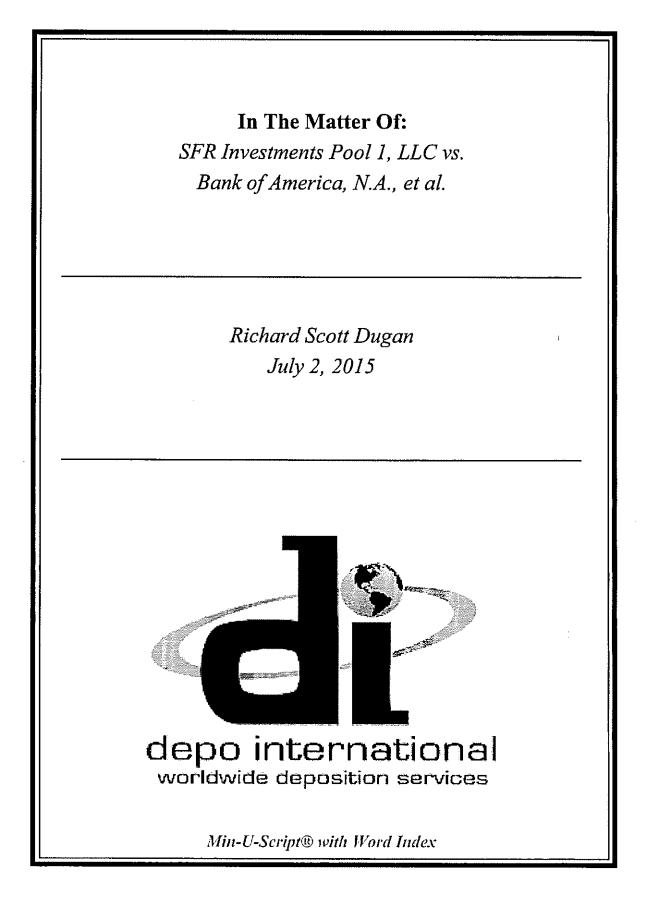
AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

D-1

# EXHIBIT D-1

## Deposition of R. Scott Dugan July 2, 2015 (Dappled Light property)





	SFR Investments I ton 1, LEC	T	
	Page 1		Page 3
1	DISTRICT COURT	1	INDEX
2	CLARK COUNTY, NEVADA	2	witness : Page
3	SFR INVESTMENTS POOL 1, LLC, )	3	RICHARD SCOTT DUGAN
4	a Nevada limited liability ) company,	4	Examination by Ms. Hanks 4
	}		examination by ms. Banks 4
5	Plaintiff, ) ) CASE NO.: A-14-698102-C	5	
6	VS. ) DEPT NO.: XXIV	6	
7	BANK OF AMERICA, N.A.,	7	
8	Successor by merger to BAC } HOME LOANS SERVICING, LP PKA }	8	
9	COUNTRYWIDE HOME LOANS ) SERVICING, LP, a national )	9	EXHIBITS
10	association; NOE GARZA, an ) individual; DOES I through X; )	10	EXHIBIT DESCRIPTION PAGE
	and ROE CORPORATIONS I	1	
11	through X, inclusive, )	11	Exhibit 1 Appraisal of Real Property for 4 7912 Dappled Light Avenue
12	Defendants. )	12	(35 pages)
13		13	Exhibit 2 Copy of deposition testimony of 4
14		14	Scott Dugan, dated June 1, 2015 in the Rabbit Track matter
15	DEPOSITION OF RICHARD SCOTT DUGAN	15	(36 pages)
16	DEFENDANTS' EXPERT CERTIFIED GENERAL REAL ESTATE APPRAISER	16	Exhibit 3 Copy of deposition testimony of 4 Scott Dugan, dated June 1, 2015
		1	in the Manorwood matter
17	(Dappled Light)	17	(22 pages)
18	Taken on Thursday, July 2, 2015	18	Exhibit 4 Copy of deposition testimony of 4 Scott Dugan, dated June 2, 2015
19	At 11:37 a.m.	19	in the Morning Sorrow matter
20		20	(22 pages)
21	At 1160 North Town Center Drive, Suite 330 Las Vegas, Nevada	21	Exhibit 5 Copy of deposition testimony of 4 Scott Dugan, dated June 16, 2015
22		22	in the Brighton Summit matter
		1	(26 pages)
23		23	
24		24	
25	REPORTED BY: JEAN DAHLBERG, RFR, CCR NO. 759, CSR 11715	25	
L			
	Page 2		Page 4
1	APPEARANCES :		
1 2	Por the Disintiff.	1	LAS VEGAS, NEVADA; THURSDAY, JULY 2, 2015
2	For the Plaintiff:	1 2	LAS VEGAS, NEVADA; THURSDAY, JULY 2, 2015 11:37 A.M.
3	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESO.		
	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESQ. 1055 Whitney Ranch Drive, Suite 110	2	11:37 A.M. -000-
3	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESQ. 1055 Whitney Ranch Drive, Suite 110 Henderson, Nevada 89014 (702) 485-3300	2 3 4	11:37 A.M. -oOo- Whereupon
3 4	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESQ. 1055 Whitney Ranch Drive, Suite 110 Henderson, Nevada 89014	2 3 4 5	11:37 A.M. -oOo- Whereupon (In an off-the-record discussion held prior to
3 4 5	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESQ. 1055 Whitney Ranch Driva, Suite 110 Henderson, Nevada 89014 (702) 485-3300 (702) 485-3311 (Pacsimile)	2 3 4 5 6	11:37 A.M. -oOo- Whereupon (In an off-the-record discussion held prior to the commencement of the proceedings, counsel agreed to
3 4 5 6 7	HOWARD KIM & ASSOCIATES BY: KAREN L. HANKS, ESQ. 1055 Whitney Ranch Drive, Suite 110 Henderson, Nevada 89014 (702) 485-3300 (702) 485-3301 (Pacsimile) karen@hkimlaw.com	2 3 4 5 6 7	11:37 A.M. -oOo- Whereupon (In an off-the-record discussion held prior to the commencement of the proceedings, counsel agreed to waive the court reporter's requirements under
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	Page 5		Page 7
1	multiple occasions, do you feel comfortable that I don't	1	other words, what did Akerman ask you to do for this
2	also go through the admonitions in this deposition?	2	particular property?
3	A. Yes.	3	A. Complete a retrospective market value as of the
4	Q. Again, though, I always like to remind anybody	4	specific date in the report as of 9/5/2012.
5	sitting in that seat that the oath you just took is the	5	Q. And again, when you say they asked you to do
6	same oath you would take in a court of law. Do you	6	that analysis, does that mean that they imposed the
7	understand that?	7	condition of market value retrospective analysis on you?
8	A. Yes.	8	A. I think that they had reviewed previous reports
9	Q. Now, I want to go through your background. I'll	9	and found them to be acceptable, and therefore they
10	summarize it, and you tell me if I'm wrong.	10	requested me to continue in the same manner.
11	You're a certified appraiser in Nevada; correct?	11	Q. Okay. But just to be clear, then, you did not
12	A. Certified general.	12	review the litigation in this particular case dealing
13	Q. Certified general appraiser.	13	with this property, looked at the litigation as a whole,
14	A. Yes.	14	and then decide retrospective market value appraisal
15	Q. And you've held that position, so to speak,	15	would be the appropriate appraisal; is that correct?
16	since 1969; is that correct?	16	A. Well, they stated they wanted a retrospective
17	A. Well, back in 1969, you didn't have to be	17	and they wanted market value.
18	licensed.	18	Q. Right. And when you say "they," that means
19	Q. But you were doing appraisal work as of 1969? A. Yes.	19	Akerman on behalf of Bank of America; is that correct?
20 21	Q. And I think at some point in 1990, 1991, the	20 21	<ul><li>A. Yes.</li><li>Q. And you have the definition of market value in</li></ul>
22	Federal Government changed the rules and then required	22	your report at Page 8; is that correct?
23	appraisers to be licensed; correct?	23	A. Yes.
24	A. State licensed.	24	Q. Now, does this definition apply to an HOA
25	Q. And you received your state license in Nevada in	25	foreclosure auction?
	Page 6		Page 8
1			
1	or around 1989 or 1990; correct?	1	A. No. There is no definition of market value that
1 2	or around 1989 or 1990; correct? A. '90, '91.	1 2	A. No. There is no definition of market value that would be acceptable for an HOA lien.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>A. '90, '91.</li> <li>Q. And as part of that licensure, you're required to take continuing education classes, which you've done since you've received that licensure; is that correct?</li> <li>A. Yes.</li> <li>Q. And your license has never been revoked; that's right?</li> <li>A. Yes.</li> <li>Q. And your license has never been suspended; correct?</li> <li>A. Yes.</li> <li>Q. Now, in this particular file, who retained you?</li> <li>A. Accurity.</li> <li>Q. And is it your understanding that Accurity was contacting you on behalf of Bank of America?</li> <li>A. Yes.</li> <li>Q. And what was the scope of your assignment?</li> <li>A. Oh, excuse me. I'm sorry. No, I was I was contacted by Akerman on this one.</li> <li>Q. Okay. So this is the one case where you were not contacted by Accurity, but instead contacted directly from Akerman on behalf of Bank of America?</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>would be acceptable for an HOA lien.</li> <li>Q. Okay. And in addition to doing a market value appraisal, you also as part of that assumed on Page 7 you list your assumption that good and marketable title be transferred; correct?</li> <li>A. Yes.</li> <li>Q. Now, are you aware as to whether good and marketable title is transferred in the context of an HOA foreclosure of its lien?</li> <li>MS. MORGAN: Objection; calls for a legal conclusion, incomplete hypothetical.</li> <li>BY MS. HANKS:</li> <li>Q. Go ahead and answer.</li> <li>A. No. It's not under good and marketable title is not transferred to the buyer?</li> <li>MS. MORGAN: Objection; misstates prior testimony, calls for a legal conclusion.</li> <li>THE WITNESS: Correct.</li> <li>BY MS. HANKS:</li> <li>Q. And I asked you this in the prior deposition,</li> </ul>

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r	SFR investments Pool 1, LLC	YS. D	ank of America, N.A., et al.
	Page 9		Page 11
1	the property's fair-market value; correct?	11	about this page is substantially the same or is exactly
2	A. Yes.	2	the same from "extraordinary assumption" down to the
3	Q. Now, we marked as Exhibit 1 your report. 1 know	3	"retrospective value" paragraph, ending at that
4	you have your own copy; but we marked as Exhibit 1 a	4	parenthetical, "Chicago Appraisal Institute, 2010";
5	copy of your report. And then I'm going to go through	5	correct?
		1	
6	the other exhibits that we marked; but before we get	6	A. Yes.
7	there, we'll go through your report like we did the last	7	Q. The differences would start when you start with
8	depo.	В	the sentence "The final value"?
9	So if you look at Page 2 of your report	9	A. Correct.
10	A. Yes.	10	Q. And that the same is true for
11	Q this looks like a cover letter. And my	11	A. Page 26.
12	question to you is: I've deposed you on prior matters;	12	Q. – Page 26. So Page 26, other than the top
13	correct? I've deposed you in the Manorwood property,	13	portion that identifies the client and the property
14	the Rabbit Track property, the Morning Sorrow property,	14	address, is this page the same page that you have
15	the Brighton Summit property, and just a few minutes ago	1.5	included in your prior reports for the other prior
16	the	16	properties?
17	A. Hollow.	17	A. Yes.
18	Q Hollow Tree property; is that correct?	18	Q. And is the same true for Page 27?
19	A. Yes.	19	A. Yes.
20	Q. And in all of those reports it appears you had a	20	Q. And 28, is the same true?
21	similar cover letter; is that correct?	21	A. Yes.
22	A. Yes.	22	Q. So because of that, and we've asked in those
	Q. And with the exception of the top portion where	1	depositions extensive questions regarding those
23		23	
24	you have the date, the party you were sending it to, the	24	particular pages, I've marked as Exhibit 2 a copy a
25	property you're addressing, the opinion of value, and	25	copy of the transcript in Case No. A-14-698511,
ļ		ļ	
	Page 10		Page 12
1	the effective date, would the body of that letter be the	1	SFR Investments Pool 1, LLC versus Bank of America,
2	same in all of those matters as you see it here?	2	et al., and this was on the Rabbit Track property.
3	A. Yes.	3	Did you waive your ability to read and sign this
4	Q. And is the same true for Page 7 of your report,	4	transcript?
5	with the exception of the property address at the top	5	A. Counsel stated that I did not need to
6	being different, the body of this page is the same for	6	Q. Okay. And then I
7	all of those expert reports; correct?	7	A so I would say yes.
B	A. Yes.		
Į		8	Q. And I also marked or had the court reporter
9	Q. And then is that the same true for Page 8?	9	mark as Exhibit 3 a copy of the transcript in
10	With the exception of the property address being	10	Case No. A-14-694435, SFR Investments Pool 1, LLC versus
11	different, is this page the same as we see here as in	11	Bank of America, et al., and this was the Manorwood
12	all of the other reports for all the other properties	12	property.
13	that we've already discussed?	13	Did you waive your right to read and sign this
14	A. Everything would be the same except the	14	transcript?
15	T I	15	A. Yes.
1	information at the top and the bottom with the		
16	signature and the value.	16	Q. And the court reporter marked as Exhibit 4 the
16 17		1	Q. And the court reporter marked as Exhibit 4 the transcript in Case No. A-14-696561, SFR Investments
	signature and the value.	16	transcript in Case No. A-14-696561, SFR Investments
17	signature and the value. Q. And when you say "the information at the top,"	16 17	transcript in Case No. A-14-696561, SFR Investments Pool 1, LLC versus Bank of America, et al., and this is
17 18	signature and the value. Q. And when you say "the information at the top," you're talking about the property address, client, and	16 17 18	transcript in Case No. A-14-696561, SFR Investments Pool 1, LLC versus Bank of America, et al., and this is the Morning Sorrow property.
17 18 19 20	<ul><li>signature and the value.</li><li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li><li>A. Yes.</li></ul>	16 17 18 19 20	transcript in Case No. A-14-696561, SFR Investments Pool 1, LLC versus Bank of America, et al., and this is the Morning Sorrow property. Did you waive your right to read and sign this
17 18 19 20 21	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says</li> </ul>	16 17 18 19 20 21	transcript in Case No. A-14-696561, SFR Investments Pool 1, LLC versus Bank of America, et al., and this is the Morning Sorrow property. Did you waive your right to read and sign this transcript?
17 18 19 20 21 22	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says "appraiser," "client contact" and "supervisory</li> </ul>	16 17 18 19 20 21 22	<ul> <li>transcript in Case No. A-14-696561, SFR Investments</li> <li>Pool 1, LLC versus Bank of America, et al., and this is</li> <li>the Morning Sorrow property.</li> <li>Did you waive your right to read and sign this</li> <li>transcript?</li> <li>A. Yes.</li> </ul>
17 18 19 20 21 22 23	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says "appraiser," "client contact" and "supervisory appraiser" box; correct?</li> </ul>	16 17 18 19 20 21 22 23	<ul> <li>transcript in Case No. A-14-696561, SFR Investments</li> <li>Pool 1, LLC versus Bank of America, et al., and this is the Morning Sorrow property.</li> <li>Did you waive your right to read and sign this transcript?</li> <li>A. Yes.</li> <li>Q. And the last transcript we're attaching as an</li> </ul>
17 18 19 20 21 22 23 24	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says "appraiser," "client contact" and "supervisory appraiser" box; correct?</li> <li>A. Yes.</li> </ul>	16 17 18 19 20 21 22 23 24	<ul> <li>transcript in Case No. A-14-696561, SFR Investments</li> <li>Pool 1, LLC versus Bank of America, et al., and this is</li> <li>the Morning Sorrow property.</li> <li>Did you waive your right to read and sign this</li> <li>transcript?</li> <li>A. Yes.</li> <li>Q. And the last transcript we're attaching as an</li> <li>exhibit is Exhibit 5. It's Case No. A-14-698568,</li> </ul>
17 18 19 20 21 22 23	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says "appraiser," "client contact" and "supervisory appraiser" box; correct?</li> </ul>	16 17 18 19 20 21 22 23	<ul> <li>transcript in Case No. A-14-696561, SFR Investments</li> <li>Pool 1, LLC versus Bank of America, et al., and this is the Morning Sorrow property.</li> <li>Did you waive your right to read and sign this transcript?</li> <li>A. Yes.</li> <li>Q. And the last transcript we're attaching as an</li> </ul>
17 18 19 20 21 22 23 24	<ul> <li>signature and the value.</li> <li>Q. And when you say "the information at the top," you're talking about the property address, client, and address?</li> <li>A. Yes.</li> <li>Q. Okay. And at the bottom where it says "appraiser," "client contact" and "supervisory appraiser" box; correct?</li> <li>A. Yes.</li> </ul>	16 17 18 19 20 21 22 23 24	<ul> <li>transcript in Case No. A-14-696561, SFR Investments</li> <li>Pool 1, LLC versus Bank of America, et al., and this is</li> <li>the Morning Sorrow property.</li> <li>Did you waive your right to read and sign this</li> <li>transcript?</li> <li>A. Yes.</li> <li>Q. And the last transcript we're attaching as an</li> <li>exhibit is Exhibit 5. It's Case No. A-14-698568,</li> </ul>

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		T	and of America, IV.A., et al.
	Page 13		Page 15
1	et al., and this is related to the Brighton Summit	1	Q. Now, what is your understanding of how
2	property.	2	SFR Investments Pool 1, LLC obtained this property?
3	Did you waive your right to read and sign this	3	A. From what I understand, they bought it after
4	transcript?	4	somebody purchased it for the \$6,000.
5	A. Yes.	5	Q. Okay. And so I think it's in it's Page 24 of
6	MS. MORGAN: I'm just going to object to the	6	your report. You have the Trustee's Deed Upon Sale in
7	attachment of these prior deposition transcripts from	7	here. It's dated February 14th, 2013. Do you see that?
8	his testimony for the purposes of use for any testimony	8	A. Yes.
9	that's not specific to this property. I didn't I	9	Q. Okay. Now, your retrospective value date,
10	understand that this is an attempt as a timesaving	10	though, is September 5th, 2012. Do you know why there's
11	measure, but I wasn't aware that Counsel intended to do	11	a discrepancy? Actually, I'm sorry, there is no
12	this, and it may very well be just to save time. But to	12	
13	the extent that that testimony in the prior transcripts	1	discrepancy. That's the date the document was recorded?
14	do not pertain to this property and pertain to another	13	A. Recorded, correct.
		14	Q. The sale was September 5th, 2012; correct?
15	property or a hypothetical not presented in this case,	15	A. Yes.
16	I'll object. BY MS. HANKS:	16	Q. The public auction?
17		17	A. Correct.
18	Q. Now, if you go to Page 4 in your report in the	18	Q. Okay. And based on this Trustee's Deed and
19	matter, the Dappled Light matter, it looks like you	19	Sale, does it appear to you that no one bid on the
20	compared six properties; is that correct?	20	property so it reverted to the HOA that was foreclosing?
21	A. Yes.	21	A. Yes.
22	Q. And Comparable 1 had it was exposed to the	22	Q. And it's your understanding that the HOA then
23	market, i.e., it was listed on the MLS, for 33 days;	23	sold it to SFR?
24	correct?	24	A. Correct.
25	A. Yes.	25	Q. Now, can a party like an HOA, who has no
		<u> </u>	
	- · · ·	1	
	Page 14		Page 16
1	Page 14 Q. And Property Number 2, Comparable No. 2 was	1	-
12	Q. And Property Number 2, Comparable No. 2 was	1	mortgages on a property in other words, they own it
I	-	1	-
2	Q. And Property Number 2, Comparable No. 2 was listed on the MLS for 87 days; is that correct? A. Yes.	2	mortgages on a property in other words, they own it outright can they sell it for whatever price they
2 3	Q. And Property Number 2, Comparable No. 2 was listed on the MLS for 87 days; is that correct?	2	mortgages on a property in other words, they own it outright can they sell it for whatever price they want? A. Sure. But under the definition of "market
2 3 4	<ul> <li>Q. And Property Number 2, Comparable No. 2 was listed on the MLS for 87 days; is that correct?</li> <li>A. Yes.</li> <li>Q. And Comparable No. 3 was listed on the MLS for</li> </ul>	2 3 4	mortgages on a property in other words, they own it outright can they sell it for whatever price they want? A. Sure. But under the definition of "market value," it has to be under responsible ownership.
2 3 4 5	<ul> <li>Q. And Property Number 2, Comparable No. 2 was listed on the MLS for 87 days; is that correct?</li> <li>A. Yes.</li> <li>Q. And Comparable No. 3 was listed on the MLS for 44 days; is that correct?</li> <li>A. Yes.</li> </ul>	2 3 4 5	<ul> <li>mortgages on a property in other words, they own it outright can they sell it for whatever price they want?</li> <li>A. Sure. But under the definition of "market value," it has to be under responsible ownership.</li> <li>Q. So is there some requirement that a party sell</li> </ul>
2 3 4 5 6	<ul> <li>Q. And Property Number 2, Comparable No. 2 was listed on the MLS for 87 days; is that correct?</li> <li>A. Yes.</li> <li>Q. And Comparable No. 3 was listed on the MLS for 44 days; is that correct?</li> <li>A. Yes.</li> <li>Q. And Comparable No. 4 was listed on the MLS for</li> </ul>	2 3 4 5 6	<ul> <li>mortgages on a property in other words, they own it outright can they sell it for whatever price they want?</li> <li>A. Sure. But under the definition of "market value," it has to be under responsible ownership.</li> <li>Q. So is there some requirement that a party sell their house for market value?</li> </ul>
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Richard Scott Dugan - July 2, 2015	
SFR Investments Pool 1, LLC vs. Bank of America, N.A., et :	al.

	Page 17	T	Page 19
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1	you've testified to here today?	1	CERTIFICATE OF REPORTER
2	A. Yes.	2	STATE OF NEVADA ) )SS:
з	MS. HANKS: I don't have anything further.	3	COUNTY OF CLARK )
1		4	I, Jean M. Dahlberg, a duly commissioned and licensed
4	MS. MORGAN: Okay.	5	Court Reporter, Clark County, State of Nevada, do hereby
5	(The deposition concluded at 11:53 a.m.)	6	
6	-000-	-	certify: That I reported the taking of the deposition
7		7	of the deponent, Richard Scott Dugan, commencing on
8		8	Thursday, July 2, 2015, at 11:37 a.m.
9		9	That prior to being examined, the deponent was, by
10		10	me, duly sworn to testify to the truth. That I
1		11	thereafter transcribed my said shorthand notes into
11			_
12		12	typewriting and that the typewritten transcript of said
13		13	deposition is a complete, true and accurate
14		14	transcription of said shorthand notes.
15		15	I further certify that I am not a relative or
16		16	employee of an attorney or counsel of any of the
17		17	
		1	parties, nor a relative or employee of an attorney or
18		18	counsel involved in said action, nor a person
19		19	financially interested in the action.
20		20	IN WITNESS HEREOF, I have hereunto set my hand in my
21		21	office in the County of Clark, State of Nevada, this 8th
22		22	day of July, 2015.
23		-	day of oury, 1013.
24		23	
		24	JEAN M. DAHLBERG, RPR, CCR NO. 759, CSR 11715
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	CERTIFICATE OF DEPONENT         PAGE       LINE         CERTIFICATE OF DEPONENT         PAGE       REASON		
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1	CERTIFICATE OF REPORTER
2	STATE OF NEVADA )
3	)SS: COUNTY OF CLARK )
4	I, Jean M. Dahlberg, a duly commissioned and licensed
5	Court Reporter, Clark County, State of Nevada, do hereby
6	certify: That I reported the taking of the deposition
7	of the deponent, Richard Scott Dugan, commencing on
8	Thursday, July 2, 2015, at 11:37 a.m.
9	That prior to being examined, the deponent was, by
10	me, duly sworn to testify to the truth. That I
11	thereafter transcribed my said shorthand notes into
12	typewriting and that the typewritten transcript of said
13	deposition is a complete, true and accurate
14	transcription of said shorthand notes.
15	I further certify that I am not a relative or
16	employee of an attorney or counsel of any of the
17	parties, nor a relative or employee of an attorney or
18	counsel involved in said action, nor a person
19	financially interested in the action.
20	IN WITNESS HEREOF, I have hereunto set my hand in my
21	office in the County of Clark, State of Nevada, this 8th
22	day of July, 2015.
23	Juan M. Wallderg
24	
25	JEAN M. DAHLBERG, RPR, CCR NO. 759, CSR 11715

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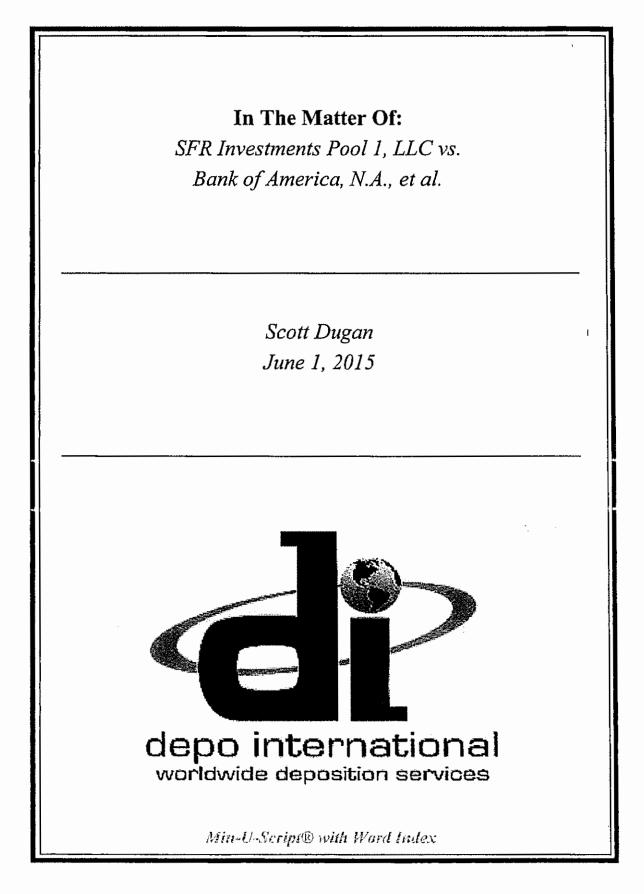
D-2

# EXHIBIT D-2

## Deposition of R. Scott Dugan June 1, 2015 (Rabbit Track property)

D-2

JA_0934



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1	DISTRICT CO	URT	1		INDEX	
2	CLARK COUNTY,	NEVADA	2			
3			3	WITNESS		PAGE
4	SFR INVESTMENTS FOOL 1, LLC, a	<b>`</b>	4			PROS
5	Nevada limited liability	\$	-	SCOTT DUGAN	L	
	company,	}	5	Examination	by Ms. Hanks	4, 113
6	Plaintiff,	}	6	Examination	by Mr. Brenner	110
7	VS.	Case No.	7			
8	BANK OF AMERICA, N.A., Successor	) A-14-698511-C )	8		BXHIBITS	
9	OV MELGER TO HAE HUME LOANS	}	9	NUMBER	DESCRIPTION	PAGE
10	SERVICING, LP FRA COUNTRYWIDE HOME LOANS SERVICING, LP, a national association: POSE OF		10			
11	national association; ROSE OF SHARON FAITH MINISTRIES, a	Į		Exhibit 1	Bank of America, N.A.'s Expert Disclosure	13
	Nevada non-profit corporation; DOES I through X; and ROE CORPORATIONS I through X,	}	11	Exhibit 2	Work file	18
12	inclusive,	}	12	Exhibit 3	Cover page with two pages of	68
13	Defendants.	į	13		excerpts from the book of The Appraisal of Real Estate,	••
14		í	14		Twelfth Edition	
15			15			
16			16			
17	DEPOSITION OF SCO	TT DIGAN	17			
16						
	(Rabbit Tra	ck)	18			
19			19			
20	Taken at the Offices of Howard 1055 Whitney Ranch Dri	i Kim & Associates	20			
21	Henderson, Ne	vada	21			
22	On Monday, June	1, 2015	22			
23	At 11:07 a.	<b>n.</b>	23			
24			24			
25	Reported by: Jane V. Efa	w, CCR #601, RPR	25			
			23			
						<b>P - - - 4</b>
1 -		Page 2				Page 4
	Appearances:	Page 2	1	Thereupon -	-	Page 4
2	Appearances: For the Plaintiff:	Page 2		Thereupon -		Page 4
	For the Plaintiff: KAREN L. HANKS, ESO.	Page 2	2	•	SCOTT DUGAN	-
2	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associetes 1055 Whitney Ranch Drive	Page 2	2 3	was called a	SCOTT DUGAN s a witness by the Plaintiff. and I	-
2 3	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 110 Las Vegas, Nevada 89014	Page 2	2 3 4	was called a	SCOTT DUGAN	-
2 3 4	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associetes 1055 Whitney Ranch Drive	Page 2	2 3 4 5	was called a	SCOTT DUGAN is a witness by the Plaintiff. and l aly swom, testified as follows:	-
2 3 4 5 6	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 110 Las Vegas, Nevada 89014	-	2 3 4 5 6	was called a been first di	SCOTT DUGAN is a witness by the Plaintiff. and l aly swom, testified as follows: EXAMINATION	-
2 3 4 5 6 7	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 110 Las Vegas, Nevada 89014 (702) 485-3300 For Defendant Bank of America, N.J. DARREN T. BRENNER, ESQ.	-	2 3 4 5 6	was called a been first du <b>BY MS. H</b> 4	SCOTT DUGAN is a witness by the Plaintiff. and l aly swom, testified as follows: EXAMINATION ANKS:	-
2 3 4 5 6 7 8	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 110 Las Vegas, Nevada 89014 (702) 485-3300 For Defendant Bank of America, N.J DARREN T. BRENNER, ESQ. Akerman LLP 1160 Town Center	-	2 3 4 5 6	was called a been first du <b>BY MS. H</b> 4	SCOTT DUGAN is a witness by the Plaintiff. and l aly swom, testified as follows: EXAMINATION	-
2 3 4 5 6 7 8 9	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 10 Las Vegas, Nevada 89014 (702) 485-3300 For Defandant Bank of America, N.: DARREN T. BRENNER, ESQ. Akerman LLP 1160 Town Center Suite 330 Las Vegas, Nevada 89144	-	2 3 4 5 6 7	was called a been first du BY MS. HA Q. Pleas	SCOTT DUGAN is a witness by the Plaintiff. and l aly swom, testified as follows: EXAMINATION ANKS:	-
2 3 4 5 6 7 8 9 10	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 110 Las Vegas, Nevada 89014 (702) 485-3300 For Defendant Bank of America, N.J DARREN T. BRENNER, ESQ. Akerman LLP 1160 Town Center	-	2 3 4 5 6 7 8	was called a been first du BY MS. HA Q. Pleas A. Rich	SCOTT DUGAN s a witness by the Plaintiff. and l aly sworn, testified as follows: EXAMINATION ANKS: e state your name for the record. ard Scott Dugan.	naving
2 3 4 5 6 7 8 9	For the Plaintiff: KAREN L. HANKS, ESQ. Howard Kim & Associates 1055 Whitney Ranch Drive Suite 10 Las Vegas, Nevada 89014 (702) 485-3300 For Defandant Bank of America, N.: DARREN T. BRENNER, ESQ. Akerman LLP 1160 Town Center Suite 330 Las Vegas, Nevada 89144	-	2 3 4 5 6 7 8 9	was called a been first du BY MS. HA Q. Pleas A. Rich Q. Mr. I	SCOTT DUGAN is a witness by the Plaintiff. and l aly sworn, testified as follows: EXAMINATION ANKS: e state your name for the record. ard Scott Dugan. Dugan, have you had your deposi	naving
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	Scott Dugan - June 1, 2015	
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., e	t al.

<u> </u>	SFR Investments Pool 1, LLC	13. 10	
	Page 9		Page 11
1	appraisal?	1	request.
2	A. To estimate the reasonableness of the fair	2	BÝ MS. HANKS:
3	market value or the disposition value of the property	3	Q. And again and I'm sorry if you answered
4	as of a specific time.	4	it is the reason why they used disposition value
5	Q. And is that so Freddie, Fannie or FHA knows	5	is mainly because the client has asked you to use
6	how much they can list the property for?	6	disposition value?
7	A. And ultimately sell it for.	7	MR. BRENNER: Form and calls for
8	Q. In the last two years, have you done any of	8	speculation.
9	those types of appraisals?	9	THE WITNESS: The majority of the time when
10	A. Yes.	10	we do appraisals, we do fair market value.
11	Q. Can you approximate how many?	11	Occasionally we do disposition value but not a lot.
12	A. I have no idea.	12	BY MS. HANKS:
13	Q. And why in those contexts would you do	13	Q. And on the occasions where you do
14	disposition value as opposed to market value?	14	disposition value, what's the explanation as to why
15	A. The disposition value is at a point when the	15	you would do that instead of market value?
16	bank or the particular lender has taken it back and	16	A. They want it
17	they want to know how quick it can be sold and for	17	MR. BRENNER: Form.
18	what price.	18	THE WITNESS: The seller is under compulsion
19	Q. I understand that. I guess I'm confused as	19	to sell.
20	to why you wouldn't just give a market value	20	BY MS. HANKS:
21	appraisal to them, and they could list it at the	21	Q. No, I understand the definition of
22	market value?	22	disposition. I'm talking about in the context of
23	MR. BRENNER: Form. Go ahead.	23	when it happened, what was the owner Fannie,
24	THE WITNESS: Ultimately sometimes banks	24	Freddie, or whoever was the owner telling you why
25	want to know what the disposition value is versus	25	they were asking for disposition value as opposed to
ļ	Page 10		Page 12
1		1	_
12	market value under normal circumstances. BY MS. HANKS:	1 2	market? Did those conversations take place?
	market value under normal circumstances.	1	market? Did those conversations take place? MR. BRENNER: Form. Calls for speculation.
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(3) Pages 9 - 12

1       A. We're supposed to be protectors of the public.         2       A. A do so just in general if a client had asked you to use one type of value in order to do your 5 appraisal, do you under USPAP have a duty to 6 determine whether that value would lead to misleading 7 results?       A. No. MR. BEENNER: I didn't get a chance to 5 object, but it calls for speculation.         9       A. Vou'd have to state in the report what the 9 client asked and possibly do a hypothetical or 10 extraordinary assumption.       BY MS. HANKS:         11       (Thereupon Plaintiff's Sthibit 1       A. Yes.         12       was marked for identification.)         13       BY MS. HANKS:         14       Q. Let's look at your report of Exhibit 1.         15       filmik it's the last page of your report of Exhibit 1.         16       For any of the cases listed here, 1 through 33, dit 7 any of them involve an appraisal as to disposition 7 value?         19       Q. You don't have that in 20         20       You don't have that in 21         21       A. Tean't tell you. I don't have that in 22         23       A. That was supplied to you. I didn't bring an 24         24       A. To couldn't tell you without looking at the 35 filts. But most of them are probably a fair market 4 value as of a specific data and time. 20         2       A. I couldn't tell you without looking at the 35 matter?         34       A. I couldn't tell you without looking ath		Page 13	T	Page 15
2       public.       3       Q. And so just in general if a client had asked you to use one type of value in order to do your appraisal, do you under USPAP have a duty to determ whether that value would lead to misleading?       5       3       MR. BRENNER: I didn't get a chance to object, but it calls for speculation.         8       A. You'd have to state in the report what the client asked and possibly do a hypothetical or is character assumption.       9       Now lefs talk about your creention in this or this case. And it's SFR Investments Pool 1, LLC versus Bank of America; is that correct?         9       A. You'd have to state in the report what the client asked and possibly do a hypothetical or users marked for identification.       9       A. Yes.         10       Chront of me.       Q. And when you were first contacted to be individual report is as of a specific da and time.       9         11       Forn any of the cases listed here, 1 hrough 33, dit it.       9       A. To and tid you inquire as to why they wanted in market value?         12       W don't have that in comprise as of a specific da and time.       9       10         12       Forn any of the cases listed here, 1 hrough 33, dit it.       9       A. To and tid you inquire as to why they wanted in market value?         13       The date of the assignment.       10       Q. You don't have that in for your wanted in the value and incocasion where a client wante in the sast specifie date and time.       10       A. No. The date of the assignment.       11 </td <td></td> <td>-</td> <th></th> <td></td>		-		
<ul> <li>3 Object, but it calls for speculation.</li> <li>4 you to use one type of value in order to do your</li> <li>5 object, but it calls for speculation.</li> <li>4 BY MS. HANKS:</li> <li>5 Q. Now let's talk about your retention in this</li> <li>6 determine whether that value would lead to misleading</li> <li>7 this case. And it's SFR Investments Pool 1, LLC</li> <li>8 A. You'd have to state in the report what the</li> <li>9 client asked and possibly do a hypothetical or</li> <li>10 Q. And when you were first contacted to be</li> <li>11 (Thereupon Plaintiff's Exhibit 1</li> <li>12 was marked for identification.)</li> <li>13 BY MS. HANKS:</li> <li>14 Q. Let's look at your testimony history. 1</li> <li>15 think it's the last gase of your report of Exhibit 1.</li> <li>16 For any of the cases listed here, 1 through 33, did</li> <li>17 any of the cases listed here, 1 through 33, did</li> <li>18 for of me.</li> <li>19 A. I can't tell you. I don't have that in</li> <li>10 fornt of me.</li> <li>12 Q. You don't have the list of testimony, or you</li> <li>12 just need other records to reference?</li> <li>12 A. That was supplied to you. I didn't bring and</li> <li>14 extra copy of that.</li> <li>15 Q. Have you ever had an occasion where a client</li> <li>14 to look at it.</li> <li>2 A. I couldn't tell you without looking at the</li> <li>3 fles. But most of them are probably a fair market</li> <li>3 MR. BRENNER: Form. Incomplete</li> <li>14 Wynok stak and said, "No, I can't do that because</li> <li>15 would be misleading??</li> <li>24 A. No. Thi the date of the retroactive and your testimony that you'r</li> <li>15 would decline the asignment. That is my proregative in the significance of that date?</li> <li>20 Did you ask the client way towember 1st, 2013?</li> <li>21 A. No. Thi the date that the elient wanted to it for on?</li> <li>23 A. That is the date of the retroactive avaluation.</li> <li>24 A. No. Thi the date of the retroactive avaluation.</li> <li>25 WS. HANKS:</li> <li>26 A. No. Thi thik it would be misleadin</li></ul>				
<ul> <li>4 you to use one type of value in order to do your sample do you under USPAP have a duty to do determine whether that value would lead to misleading results?</li> <li>A. You'd have to state in the report what the elime what value would lead to misleading results?</li> <li>A. You'd have to state in the report what the elime what value would lead to misleading results?</li> <li>A. You'd have to state in the report of the state state correct?</li> <li>BY MS. HANKS:</li> <li>C. Dervelop Plaintiff's Exhibit 1</li> <li>Was marked for identification.)</li> <li>BY MS. HANKS:</li> <li>A. Lean't tell you. I don't have that in report of Exhibit 1.</li> <li>For any of the cases listed here, 1 knowny 53, and time.</li> <li>A. That was supplied to you. I didn't bring an report of the state of results?</li> <li>A. That was supplied to you. I didn't bring an report is the retrospective date of the assignment.</li> <li>Q. You don't have the list of testimony, or you just exet on the tate.</li> <li>Q. You don't have the list of testimony, or you just exet on the tate.</li> <li>Q. You don't have the list of testimony, or you is used other records to reference?</li> <li>A. That was supplied to you. I didn't bring an report is the strong brain and imposed a correct in value - let's go with market value - and the sade of you report in this si matter?</li> <li>A. No. The date of each individual report.</li> <li>Q. Have you ever had an occasion where a client was November 1st, 2013.</li> <li>Q. Have you is merely have to mak thas because i though be misleading?</li> <li>M. R. BRENNER: Form. Incomplete hypothetical.</li> <li>Q. Did l understand your testimony that you're dis is the date of the retroactive value of that report?</li> <li>A. No. The the was the fair market value of that resport is the date of the retroactive value of the retroactive date is the date that the client way out be misleading?</li> <li>M. No. That is the date that the client way out an is the date that the client way how omber 1st, 2013?</li> <li>A. No</li></ul>	1		-	
5       appraisal, do you under USPAP have a duty to       5       Q. Now let's talk about your retention in this         6       determine whether that value would lead to misleading       imater. Bank of America, its SFR Investments Pool 1, LLC         8       A. You'd have to state in the report what the       is case. And it's SFR Investments Pool 1, LLC         9       client asked and possibly do a hypothetical or       0       A Maw han you were first contacted to be         11       (Thereupon Plaintiff's Exhibit 1       0       And when you were first contacted to be         12       was marked for identification.)       13       A. To complete a retrospective market value       0         12       was marked for identification.)       13       A. To complete a retrospective market value       0         14       Q. Let's look at your testimony history. 1       14       A. To can't tell you. I don't have that in       15       and time.         15       and time.       16       Q. And when you were first contacted to be       17         16       fornt of me.       2       Q. You don't have the list of testimony, or you       14       a. A so of the date of the assignment.         12       Q. Ta't sactually in Exhibit 1. So if you want       14       A. No. The date of each individual report.         14       to look at it.       2	1		1	
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7       results?       7       this case. And it's SFR Investments Pool 1, LLC         8       A. You'd have to state in the report what the client asked and possibly do a hypothetical or extraordinary assumption.       7       this case. And it's SFR Investments Pool 1, LLC         9       A. Yes.       A. Yes.         10       extraordinary assumption.       9       A. Yes.         11       (Thereupon Plaintiff's Exhibit 1)       0       A. Yes.         12       was marked for identification.)       11       4. Yes.         13       BY MS. HANKS:       14       0         14       Q. Let's look at your testimony history. I       1         15       For any of the cases listed here, 1 through 33, did any or them involve an appraisal as to disposition       16         16       For any of the cases listed here, 1 through 33, did any or them involve an appraisal as to disposition       16         17       fm fort of me.       20       Q. As of what date?         12       Q. You don't have the list of testimony, or you       21       A. The wasuplied to you. I didn't bring an         12       to look at it.       20       Q. Vou mean the date of the assignment.         12       Q. I's actually in Exhibit 1. So if you want       25         1       to look at it.       20 <td< td=""><td>1</td><td></td><th></th><td></td></td<>	1			
<ul> <li>A. You'd have to state in the report what the j client asked and possibly do a hypothetical or extraordinary assumption.</li> <li>(Thereupon Plaintiff's Exhibit 1 (Thereupon Plaintiff's Exhibit 1 was marked for identification.)</li> <li>BY MS. HANKS:</li> <li>Q. Let's look at your testimony history. I</li> <li>Thick it's the last page of your report of Exhibit 1.</li> <li>For any of the cases listed here, I through 33, diff.</li> <li>A. To complete a retrospective market value opinion on certain properties as of a specific dat and time.</li> <li>Q. And what you inquire as to why they wanted to know the fair market value?</li> <li>A. To complete a retrospective market value opinion on certain properties as of a specific dat and time.</li> <li>Q. You don't have that in front of me.</li> <li>Q. You don't have the list of testimony, or you just need other records to reference?</li> <li>A. To the date of the assignment.</li> <li>Q. You don't have the list of testimony, or you just need other records to reference?</li> <li>A. To couldn't tell you without looking at the files. But most of them are probably a fair market 4 value as of a specific dat and time.</li> <li>Q. And what is the date of ench individual report.</li> <li>Q. Have you ever had an occasion where a client</li> <li>files. But most of them are probably a fair market 4 value as of a specific dat and time.</li> <li>Q. Have you ever had an occasion where a client</li> <li>files. But most of them are probably a fair market 4 value as of a specific dat and time.</li> <li>Q. Mave you ever had an occasion where a client</li> <li>files. But most of them are probably a fair market 4 value as of a specific dat and time.</li> <li>Q. Did l understand your testimony that you're in the market value - and you came back and said, "No, Leard to that because i thought you as the owner of the usiness.</li> <li>g. Wild becline the assignment. That is my prerogative as the owner of the usiness.</li> <li>g. Would decline the assignment. That is my prerogative as th</li></ul>		-		
<ul> <li>9 client asked and possibly do a hypothetical or 10 extraordinary assumption. 11 (Thereupon Plaintiff's Exhibit 1 12 was marked for identification.) 13 BY MS. HANKS: 14 Q. Let's look at your testimony history. I 15 think it's the last page of your report of Exhibit 1. 16 For any of the cases listed here, 1 through 33, did 17 any of them involve an appraisal as to disposition 18 value?</li> <li>18 A. Tea complete a retrospective market value 19 A. I can't tell you. I don't have that in 10 front of me. 21 Q. You don't have the list of testimony, or you 21 just need other records to reference? 23 A. That was supplied to you. I didn't bring an 24 extra copy of that. 25 Q. It's actually in Exhibit 1. So if you want 26 A. I couldn't tell you without looking at the 37 files. But most of them are probably a fair market 4 value as of a specific date and time. 5 Q. Have you even thad an ceasion where a client 6 has asked you to do an appraisal and imposed a 7 certain value – let's go with market value – and 4 you came back and said, "No, I can't do that because 9 it would be misleading"? 10 MR. BRENNER: Form. Incomplete 14 hypothetical. 25 Q. Did I understand your testimony that you're 37 A. No. That is the date of the retroactive 38 A. No. If I think it would be misleading, I 39 Y MS. HANKS: 30 A. No. No that is the date of the retroactive 31 due effective date is the date of the retroactive 32 your appraisal? 32 A. No. That is the date of the retroactive 33 A. Yes. 43 Q. And what is the date of the retroactive 44 Q. And what is the date of the retroactive 45 A. No. That is the date of the retroactive 40 C. Mat is the significance of that date? 41 Q. Did I understand your testimony that you're 43 A. No. II think it would be misleading, I 44 would decline the assignment. That is my prerogative 45 would</li></ul>				
10       extraordinary assumption.         11       (Thereupon Plaintiff's Exhibit 1         12       was marked for identification.)         13       BY MS. HANKS:         14       Q. Let's look at your testimony history. I         15       bit nik it's the last page of your report of Exhibit 1.         16       For any of the cases listed here, 1 through 33, did         17       any of them involve an appraisal as to disposition         18       value?         19       A. I can't tell you. I don't have that in         20       You don't have the list of testimony, or you         21       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       You don't have the list of testimony, or you         25       Q. It's actually in Exhibit 1. So if you want         26       You don't have the list of testimony are probably a fair market         25       Q. Have you ever had an occasion where a client         26       You came back and said, "No, Lean't do that because         3       files. But most of fhem are probably a fair market         3       hypothetical.         3       A. To culldn't tell you withmarket value – and         4       value as of a specific date and time.	1			•
11       (Thereupon Plaintiff's Exhibit 1         12       was marked for identification.)         13       BY MS. HANKS:         14       Q. Let's look at your testimony history. I         15       think it's the last page of your report of Exhibit 1.         16       For any of the cases listed here, 1 through 33, did         17       any of them involve an appraisal as to disposition         18       Yalue?         19       A. I can't tell you. I don't have that in         10       forn tof me.         21       Q. You don't have the list of testimony, or you         22       just need older records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. It's actually in Exhibit 1. So if you want         26       Page 14         27       Page 14         28       A. T couldn't tell you without looking at the         316       files. But most of them are probably a fair market         32       Q. Have you ever had an occasion where a client         34       you came back and said, "No, L can't do that because         4       Q. Did I understand your testimony that you'r         34       M. BRENENER: Form. Incomplete	1		-	
12       was marked for identification.)       12       they needed you for?         13       BY MS. HANKS:       13       A. To complete a retrospective market value opinion on certain properties as of a specific dat and time.         14       Q. Let's look at your testimony history. I       13       A. To complete a retrospective market value opinion on certain properties as of a specific dat and time.         15       For any of the cases listed here, 1 through 33, did       14         16       For any of the cases listed here, 1 through 33, did       15         17       A. I can't tell you. I don't have that in       16         18       You don't have the list of testimony, or you       21         21       Q. You don't have the list of testimony, or you       22         22       Just need other records to reference?       20         23       A. That was supplied to you. I didn't bring an       24         24       A. I couldn't tell you without looking at the       20         3       It's actually in Exhibit 1. So if you want       25         2       A. I couldn't tell you without looking at the       20         3       It's catually in Exhibit 1. So if you want       24         4       value as of a specific date and time.       20         3       A. I couldn't tell you without looking at the v				• •
13       BY MS. HANKS:         14       Q. Let's look at your testimony history. I         14       Q. Let's look at your report of Exhibit I.         15       think it's the last page of your report of Exhibit I.         16       For any of the cases listed here, I through 33, did         17       any of them involve an appraisal as to disposition         18       value?         19       A. I can't tell you. I don't have that in         20       Front of me.         21       Q. You don't have the list of testimony, or you         2       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. I's actually in Exhibit 1. So if you want         1       to look at it.         2       A. I couldn't tell you without looking at the         3       files. But most of them are probably a fair market         4       value as of a specific date and time.         5       Q. Have you ever had an occasion where a client         6       has aked you to do an appraisal and imposed a         7       certain value let's go with market value and         9       it would be misleading''?         10       MR. BRENNER: Form. Incom			1	
14       Q. Let's look at your testimony history. I         15       think it's the last page of your report of Exhibit 1.         16       For any of the cases listed here, I through 33, did         17       any of them involve an appraisal as to disposition         18       value?         19       A. I can't tell you. I don't have that in         10       front of me.         21       Q. You don't have the list of testimony, or you         22       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. It's actually in Exhibit 1. So if you want         10       block at it.         2       A. I couldn't tell you without looking at the         3       files. But most of them are probably a fair market         4       value as of a specific date and time.         5       Q. Have you even had an occasion where a client         5       Q. Have you even had an occasion where a client         6       A. Rest, the prepertise date was November 1st, 2013.         9       g. The date that the valuation was - the         7       certain value let's go with market value - and         8       you came back and said, "No, Lcan't do that because <td>1</td> <td></td> <th>1</th> <td></td>	1		1	
15       think it's the last page of your report of Exhibit 1.         16       For any of the cases listed here, 1 through 33, did         17       any of the cases listed here, 1 through 33, did         18       any of the cases listed here, 1 through 33, did         19       A. I can't tell you. I don't have that in         20       A. I can't tell you. I don't have that in         21       G. You don't have the list of testimony, or you         22       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. It's actually in Exhibit 1. So if you want         26       A. I couldn't tell you without looking at the         3       files. But most of them are probably a fair market         4       value as of a specific date and time.         5       Q. Have you ever had an occasion where a client         6       hypothetical.         20       Did I understand your testimony that you're         11       hypothetical.         21       Did I understand your testimony that you're         26       Did I understand your testimony that you're         27       M. No. If I think it would be misleading.''         28       O. Did I understand your testimony th				
16       For any of the cases listed here, 1 through 33, did         17       any of them involve an appraisal as to disposition         18       value?         19       A. I can't tell you. I don't have that in         20       front of me.         21       Q. You don't have the list of testimony, or you         21       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. It's actually in Exhibit 1. So if you want         26       A. I couldn't tell you without looking at the         3       files. But most of them are probably a fair market         4       value as of a specific date and time.         9       Q. Have you ever had an occasion where a client         6       has asked you to do an appraisal and imposed a         7       certain value let's go with market value - and         9       you came back and said, "No, I. can't do that beccause         10       MR. BRENNER: Form. Incomplete         11       hypothetical.         12       A. No. That is the date of the retroactive         13       BY MS. HANKS:         14       Q. Did I understand your testimony that you're         15       not necessar	1		1	
<ul> <li>any of them involve an appraisal as to disposition</li> <li>value?</li> <li>A. I can't tell you. I don't have that in</li> <li>front of me.</li> <li>Q. You don't have the list of testimony, or you</li> <li>just need other records to reference?</li> <li>A. That was supplied to you. I didn't bring an</li> <li>extra copy of that.</li> <li>Q. It's actually in Exhibit 1. So if you want</li> <li>Page 14</li> <li>A. I couldn't tell you without looking at the files. But most of them are probably a fair market a client 4</li> <li>Q. And what is the date of your report in this 5</li> <li>matter?</li> <li>A. The date that the valuation was the 7</li> <li>retrospective date was November 1st, 2013.</li> <li>Q. The confused, then, because I thought you said the effective date is the date of the retroactive avaluation.</li> <li>Q. What is the date of the retroactive valuation.</li> <li>Q. What is the significance of that date?</li> <li>A. No. Th at is the date of the retroactive valuation.</li> <li>Q. Did J understand your testimony that you're disclosures in your report?</li> <li>A. No. If I think it would be misleading, I</li> <li>would decline the assignment. T</li></ul>	1			
18       value?         19       A. I can't tell you. I don't have that in         20       front of me.         21       Q. You don't have the list of testimony, or you         22       just need other records to reference?         23       A. That was supplied to you. I didn't bring an         24       extra copy of that.         25       Q. It's actually in Exhibit 1. So if you want         Page 14         A. I couldn't tell you without looking at the         3       A. I couldn't tell you without looking at the         4       Value as of a specific date and time.       4         5       Q. Have you ever had an occasion where a client	ł		1	
<ul> <li>A. I can't tell you. I don't have that in front of me.</li> <li>Q. You don't have the list of testimony, or you just need other records to reference?</li> <li>A. That was supplied to you. I din't bring an extra copy of that.</li> <li>Q. It's actually in Exhibit 1. So if you want</li> <li>Page 14</li> <li>Page 14</li> <li>to look at it.</li> <li>A. I couldn't tell you without looking at the files. But most of them are probably a fair market</li> <li>files. But most of them are probably a fair market</li> <li>files. But most of them are probably a fair market</li> <li>a. A. I couldn't tell you without looking at the files. But most of them are probably a fair market</li> <li>files. But most of them are probably a fair market</li> <li>g. Have you ever had an occasion where a client</li> <li>has asked you to do an appraisal and imposed a certain value let's go with market value and</li> <li>you came back and said, "No, I can't do that because</li> <li>it would be misleading"?</li> <li>M. R. BRENNER: Form. Incomplete</li> <li>hypothetical.</li> <li>Did I understand your testimony that you're</li> <li>not necessarily required to tell the client that you</li> <li>G. A. No. If I think it would be misleading, I</li> <li>would decline the assignment. That is my prerogative</li> <li>would decline the assignment. That is my prerogative</li> <li>a. No. If I think it would be misleading, I</li> <li>would decline the assignment. That is my prerogative</li> <li>a. the owner of the business.</li> </ul>	1		1	
<ul> <li>20 front of me.</li> <li>21 Q. You don't have the list of testimony, or you</li> <li>22 just need other records to reference?</li> <li>23 A. That was supplied to you. I didn't bring an</li> <li>24 extra copy of that.</li> <li>25 Q. It's actually in Exhibit 1. So if you want</li> <li>26 Q. As of the date of the assignment.</li> <li>22 Q. You mean the date they were actually</li> <li>23 retaining you?</li> <li>24 A. No. The date of each individual report.</li> <li>25 Q. It's actually in Exhibit 1. So if you want</li> <li>26 Page 14</li> <li>27 Page 14</li> <li>28 A. I couldn't tell you without looking at the</li> <li>29 files. But most of them are probably a fair market</li> <li>4 value as of a specific date and time.</li> <li>5 Q. Have you ever had an occasion where a client</li> <li>6 has asked you to do an appraisal and imposed a</li> <li>7 certain value let's go with market value and</li> <li>8 you came back and said, "No, I can't do that because</li> <li>9 it would be misleading"?</li> <li>10 MR. BRENNER: Form. Incomplete</li> <li>11 hypothetical.</li> <li>12 THE WITNESS: Not that I recall.</li> <li>13 BY MS. HANKS:</li> <li>14 Q. Did I understand your testimony that you're</li> <li>15 not necessarily required to tell the client that you</li> <li>16 can't do it? You just merely have to make those</li> <li>17 disclosures in your report?</li> <li>18 A. No. If I think it would be misleading, I</li> <li>19 would decline the assignment. That is my prerogative</li> <li>19 would dedline the assignment. That is my prerogative</li> <li>10 that they wanted it just prior to the foreclosu</li> </ul>			1	
21Q. You don't have the list of testimony, or you just need other records to reference?21A. As of the date of the assignment.23A. That was supplied to you. I didn't bring an extra copy of that.22Q. You mean the date they were actually 2324extra copy of that.22Q. You mean the date of each individual report. 2525Q. It's actually in Exhibit 1. So if you want23retaining you?Page 14Page 1	1		1	
<ul> <li>22 just need other records to reference?</li> <li>23 A. That was supplied to you. I didn't bring an</li> <li>24 extra copy of that.</li> <li>25 Q. It's actually in Exhibit 1. So if you want</li> <li>24 A. No. The date of each individual report.</li> <li>25 Q. Okay. And just to be clear. So the date of</li> <li>26 Page 14</li> <li>27 Page 14</li> <li>28 Page 14</li> <li>29 Page 14</li> <li>20 Okay. And just to be clear. So the date of</li> <li>20 Okay. And just to be clear. So the date of</li> <li>21 to look at it.</li> <li>22 Q. You mean the date they were actually</li> <li>23 retaining you?</li> <li>24 A. No. The date of each individual report.</li> <li>25 Q. Okay. And just to be clear. So the date of</li> <li>20 Okay. And just to be clear. So the date of</li> <li>21 to look at it.</li> <li>22 O. Vou mean the date they were actually</li> <li>23 retaining you?</li> <li>24 A. No. The date of each individual report.</li> <li>25 Q. Okay. And just to be clear. So the date of</li> <li>20 Okay. And just to be clear. So the date of</li> <li>21 to look at it.</li> <li>22 O. Vou mean the date they were actually</li> <li>23 retaining you?</li> <li>24 A. No. The date of each individual report.</li> <li>25 Q. Okay. And just to be clear. So the date of</li> <li>20 oy our appraisal?</li> <li>3 A. Yes.</li> <li>4 Q. Have you ever had an occasion where a client</li> <li>3 by ou came back and said, "No, I can't do that because</li> <li>3 by MS. HANKS:</li> <li>3 D. MR. BRENNER: Form. Incomplete</li> <li>14 Q. Did I understand your testimony that you're</li> <li>3 not necessarily required to tell the client that you</li> <li>3 can't do it? You just merely have to make those</li> <li>3 A. No. If I think it would be misleading, I</li> <li>4 A. No. That is the date that the client wanted to</li> <li>4 k. No. If I think it would be misleading, I</li> <li>4 would decline the assignment. That is my preogative</li> <li>4 as the owner of the business.</li> </ul>			1	<b>`</b>
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20 as the owner of the business. 20 that they wanted it just prior to the foreclosur	1		18	
	1		19	A. From my instructions from Accurity, it was
		· · · · · · · · · · · · · · · · · · ·	20	that they wanted it just prior to the foreclosure
	21	Q. Have you ever been disqualified as an expert	21	date.
	{		22	Q. When you were retained by Bank of America,
	1		23	did you have a discussion with them about eventual
			24	foreclosure? Did you have a discussion about the
25 any court?   25 fact that this property was foreclosed upon on	25	any court?	25	fact that this property was foreclosed upon on
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	Page 17		Page 19
1	November 1st, 2013?	1	America regarding this file?
2	A. No, I did not.	2	A. Accurity.
3	Q. When you were drafting your report, did you	з	Q. And what is your relation to Accurity?
4	have any understanding as to who foreclosed on the	4	A. I'm an independent contract appraiser that
5	property on November 1st, 2013?	5	was hired by them to handle these issues in the state
6	A. My valuation would have been prior to that.	6	of Nevada.
7	And I would not have that knowledge.	7	Q. So am I correct in understanding that Bank
8	Q. Okay. I'm sorry. You mean you would have	В	of America would have contacted Accurity, and then
9	written your report before knowing that?	9	Accurity would have contacted you and assigned you
10	A. My date of value is November 1st. At that	10	the assignment?
11	point in time, the property was still in the owner of	11	A. Yes.
12	record's name, Rose of Sharon Faith Ministries.	12	Q. So if there was any communications between
13	Q. But I understand you're drafting a report on	13	Bank of America and Accurity, I would have to ask
14	March 3rd, 2015. Correct?	14	Accurity specifically?
15	A. Correct.	15	A. Yes.
16	Q. So at the time you were being retained by	16	Q. They don't send those communications to you?
17	Bank of America to the time you actually drafted your	17	A. I don't recall. I mean, you can look in
18	report, did you ever have an understanding of who	18	here, document page 84. It shows that they sent
19	foreclosed on this property in or around November	19	numerous ones that were due with the dates and the
20	1st, 2013?	20	addresses and the date of the HOA's lien sale. But
21	A. Yes. I have a copy of the foreclosure deed	21	otherwise, no.
22	in the report.	22	Q. Okay. Let's talk about that so I understand
23	Q. And who foreclosed on the property?	23	what that document is. You say it's document Bates
24	A. I think it was SFR Investments. I'm sorry.	24	Stamp D-U-N-G-A-N 000084, and then it goes through
25	It was the HOA. Excuse me.	25	85. Is this a document that Accurity provided to
	Page 18		Page 20
		1	1 495 25
İ.			
1	Q. And was there any discussion with Bank of	1	you?
2	America how the HOA foreclosure might affect the use	2	A. Yes.
2	America how the HOA foreclosure might affect the use of market value in your appraisal?	2	A. Yes. Q. If you needed to contacted Bank of America
2 3 4	America how the HOA foreclosure might affect the use of market value in your appraisal? A. None to me.	2 3 4	A. Yes. Q. If you needed to contacted Bank of America after the assignment, who would you contact? Do you
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	Scott Dugan - June 1, 2015	
SFR Investments	Pool 1, LLC vs. Bank of America,	N.A., et al.

Base 20	T	ank of America, N.A., et al.
Page 29		Page 31
as of the date prior to or the date that the transfer	1	to use, sell, lease, or do whatever it wants with the
took place.	2	property?
	3	A. That's of the fee simple title, not market
	4	value.
	5	Q. No, I understand. I thought my
	6	understanding was in order for market value to be
-	7	applicable, you'd have to have fee simple as an
	8	element of the property. Correct?
	_	A. Yes.
	10	Q. So if you don't have fee simple as an
	l	element of the property, the market value is an
	1	inappropriate value to use?
	i	A. No, because you have to have a starting
		point.
		Q. Right. I was going to correct that. It's
	1	inappropriate to use it without discounting for the
	1	fact that the fee simple element is absent?
		MR. BRENNER: Incomplete hypothetical.
	1	THE WITNESS: Possibly.
		BY MS. HANKS:
Q. Now, when you have a fractional ownership	1	Q. What do you mean by "possibly"?
		A. Well, the hypothetical is so broad that I
	1	can't really give you an answer based on the question.
	1	Q. Well, I'm just trying to understand. You
The will bost in hot sure where you're	20	Q. wen, I'm just u ying to understand. Tou
Page 30		Page 32
-	-	
	1	said that it had to be discounted. And you said it has to be discounted because of the fee simple not
		being present for all the parties. Correct?
		MR. BRENNER: Misstates prior testimony.
		BY MS. HANKS:
		Q. Is that correct?
	1	A. No.
		Q. Okay. Then correct me. Where am I
	_	misunderstanding?
		A. I gave you an example of four parties owning
	1	25 percent each.
	1 .	Q. Okay.
Q. And what will be the reason for the	13	A. And they argue about the property.
discount?	14	Therefore, there's a disagreement on who is to use it
A. Lack of control.	15	at what time and so forth. And, therefore, you still
	16	estimate the market value, and then potentially one
each party to use, sell, and lease it any way they	17	of the parties may sell their percentage interest for
see fit?	18	less in order to get out of it.
A. Yes.	19	Q. Okay. And why would a party sell it for
Q. And why does that affect market value of a	20	less in order to get out of it?
particular property?	21	A. Because it's not a fee simple ownership
A. For the reasons I just stated. Lack of	22	because it has multiple owners.
complete control.	23	Q. So if I understand that, let's take that
comprote control.	F.	
Q. Is that an element that's required for	24	hypothetical. If you had four people who own a
	<ul> <li>took place.</li> <li>Q. No. I meant HOA lien cases, not what your appraisal is. I mean in the context of this type of litigation we have here, how many appraisals have you done with Bank of America where there's similar litigation?</li> <li>A. I couldn't tell you. I've done quite a few, but I don't know how many and which for each bank.</li> <li>Q. And do you have an understanding, having done quite a few, that the general dispute in the case and we can limit it to just this case, the Rabbit Track property is that Bank of America is claiming it still has an interest in the property that SFR purchased at the HOA foreclosure sale?</li> <li>A. I believe so.</li> <li>Q. And would that be something that would fall into the definition of a fractional ownership property?</li> <li>A. Possibly.</li> <li>Q. Now, when you have a fractional ownership property, would you use a market value as a definition for an appraisal in that context? MR. BRENNER: Incomplete hypothetical. THE WITNESS: I'm not sure where you're</li> <li>Page 30</li> <li>going with that. I don't understand the question. BY MS. HANKS:</li> <li>Q to that appraisal?</li> <li>A. Yes. You do a market value and then potentially possibly some type of discount.</li> <li>Q. And what will be the reason for the discount?</li> <li>A. Lack of control.</li> <li>Q. So the lack of the fee simple? The lack of each party to use, sell, and lease it any way they see fit?</li> <li>A. Yes.</li> <li>A. And why does that affect market value of a particular property?</li> </ul>	took place.2Q. No. I meant HOA lien cases, not what your appraisal is. I mean in the context of this type of litigation we have here, how many appraisals have you done with Bank of America where there's similar litigation?3A. I couldn't tell you. I've done quite a few, but I don't know how many and which for each bank. Q. And do you have an understanding, having done quite a few, that the general dispute in the case and we can limit it to just this case, the Rabbit Track property is that Bank of America is claiming it still has an interest in the property that SFR purchased at the HOA foreclosure sale?15A. I believe so.16Q. And would that be something that would fall into the definition of a fractional ownership property?19A. Possibly.20Q. Now, when you have a fractional ownership property, would you use a market value as a definition for an appraisal in that context?23Page 3020going with that. I don't understand the question.1BY MS. HANKS:2O. If you have a piece of property that has the fractional ownership where, like you said, you have amply a market value

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	Page 33	T	Page 35
	-		_
1	C, D. We'll call them A, B, C, D. And Party A gets	1	THE WITNESS: My assignment was done prior
2	a market value appraisal. Would Party A be entitled	2	to the HOA lien transfer.
3	to the remaining 75 percent of that market value?	3	BY MS. HANKS:
4	MR. BRENNER: Incomplete hypothetical.	4	Q. When you say your assignment was done prior
5	Vague.	5	to, you didn't actually do the report prior to the
6	THE WITNESS: I don't understand that	6	foreclosure sale. Correct?
7	question.	7	A. No.
8	BY MS. HANKS:	8	Q. But your retrospective value was to take in
و	Q. What I'm trying to understand is your	9	consideration before the HOA sale was finalized. Is
10	hypothetical, to understand what you meant by what	10	that how I'm understanding that?
11	you just said. That if Party A wanted to sell off or	11	A. Correct.
12	wanted to buy the interest of the other three parties	12	Q. But why was that the case? In other words,
13	and get the whole hundred percent of the property, it	1	
14	would not be as simple as taking the market value of	13	why did you decide that as opposed to taking into
15		14	consideration that SFR claims an ownership to the
	the property because the other three still control	15	property?
16	it. So that person would have to discount, in other	16	MR. BRENNER: Form.
17	words, take a little bit less to get rid of them and	17	THE WITNESS: The client wanted a benchmark,
18	off the property. Is that what I understood you to	18	an approximate fair market value of the
19	say?	19	reasonableness of the value of this property as of
20	A. No. It depends on the parties involved in	20	that point in time.
21	this case, whether the other three parties would	21	BY MS. HANKS:
22	discount it. I have no idea.	22	Q. And did the client tell you what they
23	Q. But you have to take into consideration when	23	intended to use that appraisal for?
24	you're doing the appraisal, is what I'm trying to	24	A. For litigation.
25	understand, because the fee simple doesn't exist for	25	Q. In what context?
ļ	Page 34		Page 36
1	Party A. So it isn't as simple as, "Here's the	1	MR. BRENNER: Calls for speculation.
1 2	Party A. So it isn't as simple as, "Here's the market value. Here's what you're entitled to." Is	1	MR. BRENNER: Calls for speculation. THE WITNESS: That was not provided to me
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2 3 4 5	<ul><li>market value. Here's what you're entitled to." Is that how I understood it?</li><li>A. First of all, you said Party A was going to buy the other three parties out. So if you have a</li></ul>	2 3 4 5	THE WITNESS: That was not provided to me. BY MS. HANKS: Q. Well, don't you need to know that as an appraiser, what was discussed earlier in the USPAP,
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(9) Pages 33 - 36

	Scott Dugan - June 1, 2015
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et al.

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	Page 37		Page 39
1	the simplest assignment you can have.	11	regardless how the sale is, it's not a market value
2	BY MS. HANKS:	2	transaction. Correct?
3	Q. No, I understand that. But I'm backing up	3	A. Yes.
4	to make sure you understood how Bank of America	4	Q. And so if Bank of America is going to use
5	intended to use your report. And you said	5	your report to explain the disparity or dispute the
6	litigation. And so I was asking a more specific	6	disparity between the price paid by SFR and the
7	question. In what context do you understand that	7	market value, why would you use a definition that
8	Bank of America intends to use your report in the	8	does not apply to the type of sale that happened in
9	litigation?	9	this case?
10	MR. BRENNER: Are you asking that again, or	10	MR. BRENNER: Vague as to which party "you"
11	are you telling him what you're asking for?	11	is or "they" and calls for speculation. Go ahead.
12	MS. HANKS: I'm trying to get back to the	12	BY MS. HANKS:
13	question because I got the general response of	13	Q. Did you understand the question?
14	"litigation."	14	
15	BY MS. HANKS:		A. At the time I did it, it was not sold. The
16	Q. So what do you understand is the actual	15	original owners were in control. Q. Right. But that's an actuality that didn't
17	litigation? What are they really using it for?	16	
18	MR. BRENNER: Asked and answered. Calls for	17 18	happen. Right?
19	speculation.		A. As of the date I did it, the owner was still
20	THE WITNESS: Disparity between what these	19 20	in control prior to the sale of the or prior to the HOA lien foreclosure.
21	properties were ultimately sold or the lien was	20	Q. I understand that. But if the report is
22	purchased for versus what the actual market value of	22	being used to show the disparity between the actual
23	the property was.	23	HOA foreclosure sale and the price paid, then why
24	BY MS. HANKS:	24	would you use market value as your appraisal
25	Q. Okay. So if it's your understanding that	25	definition?
	2. Shaji 50 ii na your undersamening mat	23	definition:
			1
	Page 38	1	Page 40
-	-		- 1
1	Bank of America intends to use your appraisal to show	1	MR. BRENNER: Vague. Go ahead.
2	Bank of America intends to use your appraisal to show the disparity between the price paid by SFR at the	2	MR. BRENNER: Vague. Go ahead. THE WITNESS: The client wanted a benchmark
2 3	Bank of America intends to use your appraisal to show the disparity between the price paid by SFR at the HOA foreclosure sale and what the house was worth in	2	MR. BRENNER: Vague. Go ahead. THE WITNESS: The client wanted a benchmark to know what the property reasonableness was. Market
2 3 4	Bank of America intends to use your appraisal to show the disparity between the price paid by SFR at the HOA foreclosure sale and what the house was worth in terms of market value, why wouldn't you take into	2 3 4	MR. BRENNER: Vague. Go ahead. THE WITNESS: The client wanted a benchmark to know what the property reasonableness was. Market value was as of that date to potentially, I guess,
2 3 4 5	Bank of America intends to use your appraisal to show the disparity between the price paid by SFR at the HOA foreclosure sale and what the house was worth in terms of market value, why wouldn't you take into consideration that fee simple did not exist at the	2 3 4 5	MR. BRENNER: Vague. Go ahead. THE WITNESS: The client wanted a benchmark to know what the property reasonableness was. Market value was as of that date to potentially, I guess, show the disparity between the two.
2 3 4 5 6	Bank of America intends to use your appraisal to show the disparity between the price paid by SFR at the HOA foreclosure sale and what the house was worth in terms of market value, why wouldn't you take into consideration that fee simple did not exist at the time of the HOA foreclosure sale?	2 3 4 5 5	MR. BRENNER: Vague. Go ahead. THE WITNESS: The client wanted a benchmark to know what the property reasonableness was. Market value was as of that date to potentially, I guess, show the disparity between the two. BY MS. HANKS:
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	Scott Dugan - June 1, 2015
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et al.
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1       and your opinion of what the market value of the         2       property was? How will you tell them to do that?         3       MR. BRENNER: It's outside the scope of the         4       retention.         5       BY MS. HANKS:         0       O. Kay. I'm sorry. Are you not planning on         1       a. Yes, to the fair market value of that         9       property as of that date.         10       Q. When you come to testify at trial, are you         11       marking any - are you planning on testifying that         12       therefore the price paid by SFR was wrong?         14       Q. And when you say "yet," do you know if         15       there is any intention to engage you for that?         16       Q. So if I understand you correctly, your         17       imme.         18       Q. So if I understand you correctly, your         19       intentions or your engagement is to simply cornet of         10       Would you bable to use it to establish         11       the yree paid by SFR was unreasonable?         20       An Least Math Remarket value of the         21       A. Yes.         22       A. Yes.         23       A. Yes.         24       Q. And essentially what		Page 41	/S. D:	Page 43
2       property was? How will you tell them to do that?       price paid by SFR was unreasonable?         3       MR. BRENNER: It's outside the scope of the retention.       S         5       BY MS. HANKS:       THE WITNESS: I guess I haven't been if the retention for that. So I would have to analyze it ar do the necessary work to prepare for that.       Form.         6       Q. Okay. I'm sorry. Are you not planning on the stifying that date.       Form.         10       Q. When you come to testify at trial, are you manking nary - are you planning on testifying that therefore the price paid by SFR was wrong?       D. Which I understand that. But as you sit here today, would you be ave to do addition to engage you for that?         12       A. I haven't been engaged for that portion yet.       A. I haven't been engaged for that portion yet.         13       A. I naven't been engaged for that portion yet.       A. O so would you be able to use it to establish a fair market value as one point of reference, yes.         14       Q. So if I understand you correctly, your       A. Yes.         15       the correct?       Q. And essentially what is the jury supposed to the do with that report?         14       MR. BRENNER: Calls for speculation.       THE WITNESS: I haven't been hired for that, and I appreciate that. But I'm trying to make strule of by SFR was unreasonable?         2       Q. And eassentially what is the jury supposed to the do with that repore?       THE WITNESS: First of all, it's not an HOA foreclosure sale.	1			raye 43
3         MR. BRENNER: It's outside the scope of the retention.         MR. BRENNER: Incomplete hypothetical.           6         Q. Okay. I'm sorry. Are you not planning on testifying at trial?         Form.           7         A. Yes, to the fair market value of that         Form.           9         Q. When you come to testify at trial, are you         Form.           11         making any - are you planning on testifying that         Form.           12         A. I haven't been engaged for that portion yet.         BY MS. HANKS:           13         A. I haven't been engaged for that portion yet.         Iaready drafted, or would you have to do addition           14         Q. And when you agement is to simply come to         Iaready drafted, or would you have to do addition           15         there's any intention to engage you for that?         Iaready drafted, or would you have to do addition           16         A. I couldn't tell you that at this point in         Iaready drafted, or would you have to do addition           16         Inderstand you correctly, your         Iaready drafted, or would you be able to use the report that           17         M. Couldn't tell you that at this point in         Iaready drafted, or would you be able to use the report that           18         that the price paid by SFR was         Iaready drafted, or would you be able to use the report that           19         that th	1		1	your market value appraisal to tell the jury that the
<ul> <li>Fertention.</li> <li>BY MS. HANKS:</li> <li>Q. Okay. I'm sorry. Are you not planning on restifying at trial?</li> <li>A. Yes, to the fair market value of that</li> <li>property as of that date.</li> <li>g. When you come to testify at trial, are you making any are you planning on testifying that 12 therefore the price paid by SFR was wrong?</li> <li>A. Haven't been engaged for that portion yet.</li> <li>Q. And when you say "yet," do you know if</li> <li>there's any intention to engage you for that?</li> <li>A. Haven't been engaged for that portion yet.</li> <li>Q. So if I understand you correctly, your</li> <li>intentions or your engagement is to simply come to rail and testify that the market value of the property before the HOA foreclosure sale was X; is</li> <li>then do with that report?</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I haven to dea. That's up to the jury and the jurdge.</li> <li>Q. Let's assume you were retained to come to to trial and testify that the price paid by SFR was</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I haven i completed that type to fassignment on this property.</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I haven i completed that type to fassignment on this property.</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I haven i completed that type to fassignment on this property.</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I haven't completed that type to fassignment on this property.</li> <li>MR. BRENNER: Scim.</li> <li>Q. Let's assume - you said you weren't retained to come to court to testify as to that.</li> <li>You're only coming to court to testify as to that.</li> <li>Wing the work would you have to do som as now, that this is the market value of the property.</li> <li>By MS. HANKS:</li> <li>Q. Let's assume - you said you weren't retained to come to court to testify as it stands</li> <li>Row Aut this is the market value of the property.</li> <li>By MS. HA</li></ul>	2		2	price paid by SFR was unreasonable?
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<ul> <li>property before the HOA foreclosure sale was X; is that correct?</li> <li>A. Yes.</li> <li>Q. And essentially what is the jury supposed to then do with that report?</li> <li>Page 42</li> <li>MR. BRENNER: Calls for speculation.</li> <li>THE WITNESS: I have no idea. That's up to the judge.</li> <li>BY MS. HANKS:</li> <li>Q. Let's assume you were retained to come to trial and testify that the price paid by SFR was 7 unreasonable, would you still use your market value 7 unreasonable, would you still use your market value 7 decide they want me to do that.</li> <li>PROME WITNESS: I haven't completed that type 10 of assignment on this property.</li> <li>BY MS. HANKS:</li> <li>Q. So is it a no?</li> <li>Q. Let's assume you said you weren't 15 retained to come to court to testify as to that.</li> <li>Q. And I's aid let's assume for this</li> <li>MR. BRENNER: Same for that you already drafted, or would you have to do some additional work.</li> <li>BY MS. HANKS:</li> <li>Q. And I said let's assume for this</li> </ul>			î l	
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and tark about that. Would you then be able to use 25 problem is we have a disparity in price, and we wa	2 3 4 5 6 7 8 9 10 112 13 4 5 6 7 8 9 10 112 13 4 15 6 7 8 9 10 112 3 4 5 6 7 8 9 10 112 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 4 5 6 7 8 9 10 12 3 14 5 16 7 8 9 10 12 3 14 5 16 7 8 9 10 12 3 14 5 16 7 8 9 10 112 3 14 5 16 7 8 9 10 112 112 112 112 112 112 112 112 112	<ul> <li>THE WITNESS: I have no idea. That's up to the jury and the judge.</li> <li>BY MS. HANKS:</li> <li>Q. Let's assume you were retained to come to trial and testify that the price paid by SFR was unreasonable, would you still use your market value report to make that opinion?</li> <li>MR. BRENNER: Form.</li> <li>THE WITNESS: I haven't completed that type of assignment on this property.</li> <li>BY MS. HANKS:</li> <li>Q. So is it a no?</li> <li>A. What's the question again?</li> <li>Q. Let's assume you said you weren't retained to come to court to testify as to that.</li> <li>You're only coming to court to testify, as it stands now, that this is the market value of the property before the HOA foreclosure sale. Correct?</li> <li>A. Yes.</li> <li>Q. And I said let's assume for this hypothetical that two seconds from now Mr. Brenner is going to say, "Yes. I want you to come to trial. I want you to broaden your retention and come to trial</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 3 14 15 16 17 18 19 20 21 22 3 24	THE WITNESS: First of all, it's not an HOA foreclosure sale. It's an HOA lien. BY MS. HANKS: Q. Lien sale? A. It doesn't you know, I haven't been hired for that yet. So I'll defer at some point if they decide they want me to do that. Q. And I'm clear that you haven't been hired for that. And I appreciate that. But I'm trying to make sure I understand that if at some point you do get hired for that, can you rely on the report that you already drafted, or would you have to do some further work or a different assessment? That's what I'm trying to understand. MR. BRENNER: Same objection. THE WITNESS: I think it's asked and answered. I said I would rely on this, and I'd also have to do some additional work. BY MS. HANKS: Q. And what additional work would you need to do? A. I don't know at this point in time. Q. What would you do if, hypothetically speaking, the bank had come to you and said, "Our
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1	districts, how good they are, and how they relate to	1	A. They could foreclose and keep the property.	
2	a particular buyer profile.	2	Q. Well, that's what I mean. I'm asking the	
3	Q. Did you research what was happening with	з	foreclosure is not because they're not motivated to	
4	respect to sales by HOAs in 2013?	4	do it. It's because they're being compelled to do it	
5	A. We never used an HOA sale because we deemed	5	in order to get their lien paid. Correct?	
6	them not to be arms-length transactions in the	6	MR. BRENNER: Foundation. Misstates the	
7	marketplace.	7	law.	
8	Q. And what's an arms-length transaction?	6	THE WITNESS: First of all, there's	
و	A. Buyer and seller are highly motivated and	و	instances in the city where HOAs still own the	
10	willing. Basically the definition of fair market	10	properties and are renting them out. So they don't	
11	value.	11	have to sell it.	
12	Q. And just so I understand what you just said.	12	BY MS. HANKS:	
13	That definition does not apply to a sale by an HOA?	13	Q. If they do sell it, I'm trying to understand	
14	MR. BRENNER: Incomplete hypothetical.	14	in terms of the definition of "value." They don't	
15	Form.	15	fall under the definition of an equally motivated	
16	THE WITNESS: An HOA is not a sale. It's a	16	seller because they're being compelled to make the	
17	lien. It's an assessment.	17	sell, not because they're a motivated seller.	
18	BY MS. HANKS:	18	MR. BRENNER: Form.	
19	Q. Pickup the HOA forecloses on the lien. You	19	BY MS. HANKS:	
20	understand that, right?	20	Q. I'm just trying to understand why they don't	
21	A. Correct.	21	fit under the definition of a motivated seller under	
22	Q. They conduct a sale on their lien, and they	22	any definition of value, I think is what you said?	
23	sell the property in order to recoup the lien that	23	A. The HOA, they typically sell the liens to	
24	they're owed. Correct?	24	stop the bleeding from the HOAs so that they can	
25	A. Right. But they're not market driven.	25	generate revenue and keep the community maintained at	
1				
	Page 58	ļ	Page 60	
1	Q. And what do you mean by "they're not market	1	a certain standard.	
2	driven"?	2	Q. Just so I'm clear, though. Whatever is	
3	A. They're not acting in the best interest to	з	compelling the HOA to move forward with a sale in	
4	obtain market value.	4	order to recoup their lien, whether they credit bid	
5	Q. For who?	5	or sell it to a third party, that does not meet the	
6	A. For the parties involved.	6	definition of equally motivated seller for any	
7	Q. Who are the parties involved from an HOA	7	definition of value. Did I understand that	
8	perspective if they're selling on their lien?	8	correctly?	
9	A. Well, the HOA per Nevada Revised Statute can	9	A. Agreed.	
10	only bid in what they're owed, interest and et	10	Q. And just so I'm clear. When you're talking	
11	cetera. So if a property is worth \$300,000 and the	11	about all of these various forces the economic,	
12	HOA lien is \$5,000, it doesn't meet the definition of	12	the physical, the governmental, and the social	
13		13	forces for purposes of your report, you were only	
	fair market value.	5	Torees in for purposes or your report, you were univ	
14		14		
	fair market value. Q. Whatever is paid at the sale you mean? A. Correct.	1	looking at the market in terms of fair market value, not what was happening specifically with HOA	
14	Q. Whatever is paid at the sale you mean?	14	looking at the market in terms of fair market value,	
14 15	Q. Whatever is paid at the sale you mean? A. Correct.	14 15	looking at the market in terms of fair market value, not what was happening specifically with HOA	
14 15 16	<ul> <li>Q. Whatever is paid at the sale you mean?</li> <li>A. Correct.</li> <li>Q. And that's because the HOA is not a</li> </ul>	14 15 16	looking at the market in terms of fair market value, not what was happening specifically with HOA foreclosure sales; is that correct? A. Yes.	
14 15 16 17	<ul><li>Q. Whatever is paid at the sale you mean?</li><li>A. Correct.</li><li>Q. And that's because the HOA is not a motivated seller under that definition?</li></ul>	14 15 16 17	looking at the market in terms of fair market value, not what was happening specifically with HOA foreclosure sales; is that correct?	
14 15 16 17 18	<ul> <li>Q. Whatever is paid at the sale you mean?</li> <li>A. Correct.</li> <li>Q. And that's because the HOA is not a motivated seller under that definition?</li> <li>A. It's not a motivated seller under any</li> </ul>	14 15 16 17 18	<ul> <li>looking at the market in terms of fair market value, not what was happening specifically with HOA foreclosure sales; is that correct?</li> <li>A. Yes.</li> <li>Q. Now let's turn to the last paragraph on that page. The second sentence starts with, "The</li> </ul>	
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Min-U-Script®

(15) Pages 57 - 60

Scott Dugan - June 1, 2015 SFR Investments Pool 1, LLC vs. Bank of America, N.A., et al.

	SFR Investments Pool 1, LLC	vs. B	ank of America, N.A., et al.
	Page 61		Page 63
1	Or, actually, let me back up. What is an	1	A. I made the assumption because we're not
2	assumption?	2	title experts, and we're assuming the title is good.
3	A. An assumption is something that's presumed	3	Q. Did you review a title report with respect
4	to be correct.	4	to this property prior to drafting your appraisal?
5	Q. And then what is a limiting condition?	5	A. No.
6	A. Those are the conditions that we make when	6	Q. Why not?
7	we do a report, that we include in the body of the	7	A. Because that's not part of my I'm not an
8	report that we're not experts in.	8	expert in the title industry. It's not part of my
9	Q. And then the end of that sentence says	9	job.
10	"necessary to complete a credible report." Am I	10	Q. Right.
11	correct in understanding that USPAP requires that the	11	A. That's why we make an assumption. These are
12	report be credible? Is that a part of the	12	assumptions that we don't do typically.
13	guidelines?	13	Q. And that's what I want a clarification on.
14	A. I think your ethics requires the report to	14	Do you actually do any research before you make the
15	be not misleading.	15	assumption? In other words, do you do research and
16 17	Q. Now jumping back, then. Where are the	16	say, "Okay, I can make this assumption," or do you
18	assumptions that you made when making your opinions with respect to this property?	17	automatically make the assumption?
19	A. Page 8 of the original report.	18	A. Automatically make these assumptions. $\Omega$ So if in fact title is not good and
20	Q. And you're going by your actual page number	19 20	Q. So if, in fact, title is not good and marketable, what would that do in terms of your
21	or the Bates number at the end, just so we're on the	21	report. If that assumption were false, how would
22	same page?	22	that affect your report?
23	A. My page number 8.	23	A. It's not part of my assumptions. I'm not a
24	Q. At the top? So page 8 of your report,	24	legal expert. So we make that assumptions to keep us
25	Exhibit 1, but is Bates-stamped as Dugan 000009. So	25	out of that. In other words, I'm not a title expert.
			· · · · · · · · · · · · · · · · · · ·
	Page 62		Page 64
1	-	1	-
1 2	Page 62 here it starts "Statement of Assumptions and Limiting Conditions."	1 2	Q. I understand that. But you understand when
1	here it starts "Statement of Assumptions and Limiting Conditions." And the first one it appears to state. after	1	-
2	here it starts "Statement of Assumptions and Limiting Conditions." And the first one it appears to state. after you get past the first sentence, "The appraiser	2	Q. I understand that. But you understand when you're making assumptions in your report the effect
2	here it starts "Statement of Assumptions and Limiting Conditions." And the first one it appears to state. after you get past the first sentence, "The appraiser assumes that the title is good and marketable." Do	2 3	Q. I understand that. But you understand when you're making assumptions in your report the effect they have. Right?
2 3 4	here it starts "Statement of Assumptions and Limiting Conditions." And the first one it appears to state. after you get past the first sentence, "The appraiser assumes that the title is good and marketable." Do you see that? It's the very first point but the	2 3 4	Q. I understand that. But you understand when you're making assumptions in your report the effect they have. Right? A. Right.
2 3 4 5	here it starts "Statement of Assumptions and Limiting Conditions." And the first one it appears to state. after you get past the first sentence, "The appraiser assumes that the title is good and marketable." Do you see that? It's the very first point but the second sentence.	2345	<ul> <li>Q. I understand that. But you understand when you're making assumptions in your report the effect they have. Right?</li> <li>A. Right.</li> <li>Q. In other words, they have to be true in</li> </ul>
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JA_0945

	Scott Dugan - June 1, 2015
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et al.

	Page 69	T	
	-		Page 71
1	A. Yes.	1	Q. And who did you identify were the intended
2	Q. And I have the entire textbook if you'd	2	users of your report?
3	rather look at that. Is this a textbook that you use	3	A. Bank of America; Bradley Arant Boult
4	in the course of your work as an appraiser?	4	Cummings, LLP; or legal professionals associated with
5	A. At times.	5	this case.
6	Q. And if you would turn to it's page 68 of	6	Q. Then the next one of the steps says,
7	the textbook, but it's the second page in the packet.	7	"Intended use of the appraisal." What did you
8	And actually I highlighted this section we're going	8	determine or what was your understanding was the
9 10	to talk about. It reads, "The Universal Standards of	9	intended use by Bank of America of your appraisal?
11	Professional Appraisal Practice, USPAP, requires the appraiser to identify the real property being	10	MR. BRENNER: Calls for speculation.
12	appraised in every assignment." Did you do that in	11	THE WITNESS: It's listed on page 1 under
13	this case?	12	the assignment type in the body of the report.
14	A. Yes.	13	BY MS. HANKS:
15	Q. And what rights were you understanding that	14	Q. What does it say?
16	you were appraising?	15	A. "Provide a retrospective market value
17	A. Fee simple ownership.	16	opinion for litigation involving the HOA foreclosures
18	Q. So as if Rose of Sharon Faith Ministries	17	of the subject property."
19	still owned the property?	18	Q. Okay. I understand that's a general
20	A. Yes.	19 20	statement why you were hired. But under the
21	Q. What does this appraisal have to do with the	20	valuation process, did you identify what the intended use of the appraisal was?
22	actual problem in the litigation, if anything?	22	MR. BRENNER: Objection. The question
23	A. I guess you'd have to	23	misstated prior testimony. The witness never said it
24	MR. BRENNER: Hold on. Incomplete	24	was general. Lacks foundation. And it's
25	hypothetical. Form. Lacks foundation. Calls for a	25	argumentative.
[	Spennenen i erin Daens teandaron. Cans for a		argumentative.
	Page 70		Page 72
lı	legal conclusion. Calls for speculation.	1	THE WITNESS: You know, this is a scope of a
1 -	regar conclusion. Can's for speculation.		
2	THE WITNESS: Okay I couldn't answer that		
2	THE WITNESS: Okay. I couldn't answer that question because I'm not exactly sure	2	guideline.
234	question because I'm not exactly sure.	2 3	guideline. BY MS. HANKS:
3	question because I'm not exactly sure. BY MS. HANKS:	2 3 4	guideline. BY MS. HANKS: Q. Right.
3 4 5	<ul><li>question because I'm not exactly sure.</li><li>BY MS. HANKS:</li><li>Q. Did you inquire at all of Bank of America or</li></ul>	2 3 4 5	guideline. BY MS. HANKS: Q. Right. A. And they're in the report. You don't have
3 4 5 6	<ul><li>question because I'm not exactly sure.</li><li>BY MS. HANKS:</li><li>Q. Did you inquire at all of Bank of America or Accurity as to what the problem was in the underlying</li></ul>	2 3 4 5 6	guideline. BY MS. HANKS: Q. Right. A. And they're in the report. You don't have to have you have to have what you stated in the
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,	SFR Investments Pool 1, LLC	vs. B	ank of America, IV.A., et al.
	Page 73		Page 75
1	assumptions, and then hypothetical conditions.	1	Q. You only assessed the property rights of
2	A. They're all there.	2	Rose of Sharon Faith Ministries assuming they still
з	Q. In your report?	Э	owned the property free and clear. Correct? Free
4	A. Yes.	4	and clear of a mortgage.
5	Q. I'm sorry. What page was it where you	5	A. Well, I wouldn't have any way to know
6	indicated that you identified the intended use of the	6	whether the mortgage was free and clear. I'm
7	appraisal?	7	estimating the market value subject to good title and
8	A. The first form page.	6	such. I don't know if they have any liens.
9	Q. So I have it as Dugan 5; is that correct?		
10	A. Yes.	9	Q. Would you agree that your report is only
11	Q. And then where is it that you state intended	10	credible to the extent it gets compared to another
12	use of the report?	11	market value appraisal?
	•	12	A. I don't understand the question.
13	MR. BRENNER: Asked and answered.	13	Q. Is your report in terms of because I know
14	BY MS. HANKS:	14	you really don't understand how Bank of America might
15	Q. In the assignment box here, is that where	15	use your report other than you said in the HOA
16	you were reading from previously?	16	litigation. Right?
17	A. Yes.	17	A. Correct.
18	Q. So you have, "Intended use. Provide a	18	Q. So if the report is if your market value
19	retrospective market value opinion for litigation	19	appraisal is compared to something other than a
20	involving the HOA foreclosure of the subject	20	market value appraisal, does that jeopardize the
21	property."	21	credibility of your report in terms of its use?
22	Do you need to know any more other than Bank	22	A. You have to ask it again.
23	of America intends to use it somehow, some way, in	23	MS. HANKS: Actually, can you repeat the
24	the litigation?	24	question?
25	A. No, I don't believe so.	25	///
		1	
		1	######################################
	Page 74		Page 76
1	Q. Nothing under the USPAP or your ethical	1	Page 76 (Whereupon the pending question
1 2	Q. Nothing under the USPAP or your ethical guidelines require you to know anything specific on	1 2	(Whereupon the pending question was read by the reporter.)
	Q. Nothing under the USPAP or your ethical guidelines require you to know anything specific on how the report is going to be used?		(Whereupon the pending question
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	Scott Dugan - June 1, 2015	
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et al.	

ſ	SFR Investments Pool 1, LLC	13. 14	
	Page 81		Page 83
11	Q. It's not a market value transaction. Right?	1	that these are not arms-length transactions, and
2	MR. BRENNER: Same objections.	2	they're not market driven. And, therefore, they're
3	THE WITNESS: Yeah. I'm going to say that I	3	unreasonable.
4	haven't been hired to do the HOA analysis on the	4	BY MS. HANKS:
5	other side yet.	5	Q. Is there ever a context where an HOA
6	BY MS. HANKS:	6	foreclosure sale could be arms-length?
7	Q. So are you taking back your statement that	7	A. Sure.
8	the price paid by any person at an HOA sale is	1	
	unreasonable if it's below market value?	8	Q. How?
9		9	A. If at the auction it's bid up to market
10	A. Are you asking me if it meets the definition	10	value and then sold with the highest price and it's
11	of market value or disposition value?	11	close to market value.
12	Q. No. You said that it makes no sense and	12	Q. How could the HOA control the bids at the
13	that has to be unreasonable or it definitely was	13	sale to make sure it got up to market value?
14	unreasonable I think was your term because they're	14	MR. BRENNER: Calls for speculation and
15	paying so below market value.	15	argumentative.
16	And that's what led me to say, "But it's not	16	THE WITNESS: Well, they can't control it.
17	a market value transaction. So why would you be led	17	But I believe we've seen that these units today in
18	to that conclusion?" And then you said, "Well, I	18	current time are selling for significantly more than
19	haven't done that analysis." So I'm just asking, are	19	what they sold for prior to the State Supreme Court
20	you retracting that testimony now?	20	decision.
21	MR. BRENNER: And I'm going to continue to	21	BY MS. HANKS:
22	object that it calls for a legal conclusion. It's	22	Q. Do you know if that, in fact, happened
23	outside the scope of this witness's testimony and	23	because of the Supreme Court decision?
24	what he's been retained for and what he's told you	24	MR. BRENNER: Calls for speculation.
25	he's been retained for. And it's an incomplete	25	THE WITNESS: I can't answer that. I don't
	*		
	Page 82		Page 84
			Page 84
1	hypothetical and it lacks foundation.	1	know.
2	hypothetical and it lacks foundation. THE WITNESS: It's outside of my scope of	2	know. BY MS. HANKS:
2	hypothetical and it lacks foundation. <b>THE WITNESS:</b> It's outside of my scope of work. If I'm at some point retained for that, then I	2 3	know. <b>BY MS. HANKS:</b> Q. So you haven't done any analysis of the ebb
2 3 4	hypothetical and it lacks foundation. <b>THE WITNESS:</b> It's outside of my scope of work. If I'm at some point retained for that, then I can give you a more educated answer.	2	know. BY MS. HANKS: Q. So you haven't done any analysis of the ebb and flow of prices paid at HOA foreclosure sales in
2 3 4 5	hypothetical and it lacks foundation. THE WITNESS: It's outside of my scope of work. If I'm at some point retained for that, then I can give you a more educated answer. BY MS. HANKS:	2 3	know. BY MS. HANKS: Q. So you haven't done any analysis of the ebb and flow of prices paid at HOA foreclosure sales in relation to certain events, such as the Supreme Court
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Min-U-Script®

(21) Pages 81 - 84

	Scott Dugan - June 1, 2015	
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et	al.

<ul> <li>Page 97</li> <li>and said, "But the HOA forcelosure sale where SFR</li> <li>purchased this property was not a market value</li> <li>transaction." Correct?</li> <li>A. Yes.</li> <li>Q. So then how could SFR ever have paid market</li> <li>value for the property?</li> <li>A. They bought it before the HOA lien from the</li> <li>seller.</li> <li>answered, "Because it was below market value</li> <li>said, "Init the HOA forcelosure a non-market value</li> <li>twashet on the selfer.</li> <li>Do you know if Rose of Sharon Faith</li> <li>Ministries ever listed the house for sale?</li> <li>A. I don't believe so.</li> <li>G. So the only way SFR could have paid market</li> <li>for sale?</li> <li>MR BRENNER: Calls for speculation.</li> <li>Incomplete hypothetical. Lacks forundation.</li> <li>property in a non-market ranket for trying to get</li> <li>A. But that's not my job to tell you how to</li> <li>clarify the question. The question doesn't make any</li> <li>sense.</li> <li>Q. And I'll clarify it. That's what I'm trying to</li> <li>tunderstand your answer because your answer deesn't</li> <li>make sense. That's what I'm trying to get at. How</li> <li>could a party claim market value for a piece of</li> <li>property in a non-market-value transaction?</li> <li>MR. BRENNER: Calls for speculation. It's</li> <li>an incomplete hypothetical. And it lacks foundation.</li> <li>for staid it's beyond my scope.</li> <li>Q. Do you know?</li> <li>A. Beyond my scope.</li> <li>Q. Do you know?</li> <li>an appraiser with how for speculation.</li> <li>G. MR. BRENNER: Calls for speculation.</li> <li>G. MR. BRENNER: Calls</li></ul>	
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	ience, do
12 Mr. Dugan is an appraiser. He's not a real estate 12 you know if a bank can do that?	
13 agent. He hasn't reviewed other evidence in this 13 MR. BRENNER: Calls for speculati	on. Calls
14 case. The question's been asked and answered. 14 for a legal conclusion.	
15 MS. HANKS: And I'll just say for the 15 THE WITNESS: I don't go to the au	
16 record, Counsel, he made an opinion that the price 16 I'm sure banks, people, could bid against t	
17 paid by SFR is unrealistic. So to the extent he's 17 They can go in there and cure the HOA lien	~
18 going to come to trial, I'm entitled to know what's 18 it current anytime prior to the sale or at the	time
19 the basis for that statement. If you want to retract 19 of the sale.	
20 that 20 BY MS. HANKS:	
21 MR. BRENNER: You're not asking for what the 21 Q. And so you do have an understandin	-
22 basis for the statement is. 22 bank could go to the HOA foreclosure sale an	g that the
23 MS. HANKS: I am. 23 regard control the bidding?	
24 MR. BRENNER: You're asking how can somebody 24 MR. BRENNER: Calls for speculat	
25 come in and do that. 25 THE WITNESS: Beyond my scope	d in some
	d in some

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	Page 101		Page 103
1	BY MS. HANKS:	1	BY MS. HANKS:
2	Q. So that's an "I don't know"?	2	Q. So in the course and scope of your work for
3	A. I don't know.	3	this particular file, did you review prices being
4	Q. Did you in the course and scope of your work	4	paid at HOA foreclosures on a lien in or around
5	look at other foreclosure sale prices in November	5	November 1st, 2013?
6	2013?	6	A. No.
7	A. First of all, they're not arms-length	7	Q. So would it be fair to state that you do
8	transactions. So they're not sales. They're not	8	note that the price paid by SFR of \$22,000 on
9	market value. They're not disposition value or	9	November 1st, 2013 is consistent with what other
10	liquidation value.	10	parties were paying for HOA foreclosures on a lien?
11	$\hat{Q}$ . You said a lot in that answer. So I'll back	11	A. I'm a real estate appraiser. HOA liens are
12	up. What do you mean by they're not sales?	12	not market definition sales. Therefore, if you want
13	A. They're not sales.	13	to know what the HOA liens are, anybody could look
14	Q. What are they?	14	those up. But that's not part of an appraisal
15	A. They're liens.	15	assignment because anybody that would use HOA liens
16	Q. Okay. But that's the actual auction. In	16	and confer that those are sales and should be used
17	terms of an appraisal, what do you believe the actual	17	doesn't understand the definition of disposition
18	auction is when they're auctioning off the property?	18	value or market value.
19	MR. BRENNER: Form. Vague.	19	Q. So backing up to my question. Because you
20	BY MS. HANKS:	20	didn't research what parties were paying in or around
21	Q. You wouldn't call that a sale?	21	November 1st, 2013 at HOA foreclosures, would you
22	A. No. They're liens. They're liens by	22	agree, then, that you cannot state whether the price
23	homeowners. And per NRS, they're only allowed to bid	23	paid by SFR in this case was below, above, or at
24	in what they're owed.	24	those prices?
25	Q. And what statute of NRS states that?	25	A. It's pretty irrelevant to me because I'm a
	Page 102	1	Page 104
1		1	-
-	A 116	1 -	where the second s
1	A. 116. O But which section?	1	real estate appraiser. They're not market driven
2	Q. But which section?	2	transactions. So why would I look at them.
2	<ul><li>Q. But which section?</li><li>A. I don't know. I've read it but</li></ul>	2	transactions. So why would I look at them. O. And I understand why you wouldn't look at
2 3 4	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid</li> </ul>	2 3 4	transactions. So why would I look at them. O. And I understand why you wouldn't look at them for a market value appraisal. I get that.
2 3 4 5	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid what they're owed, who's they?</li> </ul>	2 3 4 5	<ul> <li>transactions. So why would I look at them.</li> <li>O. And I understand why you wouldn't look at them for a market value appraisal. I get that.</li> <li>A. I wouldn't look at them for disposition</li> </ul>
2 3 4 5 6	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid what they're owed, who's they?</li> <li>A. The HOA.</li> </ul>	2 3 4 5 6	transactions. So why would I look at them. O. And I understand why you wouldn't look at them for a market value appraisal. I get that. A. I wouldn't look at them for disposition value.
2 3 4 5 6 7	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid what they're owed, who's they?</li> <li>A. The HOA.</li> <li>Q. How about other people who come to the</li> </ul>	2 3 4 5 6 7	<ul> <li>transactions. So why would I look at them.</li> <li>O. And I understand why you wouldn't look at them for a market value appraisal. I get that.</li> <li>A. I wouldn't look at them for disposition value.</li> <li>Q. And we'll get to that because that was the</li> </ul>
2 3 4 5 6 7 8	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid what they're owed, who's they?</li> <li>A. The HOA.</li> <li>Q. How about other people who come to the auction?</li> </ul>	2 3 4 5 6 7 8	<ul> <li>transactions. So why would I look at them.</li> <li>O. And I understand why you wouldn't look at them for a market value appraisal. I get that.</li> <li>A. I wouldn't look at them for disposition value.</li> <li>Q. And we'll get to that because that was the second half of your answer. I just want to make</li> </ul>
2 3 4 5 6 7 8 9	<ul> <li>Q. But which section?</li> <li>A. I don't know. I've read it but</li> <li>Q. When you say they're only allowed to bid what they're owed, who's they?</li> <li>A. The HOA.</li> <li>Q. How about other people who come to the auction?</li> <li>A. They could bid anything they want.</li> </ul>	2 3 4 5 6 7 8 9	<ul> <li>transactions. So why would I look at them.</li> <li>O. And I understand why you wouldn't look at them for a market value appraisal. I get that.</li> <li>A. I wouldn't look at them for disposition value.</li> <li>Q. And we'll get to that because that was the second half of your answer. I just want to make sure. I want you to stick with the question.</li> </ul>
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SFR Investm	ents Pool 1, LLC vs. B	ank of America, N.A., et al.
	Page 105	Page 107
1 or "I don't know"?	1	Q. And when parties such as SFR are purchasing
2 BY MS. HANKS:	2	a property at the time we'll go with November 1st,
3 Q. It's a yes-or-no question. Let 1		2013 what was SFR buying?
4 I'll ask it for the fourth time.	4	MR. BRENNER: Calls for a legal conclusion.
5 I don't care why you would or	wouldn't look 5	THE WITNESS: Plus it's beyond the scope of
6 at stuff. The questioning started with		my work.
7 I asked you, did you as part of your	assignment 7	BY MS. HANKS:
8 research HOA foreclosures on a lier	n? And you had 8	Q. I'm asking not in terms of title or anything
9 indicated, no, you didn't. That wasn		like that. I'm talking about the bundle of rights we
10 assignment. So you didn't. I unders	stand that. 10	talked about earlier and fee simple. What is
11 So my next follow-up question		somebody buying when they're buying something at an
12 would it be fair to state that because		HOA foreclosure?
13 research that material, you could no		MR. BRENNER: Calls for a legal conclusion.
14 the price paid by SFR in this case w		THE WITNESS: My scope was to estimate the
15 with what other people were paying at		value as of March 3rd, 2015, which I have completed.
16 foreclosures? Yes or no? I mean is	that correct? 16	BY MS. HANKS:
17 A. Correct.	17	Q. Are you intending to come to trial and
<b>18</b> Q. Now, the second half of that q		testify that the price paid by SFR was not realistic?
19 gave an answer to the extent it's not		MR. BRENNER: Form. Counsel, can I just
20 value. It's not market value. What c		help clarify? You mean realistic in comparison to
<ul><li>that when I was talking about prices</li><li>foreclosure lien?</li></ul>	-	market value? If you tack that on, I think you'll
23 A. That they can't be construed	22	get your question answered a lot quicker, and we'll avoid the back-and-forth.
24 type of market value definition.	as meeting any 23	BY MS. HANKS:
25 Q. Okay. And how about disposi		Q. Let's do that. Are you intending to come to
2. Q. Okay. Find now about disposi		Q. Let's do that. Are you intending to come to
	Page 106	Page 108
		-
1 A. Can't make it.		trial and testify that the price paid by SFR was
2 Q. Why? 3 A. Both the buyer and seller act		unrealistic? A. Ves.
3 A. Both the buyer and seller act 4 and knowledgeably.		
5 Q. You believe that's not happening	g when an HOA 5	Q. And how can you compare a market value transaction to a non-market-value transaction and
6 is selling a lien?	g when an HOA 5	make that value?
7 A. No.	7	A. If I appraise something at X and pay Y,
8 Q. What value would you use the		which is pennies on the dollar, it indicates there's
9 A. There is no value for an HOA		something wrong with something.
10 no market value. They are just price		Q. But you're comparing a market value to a
11 whatever, to cure the lien.	11	non-market-value transaction, which we established
12 Q. So how can you have an opini		earlier. It's apples to oranges.
13 realistic, then, if there's no value that		A. I'll testify to the market value of this
14 Can they be realistic, the prices bein		property. And I'll this leave up to the attorneys to
15 A. No, because they're pennies		argue the rest.
16 and it makes absolutely no sense.		Q. So you're not going to come to trial and say
17 because anybody acting prudently		that the price paid by SFR was unrealistic because it
18 property away for less than what th		was below market value?
19 Q. Except for an HOA who's tryin	ng to satisfy a 19	A. Not at this time.
20 lien. Right?	20	Q. And if you change that at any point, would
21 A. Correct. But it can be dispos		you supplement your report?
22 Q. And your testimony is that the		MR. BRENNER: That would go for the
23 in the world of appraisal that applies	s to that type 23	attorneys. I'll represent for the record we'll
24 of transaction?	1	
1	24	follow the Rules of Civil Procedure.
25 A. Correct.	24 25	follow the Rules of Civil Procedure.
1		

	Scott Dugan - June 1, 2015
SFR Investments	Pool 1, LLC vs. Bank of America, N.A., et al.

r-)			ank of America, N.A., et al.
	Page 129		Page 131
1	foundation.	1	November 1st, 2013, fair market value.
2	THE WITNESS: And I can't answer that	2	BY MS. HANKS:
3	question. I don't know what the ramifications are	з	Q. Right. I understand that. But your counsel
4	between the two. It's up to the attorneys to argue	4	asked you, "Are you intending to testify that the
5	that out in court.	s	amount paid by SFR" and he asked you three
6	BY MS. HANKS:	6	things "is not market value?" And you said,
7	Q. And just so I'm clear. When you're saying	7	"Yes." And he said, "Is not disposition value?" And
8	disposition of value and liquidation value are	8	you said, "Yes." And he said, "Is not liquidation
9	inappropriate definitions to use for a price paid at	9	value?" And you said, "Yes."
10	a HOA foreclosure lien, that's because you're basing	10	A. Correct.
11	it off of the market value? And you believe that if	11	Q. But you cannot come into court and testify
12	less market value was paid, then concessions were	12	at all that what SFR paid meets any definition of
13	made?	13	value in the appraisal world because it doesn't fit.
14	A. I know you understand English. Number 9,	14	There's no definition of value that fits the context
15	"The price represents the normal consideration for	15	how SFR acquired this property. Correct?
16	the property sold." Normal consideration.	16	MR. BRENNER: Form.
17	Q. Right. But did you compare other HOA	17	THE WITNESS: I guess in Mr. Brunson's
18	foreclosure liens?	18	report, he said you could customize a definition. So
19	MR. BRENNER: Asked and answered.	19	I'm not sure how to do that because definitions are
20	THE WITNESS: I've already answered that	20	the rules. And they're not changed. And you can't
21	question many times. BY MS. HANKS:	21	make up a definition for some type of value. But in
22		22	his report, he says you can.
23	Q. And that's what I want to make sure I	23	BY MS. HANKS:
24 25	understand. When they say "prices normally paid" and understanding that definition, that term is talking	24	Q. And I just want to be clear. Counsel asked
23	understanding that definition, that term is tarking	25	you, "Can an HOA start off an auction at the market
	Page 130		Page 132
	-		
1	about normally paid in a fair market context?	1	value price?" You had answered "Yes" to him, and you
2	about normally paid in a fair market context? A. No, in disposition value.	2	value price?" You had answered "Yes" to him, and you answered "No" to me. So which is it?
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1	REPORTER'S CERTIFICATE
2	STATE OF NEVADA )
3	) SS: COUNTY OF CLARK )
4	I, Jane V. Efaw, CCR No. 601, do hereby certify:
5	That I reported the taking of the deposition of
6	the witness, SCOTT DUGAN, at the time and place
7	aforesaid;
8	That prior to being examined, the witness was by
9	me duly sworn to testify to the truth, the whole
10	truth, and nothing but the truth;
11	That I thereafter transcribed my shorthand notes
12	into typewriting and that the typewritten transcript
13	of said deposition is a complete, true and accurate
14	transcription of said shorthand notes taken down at
15	said time, and that a request has been made to review
16	the transcript.
17	I further certify that I am not a relative or
18	employee of counsel of any party involved in said
19	action, nor a relative or employee of the parties
20	involved in said action, nor a person financially
21	interested in the action.
22	Dated at Las Vegas, Nevada, this day of
23	, 2015.
24	Che Aser
25	Jane V. Efaw, CCR #601

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1	REPORTER'S CERTIFICATE
2	STATE OF NEVADA )
3	) SS: COUNTY OF CLARK )
4	I, Jane V. Efaw, CCR No. 601, do hereby certify:
5	That I reported the taking of the deposition of
6	the witness, SCOTT DUGAN, at the time and place
7	aforesaid;
8	That prior to being examined, the witness was by
9	me duly sworn to testify to the truth, the whole
10	truth, and nothing but the truth;
11	That I thereafter transcribed my shorthand notes
12	into typewriting and that the typewritten transcript
13	of said deposition is a complete, true and accurate
14	transcription of said shorthand notes taken down at
15	said time, and that a request has been made to review
16	the transcript.
17	I further certify that I am not a relative or
18	employee of counsel of any party involved in said
19	action, nor a relative or employee of the parties
20	involved in said action, nor a person financially
21	interested in the action.
22	Dated at Las Vegas, Nevada, this day of
23	, 2015.
24	Str. Ffeer
25	Jane V. Efaw, CCR #601

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1	REPORTER'S CERTIFICATE
2	STATE OF NEVADA )
3	) 55 COUNTY OF CLARK )
4	T. Toxi Jon Innions - dula consistent
5	I, Lori-Ann Landers, a duly commissioned Notary Public, Clark County, State of Nevada, do hereby certify:
6	That I reported the taking of the deposition
7	of the witness, RICHARD SCOTT DUGAN, at the time and place aforesaid; That prior to being examined, the witness
8	
9	was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;
10	
11	That I thereafter transcribed my shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and
12	accurate transcription of my said shorthand notes taken down at said time to the best of my ability.
13	
14	I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or
15 16	counsel involved in said action, nor a person financially interested in the action; and that transcript review NRCP 30(e) was requested.
17	IN WITNESS WHEREOF, I have hereunto set my
18	hand in the County of Clark, State of Nevada, this 2nd day of June 2015.
19	LORI-ANN LANDERS, CCR 792, RPR
20	Rei-Que Handers
21	Vijie Breen Viger
22	
23	
24	
25	

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# EXHIBIT D-3

## Deposition of R. Scott Dugan June 1, 2015 (Manorwood property)

D-3

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