

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

2018 MAY 10 PM 2:28
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

Case No. _____

CHARLES S. RODRIGUEZ, on behalf
of himself and all others similarly situated,

Plaintiff,

6:18-cv-721-Orl-41 TBS

v.

DITECH FINANCIAL, LLC and
FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Defendants.

CLASS ACTION COMPLAINT

Plaintiff, Charles S. Rodriguez (“Plaintiff”), on behalf of himself and all others similarly situated, alleges violations of the Florida Consumer Collection Practices Act § 559.55 *et seq.* (“FCCPA”), the Fair Debt Collection Practices Act 15 U.S.C. 1692 *et seq.* (“FDCPA”), against Ditech Financial, LLC (“Ditech”) and violation of the Truth In Lending Act 15 U.S.C. § 1601 *et seq.* (“TILA”) against Federal National Mortgage Association (“FNMA”).

1. In the last (10) years, over 960,000 homes in Florida alone were foreclosed on. *See Ex. A, United States Residential Foreclosure Crisis: Ten Years Later, CoreLogic (March 2017).* Although the foreclosure rates are lower now than at their peaks in 2010-2011, there are still a significant percentage of homeowners more than 90 days behind on their mortgage payments. *Id.* A foreclosure affects not only the borrower, but also neighbors because just one foreclosure can cause a 2-3% decline in value of homes within a 1/8th mile vicinity.

<http://www.flagpinrealty.com/Articles/Sheltering%20Neighborhoods%20from%20the%20Subprime%20Foreclosure%20Storm.pdf>

2. Recognizing this devastating effect, Congress enacted the FDCPA and TILA, and the Florida Legislature enacted the FCCPA. These statutes provide consumers a private right of action to ensure mortgage servicers give defaulted borrowers accurate and clear information. The most important information is a clear statement of the amount of debt owed. Ditech, on the other hand, frustrates the borrower's ability to stop a foreclosure by giving them opaque disclosures that cause confusion.

3. Ditech charges borrowers improper fees that are disguised to look legitimate. In this case, Ditech generically labeled drive-by property inspections as "Corp Adv Disb" fees on a borrower's mortgage statements instead of what these fees are. The result is that Ditech can charge drive-by property inspections at an inappropriate and unreasonable frequency without notice or dispute from the borrower.

4. Indeed, Ditech is incentivized to keep borrowers in foreclosure because, while the amount charged is relatively small, the profit generating mark-up on the fees charged and repetitive nature in which the disguised fees are charged results in Ditech reaping thousands of dollars in profit from borrowers who are unlikely to challenge the fee when fighting to save their home.

5. By the conduct described above, Ditech knowingly violated the FCCPA and FDCPA. Fannie Mae is also liable for Ditech's violation of TILA, which has caused Plaintiff and putative class members actual concrete and particularized injuries.

JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this action arises out of TILA and the FDCPA, federal statutes.

7. The Court has supplemental jurisdiction over the FCCPA claims under 28 U.S.C. § 1367 because the basis of the TILA and FDCPA federal claims involve the same debt collection practices that form the basis of the FCCPA claims.

8. The Court has personal jurisdiction because Defendants conduct business throughout the United States, including Florida. Further, their voluntary contact with Plaintiff to charge and collect debts in Florida made it foreseeable that Defendants would be haled into a Florida court. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985).

9. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) because Defendants are deemed to reside in any judicial district where they are subject to personal jurisdiction at the time the action is commenced and because their contacts with this District are sufficient to subject them to personal jurisdiction.

PARTIES

10. Plaintiff Charles Rodriguez is a natural person who resides in Florida.

11. Defendant Ditech is a Minnesota corporation with its headquarters in St. Paul, Minnesota. Defendant services mortgages throughout the United States and Florida.

12. Defendant Fannie Mae is Delaware corporation with its principal place of business at 3900 Wisconsin Ave, N.W., Washington D.C. 20016.

APPLICABLE LAW

TILA

13. Congress enacted TILA to “protect the consumer against inaccurate and unfair credit billing and credit card practices.” 15 U.S.C.A. § 1601(a); *Fabricant v. Sears Roebuck*, 98-1281-CIV, 2002 WL 34477592, at *4 (S.D. Fla. Mar. 6, 2002) (“TILA changed the philosophy in

the extension of credit from let the buyer beware to make the seller disclose.”) (internal quotations and citations omitted).

14. To further TILA’s purpose, courts must “liberally construe the language [of the statute] in favor of the consumer.” (*Id.*) (citations omitted).

15. Under TILA, the creditor, assignee, or servicer must give a periodic statement to the borrower setting forth certain disclosures like: the amount due, explanation of amount due, and past payment breakdown. 15 U.S.C. § 1638 *et seq.*, 12 CFR § 1026.41 *et seq.*

16. TILA requires information to be “disclosed clearly and conspicuously, in accordance with regulations of the Bureau.” 15 U.S.C. § 1632(a).

17. Regulation Z “is issued by the Bureau of Consumer Financial Protection to implement the Federal Truth in Lending Act.” 12 CFR § 1026.1(a).

18. Regulation Z “prohibits certain acts or practices in connection with credit secured by a dwelling in § 1026.36, and credit secured by a consumer’s principal dwelling in § 1026.35.” 12 CFR § 1026.1(b).

19. Regulation Z imposes certain obligations on mortgage servicers and creditors to provide information to borrowers about their mortgage loans. *See* 12 CFR § 1026.31 *et seq.*

20. Information under Regulation Z, Subpart E, must be given “clearly and conspicuously” to the borrower and the information “shall reflect the terms of the legal obligation between the parties.” 12 CFR §§ 1026.31(b), (d)(1).

21. TILA provides a private cause of action for violations of Regulation Z. *See* 15 U.S.C. § 1640(a); *cf.* 15 U.S.C. § 1639(p)(2)(A) (“The Bureau, by regulation or order, shall prohibit acts or practices in connection with—mortgage loans that the Bureau finds to be unfair, deceptive, or designed to evade the provisions of this section...”); *McGowan v. King, Inc.*, 569 F.2d 845, 848

(5th Cir. 1978)(“The scheme of the statute is to create a system of private attorneys general to aid its enforcement, and its language should be construed liberally in light of its remedial purpose.”)

FDCPA

22. The purpose of the FDCPA is “to eliminate abusive debt collection practices . . . and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692.

23. The FDCPA prohibits debt collectors from using “any false, deceptive, or misleading representation or means in connection with the collection of any debt,” which includes the false representation of “the character, amount, or legal status of any debt.” *Id.* § 1692e.

24. The FDCPA also prohibits debt collectors from “unfair or unconscionable means to collect or attempt to collect any debt,” including “the collection of any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law.” *Id.* § 1692f.

25. The FDCPA creates a private right of action under 15 U.S.C. § 1692k.

26. The FDCPA defines “consumer” as “any natural person obligated or allegedly obligated to pay any debt.” *Id.* § 1692a(3).

27. The FDCPA defines “debt collector” as “any person who uses . . . any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect . . . debt owed . . . or asserted to be owed or due another.” *Id.* § 1692a(6).

28. The FDCPA defines communication as “conveying of information regarding a debt directly or indirectly to any person through any medium.” *Id.* § 1692a(2).

29. The FDCPA defines “debt” as “any obligation or alleged obligation of a consumer to pay money arising out of a transaction . . . [that] are primarily for personal, family, or household purposes.” *Id.* § 1692a(5).

FCCPA

30. The FCCPA prohibits debt collectors from engaging in certain abusive practices in the collection of consumer debts. *See generally* Fla. Stat. § 559.72.

31. The FCCPA’s goal is to “provide the consumer with the most protection possible.” *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1192 (11th Cir. 2010) (citing Fla. Stat. § 559.552).

32. Specifically, the FCCPA states that no person shall “claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist.” Fla. Stat. § 559.72(9).

33. The FCCPA creates a private right of action under Fla. Stat. § 559.77.

34. The FCCPA defines “consumer” as “any natural person obligated or allegedly obligated to pay any debt.” *Id.* § 559.55(8).

35. The FCCPA mandates that “no person” shall engage in certain practices in collecting consumer debt. *Id.* § 559.72. This language includes all allegedly unlawful attempts at collecting consumer claims. *Williams v. Streeps Music Co.*, 333 So. 2d 65, 67 (Fla. Dist. Ct. App. 1976).

36. The FCCPA defines “debt” as “any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.” *Id.* § 559.55(6).

FACTUAL ALLEGATIONS

37. On or about January 8, 2009, Plaintiff purchased a home in Orange County, Florida through a loan from Amtrust Bank, secured by a mortgage on the property. Copies of Plaintiff's Mortgage Note and Mortgage Agreement are attached as Exhibit "B" and Exhibit "C" respectively.

38. On or about October 1, 2010, the Mortgage fell into default.

39. On or about May 4, 2012, Mortgage Electronic Registration Systems, Inc., as Nominee for Amtrust Bank, its successors and/or Assigns, assigned the Note and Mortgage to FNMA.

40. Several years later, on or about May 1, 2014, Everhome Mortgage transferred its servicing rights to Ditech, formally known as Green Tree Servicing, LLC, while the Note and Mortgage were in default.¹ Therefore, Ditech became the servicer of Plaintiff's Mortgage while it was already in default.

41. Fannie Mae contracted with Ditech to service Plaintiff and the class members' mortgage loans.

42. Ditech services the Plaintiff's Mortgage on behalf of Fannie Mae as its agent.

43. As Fannie Mae's agent, Ditech must follow the Fannie Mae Single Family Servicing Guide ("Guidelines").

44. The Guidelines only allow a servicer, like Ditech, to charge property inspections not more frequently than every twenty days. *See* Fannie Mae Single Family Servicing Guide D2-2-10.

¹ On or about May 18, 2012, Elizabeth Wellborn, P.A., on behalf of FNMA, filed a complaint in the Ninth Judicial Circuit in and for Orange County, Florida to initiate foreclosure of the Plaintiff's home. Plaintiff hired Smothers Law Firm, P.A. to defend him in the foreclosure.

45. Recognizing this limitation, Ditech disguises the property inspection fees as “Corp Adv Disb” charges on the Plaintiff and the class members’ monthly billing statements.

46. Upon information and belief, Ditech pays much less than \$15.00 per property inspection, keeping the overcharge as profit.

47. Ditech then disguises the fees so it can charge them at a greater frequency than the Guidelines allow because Ditech earns a profit on the fees.

48. On September 16, 2016, Ditech sent a billing statement to Smothers Law Firm, P.A. on behalf of Plaintiff. The billing statement is attached as Exhibit “D”.

49. Under the heading “Transaction Activity Since Last Statement”, Ditech charged Plaintiff a late fee and a \$15.00 “Corp Adv Disb” on September 14, 2016. *Id.*

50. Upon information and belief, the \$15.00 “Corp Adv Disb” is actually a “drive-by” property inspection charge.

51. Upon information and belief, the actual cost of a “drive-by” property inspection charge to Ditech is less than \$15.00, meaning that every drive-by inspection charged by Ditech creates profit.

52. Ditech demanded Plaintiff pay a total amount of \$100,102.14, which included the \$15.00 “Corp Adv Disb” charge. *Id.*

53. Ditech provided no description on what default-related service the \$15.00 charge represented.

54. Directly adjacent, the September Statement advised:

****Delinquency Notice****

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of September 16 you are 2177 days delinquent on your mortgage loan. Your account first became delinquent on 1010112010.

See Ex. D.

55. Ditech included a payment coupon for Plaintiff to detach and send with his payment. *Id.*

56. On the payment coupon, Ditech again demanded a total amount of \$100,102.14 and advised that it would charge a late fee if Plaintiff didn't pay. *Id.*

57. On October 17, 2016, Ditech sent a billing statement to Smothers Law Firm, P.A. on behalf of Plaintiff. The billing statement is attached as Exhibit "E".

58. The October statement reflects that Ditech charged Plaintiff another \$15.00 "Corp Adv Disb" on September 30, 2016, and it again added that fee to the total amount it demanded Plaintiff pay. *Id.*

59. Therefore, Ditech charged Plaintiff for two property inspections within 14 days of each other, one on September 16, 2016 (Ex. D) and another on September 30, 2016 (Ex. E).

60. On or about April 17, 2017, Ditech sent a billing statement to Smothers Law Firm P.A. on behalf of Plaintiff. The Billing Statement is attached as Exhibit "F".

61. Under the heading "Transaction Activity Since Last Statement", Ditech charged Plaintiff a late fee and a \$15.00 "Corp Adv Disb" on March 31, 2017. *Id.*

62. Ditech demanded Plaintiff pay a total amount of \$81,344.17, which included the \$15.00 "Corp Adv Disb" charge. *Id.*

63. Instead of labeling the charge as a "property inspection", Ditech chose to deceptively label the charge a "Corp Adv Disb", which is unclear, inconspicuous, false, and misleading practice.

64. On or about July 17, 2017, Ditech sent another billing statement to Smothers Law Firm, P.A. on behalf of Plaintiff. The billing statement is attached as Exhibit "G."

65. Instead of labeling the charge as a “property inspection”, Ditech again chose to deceptively label the charge a “Corp Adv Disb”, which is unclear, inconspicuous, false, and misleading practice, especially because Ditech charged the Plaintiff a separate \$200 “Corp Adv Disb” charge without any explanation on what the charge relates to. (*Id.*).

66. Ditech acted as a debt collector by attempting to collect amounts on behalf of its principal, Fannie Mae.

67. Ditech, on behalf of Fannie Mae, threatened to collect illegitimate charges from Plaintiff and the putative class.

68. Ditech demanded Plaintiff pay these fees despite operating under strict servicing guidelines from Fannie Mae.

69. Under the Guidelines, Ditech must “be aware of, and in full compliance with, all federal, state, and local laws (e.g., statutes, regulations, ordinances, administrative rules and orders that have the effect of law, and judicial rulings and opinions).” And “[a]s applicable law can change quickly, and sometimes without widespread notice, the seller/servicer must establish appropriate facilities for monitoring applicable legal developments and implementing appropriate measures to stay in compliance with applicable law. ...” (emphasis added). *See* 2015 Fannie Mae Single Family Servicing Guide at 98, *available at* <https://www.fanniemae.com/content/guide/svc040815.pdf>.

70. The Guidelines only allow Ditech to charge property inspections if: Quality Right Party Contact has not been achieved; a full payment has not been received within the last 30 days; or the borrower is not performing under the applicable bankruptcy plan. *Id.* at 421-422 (section D2-2-10).

71. The Guidelines also prohibit Ditech from charging property inspections no sooner than twenty days apart. *Id.*

72. Despite these specific prohibitions, Ditech nonetheless knowingly demanded Plaintiff pay an amount to cure a default that included illegitimate, and disguised, property inspection charges.

73. Ditech's demands were a direct breach of each of the following contractual provisions permitting *only* recovery of amounts actually incurred: (1) Paragraph 9 of the Mortgage Agreement permitted Ditech to recover "***amounts disbursed***" in protecting Fannie Mae's interest and rights in the Mortgage Agreement (emphasis added); (2) Paragraph 14 of the Mortgage Agreement prohibited Ditech from charging estimated fees, stating "***[l]ender may not charge fees that are expressly prohibited in this Security Instrument or by Applicable Law***" (emphasis added); (3) Paragraph 22 of Fannie Mae's Mortgage Agreement permitted Ditech to collect "***expenses incurred in pursuing***" certain actions under the Paragraph which governed default, notice of default, actions to cure default, and reinstatement of loans (emphasis added); and (4) Paragraph 6(E) of the Mortgage Note permitted Ditech, on behalf of Fannie Mae, the "***right to be paid back . . . for all of its costs and expenses in enforcing***" the Note, which included "reasonable attorneys' fees" (emphasis added).

74. Ditech demanded Plaintiff pay these illegitimate fees despite also operating under a Consent Order with the Consumer Financial Protection Bureau. The Consent Order is attached as Exhibit "H."

75. The Order prohibits Ditech, Ditech's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

Making any material misrepresentation or assisting others in making any material misrepresentation, expressly or by implication, including but not limited to misrepresentations ...[t]hat consumers' loans have certain unpaid balances,

payment due dates, interest rates, monthly payment amounts, delinquency statuses, and unpaid fees or other amounts due;

(*Id.* at 39-40).

76. And further, the Order prohibits Ditech, Ditech's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with collecting on past-due debt, are permanently restrained and enjoined from:

Using any false, deceptive, or misleading representation or means, including but not limited to falsely representing, directly or indirectly, expressly or by implication: (1) the character, amount, or legal status of any debt... [and] [u]sing any unfair or unconscionable means to collect or attempt to collect any debt, including but not limited to collecting any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law....

(*Id.* at 46-47).

77. Ditech's President, Thomas J. Franco, signed the Order.

78. Despite the Order's specific prohibitions, Ditech knowingly, and deceptively, demanded Plaintiff pay illegitimate amounts not due and owing.

79. Additionally, the CFPB has received hundreds of complaints about Ditech's improper loan servicing practices, many involving similar complaints on requests for debt not actually owed. https://www.consumerfinance.gov/data-research/consumer-complaints/search/?company=Ditech%20Financial%20LLC&from=0&has_narrative=true&searchField=all&searchText=&size=25&sort=created_date_desc

80. Ditech's knowledge can be imputed to Fannie Mae through agency theory. *See, e.g., Compass Bank v. Tania Lynn Vanpelt*, No. CA10-1624 (Fla. Cir. Ct. April 2, 2015) (finding knowledge under the FCCPA could be imputed from agents to the owner of the mortgage note and holder through principles of agency).

81. Ditech and Fannie Mae have a pattern and practice of demanding illegal fees, and disguising those fees, because Plaintiff received a form letter from Ditech that has routinely generated line-items that included unlawful amounts.

82. Ditech's letters are form letters as shown by the identification code: "W FL DEMAND." *Id.*

83. On or about December 5, 2017, Plaintiff, through counsel, sent a cure letter to Ditech and Fannie Mae, attaching a draft of a class action complaint with the same allegations contained herein. See the letter attached as Exhibit "I."

84. After a reasonable amount of time, the Plaintiff filed this lawsuit because Ditech and Fannie Mae didn't cure the breach of its violations of state and federal law.

85. After Plaintiff made a demand and Defendant's failed to cure, Defendant Ditech sent *another* dunning letter to Plaintiff dated February 15, 2018. *See* Exhibit "J."

86. The February 15, 2018 letter stated:

If you wish to dispute the delinquency, or if you dispute the calculation of amount of the delinquency and reinstatement amount, you may contact us by calling 1-800-643-0202. Or call us via TDD at 1-800-643-0202 #711.

Id. at 2-3.

87. The letter further advised:

Ditech Financial LLC is attempting to collect a debt, and any information obtained will be used for that purpose. Unless you notify us within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, we will assume this debt is valid. If you notify us within thirty (30) days from receiving this notice that you dispute the validity of this debt or any portion thereof, we will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. Upon your written request within thirty (30) days after the receipt of this letter, we will provide you with the name and address of the original creditor, if the original creditor is different from the current creditor.

Id. at 3 (emphasis in original).

88. Ditech acted as a debt collector by attempting to collect amounts on behalf of its principal, Fannie Mae.

89. Ditech chose not to follow the FDCPA's notice requirements because it didn't inform Plaintiff that any dispute of a debt must be in writing. *See* 15 U.S.C. § 1692g.

**ADDITIONAL FACTUAL ALLEGATIONS REGARDING PLAINTIFF'S
INJURY CAUSED BY DEFENDANTS' FCCPA, FDCPA, AND TILA VIOLATIONS**

90. Plaintiff has a statutory right to receive accurate and timely information from Ditech on his monthly mortgage statements. Also, Plaintiff has a statutory right to receive a clear and conspicuous disclosure from Ditech about the fees and costs he is required to pay on his mortgage loan.

91. By failing to respond with accurate information about the amounts owed under the mortgage loan, Ditech deprived Plaintiff of his statutory right to accurate information under the FDCPA, FCCPA, and TILA.

92. By failing to send clear and conspicuous disclosure on the Plaintiff's periodic statements about the amounts owed by Plaintiff on his mortgage loan, Ditech deprived Plaintiff of his statutory right to clear and conspicuous disclosure under TILA.

CLASS ACTION ALLEGATIONS

Florida Class 1

93. Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's TILA violations (the "Florida Class 1"), subject to modification after discovery and case development:

All Florida residents to whom Ditech sent a periodic statement that charged, collected, or attempted to collect a \$15.00 "Corp Adv Disb" fee for a property inspection during the applicable statute of limitations.

Florida Class 2

94. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FCCPA and FDCPA violations (the "Florida Class 2"), subject to modification after discovery and case development:

All Florida residents to whom Ditech charged, collected, or attempted to collect a fee for a property inspection performed more frequently than twenty days apart during the applicable statute of limitations.

Florida Class 3

95. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FDCPA violations (the "Florida Class 3"), subject to modification after discovery and case development:

All Florida residents to whom Ditech sent a periodic statement that charged, collected, or attempted to collect a \$15.00 "Corp Adv Disb" fee during the applicable statute of limitations.

Florida Class 4

96. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FDCPA violations (the "Florida Class 4"), subject to modification after discovery and case development:

All Florida residents to whom Ditech sent a "W FL DEMAND" that failed to notify the debtor that any dispute of the amount owed must be "in writing" during the applicable statute of limitations.

97. Class members are identifiable through Ditech's records and payment databases.

98. Excluded from the Class are Ditech; any entities in which it has a controlling interest; its agents and employees; and any Judge to whom this action is assigned and any member of such Judge's staff and immediate family.

99. Plaintiff proposes that he serve as class representative for the Class.

100. Ditech's actions have harmed Plaintiff and the class members.

101. Numerosity is satisfied. There are likely thousands of class members. Individual joinder of these persons is impracticable.

102. There are questions of law and fact common to Plaintiff and to the Class, including, but not limited to:

- a. Whether Ditech is liable for its failure to comply with TILA by failing to provide accurate, clear, and conspicuous information in periodic statements;
- b. Whether Ditech violated the FCCPA by charging monies not due;
- c. Whether Ditech violated the FDCPA by charging monies not due;
- d. Whether Plaintiff and class members are entitled to actual or statutory damages as a result of Ditech's actions;
- e. Whether Plaintiff and class members are entitled to attorney's fees and costs; and
- f. Whether Ditech should be enjoined from engaging in such conduct in the future.

106. Plaintiff's claims are typical of the claims of the Classes.

107. Plaintiff is an adequate representative of the Classes because his interests do not conflict with the interests of the Classes, he will fairly and adequately protect the interests of the Classes, and he is represented by counsel skilled and experienced in class actions.

108. Common questions of law and fact predominate over questions affecting only individual class members, and a class action is the superior method for fair and efficient adjudication of this controversy.

109. The prosecution of separate claims by individual class members would create a risk of inconsistent or varying adjudications concerning individual class members.

**COUNT I AS TO FANNIE MAE'S VIOLATION OF THE
THE TRUTH IN LENDING ACT 15 U.S.C. § 1639g,
(Florida Class 1)**

110. Fannie Mae is a creditor under TILA that can be held vicariously liable for Ditech's TILA violations. *See* 15 U.S.C. § 1641(e); *Lucien v. Fed. Nat. Mortg. Ass'n*, 21 F. Supp. 3d 1379, 1388 (S.D. Fla. 2014).

111. TILA, requires that the creditor, assignee, or servicer provide a periodic statement to the borrower setting forth certain disclosures like, *inter alia*: the amount due, explanation of amount due, past payment breakdown, etc. 15 U.S.C. § 1638 *et seq.*, 12 CFR § 1026.41 *et seq.*

103. TILA requires the creditor, assignee, or servicer to make the disclosures in a clear and conspicuous manner and the information "shall reflect the terms of the legal obligation between the parties." 12 CFR §§ 1026.31(b), (d)(1); 12 CFR § 1026.41(c).

112. Ditech sent periodic statements to Plaintiff and the class with information that contained illegal property inspection charges disguised as generic "Corp Adv Disb" fees; that did not accurately reflect the terms of the legal obligation between the parties; and that was inaccurate, unclear, and inconspicuous concerning the amounts due and owing under the Mortgage.

113. Ditech failed to comply with TILA when it sent periodic statements that contained information that was inaccurate, unclear, and inconspicuous, and that did not accurately reflect the terms of the legal obligation between the parties.

114. Ditech has a pattern and practice of using form periodic statements that contain inaccurate, unclear, and inconspicuous information.

115. Ditech's failure to comply with TILA harmed Plaintiff and the class by depriving them of the statutory right to accurate, clear, and conspicuous information concerning their mortgage loans.

116. As a result of Ditech's failure to comply with TILA, Fannie Mae is liable to the Plaintiff and class members for actual damages, plus statutory damages, together with reasonable attorney's fees and costs. 15 U.S.C. § 1640(a).

**COUNT II AS TO DITECH'S VIOLATION OF
THE FLORIDA CONSUMER COLLECTION PRACTICES ACT § 559.72(9)
(Florida Class 2)**

117. Plaintiff is a "consumer" as defined by Fla. Stat. § 559.55(8) when he purchased his home by mortgage.

118. Ditech is a "person" as defined under the FCCPA.

119. Ditech attempted to enforce, claimed, and asserted a known non-existent legal right to a debt as defined by Fla. Stat. § 559.55(6) when it attempted to collect and collected property inspection fees not owed. *Id.* § 559.72(9).

120. Ditech knew it could not charge these property inspection fees because Fannie Mae's Guidelines specifically prohibit them from being charged more frequently than twenty days.

121. Ditech was also put on notice about charging fees not owed by agreeing to the Consent Order.

122. By charging illegal fees, and failing to provide information in an accurate, clear and conspicuous manner, Ditech attempted to collect an amount from Plaintiff and the class that they

didn't owe, and threatened to enforce the existence of a legal right (charging the fees) that didn't exist.

123. As a result of Ditech's violation of the FCCPA, Plaintiff and class members are entitled to actual damages, plus statutory damages under § 559.77(2) of the FCCPA, together with reasonable attorney's fees and costs.

**COUNT III AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692e
(Florida Class 3)**

124. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) when he purchased a home in Florida by mortgage.

125. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

126. Ditech engaged in "communications" with Plaintiff as defined by 15 U.S.C. § 1692a(2) when it sent periodic statements to Plaintiff and the class demanding payment of debts not owed.

127. Ditech violated 15 U.S.C. § 1692e when it used deceptive and misleading to collect debts contained in periodic statements sent to Plaintiff and the class and when it threatened to take an action (charging illegitimate property inspections) that could not be legally taken.

128. Ditech also used the deceptive and misleading "Corp Adv Disb" description to disguise the property inspection fees so borrowers would not dispute the fees legitimacy.

129. Ditech's violation of the FDCPA harmed Plaintiff by depriving him of the statutory right to accurate, clear, and conspicuous information concerning amounts due and owing under his mortgage loan.

130. As a result of Ditech's violation of 15 U.S.C. § 1692e, Plaintiff and class members are entitled to actual damages, plus statutory damages under 15 U.S.C. § 1692(k), together with reasonable attorney's fees and costs.

**COUNT IV AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692f
(Florida Class 3)**

131. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) when he purchased a home in Florida by mortgage.

132. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

133. Ditech engaged in "communications" with Plaintiff as defined by 15 U.S.C. § 1692a(2) when it sent periodic statements to Plaintiff and the class demanding payment of debts not owed.

134. Ditech violated 15 U.S.C. § 1692f when it used unfair and unconscionable means to collect debts contained in periodic statements sent to Plaintiff and the class and when it charged and threatened to charge late fees not expressly authorized by agreement.

135. Ditech also used the deceptive and misleading "Corp Adv Disb" description to disguise the property inspection fees so borrowers would not dispute the fees legitimacy.

136. Ditech's violation of the FDCPA harmed Plaintiff by depriving him of the statutory right to accurate, clear, and conspicuous information concerning amounts due and owing under his mortgage loan.

137. As a result of Ditech's violation of 15 U.S.C. § 1692f, Plaintiff and class members are entitled to actual damages, plus statutory damages under 15 U.S.C. § 1692(k), together with reasonable attorney's fees and costs.

**COUNT V AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692f
(Florida Class 4)**

138. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) because he is a natural person allegedly obligated to pay a debt in connection with the purchase of a home.

139. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

140. The letter Ditech sent to Plaintiff is a "communication" as defined under 15 U.S.C. § 1692a(2).

141. Ditech attempted to collect a consumer debt as defined by 15 U.S.C. § 1692a(5) because Plaintiff was allegedly obligated to pay a debt in connection with the purchase of a home for personal, family, or household purposes.

142. The February 2, 2018 letter Ditech sent to Plaintiff violated the FDCPA because it excluded the statutorily required disclosures. The letter failed to state that any dispute of the debt must be in writing, a disclosure required by 15 U.S.C. § 1692g.

143. As a result of Ditech's FDCPA violation, Plaintiff suffered substantial damage, including but not limited to the deprivation of his statutory right to dispute the debt, the deprivation of the right to basic information needed to assess the legitimacy of the debt, and deprivation of the statutory right to information needed to dispute the accuracy of the debt.

JURY DEMAND

144. Plaintiff is entitled to and respectfully demands a trial by jury on all issues so triable.

RELIEF REQUESTED

WHEREFORE. Plaintiff, himself and on behalf of the Classes, respectfully requests this Court to enter judgment against Ditech for all of the following:

- a. That Plaintiff and all class members be awarded actual damages, including but not limited to forgiveness of all amounts not owed;
- b. That Plaintiff and all class members be awarded statutory damages for each of Plaintiff's claims;
- c. That Plaintiff and all class members be awarded costs and attorney's fees;
- d. That the Court enter a judgment permanently enjoining Ditech from charging and/or collecting debt in violation of the FCCPA;
- e. That the Court enter a judgment permanently enjoining Ditech from charging and/or collecting debt in violation of the FDCPA;
- f. That the Court enter a judgment permanently enjoining Ditech and Fannie Mae from providing borrowers inaccurate, unclear, and inconspicuous information in violation of TILA;
- g. That, should the Court permit the continued charging and/or collecting debt, it enter a judgment requiring the adoption of measures ensuring FDCPA, TILA, and FCCPA compliance, and that the Court retain jurisdiction for a period of six months to ensure that compliance with those measures;
- h. That the Court enter a judgment awarding any other injunctive relief necessary to ensure compliance with the FDCPA, TILA, and the FCCPA;

- i. That the Court enter an order that Ditech and Fannie Mae and its agents, or anyone acting on their behalf, are immediately restrained from altering, deleting or destroying any documents or records that could be used to identify class members;
- j. That the Court certify Plaintiff's claims and all other persons similarly situated as class action claims under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure; and
- k. Such other and further relief as the Court may deem just and proper.

Dated: May 8, 2018

Respectfully Submitted,

/s/ James L. Kauffman

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Washington, DC 20007
Telephone: (202) 463-2101
Facsimile: (202) 342-2103
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Consumer Law Organization, P.A.
721 US Highway 1, Suite 201
North Palm Beach, Florida 33408
Telephone: (561) 692-6013
Facsimile: (305) 574-0132

Counsel for Plaintiff and the Putative Class

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles S. Rodriguez, on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

James L. Kauffman, Bailey & Glasser LLP 1054 31st St. NW Suite 230, Washington DC 20007 (202)463-2101

DEFENDANTS

DITECH FINANCIAL, LLC and FEDERAL NATIONAL MORTGAGE ASSC.

County of Residence of First Listed Defendant Ramsey
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- 1 U.S. Government Plaintiff
- 3 Federal Question *(U.S. Government Not a Party)*
- 2 U.S. Government Defendant
- 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 790 Other Labor Litigation		<input checked="" type="checkbox"/> 890 Other Statutory Actions
			<input type="checkbox"/> 791 Employee Retirement Income Security Act		<input type="checkbox"/> 891 Agricultural Acts
					<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 896 Arbitration
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
					<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District *(specify)*
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

15 USC 1692 & 15 USC 1601

Brief description of cause:

Violation of the FCCPA and FDCPA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

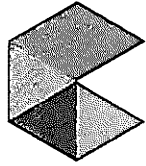
DATE

05/09/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____



CoreLogic

A black and white photograph of a modern house with large windows and a dark exterior, partially obscured by trees. The house has a prominent overhang and a dark facade. The number '750' is visible above a window. The image is high-contrast, with deep shadows and bright highlights.

United States Residential Foreclosure Crisis: Ten Years Later

MARCH 2017

"We're now at the point of maximum vulnerability. People's emotional attachment to their property is melting into the air."

Sam Khater, deputy chief economist at CoreLogic, February 2010

"No one remained untouched [during the foreclosure crisis], not homeowners, Wall Street, investors or the government..."

Sam Khater, deputy chief economist at CoreLogic, May 2011

"We are seeing an ongoing strengthening of the residential housing market..."

Anand Nallathambi, president and CEO of CoreLogic, December 2012

"The housing market is clearly on the mend, but we expect the ultimate conclusion of the present housing down cycle to be another several years away..."

Anand Nallathambi, president and CEO of CoreLogic, June 2013

"The pathway to a full recovery in housing is proving to be a very long one, but lower distressed stock levels are one clear indicator that we continue to make slow-but-steady progress..."

Anand Nallathambi, president and CEO of CoreLogic, April 2014

"Job market gains and home-price appreciation help to push serious delinquency and foreclosure rates lower. The CoreLogic national HPI showed home prices in July rose 6.9% from a year earlier, building equity for homeowners..."

Frank Nothaft, chief economist at CoreLogic, September 2015

"Foreclosure inventory fell by 30 percent from the previous year, the largest year-over-year decline since January 2015."

Frank Nothaft, chief economist at CoreLogic, October 2016

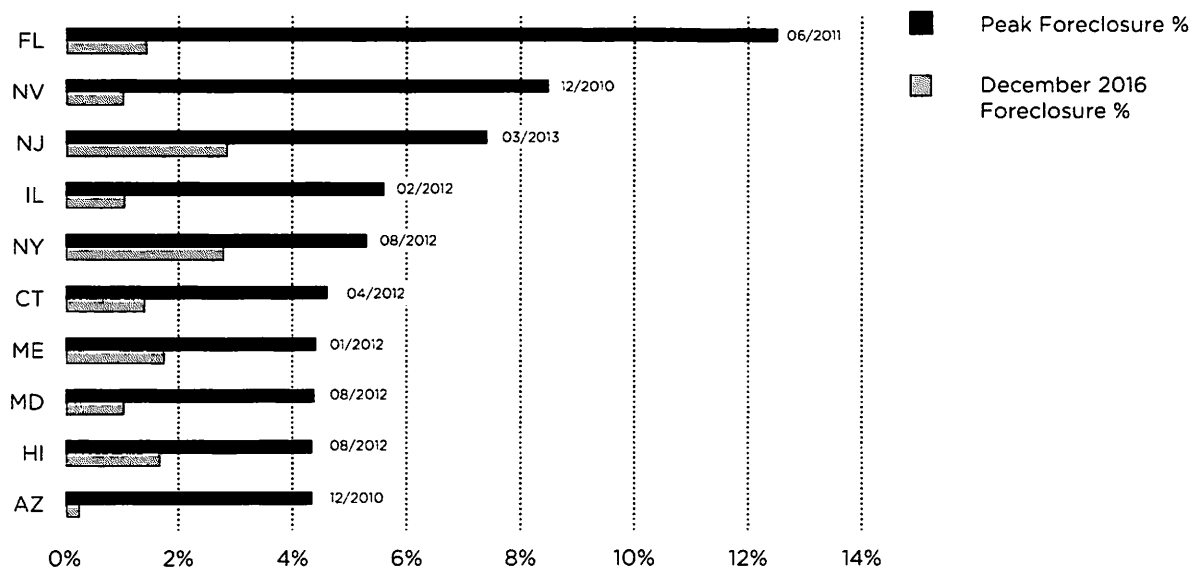
State Foreclosure Data

Peak year, peak month, peak number, unemployment rate in that state in the peak month, total foreclosures for each state from 2007-2016

STATE	FORECLOSURE INVENTORY PEAK YEAR	FORECLOSURE INVENTORY PEAK MONTH	FORECLOSURE INVENTORY PEAK NUMBER, IN THOUSANDS	UNEMPLOYMENT RATE IN PEAK MONTH	TOTAL FORECLOSURES BY STATE FOR THE 10 YEARS (2007-2016), IN THOUSANDS
National	2011	January	1,563	9.0%	7,783
Alaska	2011	January	1	8.7%	9
Alabama	2011	January	10	11.0%	81
Arkansas	2013	February	7	8.1%	56
Arizona	2010	December	49	9.9%	399
California	2009	October	193	11.6%	1,111
Colorado	2010	December	18	8.8%	159
Connecticut	2012	April	22	8.0%	38
District of Columbia	2011	October	3	10.1%	5
Delaware	2011	January	5	8.5%	16
Florida	2010	December	394	10.7%	960
Georgia	2011	January	42	10.8%	473
Hawaii	2012	April	8	6.2%	11
Iowa	2010	December	9	5.9%	46
Idaho	2010	December	7	9.0%	48
Illinois	2012	February	106	9.6%	267
Indiana	2012	January	33	9.2%	183
Kansas	2011	February	6	7.2%	45
Kentucky	2012	January	13	9.0%	35
Louisiana	2011	January	14	8.8%	79
Massachusetts	2011	March	20	7.7%	65
Maryland	2012	August	45	7.1%	109
Maine	2012	January	7	8.7%	7
Michigan	2011	January	42	11.5%	553
Minnesota	2010	December	19	7.0%	103
Missouri	2010	December	13	9.2%	170
Mississippi	2010	December	7	10.3%	20
Montana	2011	January	2	8.6%	12
North Carolina	2012	January	35	10.0%	231
North Dakota	2011	February	< 1	4.3%	4
Nebraska	2010	December	3	4.3%	23
New Hampshire	2010	December	4	5.3%	26
New Jersey	2012	September	89	9.0%	85
New Mexico	2012	April	9	6.6%	24
Nevada	2010	December	43	13.6%	219
New York	2012	August	101	8.5%	98
Ohio	2011	February	56	9.8%	326
Oklahoma	2011	February	11	6.4%	94
Oregon	2012	April	20	8.9%	79
Pennsylvania	2012	August	47	8.3%	162
Rhode Island	2011	February	5	11.7%	19
South Carolina	2012	February	25	10.0%	110
South Dakota	2012	January	1	5.0%	n/a
Tennessee	2011	January	17	10.1%	210
Texas	2011	August	47	8.0%	529
Utah	2010	December	11	7.3%	59
Virginia	2011	January	21	7.1%	163
Vermont	2012	January	2	5.8%	n/a
Washington	2013	January	29	8.4%	155
Wisconsin	2011	January	20	8.8%	89
West Virginia	2011	February	2	9.6%	8
Wyoming	2010	December	1	6.2%	7

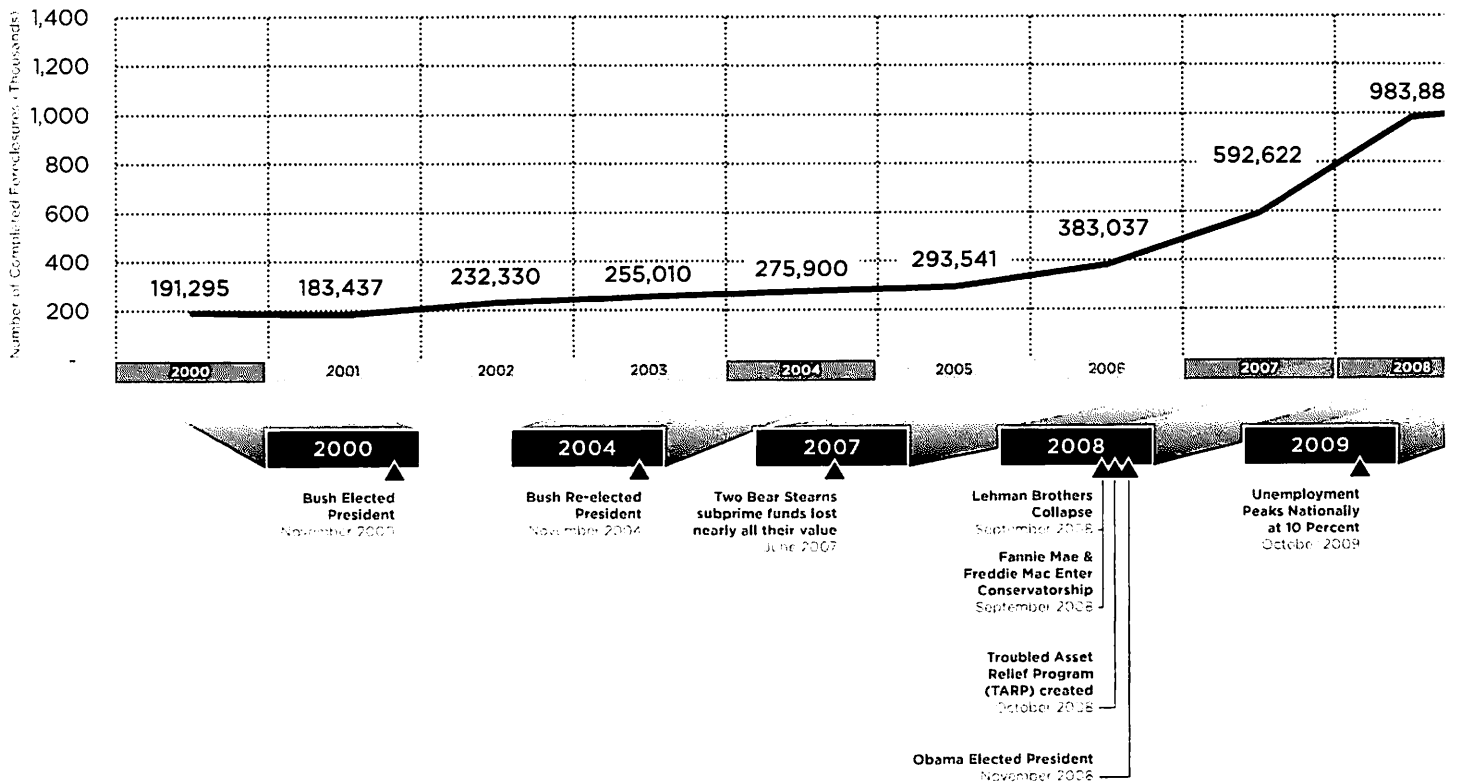
Source: CoreLogic

Ten States with the Highest Peak Foreclosure Rate

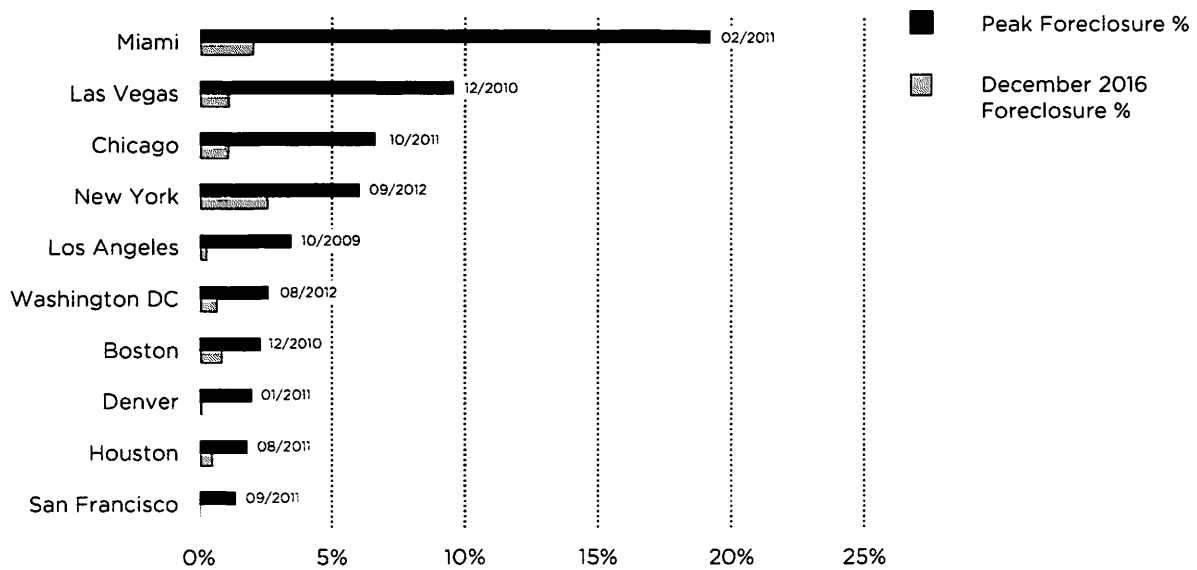


Source: CoreLogic

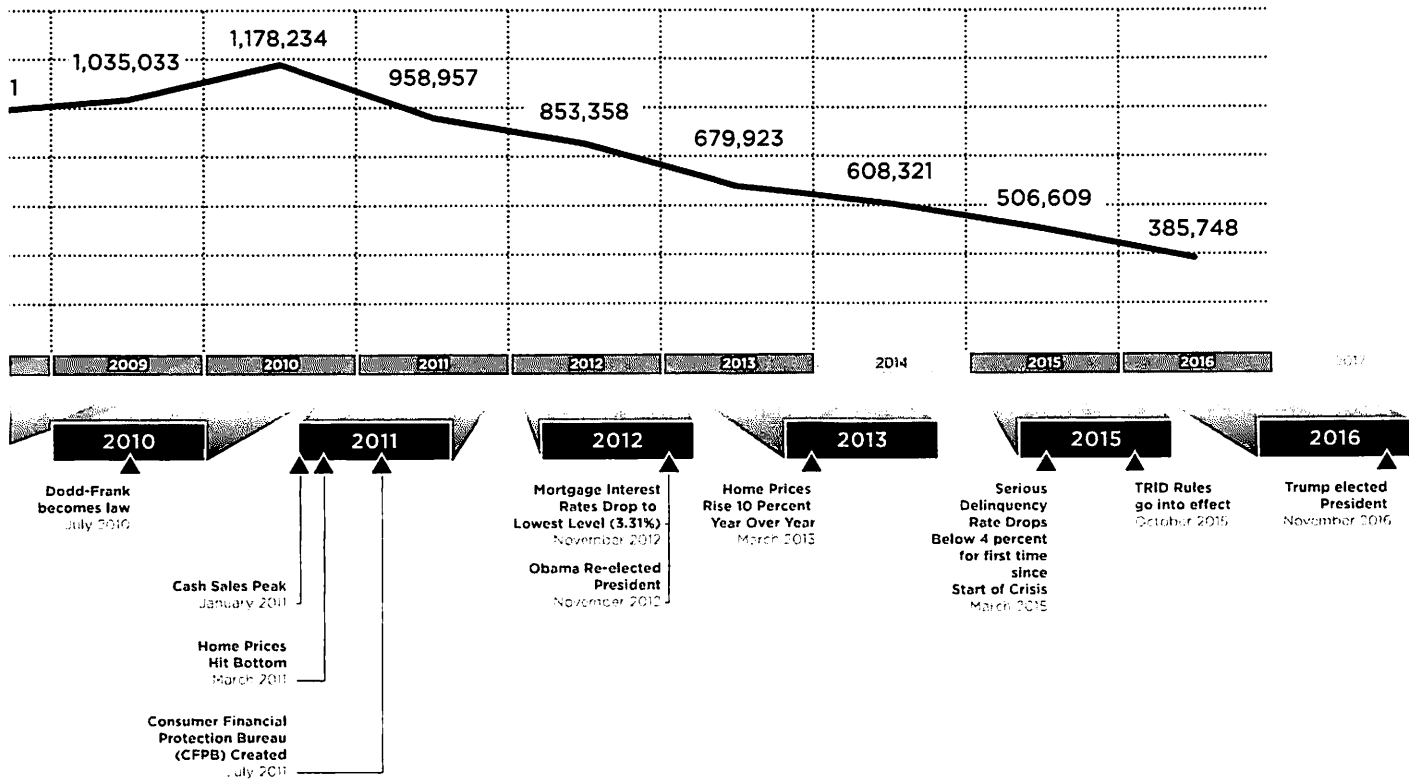
Foreclosure Crisis Chronology



Peak Foreclosure Rate for the Largest Ten CBSAs



Source: CoreLogic



Delinquencies - A Leading Indicator

Early stage delinquencies may be a leading indicator of future loan performance.



2.6%

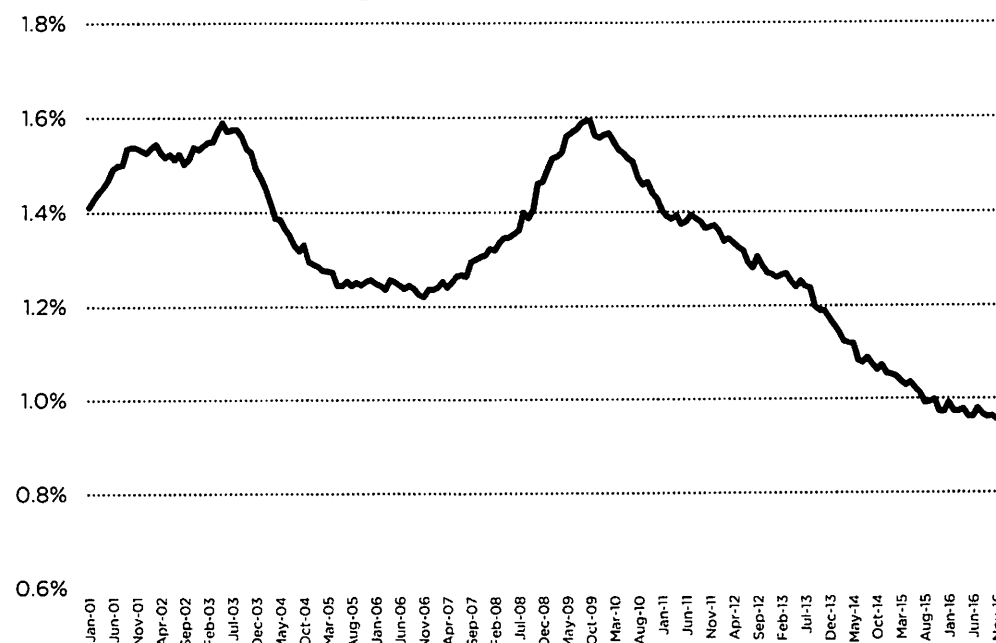
CORELOGIC REPORTS THE NUMBER OF MORTGAGES IN SERIOUS DELINQUENCY, DEFINED AS 90 DAYS OR MORE PAST DUE INCLUDING LOANS IN FORECLOSURE OR REO. THE DELINQUENCY RATE (PAYMENTS PAST DUE BY 30, 60 OR 90 DAYS) CONTINUES TO BE A LEADING INDICATOR OF TROUBLED MARKETS. AT THE END OF 2016,

1 MILLION MORTGAGES, OR 2.6 PERCENT OF HOMES WITH A MORTGAGE, WERE IN SERIOUS DELINQUENCY, COMPARED TO THE SERIOUS DELINQUENCY PEAK OF 3.7 MILLION IN JANUARY 2010. IN RECENT YEARS THE DECLINE IN SERIOUS DELINQUENCIES HAS BEEN GEOGRAPHICALLY BROAD THROUGHOUT THE COUNTRY WITH YEAR-OVER-YEAR DECREASES, FROM DECEMBER 2015 TO DECEMBER 2016, IN 48 STATES AND THE DISTRICT OF COLUMBIA.

NATIONAL	DECEMBER 2013	DECEMBER 2014	DECEMBER 2015	DECEMBER 2016
DELINQUENCY RATES				
30 to 59 Days Past Due	2.6%	2.4%	2.3%	2.2%
60 to 89 Days Past Due	1.0%	0.9%	0.8%	0.8%
90 119 Days Past Due	0.5%	0.4%	0.4%	0.4%
90+ Days Past due and in Foreclosure	5.2%	4.1%	3.3%	2.6%
In Foreclosure	2.2%	1.5%	1.2%	0.9%
TRANSITION RATES				
current to 30	1.2%	1.0%	1.0%	1.0%
30 to 60	18.1%	15.3%	16.2%	16.9%
60 to 90	30.3%	28.3%	27.9%	28.5%

Source: CoreLogic

Current-to-30 Day Roll Rates



Source: CoreLogic

National Foreclosure Report Methodology

The data in this report represents foreclosure activity reported between January 2000 and December 2016.

This report separates state data into judicial versus non-judicial foreclosure state categories. In judicial foreclosure states, lenders must provide evidence to the courts of delinquency in order to move a borrower into foreclosure. In non-judicial foreclosure states, lenders can issue notices of default directly to the borrower without court intervention. This is an important distinction since judicial states, as a rule, have longer foreclosure timelines, thus affecting foreclosure statistics.

A completed foreclosure occurs when a property is auctioned and results in the purchase of the home at auction by either a third party, such as an investor, or by the lender. If the home is purchased by the lender, it is moved into the lender's real estate-owned (REO) inventory. In "foreclosure by advertisement" states, a redemption period begins after the auction and runs for a statutory period, e.g., six months. During that period, the borrower may regain the foreclosed home by paying all amounts due as calculated under the statute. For purposes of this Foreclosure Report, because so few homes are actually redeemed following an auction, it is assumed that the foreclosure process ends in "foreclosure by advertisement" states at the completion of the auction.

The foreclosure inventory represents the number and share of mortgaged homes that have been placed into the process of foreclosure by the mortgage servicer. Mortgage servicers start the foreclosure process when the mortgage reaches a specific level of serious delinquency as dictated by the investor for the mortgage loan. Once a foreclosure is "started," and absent the borrower paying all amounts necessary to halt the foreclosure, the home remains in foreclosure until the completed foreclosure results in the sale to a third party at auction or the home enters the lender's REO inventory. The data in this report accounts for only first liens against a property and does not include secondary liens. The foreclosure inventory is measured only against homes that have an outstanding mortgage. Generally, homes with no mortgage liens are not subject to foreclosure and are, therefore, excluded from the analysis. Approximately one-third of homes nationally are owned outright and do not have a mortgage. CoreLogic has approximately 85 percent coverage of U.S. foreclosure data.

SOURCE: CORELOGIC

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ABOUT CORELOGIC

CoreLogic (NYSE: CLGX) is a leading global property information, analytics and data-enabled solutions provider. The company's combined data from public, contributory and proprietary sources includes over 4.5 billion records spanning more than 50 years, providing detailed coverage of property, mortgages and other encumbrances, consumer credit, tenancy, location, hazard risk and related performance information. The markets CoreLogic serves include real estate and mortgage finance, insurance, capital markets, and the public sector. CoreLogic delivers value to clients through unique data, analytics, workflow technology, advisory and managed services. Clients rely on CoreLogic to help identify and manage growth opportunities, improve performance and mitigate risk. Headquartered in Irvine, Calif., CoreLogic operates in North America, Western Europe and Asia Pacific. For more information, please visit www.corelogic.com.

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CONTACT

For more information, please email alaustin@corelogic.com.

For an expanded perspective on housing economies and property markets, visit the **CoreLogic Insights Blog** and follow us on:

CoreLogic



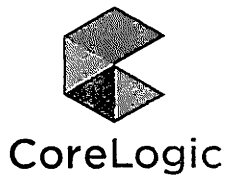
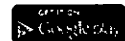
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All other trademarks are the property of their respective holders.

17-NFR-10YR-0317-00



NOTE

(For Electronic Signature)

MIN: 1001625000 

January 08, 2009

[Date]

Winter Park, FL

[City] . [State]

3970 Old Dunn Rd
Apopka, FL 32712

[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$174,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is AmTrust Bank. I will make all payments under this Note in the form of cash, check or money order.

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

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.250%.

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

3. PAYMENTS

(A) Time and Place of Payments

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

I will make my monthly payment on the 1st day of each month beginning on March 01, 2009. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on February 01, 2039, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 790376, St. Louis, MO 631790376 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$960.83.

4. BORROWER'S RIGHT TO PREPAY

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

EXHIBIT

B

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

5. LOAN CHARGES

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

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

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

(B) Default

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

(C) Notice of Default

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

(D) No Waiver By Note Holder

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

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

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

7. GIVING OF NOTICES

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

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

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

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

9. WAIVERS

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

10. UNIFORM SECURED NOTE

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

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

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

11. DOCUMENTARY TAX

The state documentary tax due on this Note has been paid on the mortgage securing this indebtedness.

12. ISSUANCE OF TRANSFERABLE RECORD; IDENTIFICATION OF NOTE HOLDER; CONVERSION FROM ELECTRONIC NOTE TO PAPER-BASED NOTE

(A) I expressly state that I have signed this electronically created Note (the "Electronic Note") using an Electronic Signature. By doing this, I am indicating that I agree to the terms of this Electronic Note. I also agree that this Electronic Note may be Authenticated, Stored and Transmitted by Electronic Means (as defined in Section 12 (F)), and will be valid for all legal purposes, as set forth in the Uniform Electronic Transactions Act, as enacted in the jurisdiction where the Property is located ("UETA"), the Electronic Signatures in Global and National Commerce Act ("E-SIGN"), or both, as applicable. In addition, I agree that this Electronic Note will be an effective, enforceable and valid Transferable Record (as defined in Section 12 (F)) and may be created, authenticated, stored, transmitted and transferred in a manner consistent with and permitted by the Transferable Records sections of UETA or E-SIGN.

(B) Except as indicated in Sections 12 (D) and (E) below, the identity of the Note Holder and any person to whom this Electronic Note is later transferred will be recorded in a registry maintained by MERSCORP, Inc., a Delaware corporation or in another registry to which the records are later transferred (the "Note Holder Registry"). The authoritative copy of this Electronic Note will be the copy identified by the Note Holder after loan closing but prior to registration in the Note Holder Registry. If this Electronic Note has been registered in the Note Holder Registry, then the authoritative copy will be the copy identified by the Note Holder of record in the Note Holder Registry or the Loan Servicer (as defined in the Security Instrument) acting at the direction of the Note Holder, as the authoritative copy. The current identity of the Note Holder and the location of the authoritative copy, as reflected in the Note Holder Registry, will be available from the Note Holder or Loan Servicer, as applicable. The only copy of this Electronic Note that is the authoritative copy is the copy that is within the control of the person identified as the Note Holder in the Note Holder Registry (or that person's designee). No other copy of this Electronic Note may be the authoritative copy.

(C) If Section 12 (B) fails to identify a Note Holder Registry, the Note Holder (which includes any person to whom this Electronic Note is later transferred) will be established by, and identified in accordance with, the systems and processes of the electronic storage system on which this Electronic Note is stored.

(D) I expressly agree that the Note Holder and any person to whom this Electronic Note is later transferred shall have the right to convert this Electronic Note at any time into a paper-based Note (the "Paper-Based Note"). In the event this Electronic Note is converted into a Paper-Based Note, I further expressly agree that: (i) the Paper-Based Note will be an effective, enforceable and valid negotiable instrument governed by the applicable provisions of the Uniform Commercial Code in effect in the jurisdiction where the Property is located; (ii) my signing of this Electronic Note will be deemed issuance and delivery of the Paper-Based Note; (iii) I intend that the printing of the representation of my Electronic Signature upon the Paper-Based Note from the system in which the Electronic Note is stored will be my original signature on the Paper-Based Note and will serve to indicate my present intention to authenticate the Paper-Based Note; (iv) the Paper-Based Note will be a valid original writing for all legal purposes; and (v) upon conversion to a Paper-Based Note, my obligations in the Electronic Note shall automatically transfer to and be contained in the Paper-Based Note, and I intend to be bound by such obligations.

(E) Any conversion of this Electronic Note to a Paper-Based Note will be made using processes and methods that ensure that: (i) the information and signatures on the face of the Paper-Based Note are a complete and accurate reproduction of those reflected on the face of this Electronic Note (whether originally handwritten or manifested in other symbolic form); (ii) the Note Holder of this Electronic Note at the time of such conversion has maintained control and possession of the Paper-Based Note; (iii) this Electronic Note can no longer be transferred to a new Note Holder; and (iv) the Note Holder Registry (as defined above), or any system or process identified in Section 12 (C) above, shows that this Electronic Note has been converted to a Paper-Based Note, and delivered to the then-current Note Holder.

(F) The following terms and phrases are defined as follows: (i) "Authenticated, Stored and Transmitted by Electronic Means" means that this Electronic Note will be identified as the Note that I signed, saved, and sent using electrical, digital, wireless, or similar technology; (ii) "Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means; (iii) "Electronic Signature" means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign a record; (iv) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and (v) "Transferable Record" means an electronic record that: (a) would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing and (b) I, as the issuer, have agreed is a Transferable Record.

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

Electronically signed by Charles S Rodriguez on 1/9/2009 4:03:25 PM ET

[Sign Original Only]

Florida Fixed Rate eNote -- Single Family -- Fannie Mae/Freddie Mac UNIFORM INSTRUMENT Form 3210e 5/05

FT10-FT11261

After recording please return to:
AmTrust Bank Final Documents Department
[Name]

[Attention]
1111 Chester Ave, Suite 200, Mail Code: OH98-0201
[Street Address]
Cleveland, Ohio 44114-3516
[City, State Zip Code]

This document prepared by:
ARS Funding Group, Inc
[Company Name]

[Name of Natural Person]
300 Wilshire Blvd
[Street Address]
Casselberry, FL 32707
[City, State Zip Code]

DOC N 28090212655 B: 8857 P: 3529

04/14/2009 07:48:27 AM Page 1 of 17
Rec Fee: \$145.00 Doc Type: M
Dead Doc Tax: \$0.00
Intangible Tax: \$348.00
Mortgage Stamp: \$689.00
Martha O. Haynie, Comptroller
Orange County, FL
PU - Ret To: FIDELITY NATIONAL TITLE I



[Space Above This Line For Recording Data]

MIN: 1001625080

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated January 8, 2009, together with all Riders to this document.
- (B) "Borrower" is Charles Rodriguez and Belinda Rodriguez, husband and wife. Borrower is the mortgagor under this Security Instrument.
- (C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
- (D) "Lender" is AmTrust Bank. Lender is a Federal Savings Bank organized and existing under the laws of The United States of America. Lender's address is 1801 East Ninth Street Suite 200, Cleveland, OH 44114.
- (E) "Note" means the promissory note signed by Borrower and dated January 8, 2009. The Note states that Borrower owes Lender One Hundred Seventy Four Thousand and 00/100ths Dollars (U.S. \$174,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than February 1, 2039.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- 1-4 Family Rider
- Other(s) [specify]
- Condominium Rider
- Planned Unit Development Rider
- Revocable Trust Rider
- Second Home Rider
- Biweekly Payment Rider

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions; transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

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

TRANSFER OF RIGHTS IN THE PROPERTY

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

County of Orange
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]
~~ROCK SPRINGS RIDGE PHASE IV-B, LOT 687~~

Lot 687, Rock Springs Ridge Phase IV-B, according to the plat thereof, as recorded in Plat Book 55, Pages 103 through 105, inclusive, of the Public Records of Orange County, Florida.

which currently has the address of 3970 Old Dunn Rd
[Street]

Apopka, Florida 32712 ("Property Address")
[City] [Zip Code]

Tax Parcel ID No.: 172028742406870

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

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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

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

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

20090212055 Page 4 of 17

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

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

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

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

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

20090212055 Page 5 of 17

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

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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

20090212055 Page 6 of 17

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

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or

20090212055 Page 7 of 17

the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

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

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

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and

Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

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

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

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

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

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

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

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

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

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

20090212055 Page 9 of 17

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

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

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

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

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

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

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

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

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted

20090212055 Page 10 of 17

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

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

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

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

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

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

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

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

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any

default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

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

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

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

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous

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

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

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

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Attorneys' Fees. As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

25. Jury Trial Waiver. The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

The following signature(s) and acknowledgment(s) are incorporated into and made a part of this Florida Mortgage dated January 8, 2009 between Charles Rodriguez and Belinda Rodriguez, husband and wife, and AmTrust Bank.

20080212055 Page 13 of 17


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

Signed, sealed and delivered in the presence of:

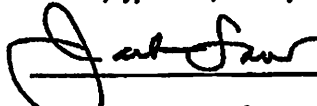
Witnesses:


MICHELE FREELAND

Printed, Typewritten, or Stamped Name


Charles S Rodriguez (Seal)
-Borrower
[Printed, Typewritten, or Stamped Name]

Post-Office Address: 3970 Old Dunn Rd, Apopka, FL 32712


JACK LAW

Printed, Typewritten, or Stamped Name


Belinda G Rodriguez (Seal)
-Borrower
[Printed, Typewritten, or Stamped Name]

Post-Office Address:

(Seal)
-Borrower
[Printed, Typewritten, or Stamped Name]

Post-Office Address:

(Seal)
-Borrower
[Printed, Typewritten, or Stamped Name]

Post-Office Address:

20080212055 Page 14 of 17

ACKNOWLEDGMENT

State of Florida §
County of Seminole §
§

The foregoing instrument was acknowledged before me on 1/1/09
by Charles S Rodriguez and Belinda G Rodriguez who is personally known to me or who has produced
Drivers License as identification.



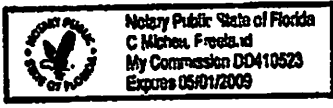
Signature of Person Taking Acknowledgment
MICHELE FREELAND

Name Type, Printed or Stamped

Title or Rank

Serial Number, if any:

My Commission Expires:



(Seal)



Loan Number: [REDACTED]
MIN: 1091625000: [REDACTED]

PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 8th day of January, 2009 , and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to AmTrust Bank (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

3970 Old Dunn Rd, Apopka, FL 32712
[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

Rock Springs Ridge
[Name of Planned Unit Development]

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

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

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

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which

provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then:

(i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

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

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

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

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


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

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

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

20090212055 Page 17 of 17

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



Charles S Rodriguez (Seal)
-Borrower



Helinda G Rodriguez (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]



PO Box 6172, Rapid City, SD 57709-6172

8-776-05214-0032043-004-1-001-000-000-000



CHARLES S RODRIGUEZ
C/O SCOTT A SMOTHERS ATTY
 175 E MAIN ST STE 111
 APOPKA FL 32703-3213

BILLING STATEMENT

Statement Date	Due Date	Amount Due
09/16/2016	10/01/2016	\$100,102.14

If payment is received after 10/16/2016, a \$48.04 late fee will be charged



AutoPay is Free Online at Ditech.com



Mail your payment to
 PO Box 660934
 Dallas, TX 75266-0934



Call 1-800-643-0202
 Monday - Friday, 7a.m. - 8 p.m. CST
 Saturday, 7a.m. - 1 p.m. CST

Account Information		Past Payments Breakdown		Explanation of Amount Due	
Loan Number	0050588957	Since Last Statement/Month		Principal	\$286.82
Principal Balance †	\$170,054.90	Principal	\$0.00	Interest	\$863.91
Escrow Balance	(\$21,084.95)	Interest	\$0.00	Escrow (Tax & Insurance)	\$360.67
Advance Balance ^	\$8,783.18	Escrow (Tax & Insurance)	\$0.00	Regular Monthly Payment	\$1,321.50
Interest Rate	5.250%	Total Fees and Charges	\$0.00	Total New Fees and Charges	\$48.04
Interest Type	Actuarial	Funds in Suspense	\$0.00	Past Due Amount	\$88,732.80
Prepayment Penalty	No	Total Paid	\$0.00		
Next Rate Reset	N/A	Year to Date			
Property Address:	3970 OLD DUNN RD APOPKA FL 32712	Principal	\$0.00		
		Interest	\$0.00		
		Escrow (Tax & Insurance)	\$0.00		
		Total Fees and Charges	\$0.00		
		Funds in Suspense	\$0.00		
		Total Paid Year to Date	\$0.00		

† This is not your payoff amount. Please login to MyAccount at ditech.com for a payoff figure.

^ Advances represent money advanced by servicer to pay taxes, insurance and any other amounts currently due that are not part of an escrow account.

Transaction Activity Since Last Statement			
Date	Description	Charges	Payments
09/16/16	Late Charge Asmt	\$48.04	\$0.00
09/14/16	Corp Adv Disb	\$15.00	\$0.00

Total Amount Due¹: \$100,102.14

****Delinquency Notice****

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of September 16 you are 2177 days delinquent on your mortgage loan. Your account first became delinquent on 10/01/2010.

A first notice or filing to initiate foreclosure on your account has occurred.

Recent Account History

- Payment Due 04/01/16: Unpaid amount of \$1,331.28
- Payment Due 05/01/16: Unpaid amount of \$1,331.28
- Payment Due 06/01/16: Unpaid amount of \$1,331.28
- Payment Due 07/01/16: Unpaid amount of \$1,331.28
- Payment Due 08/01/16: Unpaid amount of \$1,321.50
- Payment Due 09/01/16: Unpaid amount of \$1,321.50

-Total: \$100,102.14 due. You must pay this amount to bring your loan current.

For a list of homeownership counselors or counseling organizations in your area, go to <http://www.hud.gov/offices/hsg/sfh/hcc/hcsa.cfm> or call 800-669-4287.

Important Messages (More information on the Back)

¹This amount may not be sufficient to reinstate your account. Contact Ditech for the exact amount required for reinstatement.

Your account is now severely delinquent and your immediate action is required. Contact your account representative, Sonya P at 1-800-643-0202, extension 85477 to make immediate payment arrangements.

----- ✂-----
 PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT

CHARLES S RODRIGUEZ
 C/O SCOTT A SMOTHERS ATTY
 175 E MAIN ST STE 111
 APOPKA FL 32703-3213

Loan Number	Statement Date	Due Date	Amount Due
0050588957	09/16/2016	10/01/2016	\$100,102.14

Check box for address changes on reverse side.

If payment is received after 10/16/2016, a \$48.04 late fee will be charged

Make checks payable to Ditech Financial.

Amount Due \$ 1 0 0 , 1 0 2 . 1 4
 Additional Escrow \$. .
 Additional Late \$. .
 Additional Principal \$. .
 Total Amount Enclosed \$. .

Ditech
 PO Box 660934
 Dallas, TX 75266-0934

05058895 7 00132150 0010010214



PO Box 6172, Rapid City, SD 57709-6172

BILLING STATEMENT

Statement Date | Due Date | Amount Due
 10/17/2016 | 11/01/2016 | **\$101,471.68**

0-776-05612-0014908-002-1-001-000-000-000



If payment is received after 11/16/2016, a \$48.04 late fee will be charged



CHARLES S RODRIGUEZ
 C/O SCOTT A SMOTHERS ATTY
 175 E MAIN ST STE 111
 APOPKA FL 32703-3213



AutoPay is Free Online at Ditech.com



Mail your payment to
 PO Box 660934
 Dallas, TX 75266-0934



Call 1-800-643-0202
 Monday - Friday, 7a.m. - 8 p.m. CST
 Saturday, 7a.m. - 1 p.m. CST

Account Information		Past Payments Breakdown		Explanation of Amount Due	
Loan Number	0050586957	Since Last Statement/Month		Principal	\$298.22
Principal Balance †	\$170,054.90	Principal	\$0.00	Interest	\$682.61
Escrow Balance	(\$21,064.85)	Interest	\$0.00	Escrow (Tax & Insurance)	\$380.67
Advance Balance ^	\$8,778.18	Escrow (Tax & Insurance)	\$0.00	Regular Monthly Payment	\$1,321.50
Interest Rate	5.250%	Total Fees and Charges	\$0.00	Total New Fees and Charges	\$48.04
Interest Type	Actuarial	Funds in Suspense	\$0.00	Past Due Amount	\$100,102.14
Prepayment Penalty	No	Total Paid	\$0.00		
Next Rate Reset	N/A	Year to Date			
Property Address:	3970 GLEB-DUNN RD APOPKA FL 32712	Principal	\$0.00		
		Interest	\$0.00		
		Escrow (Tax & Insurance)	\$0.00		
		Total Fees and Charges	\$0.00		
		Funds in Suspense	\$0.00		
		Total Paid Year to Date	\$0.00		

† This is not your payoff amount. Please login to MyAccount at ditech.com for a payoff figure.

^ Advances represent money advanced by servicer to pay taxes, insurance and any other amounts currently due that are not part of an escrow account.

Transaction Activity Since Last Statement			
Date	Description	Charges	Payments
10/17/16	Late Charge Asmt	\$48.04	\$0.00
09/30/16	Corp Adv Disb	\$15.00	\$0.00

Total Amount Due¹: \$101,471.68

****Delinquency Notice****

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of October 17 you are 2206 days delinquent on your mortgage loan. Your account first became delinquent on 10/01/2010.

A first notice or filing to initiate foreclosure on your account has occurred.

Recent Account History

- Payment Due 05/01/16: Unpaid amount of \$1,331.26
- Payment Due 06/01/16: Unpaid amount of \$1,331.26
- Payment Due 07/01/16: Unpaid amount of \$1,331.26
- Payment Due 08/01/16: Unpaid amount of \$1,321.50
- Payment Due 09/01/16: Unpaid amount of \$1,321.50
- Payment Due 10/01/16: Unpaid amount of \$1,321.50

-Total: \$101,471.68 due. You must pay this amount to bring your loan current.

For a list of homeownership counselors or counseling organizations in your area, go to <http://www.hud.gov/offices/mhrt/hotline.cfm> or call 800-669-4267.

Important Messages (More information on the Back)

PARTIAL PAYMENTS: Any partial payments that you make are not applied to your mortgage, but instead are held in a separate suspense account. If you pay the balance of a partial payment, the funds will then be applied to your mortgage.

Your account is now severely delinquent and your immediate action is required. Contact your account representative, Sonya P at 1-800-643-0202, extension 65477 to make immediate payment arrangements.

¹This amount may not be sufficient to reinstate your account. Contact Ditech for the exact amount required for reinstatement.

✂----- PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT -----✂

CHARLES S RODRIGUEZ C/O SCOTT A SMOTHERS ATTY 175 E MAIN ST STE 111 APOPKA FL 32703-3213		Loan Number Statement Date Due Date Amount Due 0050586957 10/17/2016 11/01/2016 \$101,471.68
<input type="checkbox"/> Check box for address changes on reverse side.		If payment is received after 11/16/2016, a \$48.04 late fee will be charged
Make checks payable to Ditech Financial.		Ditech PO Box 660934 Dallas, TX 75266-0934
Amount Due \$.	
Additional Escrow \$.	
Additional Late \$.	
Additional Principal \$.	
Total Amount Enclosed \$.	

05058695 7 00132150 0010147168



PO Box 6172, Rapid City, SD 57709-6172

BILLING STATEMENT

Statement Date	Due Date	Amount Due
04/17/2017	05/01/2017	\$81,344.17

0-776-08178-0033835-004-1-001-000-000-000

CHARLES S RODRIGUEZ
175 E MAIN ST STE 111
APOPKA FL 32703-3213



If payment is received after 05/16/2017, a \$48.04 late fee will be charged



AutoPay is Free Online at Ditech.com



Mail your payment to
PO Box 660934
Dallas, TX 75266-0934



Call 1-800-643-0202
Monday - Friday, 7a.m. - 8 p.m. CST
Saturday, 7a.m. - 1 p.m. CST

Account Information		Past Payments Breakdown		Explanation of Amount Due	
Loan Number	0050586957	Since Last Statement/Month		Principal	\$306.14
Principal Balance †	\$165,296.41	Principal	\$0.00	Interest	\$654.69
Escrow Balance	(\$25,358.27)	Interest	\$0.00	Escrow (Tax & Insurance)	\$360.67
Advance Balance ^	\$5,374.28	Escrow (Tax & Insurance)	\$0.00	Regular Monthly Payment	\$1,321.50
Interest Rate	5.250%	Total Fees and Charges	\$0.00	Total New Fees and Charges	\$48.04
Interest Type	Actuarial	Funds in Suspense	\$0.00	Past Due Amount	\$79,974.63
Prepayment Penalty	No	Total Paid	\$0.00		
Next Rate Reset	N/A	Year to Date			
Property Address:	3970 OLD DUNN RD APOPKA FL 32712	Principal	\$0.00		
		Interest	\$0.00		
		Escrow (Tax & Insurance)	\$0.00		
		Total Fees and Charges	\$0.00		
		Funds in Suspense	\$0.00		
		Total Paid Year to Date	\$0.00		

† This is not your payoff amount. Please login to MyAccount at ditech.com for a payoff figure.

^ Advances represent money advanced by servicer to pay taxes, insurance and any other amounts currently due that are not part of an escrow account.

Total Amount Due: \$81,344.17

Delinquency Notice

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of April 17 you are 1751 days delinquent on your mortgage loan. Your account first became delinquent on 07/01/2012.

Recent Account History

- Payment Due 11/01/16: Unpaid amount of \$1,321.50
- Payment Due 12/01/16: Unpaid amount of \$1,321.50
- Payment Due 01/01/17: Unpaid amount of \$1,321.50
- Payment Due 02/01/17: Unpaid amount of \$1,321.50
- Payment Due 03/01/17: Unpaid amount of \$1,321.50
- Payment Due 04/01/17: Unpaid amount of \$1,321.50
- Total: \$81,344.17 due. You must pay this amount to bring your loan current.

If you are experiencing financial difficulty, see back for information about mortgage counseling or assistance.

Transaction Activity Since Last Statement			
Date	Description	Charges	Payments
04/17/17	Late Charge Asmt	\$48.04	\$0.00
03/31/17	Corp Adv Disb	\$15.00	\$0.00

Important Messages (More information on the Back)

PARTIAL PAYMENTS: Any partial payments that you make are not applied to your mortgage, but instead are held in a separate suspense account. If you pay the balance of a partial payment, the funds will then be applied to your mortgage.

Your account is now severely delinquent and your immediate action is required. Contact your account representative, Alisha M at 1-800-643-0202, extension 32358 to make immediate payment arrangements.

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT

CHARLES S RODRIGUEZ



PO Box 6172, Rapid City, SD 57709-6172

BILLING STATEMENT

Statement Date	Due Date	Amount Due
07/17/2017	08/01/2017	\$85,746.61

0-778-08378-0038975-004-1-001-000-000-000

CHARLES S RODRIGUEZ
175 E MAIN ST STE 111
APOPKA FL 32703-3213



If payment is received after 08/16/2017,
a \$48.04 late fee will be charged



AutoPay is Free Online at Ditech.com



Mail your payment to
PO Box 660934
Dallas, TX 75266-0934



Call 1-800-643-0202
Monday - Friday, 7a.m. - 8 p.m. CST
Saturday, 7a.m. - 1 p.m. CST

Account Information		Past Payments Breakdown		Explanation of Amount Due	
Loan Number	0050586957	Since Last Statement/Month		Principal	\$310.17
Principal Balance †	\$165,296.41	Principal	\$0.00	Interest	\$650.86
Escrow Balance	(\$25,358.27)	Interest	\$0.00	Escrow (Tax & Insurance)	\$607.58
Advance Balance ^	\$5,619.28	Escrow (Tax & Insurance)	\$0.00	Regular Monthly Payment	\$1,468.41
Interest Rate	5.250%	Total Fees and Charges	\$0.00	Total New Fees and Charges	\$48.04
Interest Type	Actuarial	Funds In Suspense	\$0.00	Past Due Amount	\$84,230.16
Prepayment Penalty	No	Total Paid	\$9.00		
Next Rate Reset	N/A	Year to Date			
Property Address:	3970 OLD DUNN RD APOPKA FL 32712	Principal	\$0.00		
		Interest	\$0.00		
		Escrow (Tax & Insurance)	\$0.00		
		Total Fees and Charges	\$0.00		
		Funds In Suspense	\$0.00		
		Total Paid-Year to Date	\$0.00		

† This is not your payoff amount. Please login to MyAccount at ditech.com for a payoff figure.

^ Advances represent money advanced by servicer to pay taxes, insurance and any other amounts currently due that are not part of an escrow account.

Transaction Activity Since Last Statement			
Date	Description	Charges	Payments
07/17/17	Late Charge Asmt	\$48.04	\$0.00
08/30/17	Corp Adv Disb	\$16.00	\$0.00
08/28/17	Corp Adv Disb	\$200.00	\$0.00

Total Amount Due¹: \$85,746.61

****Delinquency Notice****

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of July 17 you are 1943 days delinquent on your mortgage loan. Your account first became delinquent on 07/01/2017.

A first notice of filing to initiate foreclosure on your account has occurred.

Important Messages (More information on the Back)

This communication is not an attempt to collect a debt with respect to any portion of the Amount Due that is being disputed, denied or challenged.

PARTIAL PAYMENTS: Any partial payments that you make are not applied to your mortgage, but instead are held in a separate suspense account. If you pay the balance of a partial payment, the funds will then be applied to your mortgage.

Your account is now severely delinquent and your immediate action is required. Contact your account representative, Sheryl B at 1-800-643-0202, extension 85332 to make immediate payment arrangements.

¹This amount may not be sufficient to reinstate your account. Contact Ditech for the exact amount required for reinstatement.

Recent Account History

- Payment Due 02/01/17: Unpaid amount of \$1,321.50
- Payment Due 03/01/17: Unpaid amount of \$1,321.50
- Payment Due 04/01/17: Unpaid amount of \$1,321.50
- Payment Due 05/01/17: Unpaid amount of \$1,321.50
- Payment Due 06/01/17: Unpaid amount of \$1,321.50
- Payment Due 07/01/17: Unpaid amount of \$1,468.41
- Total \$85,746.61 due. You must pay this amount to bring your loan current.

If you are experiencing financial difficulty: See back for information about mortgage counseling or assistance.

----- ✂-----
PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT

CHARLES S RODRIGUEZ 175 E MAIN ST STE 111 APOPKA FL 32703-3213	Loan Number 0050586957	Statement Date 07/17/2017	Due Date 08/01/2017	Amount Due \$85,746.61
--	---------------------------	------------------------------	------------------------	----------------------------------

Check box for address changes on reverse side.

Make checks payable to Ditech Financial.

Amount Due \$.	.
Additional Escrow \$.	.
Additional Late \$.	.
Additional Principal \$.	.
Total Amount Enclosed \$.	.

**If payment is received after 08/16/2017,
a \$48.04 late fee will be charged**

Ditech
PO Box 660934
Dallas, TX 75266-0934

05058695 7 00146841 0008574661

Important Information

This is your billing statement from Ditech. You can find a guide to understanding your billing statement on our website, ditech.com, along with other valuable tools to help you manage your account. We value your business and welcome your feedback on how we can improve your homeownership experience. If you do not receive your statement prior to your due date, you are still obligated to make timely payments. Postal delays do not constitute a waiver of a late fee. Should you ever be without a statement, please make sure your account number is written on your check or money order and mail the payment to the remittance address listed on the front of this statement. Payments made to locations other than those supplied on the front of this statement may cause a processing delay. Checks are not held and will be processed upon receipt.

- To tender payment in full satisfaction of this debt, please contact Customer Service for a payoff quote and forward remittance to the Payoff Checks address below.
- We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.
- Ditech services mortgage and non-mortgage loans and collects debt on delinquent and non-delinquent accounts. To ensure compliance with applicable law, including the Fair Debt Collections Practices Act (also known as the FDCPA) the following notice is being provided; this notice does not necessarily mean that your account is delinquent:

This communication is from a debt collector. It is an attempt to collect a debt, and any information obtained will be used for that purpose.

Housing Counselor Information: If you would like counseling or assistance, you can contact the U.S. Department of Housing and Urban Development (HUD) For a list of homeownership counselors or counseling organizations in your area, go to <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm> or call 800-668-4287.

Other Important Information Regarding Your Account

Customer Service
 customer.service@ditech.com
 Phone #: 1-800-843-0202
 TTY/TDD (hearing impaired) #: 711
 Fax #: 1-866-870-9919
 Hours: Monday - Friday 7 AM - 8 PM CST
 Saturday 7 AM - 1 PM CST
 Telephone calls may be monitored or recorded for quality assurance and training purposes.

Designated Address for Qualified Written Requests, Notices of Error and Requests for Information
 Ditech has designated the following address where mortgage loan customers must send any Qualified Written Request, Notice of Error or Request for Information:
 Ditech Financial LLC
 P.O. Box 8178
 Rapid City, SD 57709-8178

Bankruptcy Notices and Correspondence
 NOTICE: Send notices and correspondence related to any bankruptcy filing by you to:
 Ditech Financial LLC
 P.O. Box 8184
 Rapid City, SD 57709-8154
 Telephone Number: 888-288-7765

Correspondence
 Ditech Financial LLC
 P.O. Box 8172
 Rapid City, SD 57709-8172
 Fax #: 1-866-870-9919

Federal and state law prohibit certain methods of debt collection, and require that we treat you fairly.

If you have a complaint about the way we are collecting this debt, please write to our Customer Service Department at the following address:

CUSTOMER SERVICE DEPARTMENT,
 Ditech Financial LLC, P.O. Box 8172,
 Rapid City, SD 57709-8172, email us at
 customer.service@ditech.com, or call us toll-free at 1-800-843-0202
 Hours: Monday - Friday 7 AM - 8 PM CST
 Saturday 7 AM - 1 PM CST.

The Federal Trade Commission and the Consumer Financial Protection Bureau enforce the Fair Debt Collection Practices Act. If you have a complaint about the way we are collecting your debt, please contact the FTC or the CFPB. You can reach the FTC online at www.ftc.gov/complaint; by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., NW, Washington, DC 20580. You can reach the CFPB online at www.consumerfinance.gov/complaint; by phone at 1-888-411-2372; or by mail at Consumer Financial Protection Bureau P.O. Box 4503, Iowa City, IA 52244.

Notice About Electronic Check Conversion
 When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

Payoff Checks
 Regular and USPS overnight mail
 Ditech Financial LLC
 Attn: Payoff Department
 Dept CH 8052
 Palatine, IL 60055-8052

Payoff Checks
 Non-USPS overnight mail
 Ditech Financial LLC
 Attention: 8052 - Payoff
 5505 N Cumberland Ave, Suite 307
 Chicago, IL 60658

Insurance Property Claims
 Ditech Financial LLC
 Attn: Claims
 P.O. Box 8100
 Rapid City, SD 57709-8100
 Phone #: 1-800-843-0202
 Claims Fax #: 1-800-216-2780

Insurance Life & Disability, Assurant Insurance Agency Policies
 Assurant Insurance Agency, Inc.
 Attn: Insurance Processing
 440 Mount Rushmore Rd
 Rapid City, SD 57701
 Phone #: 1-800-525-0960
 Fax #: 1-888-222-2108
 PO #: 1-800-223-8284



www.ditech.com
 Payments can be made at ditech.com free of charge. Sign up in your MyAccount to make payments online or enroll to have your payment automatically debited from your bank account each month.



Moneygram
 For a location near you, call 1-800-868-3947. Ditech's receive code is 0314-Ditech. A processing fee may apply.



Western Union Credit Card
 For same day service from the convenience of your home, call 1-800-325-6000. A processing fee may apply.



Pay By Phone
 Call 1-800-843-0202
 Have your checkbook ready!
 An electronic payment fee of up to \$19 may be required for this option.



Western Union Quick Collect
 A processing fee may apply.

Payment	Paym Options	Company Name	Code City
Walk-in (Cash)	Urgent	Ditech Financial LLC	Ditech-MN
1-800-325-6000			

If not using any of the above-referenced options, please send payments to the address provided on this statement. Payments are not accepted at Ditech site locations.

Address, Phone, and Name Changes

Type of change (check all that apply)

___ Address ___ Phone ___ Name** ___ Email Address

Your Account : _____

Old Borrower Name: _____ New Borrower Name: _____

Old Co-Borrower Name: _____ New Co-Borrower Name: _____

Borrower Signature: _____ Co-Borrower Signature: _____

New Mailing Address: _____

New Phone Number: Day (____) _____ Evening (____) _____ Email Address _____

**Please remember: Name changes require a signature and a copy of a legal document noting the new name. Examples of legal documents are marriage licenses and divorce decrees.

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FEDERAL TRADE COMMISSION and)	
CONSUMER FINANCIAL PROTECTION)	
BUREAU,)	15-cv-02064 (SRN-JSM)
)	
Plaintiffs,)	
)	
v.)	
)	
GREEN TREE SERVICING LLC, a Delaware)	
limited liability company,)	
)	
Defendant.)	

**STIPULATED ORDER FOR PERMANENT
INJUNCTION AND MONETARY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“Commission”) and the Consumer Financial Protection Bureau (“Bureau”), have filed their Complaint for a permanent injunction and other relief in this matter. The Commission brought this action pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 53(b). The Bureau brought this action pursuant to Sections 1031(a), 1036(a)(1), and 1054 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a), 5536(a)(1), and 5564, and sought civil penalties pursuant to Section 1055 of the CFPA, 12 U.S.C. § 5565(c). Defendant Green Tree Servicing LLC

(“Defendant” or “Green Tree”) waived service of the summons and the Complaint. The Commission, Bureau, and the Defendant stipulate to entry of this Order for Permanent Injunction and Monetary Judgment (“Order”).

THEREFORE, it is **ORDERED** as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint alleges a claim upon which relief may be granted under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); Sections 1031(a) and 1036(a)(1) of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1); the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692-1692p; the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681-1681x; and Section 6 of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605, and its implementing regulation, Regulation X, 12 C.F.R. part 1024 (formerly codified at 24 C.F.R. part 3500) (collectively “RESPA”).
3. For purposes of this settlement, Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.
4. All parties waive all rights to appeal or otherwise challenge or contest the validity of this Order. Defendant further waives and releases any claim it may have against the Commission or the Bureau, and their employees, representatives, or agents.
5. Defendant waives any claim that it may have under the Equal Access to

Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.

6. The Plaintiffs and Defendant, by and through their counsel, have agreed that entry of this Order resolves all matters in dispute between them arising from the facts and circumstances alleged in the Complaint in this action that have taken place as of the Effective Date, except that the Bureau specifically reserves and does not release any liability arising under any provision of the Bureau's rules relating to mortgage servicing (12 C.F.R. § 1024.30, *et seq.*) as of January 10, 2014.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Collecting on past-due debt(s)" means recovering or attempting to recover, directly or indirectly, debts owed or due or asserted to be owed or due, for which consumers are currently in default, as default is defined in the loan agreement or applicable document creating the debt obligation.

2. "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

3. "Defendant" means Defendant Green Tree Servicing LLC, and its successors and assigns. For purposes of this definition, an "assign" means a person who

purchases all or substantially all of the assets of Green Tree Servicing LLC or of Green Tree Servicing LLC's division(s) or major business unit(s) that are engaged as a primary business in customer-facing servicing of residential mortgage loans.

4. "Effective Date" means the date on which the Order is entered.

5. "Grace period" means the period between the date when a loan payment is due and the date when Green Tree is permitted to assess a late fee under the related loan documents.

6. "In-process loan modification" means a trial or permanent loan modification offered by a servicer that was either accepted by the borrower or for which the time for the borrower to accept the offer has not expired and the offer has not been rejected, but is not finalized as a permanent modification before servicing rights on the loan are transferred to another entity. It includes trial modifications in which the prior servicer agreed to modify the loan payment terms unless Defendant has clear written evidence that the borrower has failed to perform under the trial loan modification terms. It also includes modifications in which the consumer completed making the trial payments before the loan was transferred to Defendant, but the permanent modification was not input into the prior servicer's system before the transfer.

7. "Investigation" means objectively evaluating the circumstances and considering information, including an assessment of the relevance, reliability, accuracy, integrity, and completeness of such information, to determine whether a consumer owes a

debt in the amount asserted or to assess a borrower's notice of error or qualified written request. The information Defendant shall assess in an investigation, where applicable to the dispute, shall include but not be limited to:

- (a) the information that Defendant received from the credit originator or any prior servicer or owner of the debt, such as: (i) the consumer's credit application, (ii) the credit contract between the consumer and the credit originator, (iii) documents with the current or former name, address, and telephone number of the consumer, (iv) documents with the consumer's account number, in whole or in part, and periodic billing statements, (v) payment/transaction history, (vi) documents with the date and outstanding balance, and (vii) servicing notes;
- (b) the information that Defendant received from data aggregators, data brokers, consumer reporting agencies, skip tracers, and other third parties, such as: (i) documents with the current or former name, address, and telephone number of the consumer, (ii) documents with consumer report information, including credit scores and updates to the information in consumer reports, and (iii) the scoring of the debt through the use of a predictive model;
- (c) the information that Defendant created or maintained in collecting

on the debt, such as servicing notes and payment history from the immediately preceding two years; and

- (d) the information the Defendant received from the consumer denying, disputing, or challenging the claim that the consumer owes the debt or the amount of the debt, such as: (i) documents with the consumer's current or former name, address, and telephone number, (ii) receipts or other evidence of payment from the credit originator or any prior servicer or owner of the debt, or a debt collector, (iii) canceled checks, bank account statements, credit card statements, and other documents evidencing payment, and (iv) a consumer dispute relating to the disputed amount.

8. "Involuntary transfer" means a transfer when the transferor servicer is in breach of, or default under, its servicing agreement for loss mitigation related-servicing performance deficiencies, or is in receivership, and is required to transfer servicing to another servicer in thirty (30) days or less by an unaffiliated investor, or a court or regulator with jurisdiction.

9. "Loss mitigation" means modified payment arrangements, trial, permanent and in-process loan modifications, forbearance plans, short sales, deed-in-lieu agreements and any other non-foreclosure home retention or non-retention option offered by the owner or assignee of a mortgage loan that is made available to the consumer through a

prior servicer or Defendant.

10. “Portfolio” means a group of loans for which the mortgage servicing rights are transferred to or from Defendant pursuant to a single contract for the sale or transfer of mortgage servicing rights.

11. “Related consumer action” means a private action by or on behalf of one or more consumers, or enforcement action by another governmental agency, entity, or representative, brought against Defendant based on substantially the same conduct or issues as alleged in the Complaint.

12. “Servicing” means collecting, receiving and applying payments made on a consumer’s account pursuant to the terms of the loan agreement, such as payments of principal, interest, taxes, and fees; administering loan accounts; receiving and processing data and documentation for loan accounts transferred from prior servicers; making loan-related communications; responding to borrower notices asserting an error and qualified written requests; providing periodic billing statements to consumers; maintaining records of the status of consumers’ loan accounts; providing information to and resolving disputes with consumers regarding loan accounts; disbursing payments from consumers’ escrow accounts; providing loss mitigation, including but not limited to loan modifications and short sales; pursuing foreclosure; repossessing property; filing bankruptcy claims; calculating deficiency judgments; using consumer reports and furnishing information to consumer reporting agencies; and collecting or assessing fees in

relation to any of the foregoing.

13. “Transfer,” as it appears in Sections IV, V, and VII of this Order, means the transfer of mortgage servicing rights, or of servicing responsibilities, including through subservicing or whole loan servicing arrangements.

I. ORDER FOR EQUITABLE MONETARY RELIEF

IT IS ORDERED that:

A. Judgment is entered in favor of the Commission and the Bureau against Defendant in the amount of Forty Eight Million Dollars (\$48,000,000) total as follows:

1. Eighteen Million Dollars (\$18,000,000) for alleged violations of the FTC Act, CFPA, and FDCPA with respect to Defendant’s alleged misrepresentations relating to payment methods that entail a convenience fee.
2. Thirty Million Dollars (\$30,000,000) for alleged violations of the FTC Act, CFPA, FDCPA, and RESPA with respect to Defendant’s conduct relating to short sales and in-process loan modifications, including Defendant’s alleged failure to timely respond to qualified written requests relating to in-process loan modifications and with respect to Defendant’s alleged misrepresentations about the time it will take to review short sale requests.

B. Within ten (10) days of entry of this order, Defendant is ordered to pay to

the Bureau \$48,000,000 dollars in full satisfaction of the judgment in favor of the Commission and the Bureau as set forth in Paragraphs A.1 and A.2 of this Section. Such payment shall be made by wire transfer to the Bureau or to such agent as the Bureau may direct, and in accordance with wiring instructions to be provided by counsel for the Bureau.

C. All money paid to the Bureau pursuant to this Section shall be deposited into a fund or funds administered by the Bureau or its agent in accordance with applicable statutes and regulations to be used for consumer redress, including but not limited to refund of moneys, restitution, or other monetary relief, and for any attendant expenses for the administration of such redress.

D. If the Bureau, in consultation with the Commission, decides that redress to consumers is wholly or partially impracticable or otherwise inappropriate or funds remain after redress is completed, the Bureau may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any funds not used for such relief are to be deposited to the U.S. Treasury as disgorgement. Defendant has no right to challenge any actions the Bureau, the Commission, or their representatives may take pursuant to this Paragraph.

E. Redress provided by Defendant shall not limit consumers' rights in any way or prevent Defendant from asserting in a related consumer action that a consumer

should not recover for any amounts paid under this Order.

F. In light of the monetary relief to be paid to the Bureau, and to avoid double payment, the FTC is subrogating its claim for equitable monetary relief to the Bureau's claim.

II. ORDER TO PAY CIVIL MONEY PENALTIES

A. Under Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the alleged violations of law in the Complaint, and taking into account the factors set forth in 12 U.S.C. § 5565(c)(3), Defendant shall pay a civil money penalty of Fifteen Million Dollars (\$15,000,000) to the Bureau, as directed by the Bureau and as set forth herein.

B. Within ten days of the Effective Date, Defendant shall pay the civil money penalty in the form of a wire transfer to the Bureau or to such agent as the Bureau may direct, and in accordance with wiring instructions to be provided by counsel for the Bureau.

C. The civil money penalty paid under this Order shall be deposited in the Civil Penalty Fund of the Bureau in accordance with Section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

D. Defendant shall treat the civil money penalty as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Defendant shall not:

1. Claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any civil money penalty that Defendant pays under this Order; or
2. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil money penalty that Defendant pays under this Order.

E. To preserve the deterrent effect of the civil money penalty, in any related consumer action, Defendant shall not argue that Defendant is entitled to, nor shall Defendant benefit by, any offset or reduction of any monetary remedies imposed in the related consumer action, because of the civil money penalty paid in this action (“Penalty Offset”). If the court in any related consumer action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Bureau, and pay the amount of the Penalty Offset to the U.S. Treasury. Such a payment shall not be deemed an additional civil money penalty and shall not be deemed to change the amount of the civil money penalty imposed in this action.

F. In light of the monetary relief to be paid to the Bureau, and to avoid double payment, the FTC is subrogating its claim for civil penalties to the Bureau’s claim.

III. ADDITIONAL MONETARY PROVISIONS

- A. In the event of any default on Defendant’s obligations to make payment

under this Order, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue on any outstanding amounts not paid from the date of default to the date of payment, and shall immediately become due and payable.

B. Defendant relinquishes all dominion, control, and all legal and equitable right, title, and interest to the funds paid to the fullest extent permitted by law and no part of the funds shall be returned to Defendant.

C. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or Bureau in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

D. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or Bureau pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

E. Defendant acknowledges that its Taxpayer Identification Number, which Defendant previously submitted to the Commission or Bureau, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

F. For a period of three (3) years from the Effective Date, within thirty (30) days of the entry of a final judgment, consent order, or settlement in a related consumer

action, Defendant shall notify the Bureau Enforcement Director of the final judgment, consent order, or settlement in writing. That notification shall indicate the amount of redress, if any, that Defendant paid or is required to pay to consumers and should describe the consumers or classes of consumers to whom that redress has been or will be paid.

IV. INJUNCTION AGAINST UNSUBSTANTIATED CLAIMS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

A. Making any representation, expressly or by implication, that a consumer's account has unpaid balances, payment due dates, interest rates, monthly payment amounts, delinquency statuses, unpaid fees, or other amounts due, unless, at the time of making the representation, Defendant can substantiate such a representation, including but not limited to situations in which:

1. Defendant knows or reasonably should know that a consumer, at the time the consumer's loan was transferred to Defendant, was performing or previously completed performance under a trial or permanent loan modification with the prior servicer of the loan but Defendant continues to attempt collection from the consumer under

the original, unmodified mortgage loan terms. Defendant reasonably should know that a consumer was performing or previously completed performance under a trial or permanent loan modification with a prior servicer once Defendant receives any information from the prior servicer, the consumer, or any other source substantiating that the consumer was performing or previously completed performance under a trial or permanent loan modification; or

2. Defendant knows or reasonably should know that the information for the account is facially unreliable, materially inaccurate, or missing material information, but Defendant continues to attempt collection on the account without commencing and completing an investigation regarding the account.
3. Nothing in this provision shall be interpreted to preclude Defendant from accurately representing for informational purposes contractual amounts that remain due and owing until a permanent loan modification has been finalized, provided that such representation does not mislead a consumer regarding the amounts due under the modification.

B. Failing, after a consumer orally denies, disputes, or challenges Defendant's claim that the consumer owes a debt or owes a debt in the amount asserted to: (i) provide

the consumer orally and contemporaneously with instructions for submitting the dispute in writing; and (ii) within 14 days of the consumer disputing Defendant's claim, provide the consumer clear and conspicuous written instructions on how to submit the dispute in writing; and

C. Failing, after a consumer denies, disputes, or challenges, in writing, the Defendant's claim that the consumer owes the debt or owes the debt in the amount asserted, to:

1. Within fourteen (14) days after the denial, dispute, or challenge, or when the debt is next reported to a consumer reporting agency, if earlier, report the debt as disputed; and
2. Promptly after the denial, dispute, or challenge:
 - a. Cease collection of any disputed amount, inform the consumer that it has ceased collection of the disputed amount, and, where the decision is within Defendant's control, not transfer servicing to any person or entity other than the creditor to whom the debt is owed, until the Defendant satisfies its obligations to conduct an investigation and respond as set forth in Paragraphs (b) and (c) below or obtains an agreement from the transferee servicer to conduct such an

investigation and respond as set forth in Paragraphs (b) and (c) below;

- b. Commence and complete, within thirty (30) days after a consumer denies, disputes, or challenges Defendant's claim that a consumer owes the debt or that he or she owes the debt in the amount asserted, an investigation of the denial, dispute, or challenge, unless the consumer provides information that is relevant to the investigation during the 30-day time period, in which case the investigation may be extended for no more than fifteen (15) additional days. *Provided that* Defendant shall not be required to investigate any denial, dispute, or challenge if it reasonably determines that the denial, dispute, or challenge is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if the Defendant does not have sufficient information to investigate and the consumer does not provide the necessary information when asked, or if Defendant has previously complied with its obligation to investigate and respond and the consumer does not provide to Defendant or Defendant does not otherwise acquire or obtain information, data, or documentation that was not considered

in any prior investigation. Defendant shall notify the consumer within five (5) business days of Defendant's determination if the denial, dispute, or challenge is not investigated under this proviso; and

- c. If Defendant reasonably concludes after its investigation:
 - i. That the consumer owes the debt in the amount asserted, Defendant, within ten (10) days of reaching its conclusion, shall provide verification of the debt to the consumer, inform the consumer of its conclusion, and provide the basis for it, after which it may resume collection of the previously-disputed amount. If the consumer continues to dispute the debt, nothing in this order supersedes the requirement of § 623(a)(3) of the FCRA, 15 U.S.C. § 1681s-2(a)3, that Defendant convey the dispute when furnishing information on the debt to any consumer reporting agency.
 - ii. That the consumer does not owe the debt or the debt cannot be verified, Defendant shall, within five (5) days of reaching its conclusion: (a) inform the consumer of its conclusion and the basis for it; (b)

request that each consumer reporting agency to which Defendant had reported the debt or caused the debt to be reported, delete the item from the consumer's credit reporting file; (c) cease collection; and (d) where the decision is within Defendant's control, not transfer servicing to any person or entity other than the creditor to whom the debt is allegedly owed.

- iii. That the consumer does owe the debt but not in the amount that Defendant asserted, Defendant shall, within five (5) days of reaching its conclusion: (a) inform the consumer of its conclusion and the basis for it; and (b) provide to each consumer reporting agency to which the debt has been reported any correction to the reported information that is necessary to make the information provided by Defendant accurate, after which it may continue collection.

Provided that, if the consumer initiates contact with Defendant by any means, Defendant may respond to the consumer prior to the completion of the investigation.

Provided further that the limitations on transfer in Subsections IV.C.2.a and IV.C.2.c.ii shall not apply when the transfer is between owners of the right to perform

servicing who do not perform the servicing and there is no change in the servicer.

Provided further that, nothing in this Section IV prohibits Defendant from requiring consumers who deny, dispute, or challenge a debt on the grounds of fraud or identity theft to do so in writing, so long as Defendant clearly and conspicuously discloses these requirements. Once Defendant receives an identity theft report, the requirements of § 623(a)(6)(B) of the FCRA, 15 U.S.C. § 1681s-2(a)(6)(B), apply.

V. DATA INTEGRITY REQUIREMENT

IT IS FURTHER ORDERED that Defendant, in connection with loan servicing and collection activities, shall, no later than one hundred and twenty (120) days after the date of entry of this Order, establish and maintain a comprehensive data integrity program (“Program”) reasonably designed to ensure the accuracy, integrity, and completeness of the data and other information about accounts that Defendant services, collects, or sells, including any accounts acquired by or transferred to Defendant. The Program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to the nature, size, complexity, and scope of Defendant’s loan servicing activities, and shall include:

- A. The designation of an employee or employees to oversee the Program;
- B. The maintenance of sufficient personnel that are adequately trained to perform the Program requirements in a timely and legal manner;

C. The identification of material internal and external risks to the accuracy, integrity, and completeness of loan servicing data that could result in material errors to consumers' accounts and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment shall consider risks in each relevant area of operation, including, but not limited to (1) employee training and management, (2) information systems, including network and software design, servicing transfer protocols, information processing, storage, transmission, and disposal, and (3) prevention, detection, and response to any systems failure;

D. The completion of due diligence prior to receiving transferred mortgage servicing rights. Specifically, prior to receiving the transfer of mortgage servicing rights, Defendant shall conduct due diligence to understand and implement steps necessary to resolve issues with the type of loan level information and documentation in the transferor's possession and control, the transferor's ability to transfer the information electronically, in images, or only in paper records, material gaps in the transferor's records, and Defendant's ability to promptly process the information to be provided by the transferor, and otherwise ensure that Defendant will be able to comply with its servicing obligations with respect to every loan transferred. Defendant shall seek assurance that the transferor will transfer all material loan level information in its possession or control at or before the time of transfer.

E. The testing, identification, and correction of material errors in the following data fields in Defendant's servicing systems of record: monthly payment amount, principal balance, interest rate, loan term, escrow account balance, suspense account balance, delinquency status, loss mitigation status, and foreclosure status (collectively, the "Tested Data Fields").

1. Portfolios Tested and Timing for Testing Portfolios.

- a. *Testing of Portfolios Transferred After the Effective Date of this Order.* In addition to the requirements in Section VII.A.3 relating to loans in loss mitigation, within twenty (20) days after the transfer of any portfolio transferred after the Effective Date of this Order, or within twenty (20) days after the establishment of the Program, whichever is later, Defendant shall conduct a "Data File Review." A Data File Review shall mean testing to examine the completeness and accuracy of loan information and to identify material errors. This shall include comparing the Tested Data Fields in Defendant's servicing systems of record as of the loan transfer cutoff date for material errors against the electronic data and the loan-level documents provided by the transferor

servicer from which Defendant acquired the servicing rights to the portfolio.

- b. *Previously Acquired Portfolios.* To the extent that Defendant is, as of the Effective Date, servicing mortgage loans in portfolios at risk for widespread or systemic errors in the Tested Data Fields, for which portfolios Defendant acquired the servicing rights after January 1, 2010, Defendant shall perform a Data File Review within 15 days after the establishment of the Program. A portfolio is at risk for widespread or systemic errors if it exhibits any of the following factors: (1) the portfolio was an involuntary transfer, (2) the portfolio transferred under an agreement containing a disclaimer as to the availability of loan account level information and documents, (3) the portfolio transferred from a servicer or owner that Defendant has learned previously provided materially inaccurate information for more than 5% of the portfolio or had missing material information for more than 5% of the portfolio, (4) Defendant has other information about the portfolio's prior owner or servicer and its methods of doing business that suggests that

more than 5% of the portfolio contains material errors or materially incomplete information, or (5) after onboarding, consumers have disputed in writing the accuracy of the information in accounts amounting to more than 2% of a portfolio serviced by Defendant.

2. Percentage of Each Portfolio to be Tested.

- a. All Data File Reviews, as prescribed in Subsection V.E.1, and On-Going Testing, as prescribed in Subsection V.E.4, shall be statistically valid and based on an appropriate sampling methodology, such that the results from the sample can be reliably extrapolated to the loan portfolio as a whole, and shall include both random and risk-based selection criteria.
- b. If a Data File Review performed pursuant to Section V.E.1. of this Order reveals a material error rate of more than 5% with respect to any Tested Data Field(s) in a portfolio, Defendant shall, within thirty (30) days, complete a Data File Review of such field(s) for all loans in the portfolio. In the event that the full-portfolio Data File Review described in this section reveals a material error rate exceeding 5% of all loans in the portfolio with respect to any of the field(s) tested under this

subsection, Defendant shall perform a Data File Review of such field(s) for the entire portfolio every six months until the material error rate falls below 5%.

3. **Correction of Errors.** Upon completion of any Data File Review, Defendant shall correct and remediate any individual account errors identified by the Defendant, including promptly refunding or reversing any overcharges and stopping foreclosure where appropriate.
4. **Ongoing Testing.** Within 180 days of the Effective Date, and every six months thereafter, Defendant shall identify any portfolios serviced by Defendant for which, in the immediately preceding six months, consumers representing more than 2% of the relevant portfolio have disputed in writing the accuracy of the information in the Tested Data Fields. In the event any such portfolios exist, Defendant shall determine whether there exist any systemic issues giving rise to the disputes about errors in the accuracy of the Tested Data Fields in the portfolio and, if any errors are found, Defendant shall develop and implement a plan to correct the errors. ***Provided that***, when a consumer orally denies, disputes, or challenges the accuracy of the information contained in a Tested Data Field,

Defendant shall (i) provide the consumer orally and contemporaneously with instructions for submitting the dispute in writing; and (ii) within 14 days of the consumer disputing Defendant's claim, provide the consumer clear and conspicuous written instructions on how to submit the dispute in writing.

Provided that the requirements of this Subsection V.E shall not apply to transfers when the transfer is between owners of the right to perform servicing who do not perform the servicing and there is no change in the subservicer.

F. The design and implementation of reasonable safeguards to control the risks identified through risk assessment, and regular auditing or testing or monitoring of the effectiveness of the safeguards' key controls, system, and procedures;

G. The regular auditing, testing, or monitoring of the effectiveness of the Program using statistically valid samples, such that the samples include both random and risk-based selection criteria and the results from the samples can be reliably extrapolated to the Program as a whole; and

H. The evaluation and adjustment of the Program in light of the results of the required auditing, testing, or monitoring, and any material changes to Defendant's operations or business arrangements that may significantly impact the Program, or any other circumstances that Defendant knows or has reason to know may have a material impact on the integrity, accuracy, and completeness of Defendant's loan servicing

process, or data and other information about accounts that Defendant services, collects, or sells.

Provided that, in the event of a conflict between this Section V and the requirements of federal, state, or local laws or the standard provisions imposed on servicers by the Department of Treasury, Fannie Mae, Freddie Mac, Ginnie Mae, the Federal Housing Administration, the Department of Veterans Affairs, the Rural Housing Administration, and any other similar organization that may come into existence after the entry of this Order such that Defendant cannot comply with this Section V without violating these requirements, Defendant shall document such conflicts and notify the Commission and the Bureau that it intends to comply with the requirements to the extent necessary to eliminate the conflict.

Provided further that, in the event of an involuntary transfer to Defendant which results in a delay in the transferor's transfer of relevant information or a volume of errors in the transferor's data that prevents Defendant from being able to comply with the time limits in this Section, Defendant shall submit a written plan to the Bureau and the Commission within ten (10) days after the date of the transfer identifying the cause of the delay and setting forth the specific steps it is taking, the resources it is devoting, and Defendant's expected timeline for complying with the requirements of this Section. If such plan is not objected to by the Bureau or the Commission within ten (10) days of submission of the plan, Defendant must proceed to implement the plan. If the Bureau or

the Commission objects to the plan within ten (10) days of submission, Defendant will make reasonable efforts to amend the plan to address any objection. Defendant shall not take more than 120 days from the date of the transfer to satisfy the requirements of this Section.

VI. ASSESSMENT

IT IS FURTHER ORDERED that:

A. Defendant shall, within one hundred and twenty (120) days after the implementation of the Data Integrity Program required by Section V of this Order, and biennially thereafter for eight (8) years after entry of this Order, obtain an assessment and report (“Assessment”) from a qualified, objective, independent, third-party professional, the identity of which is agreed to by a representative of the Commission and a representative of the Bureau, that, using procedures and standards generally accepted in the profession:

1. Sets forth the specific data integrity program that Defendant has implemented and maintained during the reporting period;
2. Explains how the data integrity program is appropriate to Defendant’s size and complexity, and the nature and scope of Defendant’s activities;
3. Explains how the data integrity program meets or exceeds the protections required by Section V of this Order; and

4. Certifies that to the best of the certifier's knowledge and belief the data integrity program is operating with sufficient effectiveness to provide reasonable assurance of the material accuracy, integrity, and completeness of Defendant's records.

B. Defendant shall provide a copy of the first Assessment to the Commission within ten (10) days after the Assessment is delivered to Defendant. Defendant shall, within thirty (30) days of a request, provide the Commission with a copy of all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, whether prepared by or on behalf of Defendant, relied upon to prepare such Assessment. All subsequent biennial Assessments shall be retained by Defendant and a copy provided to the Commission within thirty (30) days of request. The Commission will provide to the Bureau a copy of all Assessments and any other materials produced pursuant to this Section VI of this Order.

VII. INJUNCTION RELATING TO MORTGAGE SERVICING

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

Limitations on the Transfer of Servicing for Loans in Loss Mitigation

- A. Transferring or acquiring servicing for loans in loss mitigation or with a

loss mitigation application pending, regardless of whether Defendant is the transferor or transferee, unless:

1. The transferor or transferee identifies by loan number the following categories of loans at least thirty (30) days prior to transfer, and updates such information at least five (5) days prior to transfer:
 - a. Loans in any stage of pending loss mitigation, including but not limited to in-process loan modifications;
 - b. Loans approved or converted to a permanent loss mitigation outcome within sixty (60) days of transfer; and
 - c. Loans denied loss mitigation within sixty (60) days of transfer;
2. The transferor agrees to make all reasonable efforts to provide the transferee all the following information in its possession or control, prior to transfer or at a minimum, agrees to provide this information by the date of the transfer: all account-level documents and data relating to loss mitigation, including a copy of the mortgage note, periodic billing statements for the two years prior to the service transfer, payment history for the two years prior to the service transfer, escrow and suspense account information, loss mitigation applications, loss mitigation notices, documentation and information

received from the borrower for purposes of evaluating the borrower for loss mitigation, any net present value or other analysis by a servicer in connection with a borrower's application for loss mitigation, loss mitigation agreements, any written communications or notes of oral communications with the borrower about the loss mitigation, and any other information needed to administer any pending loss mitigation applications or in-process loan modifications; and

3. The contract for the transfer includes the following requirements:
 - a. The transferee will engage in quality control work to validate that the loss mitigation data matches the images and paper documents received, make reasonable efforts to identify missing loss mitigation data, documentation, or information and request missing information from the transferor within fifteen (15) days of transfer; and
 - b. Within ten (10) days of a request from the transferee, the transferor will provide missing or incomplete loss mitigation data, documentation, or information in its possession or control;
4. The contract for the transfer also includes the following

requirements:

- a. The transferee will honor loss mitigation agreements entered into by the prior servicer, including but not limited to in-process loan modifications;
- b. The transferee will continue processing pending loss mitigation requests received in the transfer; and
- c. Within thirty (30) days of transfer, the transferee will finish reviewing and resolve any loss mitigation request that was pending within sixty (60) days of transfer for which the transferee or buyer lacks clear written evidence that such request was denied, and provide the consumer an opportunity to provide any necessary missing information.

Provided, however, that the requirements of Subsections VII.A.1, 2, and 3 shall not apply to transfers when the transfer is between owners of the right to perform servicing who do not perform the servicing and there is no change in the subservicer.

Short Sales

B. Failing to send consumers written confirmation within five business days of receipt of a short sale application. If the short sale application is incomplete, Defendant must include in this written confirmation a list of any missing documents required to complete the short sale application; and

C. Failing to complete an evaluation of the short sale application and communicate a decision to the consumer prior to the date of a foreclosure sale (provided that Defendant receives the completed short sale application more than 14 days before the foreclosure sale) or within thirty (30) days after receipt of a complete short sale application, whichever is earlier, except that Defendant may have an additional fifteen (15) days to communicate its decision to the borrower when waiting to receive required information from third parties, provided Defendant promptly updates the borrower with the reason for this delay in writing.

Other Loss Mitigation Requirements

D. Failing, within ninety (90) days after entry of this Order, to make Defendant's loss mitigation application available to consumers at no cost by, at a minimum, making it publicly available and readily accessible on Defendant's website and providing it upon request to consumers. The application shall identify all required documentation and information necessary to complete a loss mitigation application;

E. Failing, within ninety (90) days after the date of entry of this Order, to maintain sufficient personnel that are adequately trained to handle loss mitigation requests in a timely and legal manner;

F. Failing, within ninety (90) days after the date of entry of this Order, to implement and maintain a centralized document management system for tracking and storing incoming loss mitigation documents, including those submitted by consumers,

staffed with sufficient personnel that are adequately trained to prevent significant backlogs and lost documents;

G. Failing, within ninety (90) days after the date of entry of this Order, to implement and maintain an online portal linked to Defendant's primary servicing system where consumers can check, at no cost, the status of their loss mitigation requests. The portal must, among other things:

1. Enable consumers to submit documents electronically;
2. Provide an electronic receipt for any documents submitted; and
3. Update the status of pending loss mitigation requests at least every 10 business days;

H. Failing, within ninety (90) days after the date of entry of this Order, to take reasonable steps to ensure that personnel assigned to consumers pursuant to the Bureau's rules relating to continuity of contact (12 C.F.R. § 1024.40):

1. Refer and transfer consumers to a loss mitigation or other appropriate supervisor upon request;
2. Have access to individuals able to stop foreclosure proceedings when necessary to comply with this Order and other applicable requirements; and
3. Are not subject to compensation arrangements that encourage collection over loss mitigation activity.

Provided that, in the event of a conflict between this Section VII and the requirements of federal, state, or local laws or the standard provisions imposed on servicers by the Department of Treasury, Fannie Mae, Freddie Mac, Ginnie Mae, the Federal Housing Administration, the Department of Veterans Affairs, the Rural Housing Administration, and any other similar organization that may come into existence after the entry of this Order such that Defendant cannot comply with this Section VII without violating these requirements, Defendant shall document such conflicts and notify the Commission and the Bureau that it intends to comply with the requirements to the extent necessary to eliminate the conflict.

Provided further that, in the event of an involuntary transfer to Defendant which results in a delay of the transferor's transfer of relevant information and prevents Defendant from being able to comply with the time limits in Section VII.A, Defendant shall submit a written plan to the Bureau and the Commission, within ten (10) days after the date of the transfer, identifying the cause of the delay and setting forth the specific steps it is taking, the resources it is devoting, and Defendant's expected timeline for complying with the requirements of Section VII.A. If such plan is not objected to by the Bureau or the Commission within ten (10) days of submission of the plan, Defendant must proceed to implement the plan. If the Bureau or the Commission objects to the plan within ten (10) days of submission, Defendant will make reasonable efforts to amend the plan to address any objection. In no event shall Defendants fail to honor loss mitigation

agreements entered into by the prior servicer, fail to continue processing pending loss mitigation requests received in the transfer, or take more than 60 days from the date of the transfer to satisfy the requirements of Section VII.A.

VIII. HOME PRESERVATION REQUIREMENT

IT IS FURTHER ORDERED that Defendant shall, no later than sixty (60) days after the date of entry of this Order, establish and implement a home preservation plan (“Plan”) to identify and review Affected Consumers for loss mitigation options, provide for the solicitation and fast-track evaluation of loss mitigation applications, and stop pending foreclosure sales for such consumers to the extent necessary to permit the consumers to be solicited and considered for loss mitigation. The Plan shall remain in effect for a period of five (5) years from the Effective Date. Affected Consumers are consumers with first- or second-lien residential loans that were transferred to Defendant between January 1, 2010 and November 2014 and as of the Effective Date (1) are 45 or more days delinquent or have been referred to foreclosure, but are more than 37 days before a foreclosure sale, or (2) are serviced by Defendant and become eligible for referral to foreclosure at any point from the Effective Date until five years from the Effective Date, provided that Defendant still services the loan at that time.

A. *Convert In-Process Loan Modifications to Permanent Modifications.*

Defendant shall promptly send a permanent modification agreement to Affected Consumers with In-Process Loan Modifications that were fully underwritten prior to the

trial period and received all necessary investor approvals but for which the consumer did not previously enter a permanent modification agreement. Such consumers shall be converted to a permanent modification upon execution of the permanent modification documents, consistent with applicable program and investor guidelines.

B. *Solicitation and Fast-Track Evaluation of Loss Mitigation Applications.*

For all Affected Consumers not accounted for in Paragraph A above, Defendant must:

1. Engage in consumer outreach to obtain complete loss mitigation applications by: (i) Telephone and mail outreach to contact consumers and collect documents; (ii) For incomplete loss mitigation applications, a telephone and mail campaign to notify consumers of the additional documents and information needed to make the loss mitigation application complete; and (iii) Translation services when requested by a consumer or if Defendant has reason to believe that the consumer is not proficient in English.
2. Promptly evaluate consumers for all loss mitigation options available under applicable investor guidelines, including by: (i) Providing a dedicated team of underwriters; (ii) Reviewing complete loss mitigation applications within 20 days of receipt; and (iii) Clearly identifying the terms of any loss mitigation offer (such as interest rate, amortization term, and balloon payments) and

identifying the modified principal balance.

- C. *Stop Pending Foreclosures.* If necessary to permit Defendant to complete the actions described in Paragraphs A and B above before a foreclosure sale, Defendant shall take all available measures to postpone any foreclosure sale scheduled to occur and to prevent the entry of a foreclosure judgment or the entry of an order for foreclosure sale in connection with a foreclosure initiated with respect to the loan under consideration for loss mitigation during the pendency of the actions required in Paragraphs A and B above.
- D. Defendant may resume foreclosure sales for Affected Consumers under any of the following conditions:
1. Despite Defendant's reasonable efforts, including taking all steps described in Paragraph B, the consumer (i) has not responded to Defendant's outreach effort within 30 days of Defendant's most recent attempt to contact the consumer under Section VIII.B, or (ii) the consumer has responded to Defendant's outreach efforts but has not provided Defendant with all materials necessary to permit Defendant to evaluate the consumer for loss mitigation options, notwithstanding Defendant's attempts to obtain such material pursuant to Section VIII.B.1.ii, or (iii) does not execute a loss

mitigation offer prior to or at the expiration of the offer;

2. The consumer states in writing that he or she does not want to be considered for a loss mitigation option; or
3. Defendant has evaluated the consumer's complete loss mitigation application for all available loss mitigation options, and (i) Defendant has determined the consumer does not qualify for any loss mitigation option and the time for appeal has expired or the appeal has been denied, or (ii) the consumer has rejected an offer of loss mitigation.

E. The requirements of this subsection VIII shall not apply to any loan (1) for which Defendant does not own the right to service or sub-service as of the Effective Date; or (2) that is not subject to foreclosure or collection activity because it has been charged off.

Provided that, in the event of a conflict between this Section VIII and the requirements of federal, state, or local laws, the standard provisions imposed on servicers by the Department of Treasury, Fannie Mae, Freddie Mac, Ginnie Mae, the Federal Housing Administration, the Department of Veterans Affairs, the Rural Housing Administration, and any other similar organization that may come into existence after the entry of this Order, the National Mortgage Settlement, or applicable investor guidelines such that Defendant cannot comply with this Section VIII without violating these

requirements, Defendant shall document such conflicts and notify the Commission and the Bureau that it intends to comply with these requirements to the extent possible.

Provided further that, nothing in this Section VIII shall be interpreted to (1) limit or restrict in any way the protections provided to borrowers under the Bureau's rules relating to loss mitigation (12 C.F.R. §§ 1024.41, *et seq.*), or to (2) require Defendant to communicate with a borrower in a manner otherwise prohibited by applicable law, including bankruptcy law or the federal Fair Debt Collection Practices Act or any similar debt-collection-related state law. To the extent any provision of this Section VIII is in conflict with any provision of 12 C.F.R. § 1024.41, 12 C.F.R. § 1024.41 shall apply.

IX. INJUNCTION AGAINST FALSE OR MISLEADING REPRESENTATIONS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

A. Making any material misrepresentation or assisting others in making any material misrepresentation, expressly or by implication, including but not limited to misrepresentations:

1. That consumers' loans have certain unpaid balances, payment due dates, interest rates, monthly payment amounts, delinquency

statuses, and unpaid fees or other amounts due;

2. That consumers must make payments under the original, unmodified loan terms when a consumer has an in-process loan modification or other loss mitigation agreement from the prior servicer;
3. That consumers have to make a payment on their loans before Defendant will consider them for a loan modification;
4. That Defendant will review and respond to consumers' requests to be considered for a short sale in a set time period;
5. The existence and length of any "grace period" in consumers' promissory notes; and
6. That a payment method that entails a convenience fee is the only payment method available or only payment method that consumers can use to make timely payments.
7. Nothing in this provision shall be interpreted to preclude Defendant from accurately representing for informational purposes contractual amounts that remain due and owing until a permanent loan modification has been finalized, provided that such representation does not mislead a consumer regarding the amounts due under the modification.

B. Failing, in communications between Defendant and consumers about

Speedpay or other payment methods that involve a convenience fee, to disclose to consumers truthfully, clearly and prominently, and before the consumers agree to pay through Speedpay or any other payment method that entails a convenience fee:

1. That consumers will be charged a convenience fee; and
2. The existence of other payment methods that do not entail a convenience fee.

X. INJUNCTION AGAINST UNAUTHORIZED WITHDRAWALS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from causing payments to be taken from consumers' bank accounts without having previously obtained consumers' consent for any and all such payments.

XI. INJUNCTION AGAINST UNLAWFUL COLLECTION PRACTICES

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with collecting on past-due debt, are permanently restrained and enjoined from:

- A. When communicating with any person other than the consumer for the

purpose of acquiring location information about the consumer:

1. Stating that a consumer owes a debt;
2. Communicating more than once with any such person unless the person requests that the Defendant communicate with him or her again or Defendant has a reasonable belief that the person's denial of knowledge of the consumer or the consumer's location in response to Defendant's first location communication was erroneous or incomplete and the person now has correct or complete location information;
3. Failing to create records documenting that any such person informs Defendant, either orally or in writing, that the consumer that Defendant is trying to contact cannot be reached at that telephone number or the person does not have location information about the consumer that Defendant is trying to reach, and failing to maintain these records for at least five years from the date of last contact with the consumer; and
4. Failing to create records documenting that Defendant had a reasonable belief that a person's statement that the consumer Defendant is trying to contact cannot be reached at that telephone number, or that the person does not have location information about

the consumer, was erroneous, incomplete, or out of date, before calling that telephone number again, and failing to maintain these records for at least five years from the date of last contact with the consumer. ***Provided that***, for purposes of this Section XI.A, to have a “reasonable belief” that a person’s earlier statements were erroneous or incomplete and that such person now has correct or complete location information, Defendant must have: (1) conducted a thorough review of all applicable records, documents, and database entries for the consumer Defendant is trying to reach to search for any notations that indicate that the consumer cannot be reached at that telephone number or that the person does not have location information about the consumer Defendant is trying to reach; and (2) obtained and considered additional information or evidence beyond the information or evidence previously relied upon by Defendant in attempting to contact the consumer Defendant is trying to reach, and such additional information or evidence substantiates Defendant’s belief that the person’s earlier statements were erroneous or incomplete and that such person now has correct or complete location information;

B. Communicating, except when seeking to acquire location information in

compliance with Section 804 of the FDCPA, 15 U.S.C. § 1692b, with any person other than the consumer, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, the attorney of the debt collector, the consumer's spouse, the consumer's parent (if the consumer is a minor), the consumer's guardian, the consumer's executor, the consumer's administrator, or the consumer's attorney, in connection with collecting on past-due debt, unless Defendant has the prior consent of the consumer given directly to Defendant or the express permission of a court of competent jurisdiction, or Defendant can show that such communication is reasonably necessary to effectuate a post-judgment judicial remedy;

C. With regard to the time and place of communications:

1. Communicating with a consumer in connection with collecting on past-due debt at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. This includes communicating with a consumer before 8 a.m. or after 9 p.m. at the consumer's location, as evidenced by the consumer's zip code and the area code of the consumer's telephone number, unless the Defendant has knowledge that such hours are convenient for the consumer. This also includes communicating with a consumer at a particular time or place after anyone at the telephone number has informed Defendant, either orally or in writing, that it is

inconvenient for the consumer to receive calls at that particular time or place;

2. Communicating with the consumer at the consumer's place of employment if the Defendant knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication; and
3. Failing to create and maintain (for at least five years from the date of last contact with the consumer) records documenting that a consumer has informed Defendant, either orally or in writing, that it is inconvenient for the consumer to receive calls at a particular time or place, or that the consumer is prohibited from receiving calls from Defendant at the consumer's place of employment;

D. Engaging in conduct the natural consequence of which is to harass, oppress, or abuse a person, including, but not limited to: (1) the use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader; or (2) causing a telephone to ring, or engaging a person in telephone conversation, repeatedly or continuously with the intent to annoy, abuse, or harass the person at the called number. ***Provided that***, for purposes of this Section XI.D, there shall exist a rebuttable presumption of an intent to annoy, harass, or abuse if Defendant places more than one call to any person about a debt after that person has notified Defendant in

writing that the person refuses to pay such debt or that the person wishes Defendant to cease further communication with the person; except that Defendant may communicate to advise the person that further debt collection efforts are being terminated, that Defendant may invoke specified remedies which are ordinarily invoked by debt collectors and creditors, or, where applicable, that Defendant intends to invoke a specified remedy.

Provided further that, after a borrower has sent Defendant a notification pursuant to FDCPA section 805(c) nothing in this Section XI.D shall prevent Defendant from providing the written notice required by 12 C.F.R. § 1024.39(b) if loss mitigation options are available. ***Provided further that***, when a consumer orally requests that Defendant cease further communication regarding a debt, Defendant shall (i) provide the consumer orally and contemporaneously with instructions for submitting the request in writing; and (ii) within 14 days of the consumer orally requesting that Defendant cease further communication, provide the consumer clear and conspicuous written instructions on how to submit the request in writing;

E. Using any false, deceptive, or misleading representation or means, including but not limited to falsely representing, directly or indirectly, expressly or by implication: (1) the character, amount, or legal status of any debt; or (2) that nonpayment of a debt will result in the arrest or imprisonment of consumers or the seizure, garnishment, attachment, or sale of the consumers' property or wages, when in fact such action is not lawful or Defendant does not intend to take such action;

F. Using any unfair or unconscionable means to collect or attempt to collect any debt, including but not limited to collecting any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law; and

G. Violating any provision of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692p (a copy of which is attached hereto as Attachment A), including, but not limited to: (1) Sections 804(2)-(3), 15 U.S.C. §§ 1692b(2)-(3); (2) Section 805(a), 15 U.S.C. § 1692c(a); (3) Section 805(b), 15 U.S.C. § 1692c(b); (4) Section 806, 15 U.S.C. § 1692d; (5) Section 807, 15 U.S.C. § 1692e; and (6) Section 808, 15 U.S.C. § 1692f.

XII. INJUNCTION AGAINST UNLAWFUL CONSUMER REPORTING PRACTICES

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

A. Furnishing information relating to any consumer to a consumer reporting agency, notwithstanding any alternative compliance methods that may be generally available under Section 623(a)(1)(C) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(C), if:

1. Defendant knows or has reasonable cause to believe that the information is inaccurate; or

2. Defendant has been notified by the consumer, at the address specified by Defendant for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate;

B. Upon determining that the information Defendant furnished to a consumer reporting agency about a consumer is not complete and accurate:

1. Failing to promptly notify the consumer reporting agency that Defendant has determined the information is not complete and accurate;
2. Failing to provide to the consumer reporting agency any corrections to that information, or any additional information, that is necessary to make the information provided by the Defendant to the agency complete and accurate; and
3. Furnishing to the agency thereafter any of the information that remains incomplete or inaccurate;

C. If the completeness or accuracy of any information about a consumer furnished by Defendant to any consumer reporting agency is disputed to Defendant by a consumer or Defendant is notified by a consumer reporting agency under 15 U.S.C. § 1681i(a)(2) that a consumer has disputed information furnished by Defendant, furnishing the information to any consumer reporting agency without notice that such information is disputed by the consumer; and

D. Violating any provision of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x (a copy of which is attached hereto as Attachment B), including, but not limited to: (1) Section 623(a)(1), 15 U.S.C. § 1681s-2(a)(1); (2) Section 623(a)(2), 15 U.S.C. § 1681s-2(a)(2); and (3) Section 623(a)(3), 15 U.S.C. § 1681s-2(a)(3), in connection with furnishing information about a consumer to a consumer reporting agency.

XIII. INJUNCTION AGAINST UNLAWFUL REAL ESTATE SETTLEMENT PROCEDURES

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the servicing of any loan, are permanently restrained and enjoined from:

- A. Failing to timely acknowledge receipt of, and respond to, consumers' qualified written requests;
- B. Failing to protect any consumer's credit rating by providing adverse information to a consumer reporting agency regarding any payment that is the subject of a notice of error or qualified written request for sixty (60) days after receipt of the qualified written request;
- C. Failing to make timely payments from consumers' escrow accounts for casualty insurance, property taxes, and other charges with respect to the property, when

the loan is escrowed for such amounts; and

D. Violating the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605 (a copy of which is attached hereto as Attachment C), or its implementing Regulation X, 12 C.F.R. §§ 1024.35 and 1024.17(k) (a copy of which is attached hereto as Attachment D).

XIV. COMPLIANCE WITH EXISTING LAW

IT IS FURTHER ORDERED that nothing in this Order affects Defendant's obligation to comply with applicable law, implementing regulations, including but not limited to all applicable provisions of the FDCPA, FCRA, provisions of the accuracy and integrity requirements of the Furnisher Rule, 12 C.F.R. § 1022.42 and Appendix A, RESPA, and the Bureau's rules relating to mortgage servicing (12 C.F.R. § 1024.30, *et seq.*).

XV. CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from failing to provide sufficient consumer information to enable the Bureau to efficiently administer consumer redress. If a representative of the Bureau requests in writing any information related to redress, Defendant must provide it, in the form prescribed by the Bureau, within 21 days.

XVI. NOTICE REQUIREMENTS

IT IS FURTHER ORDERED that:

A. For a period of 5 years from the date of entry of this Order, Defendant, whether acting directly or indirectly, shall on a quarterly basis make the following disclosure in writing indicating clearly and conspicuously to consumers with past-due debts serviced by Defendant:

Federal and state law prohibit certain methods of debt collection, and require that we treat you fairly.

If you have a complaint about the way we are collecting this debt, please write to our CONTACT CENTER, [current physical address], email us at [current email address], or call us toll-free at [current phone number] between 9:00 A.M. and 5:00 P.M. Central Time Monday - Friday.

The Federal Trade Commission and the Consumer Financial Protection Bureau enforce the Fair Debt Collection Practices Act. If you have a complaint about the way we are collecting your debt, please contact the FTC or the CFPB. You can reach the FTC online at www.ftc.gov/complaint; by phone at 1-877- FTC-HELP; or by mail at 600 Pennsylvania Ave., NW, Washington, DC 20580. You can reach the CFPB online at www.consumerfinance.gov/complaint; by phone at 1-855-411-2372; or by mail at Consumer Financial Protection Bureau P.O. Box 4503, Iowa City, Iowa 52244.

The above disclosure shall be given in the language(s) that appear in such communications sent to consumers. Defendant shall be responsible for sending the initial, quarterly written notice in accordance with the requirement in this Section XVI.A

thirty (30) days after entry of this Order, or, for loans acquired after entry of this Order, within thirty (30) days of acquisition.

B. Defendant shall be deemed to have complied with the notice requirement of Section XVI.A of this Order if Defendant provides a notice in a specific federal, state, county, or city jurisdiction that (1) is required by the laws or regulations of that jurisdiction, (2) complies with those laws or regulations, and (3) is substantially similar to the notice required in Section XVI.A, above.

C. Defendant, whether acting directly or indirectly, shall provide a written (electronic or paper) copy of the following notice to all officers, agents, and employees having responsibility with respect to collecting on past-due debts, within thirty (30) days of the date of entry of this Order, and to each employee hired for a period of five (5) years after that date, no later than the time the employee assumes responsibility with respect to the collecting on past-due debts, and shall secure from each such person, within forty-five (45) days of delivery, a signed and dated statement acknowledging that he or she has read the notice.

Debt collectors must comply with the federal Fair Debt Collection Practices Act, which limits our activities in trying to collect money from consumers.

Section 804 of the Act says that, when contacting someone to acquire location information about the consumer, you may not state that the consumer owes a debt. You also may not contact this person more than once unless the person asks you to or unless you reasonably believe the person's earlier

response was wrong or incomplete and that the person now has correct or complete location information to provide to you.

Section 805 of the Act says that, in connection with collecting on past-due debts, you may not communicate with any person other than the consumer for a purpose other than to obtain location information about the consumer. This means that you may not reveal the existence of a debt to anyone other than: (1) the person who allegedly owes the debt; (2) the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator; or (3) the consumer's attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or Green Tree's attorneys.

Section 805 of the Act also says that you may not communicate with a consumer in connection with collecting on past-due debts: (1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer; or (2) at the consumer's place of employment if you know or have reason to know that the employer prohibits the consumer from receiving such communication.

If a consumer notifies you either orally or in writing that the consumer refuses to pay a debt or that the consumer wishes us to cease further communication with the consumer, you shall not communicate further with the consumer with respect to such debt, except: (1) to advise the consumer that our further efforts are being terminated; (2) to notify the consumer that we or the owner of the loan may invoke specified remedies which are ordinarily invoked by debt collectors or creditors; (3) where applicable, to notify the consumer that we or the owner of the loan intends to invoke a specified remedy; or (4) to place one additional call to confirm that the consumer is not interested in loss mitigation.

Section 806 of the Act states that you may not harass, oppress, or abuse any person in connection with collecting on

past-due debts. Among other things, this includes calling someone repeatedly or continuously to annoy, abuse, or harass the person, and using obscene or profane language, or language that is likely to abuse the person.

Section 807 of the Act prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information about a consumer.

Individual debt collectors are liable for their violations of the Act, and may be required to pay penalties if they violate it.

Provided that, for purposes of compliance with Section XVI.C of this Order, the signature required for the employee's statement that he or she has read the notice may be in the form of an electronic signature.

XVII. ACKNOWLEDGMENTS OF ORDER AND RELEVANT STATUTES

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order and of the FDCPA, the FCRA, and RESPA, in their current codification or as they may hereafter be amended:

A. Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the Bureau an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, Defendant must deliver a copy of this Order and the FDCPA (attached hereto as Attachment A) to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and

representatives who participate in collecting on past-due debts; and (3) any business entity resulting from any change in structure as set forth in the Section XVIII of this Order. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities. In addition, if the FDCPA is amended within five (5) years after entry of this Order, Defendant must deliver an amended copy of the FDCPA to current personnel who participate in collecting on past-due debts within thirty (30) days after it is amended.

C. For five (5) years after entry of this Order, Defendant, must deliver a copy of this Order and the FCRA (attached hereto as Attachment B) to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in furnishing or reporting information relating to any consumer to any consumer reporting agency; and (3) any business entity resulting from any change in structure as set forth in the Section XVIII of this Order. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities. In addition, if the FCRA is amended within five (5) years after entry of this Order, Defendant must deliver an amended copy of the FCRA to current personnel who participate in furnishing or reporting information relating to consumers to any consumer reporting agency within thirty (30) days after it is amended.

D. For five (5) years after entry of this Order, Defendant, must deliver a copy

of this Order and RESPA (attached hereto as Attachment C) to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in paying property taxes, receiving or responding to notices of error or qualified written requests, or furnishing or reporting information relating to any consumer to any consumer reporting agency; and (3) any business entity resulting from any change in structure as set forth in the Section XVIII of this Order. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities. In addition, if RESPA is amended within five (5) years after entry of this Order, Defendant must deliver an amended copy of RESPA to current personnel who participate in paying property taxes, receiving or responding to notices of error or qualified written requests, or furnishing or reporting information relating to any consumer reporting agency within thirty (30) days after it is amended.

E. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order and of any additional materials received pursuant to this Section of the Order, including copies of the FDCPA, FCRA, or RESPA.

XVIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One (1) year after entry of this Order, Defendant must submit a compliance report to the Commission, sworn under penalty of perjury:

1. Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Bureau may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant; (d) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For fifteen (15) years following entry of this Order, Defendant must submit a compliance notice to the Commission, sworn under penalty of perjury, within 14 days of any change in the following: (1) any designated point of contact; or (2) the structure of Defendant or any entity that Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or

affiliate that engages in any acts or practices subject to this Order. The Commission will provide a copy of such notice to the Bureau.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within fourteen (14) days of its filing. The Commission will provide a copy of such notice to the Bureau.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *Federal Trade Commission and Consumer Financial Protection Bureau v. Green Tree Servicing LLC, No. XXXX.*

F. Unless otherwise directed by a Bureau representative in writing, all submissions to the Bureau pursuant to this Order must be emailed to

Compliance@cfpb.gov or sent by the U.S. Postal Service to: Assistant Director for Enforcement, Consumer Financial Protection Bureau, ATTENTION: Office of Enforcement 1700 G Street, NW, Washington D.C. 20552. For overnight courier send to: Assistant Director for Enforcement, Consumer Financial Protection Bureau, ATTENTION: Office of Enforcement 1625 I Street, 4th Floor, NW, Washington, D.C. 20006. The subject line must begin: *In re* Green Tree Servicing, LLC, File No. XXXX 2014-CFPB-Docket # XXXX.

XIX. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for fifteen (15) years after entry of the Order, and retain each such record for 5 years, unless otherwise indicated. Specifically, Defendant must create and retain the following records:

A. Accounting records maintained in accordance with generally accepted accounting principles in effect from time to time in the United States of America, including records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;

C. Consumer files containing the names, last known addresses and phone

numbers as of the date Defendant ceased servicing activity, dollar amounts of debt owed, when Defendant serviced the loan, records of Defendant's collection activity, and amounts collected by Defendant;

D. For every consumer complaint to Defendant, whether received directly, indirectly, or through a third party, records that include:

1. Any complaint and the date received, and the nature of the complaint as reflected in any notes, logs, or memoranda, including a description of the conduct alleged; and
2. The basis of the complaint, including the names of any collectors, customer service representatives, or supervisors complained about; the nature of any research conducted concerning the validity of any complaint; all documents relating to the disposition of the complaint, including records of all contacts with the consumer; Defendant's response to the complaint and the response date; whether the complaint was resolved; the date of resolution; and any action taken to correct the conduct complained about.

E. Copies of all scripts and other training materials related to the collection of debts;

F. To the extent permitted by state law, tape recordings of the complete telephone conversation for at least ninety (90) percent of all telephone calls between

Defendant and anyone it contacts in collecting on past-due debts, provided that Defendant must commence making such recordings no later than three (3) months after the date of this Order and must maintain these recordings for two (2) years after they are made;

G. To the extent permitted by state law, tape recordings of the complete telephone conversation for at least ninety (90) percent of all calls in which consumers consent to payment using Speedpay or any other payment method initiated by Defendant in which a convenience fee is charged, provided that Defendant must commence making such recordings no later than three (3) months after the date of this Order and must maintain these recordings for two (2) years after they are made; and

H. All records and documents necessary to demonstrate full compliance with each provision of this Order, including procedures for responding to consumer complaints, documents related to investigations of consumer complaints, all required acknowledgments, notices, and all submissions to the Commission or Bureau.

XX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or Bureau, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of

perjury; appear for depositions; and produce documents, for inspection and copying. The Commission and Bureau are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, *provided that*, Defendant, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Federal Rule of Civil Procedure Rule 26(c).

B. For matters concerning this Order, the Commission and Bureau are authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission or Bureau to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Bureau may use all other lawful means, including posing, through their respective representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's or Bureau's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, or Section 1052 of the CFPA, 12 U.S.C. § 5562.

Provided that, consistent with the Memorandum of Understanding between the Commission and the Bureau, Plaintiffs shall endeavor to coordinate enforcement of their rights under this Order to minimize duplication of efforts and burden on Defendant.


XXI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that although this action will be dismissed, this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 23rd day of April, 2015.

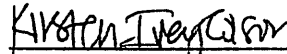
s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Court Judge

FOR PLAINTIFFS:



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DANIEL DWYER
California Bar No.286701
Federal Trade Commission
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Date: 4/21/2015



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Washington, DC 20552
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FOR DEFENDANT GREEN TREE SERVICING LLC



THOMAS J. FRANCO

President
Green Tree Servicing LLC
345 St. Peter Street
St. Paul, MN 55102

Date: 2/20/15

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ELIZABETH L. MCKEEN
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610 Newport Center Dr., Ste 1700
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Tel: (949) 823-7150

Date: _____

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Tel: (949) 823-7150

Date: 2/20/15

S L E Smothers
LAW FIRM, P.A.

December 5, 2017

Via US Certified Mail

7016 3010 0000 8720 7208 7016 3010 0000 8720 7215 7016 3010 0000 8720 7222

Ditech Financial LLC
P.O. Box 6172
Rapid City, SD 57709-6172

Fannie Mae
Federal Nation Mortgage Association
3900 Wisconsin Avenue, NW
Washington, DC 20016-2892

Fannie Mae
Federal Nation Mortgage Association
1075 Peachtree Street NE, Suite 1600
Atlanta, GA 30309

Re: Borrower: Charles S. Rodriguez
Loan Number: 50586957
Property: 3970 Old Dunn Road, Apopka, FL 32712
Our File: 193-2

To Whom It May Concern:

My law firm represents Charles Rodriguez. As stated in the enclosed Complaint, Ditech Financial, LLC and Federal National Mortgage Association have breached its contractual obligations and Florida law in its handling of my client's and other borrowers' loans in the putative Class.

Should you wish to make a cure offer, please contact me within twenty (20) days upon receipt of this letter.

Feel free to contact me at the below telephone number if you wish to discuss this matter.

Sincerely,



Scott A. Smothers
Scott@smotherslawfirm.com

SAS.shs
Enclosure as stated

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

Case No. _____

**CHARLES S. RODRIGUEZ, on behalf
of himself and all others similarly situated,**

Plaintiff,

v.

**DITECH FINANCIAL, LLC and
FEDERAL NATIONAL MORTGAGE
ASSOCIATION,**

Defendants.

CLASS ACTION COMPLAINT

Plaintiff, Charles S. Rodriguez (“Plaintiff”), on behalf of himself and all others similarly situated, alleges violations of the Florida Consumer Collection Practices Act § 559.55 *et seq.* (“FCCPA”), the Fair Debt Collection Practices Act 15 U.S.C. 1692 *et seq.* (“FDCPA”), against Ditech Financial, LLC (“Ditech”) and violation of the Truth In Lending Act 15 U.S.C. § 1601 *et seq.* (“TILA”) against Federal National Mortgage Association (“FNMA”).

1. Mortgage servicers like Ditech are in a unique position because they don’t own the mortgages they service; the result being that their compensation structure is independent from the performance of the mortgage. This creates a relationship rife with incentives for abuse because the biggest profit driver for servicers is a defaulted loan; that is the longer a loan is in default—the more fees, *i.e.* compensation, the servicer can charge and collect.

2. Hundreds of thousands of homes are in some stage of foreclosure in the United States every month. <http://www.corelogic.com/research/foreclosure-report/national-foreclosure-report-january-2016.pdf>. Most homeowners facing foreclosure are desperate to keep their homes

and are willing to do close to anything to continue living in them with their families. Ditech exploits their desperation by placing them in danger of foreclosure if homeowners do not pay all of the fees Ditech demands.

3. Ditech services mortgages for FNMA throughout the United States, including Miami-Dade County, Florida. The standard mortgage only allows Ditech to charge default-related fees that are reasonable and appropriate to protect the interest in properties FNMA owns. As its servicer, Ditech must comply with the mortgage's terms and FNMA's Servicing Guide ("Guidelines") that tells Ditech what charges and services are reasonable and appropriate under the mortgage. The Guidelines prohibit Ditech from charging for property inspections when the home is owner occupied and maintained, and the Guidelines only allow Ditech to perform property inspections every twenty days.

4. Ditech flouts the Guidelines by charging Plaintiff and thousands of other borrowers unreasonable and inappropriate property inspection fees sometimes every fifteen days. Ditech then disguises these property inspections fees as corporate advances on the borrower's monthly mortgage statement.

5. Ditech further prevents borrowers from receiving crucial information about their statutory right to dispute illegitimate charges, like the property inspection fees, by omitting that the borrowers' dispute must be in writing for them to receive protection under the FDCPA.

6. By the conduct described above, Ditech knowingly violated the FCCPA and FDCPA. Fannie Mae is also liable for Ditech's violation of TILA, which has caused Plaintiff and putative class members actual concrete and particularized injuries. Plaintiff's injuries are detailed *infra*.

JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this action arises out of TILA and the FDCPA, federal statutes.

8. The Court has supplemental jurisdiction over the FCCPA claims under 28 U.S.C. § 1367 because the basis of the TILA and FDCPA federal claims involve the same debt collection practices that form the basis of the FCCPA claims.

9. The Court has personal jurisdiction because Defendants conduct business throughout the United States, including Florida. Further, their voluntary contact with Plaintiff to charge and collect debts in Florida made it foreseeable that Defendants would be haled into a Florida court. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985).

10. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) because Defendants are deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced and because their contacts with this District are sufficient to subject them to personal jurisdiction.

PARTIES

11. Plaintiff Charles Rodriguez is a natural person who currently resides in Florida.

12. Defendant Ditech is a Minnesota corporation with its headquarters in St. Paul, Minnesota. Defendant services mortgages throughout the United States and Florida.

13. Defendant Fannie Mae is Delaware corporation with its principal place of business at 3900 Wisconsin Ave, N.W., Washington D.C. 20016.

APPLICABLE LAW

TILA

14. Congress enacted TILA to “protect the consumer against inaccurate and unfair credit billing and credit card practices.” 15 U.S.C.A. § 1601(a); *Fabricant v. Sears Roebuck*, 98-1281-CIV, 2002 WL 34477592, at *4 (S.D. Fla. Mar. 6, 2002) (“TILA changed the philosophy in the extension of credit from let the buyer beware to make the seller disclose.”) (internal quotations and citations omitted).

15. To further TILA’s purpose, courts must “liberally construe the language [of the statute] in favor of the consumer.” (*Id.*) (citations omitted).

16. Under TILA, the creditor, assignee, or servicer must provide a periodic statement to the borrower setting forth certain disclosures like: the amount due, explanation of amount due, and past payment breakdown. 15 U.S.C. § 1638 *et seq.*, 12 CFR § 1026.41 *et seq.*

17. TILA requires information to be “disclosed clearly and conspicuously, in accordance with regulations of the Bureau.” 15 U.S.C. § 1632(a).

18. Regulation Z “is issued by the Bureau of Consumer Financial Protection to implement the Federal Truth in Lending Act.” 12 CFR § 1026.1(a).

19. Regulation Z “prohibits certain acts or practices in connection with credit secured by a dwelling in § 1026.36, and credit secured by a consumer’s principal dwelling in § 1026.35.” 12 CFR § 1026.1(b).

20. Regulation Z imposes certain obligations on mortgage servicers and creditors to provide information to borrowers regarding their mortgage loans. *See generally* 12 CFR § 1026.31 *et seq.*

21. Information under Regulation Z, Subpart E, is also required to be given “clearly and conspicuously” to the borrower and the information “shall reflect the terms of the legal obligation between the parties.” 12 CFR §§ 1026.31(b), (d)(1).

22. TILA provides a private cause of action for violations of Regulation Z. *See* 15 U.S.C. § 1640(a); *cf.* 15 U.S.C. § 1639(p)(2)(A) (“The Bureau, by regulation or order, shall prohibit acts or practices in connection with—mortgage loans that the Bureau finds to be unfair, deceptive, or designed to evade the provisions of this section...”); *McGowan v. King, Inc.*, 569 F.2d 845, 848 (5th Cir. 1978) (“The scheme of the statute is to create a system of private attorneys general to aid its enforcement, and its language should be construed liberally in light of its remedial purpose.”)

FDCPA

23. The purpose of the FDCPA is “to eliminate abusive debt collection practices . . . and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692.

24. The FDCPA prohibits debt collectors from using “any false, deceptive, or misleading representation or means in connection with the collection of any debt,” which includes the false representation of “the character, amount, or legal status of any debt.” *Id.* § 1692e.

25. The FDCPA also prohibits debt collectors from “unfair or unconscionable means to collect or attempt to collect any debt,” including “the collection of any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law.” *Id.* § 1692f.

26. Section 1692g also provides that debt collectors have a legal duty to give consumer, like Plaintiff and the putative Class, notice of their right to, among other things, dispute a debt or any portion of a debt.

27. Specifically, the debt collector must send a written notice containing the following:

... [A] debt collector shall ... send the consumer a written notice containing ... a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector ...

[And] a statement that if the consumer notifies the debt collector *in writing* within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

15 U.S.C. § 1692g(a)(4).

28. The FDCPA creates a private right of action under 15 U.S.C. § 1692k.

29. The FDCPA defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt." *Id.* § 1692a(3).

30. The FDCPA defines "debt collector" as "any person who uses . . . any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect . . . debt owed . . . or asserted to be owed or due another." *Id.* § 1692a(6).

31. The FDCPA defines communication as "conveying of information regarding a debt directly or indirectly to any person through any medium." *Id.* § 1692a(2).

32. The FDCPA defines "debt" as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction . . . [that] are primarily for personal, family, or household purposes." *Id.* § 1692a(5).

FCCPA

33. The FCCPA prohibits debt collectors from engaging in certain abusive practices in the collection of consumer debts. *See generally* Fla. Stat. § 559.72.

34. The FCCPA's goal is to "provide the consumer with the most protection possible." *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1192 (11th Cir. 2010) (citing Fla. Stat. § 559.552).

35. Specifically, the FCCPA states that no person shall "claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist." Fla. Stat. § 559.72(9).

36. The FCCPA creates a private right of action under Fla. Stat. § 559.77.

37. The FCCPA defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt." *Id.* § 559.55(8).

38. The FCCPA mandates that "no person" shall engage in certain practices in collecting consumer debt. *Id.* § 559.72. This language includes all allegedly unlawful attempts at collecting consumer claims. *Williams v. Streeps Music Co.*, 333 So. 2d 65, 67 (Fla. Dist. Ct. App. 1976).

39. The FCCPA defines "debt" as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment." *Id.* § 559.55(6).

FACTUAL ALLEGATIONS

40. On or about January 8, 2009, Plaintiff purchased a home in Orange County, Florida through a loan from Amtrust Bank, secured by a mortgage on the property. Copies of Plaintiff's Mortgage Agreement and Mortgage Note are attached as Exhibit "A" and Exhibit "B" respectively.

41. On or about October 1, 2010, Plaintiff defaulted on his loan after previously making continuous payments.

42. To date, Plaintiff has continually lived in and maintained his home since the foreclosure

43. On or about May 4, 2012, Mortgage Electronic Registration Systems, Inc., as Nominee for Amtrust Bank, its successors and/or Assigns, assigned the Plaintiff's Mortgage and Note to FNMA.

44. On or about May 15, 2014, Everhome Mortgage transferred its servicing rights to Ditech, formally known as Green Tree Servicing, LLC.

45. Ditech received the servicing rights to Plaintiff's Mortgage after default.

46. Therefore, Ditech became the servicer of Plaintiff's mortgage loan while it was already in default.

47. Ditech is the servicer of Plaintiff's mortgage on behalf of Fannie Mae, and Ditech is Fannie Mae's agent.

48. Fannie Mae contracted with Ditech to service Plaintiff and the class members' mortgage loans.

49. On or about May 18, 2012, Elizabeth Wellborn, P.A., on behalf of Federal National Mortgage Association, filed a complaint in the Ninth Judicial Circuit in and for Orange County, Florida to initiate foreclosure.

50. Plaintiff hired Smothers Law Firm, P.A. to defend him in the foreclosure.

51. Fannie Mae's Guidelines only allow a servicer to perform and charge for property inspections a minimum every twenty days. *See Fannie Mae Single Family Servicing Guide D2-2-10.*

52. On September 16, 2016, Ditech sent a monthly billing statement to Smothers Law Firm, P.A. on behalf of Plaintiff. The billing statement is attached as ~~Exhibit (C-10)~~.

53. The September Statement advises: "If payment is received after 10/16/2016, a \$48.04 late fee will be charged." *Id.*

54. The September Statement demands a total amount due of \$100,102.14. *Id.*

55. Under the heading "Transaction Activity Since Last Statement", Ditech charged Plaintiff a late fee and a \$15.00 "Corp Adv Disb" on September 14, 2016. *Id.*

56. Ditech added the \$15.00 "Corp Adv Disb" to the total amount it demanded Plaintiff pay.

57. Ditech provided no description on what default related service the \$15.00 charge related to.

58. Directly adjacent, the September Statement advised:

****Delinquency Notice****

You are late on your mortgage payments. Failure to bring your loan current may result in fees and foreclosure - the loss of your home. As of September 16 you are 2177 days delinquent on your mortgage loan. Your account first became delinquent on 1010112010.

Id.

59. Ditech included a payment coupon for Plaintiff to detach and send in with his payment. *Id.*

60. On the payment coupon, Ditech again demanded a total amount due of \$100,102.14 and advised that a late fee would be charged if Plaintiff failed to pay. *Id.*

61. On October 17, 2016, Ditech sent a monthly billing statement to Smothers Law Firm, P.A. on behalf of Plaintiff. The billing statement is attached as Exhibit (_____).

62. The October statement reflects that Ditech charged Plaintiff another \$15.00 “Corp Adv Disb” on September 30, 2016, and it again added that fee to the total amount it demanded Plaintiff pay. *Id.*

63. These “Corp Adv Disb” charges are actually fees for property inspections. And Ditech disguises them so it can charge them at a greater frequency than the Fannie Mae Guidelines permit, generating a larger profit.

64. On or about February 27, 2017, Ditech on behalf of Fannie Mae, sent a letter to Plaintiff demanding he pay a total amount due of \$107,986.14. The letter is attached as Exhibit (_____).

65. The letter informed Plaintiff that he had defaulted on his loan for failing to pay amounts due. *Id.*

66. The letter advised:

You have a right to cure your default. To cure the default, you must pay the full amount of the default on this loan by 04/03/2017 (or if said date falls on a Saturday, Sunday, or legal holiday, then on the first business day thereafter). Failure to cure the default on or before this date may result in acceleration of the sums secured by the Security Instrument, foreclosure by judicial proceeding and sale of the property.

Id.

67. Ditech informed Plaintiff that he had to make a payment of \$107,986.14 by April 3, 2017, to cure the default, and it provided an address for Plaintiff to send his payment to. *Id.*

68. The “Corporate Advance Balance” contains the illegitimate property inspection fees and Ditech added the balance to the total amount it demanded Plaintiff pay. *See* Plaintiff’s life of loan history attached as Exhibit ():

69. The letter advised:

If you wish to dispute the delinquency, or if you dispute the calculation of amount of the delinquency and reinstatement amount, you may contact us by calling 1-800-643-0202. Or call us via TDD at 1-800-643-0202 #711.

Id.

70. The letter further advised:

Ditech Financial LLC is attempting to collect a debt, and any information obtained will be used for that purpose. Unless you notify us within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, we will assume this debt is valid. If you notify us within thirty (30) days from receiving this notice that you dispute the validity of this debt or any portion thereof, we will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. Upon your written request within thirty (30) days after the receipt of this letter, we will provide you with the name and address of the original creditor, if the original creditor is different from the current creditor.

Id. (emphasis omitted).

71. The letter did not comply with the FDCPA’s notice requirements because it failed to inform Plaintiff that any dispute of a debt must be in writing. *See* 15 U.S.C. § 1692g.

72. Ditech acted as a debt collector by attempting to collect amounts on behalf of its principal, Fannie Mae.

73. Ditech, on behalf of Fannie Mae, threatened to collect, and did collect, illegitimate charges from Plaintiff and the putative class.

74. Ditech demanded Plaintiff pay these fees despite operating under strict servicing guidelines from Fannie Mae.

75. The Fannie Mae “Servicing Guide,” requires Ditech to “be aware of, and in full compliance with, all federal, state, and local laws (e.g., statutes, regulations, ordinances, administrative rules and orders that have the effect of law, and judicial rulings and opinions).” And “[a]s applicable law can change quickly, and sometimes without widespread notice, the seller/servicer must establish appropriate facilities for monitoring applicable legal developments and implementing appropriate measures to stay in compliance with applicable law. ...” (emphasis added). See Fannie Mae Single Family Servicing Guide at A-2-1-08.

76. The Servicing Guide only allows Ditech to charge property inspections if: Quality Right Party Contact has not been achieved; a full payment has not been received within the last 30 days; or the borrower is not performing under the applicable bankruptcy plan. *Id* at D2-2-10.

77. The Servicing Guide also prohibits Ditech from charging property inspections no sooner than twenty days apart. *Id*.

78. Despite Fannie Mae’s specific prohibition, Ditech nonetheless knowingly demanded Plaintiff pay an amount to cure a default that included illegitimate property inspection charges.

79. These demands were a direct breach of each of the following contractual provisions permitting *only* recovery of amounts actually incurred: (1) Paragraph 9 of the Mortgage Agreement permitted Seterus to recover “*amounts disbursed*” in protecting Fannie Mae’s interest and rights in the Mortgage Agreement (emphasis added); (2) Paragraph 14 of the Mortgage Agreement prohibited Seterus from charging estimated fees, stating “[l]ender may not charge fees that are expressly prohibited in this Security Instrument or by Applicable

Law” (emphasis added); (3) Paragraph 22 of Fannie Mae’s Mortgage Agreement permitted Seterus to collect “**expenses incurred in pursuing**” certain actions under the Paragraph which governed default, notice of default, actions to cure default, and reinstatement of loans (emphasis added); and (4) Paragraph 6(E) of the Mortgage Note permitted Seterus, on behalf of Fannie Mae, the “**right to be paid back . . . for all of its costs and expenses in enforcing**” the Note, which included “reasonable attorneys’ fees” (emphasis added).

80. Ditech demanded Plaintiff pay these illegitimate fees despite operating under a Consent Order with the Consumer Financial Protection Bureau. The Consent Order is attached as Exhibit “E.”

81. The Order prohibits Ditech, Ditech’s officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

Making any material misrepresentation or assisting others in making any material misrepresentation, expressly or by implication, including but not limited to misrepresentations . . . [t]hat consumers’ loans have certain unpaid balances, payment due dates, interest rates, monthly payment amounts, delinquency statuses, and unpaid fees or other amounts due;

(*Id.* pg 39).

82. And further, the Order prohibits Ditech, Ditech’s officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with collecting on past-due debt, are permanently restrained and enjoined from:

Using any false, deceptive, or misleading representation or means, including but not limited to falsely representing, directly or indirectly, expressly or by implication: (1) the character, amount, or legal status of any debt... [and] [u]sing any unfair or unconscionable means to collect or attempt to collect any debt, including but not limited to collecting any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law....

(*Id.* pg 46-47).

83. Direch's President, Thomas J. Franco, signed the Order.

84. Despite the Order's specific prohibitions, Ditech knowingly, and deceptively, demanded Plaintiff pay illegitimate amounts not due and owing.

85. Additionally, the CFPB has received hundreds of complaints concerning Ditech's improper loan servicing practices, many involving similar complaints regarding requests for debt not actually owed. https://www.consumerfinance.gov/data-research/consumer-complaints/search/?company=Ditech%20Financial%20LLC&from=0&has_narrative=true&searchField=all&searchText=&size=25&sort=created_date_desc

86. Ditech's knowledge can be imputed to Fannie Mae through agency theory. *See, e.g., Compass Bank v. Tania Lynn Vanpelt*, No. CA10-1624 (Fla. Cir. Ct. April 2, 2015) (finding knowledge under the FCCPA could be imputed from agents to the owner of the mortgage note and holder through principles of agency).

87. Ditech and Fannie Mae have a pattern and practice of demanding illegal fees because Plaintiff received a form letter from Ditech that has routinely generated line-items that included unlawful amounts.

88. Ditech's letter is a form letter as evidenced by the identification code: "W FL DEMAND." *Id.*

89. On or about _____ Plaintiff, through counsel, sent a cure letter to Ditech and Fannie Mae. See the letter attached as Exhibit "E."

90. After a reasonable amount of time, the Plaintiff filed this lawsuit because Ditech and Fannie Mae failed to cure the breach of its violations of state and federal law.

**ADDITIONAL FACTUAL ALLEGATIONS REGARDING PLAINTIFF'S INJURY
CAUSED BY DEFENDANTS' FCCPA, FDCPA, AND TILA VIOLATIONS**

91. Plaintiff has a statutory right to receive accurate and timely information from Ditech on his monthly mortgage statements. Also, Plaintiff has a statutory right to receive a clear and conspicuous disclosure from Ditech about the fees and costs he is required to pay on his mortgage loan.

92. By failing to respond with accurate information about the amounts owed by Plaintiff on his mortgage loan, Ditech deprived Plaintiff of his statutory right to accurate information under the FDCPA, FCCPA, and TILA.

93. By failing to send clear and conspicuous disclosure on the Plaintiff's periodic statements about the amounts owed by Plaintiff on his mortgage loan, Ditech deprived Plaintiff of his statutory right to clear and conspicuous disclosure under TILA.

CLASS ACTION ALLEGATIONS

Florida Class 1

94. Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's TILA violations (the "Florida Class 1"), subject to modification after discovery and case development:

All Florida residents to whom Ditech sent a periodic statement that charged, collected, or attempted to collect a \$15.00 "Corp Adv Disb" fee for a property inspection during the applicable statute of limitations.

Florida Class 2

95. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FCCPA violations (the "Florida Class 2"), subject to modification after discovery and case development:

All Florida residents to whom Ditech charged, collected, or attempted to collect a fee for a property inspection performed more frequently than twenty days apart during the applicable statute of limitations.

Florida Class 3

96. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FDCPA violations (the "Florida Class 3"), subject to modification after discovery and case development:

All Florida residents to whom Ditech charged, collected, or attempted to collect a fee for a property inspection performed more frequently than twenty days apart during the applicable statute of limitations.

Florida Class 4

97. Additionally, Plaintiff brings this action under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class of persons aggrieved by Ditech's FDCPA violations (the "Florida Class 4"), subject to modification after discovery and case development:

All Florida residents to whom Ditech sent a "W FL DEMAND" that omitted the "in writing" requirement during the applicable statute of limitations.

98. Class members are identifiable through Ditech's records and payment databases.

99. Excluded from the Class are Ditech; any entities in which it has a controlling interest; its agents and employees; and any Judge to whom this action is assigned and any member of such Judge's staff and immediate family.

100. Plaintiff proposes that he serve as class representative for the Class.

101. Plaintiff and the Class have all been harmed by the actions of Ditech.

102. Numerosity is satisfied. There are likely thousands of class members. Individual joinder of these persons is impracticable.

103. There are questions of law and fact common to Plaintiff and to the Class, including, but not limited to:

- a. Whether Ditech is liable for its failure to comply with TILA by failing to provide accurate, clear, and conspicuous information in periodic statements;
- b. Whether Ditech violated the FCCPA by charging monies not due;
- c. Whether Ditech violated the FDCPA by charging monies not due;
- d. Whether Plaintiff and class members are entitled to actual or statutory damages as a result of Ditech's actions;
- e. Whether Plaintiff and class members are entitled to attorney's fees and costs; and
- f. Whether Ditech should be enjoined from engaging in such conduct in the future.

106. Plaintiff's claims are typical of the claims of the Classes.

107. Plaintiff is an adequate representative of the Classes because his interests do not conflict with the interests of the Classes, he will fairly and adequately protect the interests of the Classes, and he is represented by counsel skilled and experienced in class actions.

108. Common questions of law and fact predominate over questions affecting only individual class members, and a class action is the superior method for fair and efficient adjudication of this controversy.

109. The prosecution of separate claims by individual class members would create a risk of inconsistent or varying adjudications concerning individual class members.

**COUNT I AS TO FANNIE MAE'S VIOLATION OF THE
THE TRUTH IN LENDING ACT 15 U.S.C. § 1639g,
(Florida Class 1)**

110. Fannie Mae is a creditor under TILA that can be held vicariously liable for Ditech's TILA violations. *See* 15 U.S.C. § 1641(e); *Lucien v. Fed. Nat. Mortg. Ass'n*, 21 F. Supp. 3d 1379, 1388 (S.D. Fla. 2014).

111. TILA, requires that the creditor, assignee, or servicer provide a periodic statement to the borrower setting forth certain disclosures like, *inter alia*: the amount due, explanation of amount due, past payment breakdown, etc. 15 U.S.C. § 1638 *et seq.*, 12 CFR § 1026.41 *et seq.*

104. TILA requires the creditor, assignee, or servicer to make the disclosures in a clear and conspicuous manner and the information "shall reflect the terms of the legal obligation between the parties." 12 CFR §§ 1026.31(b), (d)(1); 12 CFR § 1026.41(c).

112. Ditech sent periodic statements to Plaintiff and the class with information that contained illegal property inspection charges disguised as generic "Corp Adv Disb" fees; that did not accurately reflect the terms of the legal obligation between the parties; and that was inaccurate, unclear, and inconspicuous concerning the amounts due and owing under the Mortgage.

113. Ditech failed to comply with TILA when it sent periodic statements that contained information that was inaccurate, unclear, and inconspicuous, and that did not accurately reflect the terms of the legal obligation between the parties.

114. Ditech has a pattern and practice of using form periodic statements that contain inaccurate, unclear, and inconspicuous information.

115. Ditech's failure to comply with TILA harmed Plaintiff and the class by depriving them of the statutory right to accurate, clear, and conspicuous information concerning their mortgage loans.

116. As a result of Ditech's failure to comply with TILA, Fannie Mae is liable to the Plaintiff and class members for actual damages, plus statutory damages, together with reasonable attorney's fees and costs. 15 U.S.C. § 1640(a).

**COUNT II AS TO DITECH'S VIOLATION OF
THE FLORIDA CONSUMER COLLECTION PRACTICES ACT § 559.72(9)
(Florida Class 2)**

117. Plaintiff is a "consumer" as defined by Fla. Stat. § 559.55(8) when he purchased his home by mortgage.

118. Ditech is a "person" as defined under the FCCPA.

119. Ditech attempted to enforce, claimed, and asserted a known non-existent legal right to a debt as defined by Fla. Stat. § 559.55(6) when it attempted to collect and collected property inspection fees not owed. *Id.* § 559.72(9).

120. Ditech knew it could not charge these property inspection fees because Fannie Mae's Guidelines specifically prohibit them from being charged more frequently than twenty days.

121. Ditech was also put on notice about charging fees not owed by agreeing to the Consent Order.

122. By charging illegal fees, and failing to provide information in an accurate, clear and conspicuous manner, Ditech attempted to collect an amount from Plaintiff and the class that they didn't owe, and threatened to enforce the existence of a legal right (charging the fees) that didn't exist.

123. As a result of Ditech's violation of the FCCPA, Plaintiff and class members are entitled to actual damages, plus statutory damages under § 559.77(2) of the FCCPA, together with reasonable attorney's fees and costs.

**COUNT III AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692e
(Florida Class 3)**

124. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) when he purchased a home in Florida by mortgage.

93. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

125. Ditech engaged in "communications" with Plaintiff as defined by 15 U.S.C. § 1692a(2) when it sent periodic statements to Plaintiff and the class demanding payment of debts not owed.

126. Ditech violated 15 U.S.C. § 1692e when it used deceptive and misleading to collect debts contained in periodic statements sent to Plaintiff and the class and when it threatened to take an action (charging illegitimate property inspections) that could not be legally taken.

127. Ditech's violation of the FDCPA harmed Plaintiff by depriving him of the statutory right to accurate, clear, and conspicuous information concerning amounts due and owing under his mortgage loan.

128. As a result of Ditech's violation of 15 U.S.C. § 1692e, Plaintiff and class members are entitled to actual damages, plus statutory damages under 15 U.S.C. § 1692(k), together with reasonable attorney's fees and costs.

**COUNT IV AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692f
(Florida Class 3)**

129. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) when he purchased a home in Florida by mortgage.

130. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

131. Ditech engaged in "communications" with Plaintiff as defined by 15 U.S.C. § 1692a(2) when its sent periodic statements to Plaintiff and the class demanding payment of debts not owed.

132. Ditech violated 15 U.S.C. § 1692f when it used unfair and unconscionable means to collect debts contained in periodic statements sent to Plaintiff and the class and when it charged and threatened to charge late fees not expressly authorized by agreement.

133. Ditech's violation of the FDCPA harmed Plaintiff by depriving him of the statutory right to accurate, clear, and conspicuous information concerning amounts due and owing under his mortgage loan.

134. As a result of Ditech's violation of 15 U.S.C. § 1692f, Plaintiff and class members are entitled to actual damages, plus statutory damages under 15 U.S.C. § 1692(k), together with reasonable attorney's fees and costs.

**COUNT V AS TO DITECH'S VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT § 1692f
(Florida Class 4)**

135. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) because he is a natural person allegedly obligated to pay a debt in connection with the purchase of a home.

136. Ditech is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because its principal business purpose is the collection of debts, it was assigned Plaintiff's mortgage loan while it was in default, and it uses the United States mail for its principal business purpose: collecting debts.

137. The letter Ditech sent to Plaintiff is a "communication" as defined under 15 U.S.C. § 1692a(2).

138. Ditech attempted to collect a consumer debt as defined by 15 U.S.C. § 1692a(5) because Plaintiff was allegedly obligated to pay a debt in connection with the purchase of a home for personal, family, or household purposes.

139. The letter Ditech sent to Plaintiff and the putative Classes violated the FDCPA because it excluded the statutorily required disclosures.

140. As a result of Ditech's FDCPA violation, Plaintiff suffered substantial damage, including but not limited to the deprivation of his statutory right to dispute the debt, the deprivation of the right to basic information needed to assess the legitimacy of the debt, and deprivation of the statutory right to information needed to dispute the accuracy of the debt.

JURY DEMAND

141. Plaintiff is entitled to and respectfully demands a trial by jury on all issues so triable.

RELIEF REQUESTED

WHEREFORE. Plaintiff, himself and on behalf of the Classes, respectfully requests this Court to enter judgment against Ditech for all of the following:

- a. That Plaintiff and all class members be awarded actual damages, including but not limited to forgiveness of all amounts not owed;**
- b. That Plaintiff and all class members be awarded statutory damages for each of Plaintiff's claims;**
- c. That Plaintiff and all class members be awarded costs and attorney's fees;**
- d. That the Court enter a judgment permanently enjoining Ditech from charging and/or collecting debt in violation of the FCCPA;**
- e. That the Court enter a judgment permanently enjoining Ditech from charging and/or collecting debt in violation of the FDCPA;**
- f. That the Court enter a judgment permanently enjoining Ditech and Fannie Mae from providing borrowers inaccurate, unclear, and inconspicuous information in violation of TILA;**
- g. That, should the Court permit the continued charging and/or collecting debt, it enter a judgment requiring the adoption of measures ensuring FDCPA, TILA, and FCCPA compliance, and that the Court retain jurisdiction for a period of six months to ensure that compliance with those measures;**
- h. That the Court enter a judgment awarding any other injunctive relief necessary to ensure compliance with the FDCPA, TILA, and the FCCPA;**
- i. That the Court enter an order that Ditech and Fannie Mae and its agents, or anyone acting on their behalf, are immediately restrained from altering, deleting**

or destroying any documents or records that could be used to identify class members;

- j. That the Court certify Plaintiff's claims and all other persons similarly situated as class action claims under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure; and
- k. Such other and further relief as the Court may deem just and proper.

Dated: _____

Respectfully Submitted,

/s/ James L. Kauffman

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North Palm Beach, Florida 33408
Telephone: (561) 692-6013
Facsimile: (305) 574-0132
Counsel for Plaintiff and the Putative Class



02/15/2018

CHARLES S RODRIGUEZ
 3970 OLD DUNN RD
 APOPKA, FL 32712-4787

Loan Number: 50586957
 Property Address: 3970 OLD DUNN RD
 APOPKA, FL 32712-4787

Dear CHARLES S RODRIGUEZ:

This letter is formal notice by Ditech Financial LLC, the Servicer of the above-referenced loan, on behalf of FANNIE MAE MRS 261840235, that you are in default under the terms of the documents creating and securing your Loan described above, including the Note and Deed of Trust/Mortgage/Security Deed ("Security Instrument"), for failure to pay amounts due.

You have a right to cure your default. To cure the default, you must pay the full amount of the default on this loan by 03/22/2018 (or if said date falls on a Saturday, Sunday, or legal holiday, then on the first business day thereafter). Failure to cure the default on or before this date may result in acceleration of the sums secured by the Security Instrument, foreclosure by judicial proceeding and sale of the property.

As of the date of this notice, the total amount required to cure the default is \$114,878.35, which consists of the following:

Next Payment Due Date:		07/01/2013
Total Monthly Payments Due:		\$75,909.75
07/01/2013	at	\$1,349.75
08/01/2013	at	\$1,349.75
09/01/2013	at	\$1,349.75
10/01/2013	at	\$1,349.75
11/01/2013	at	\$1,349.75
12/01/2013	at	\$1,349.75
01/01/2014	at	\$1,349.75
02/01/2014	at	\$1,331.26
03/01/2014	at	\$1,331.26
04/01/2014	at	\$1,331.26
05/01/2014	at	\$1,331.26
06/01/2014	at	\$1,331.26
07/01/2014	at	\$1,331.26
08/01/2014	at	\$1,331.26
09/01/2014	at	\$1,331.26
10/01/2014	at	\$1,331.26
11/01/2014	at	\$1,331.26
12/01/2014	at	\$1,331.26
01/01/2015	at	\$1,331.26
02/01/2015	at	\$1,331.26
03/01/2015	at	\$1,331.26
04/01/2015	at	\$1,331.26



05/01/2015	at	\$1,331.26
06/01/2015	at	\$1,331.26
07/01/2015	at	\$1,331.26
08/01/2015	at	\$1,331.26
09/01/2015	at	\$1,331.26
10/01/2015	at	\$1,331.26
11/01/2015	at	\$1,331.26
12/01/2015	at	\$1,331.26
01/01/2016	at	\$1,331.26
02/01/2016	at	\$1,331.26
03/01/2016	at	\$1,331.26
04/01/2016	at	\$1,331.26
05/01/2016	at	\$1,331.26
06/01/2016	at	\$1,331.26
07/01/2016	at	\$1,331.26
08/01/2016	at	\$1,321.50
09/01/2016	at	\$1,321.50
10/01/2016	at	\$1,321.50
11/01/2016	at	\$1,321.50
12/01/2016	at	\$1,321.50
01/01/2017	at	\$1,321.50
02/01/2017	at	\$1,321.50
03/01/2017	at	\$1,321.50
04/01/2017	at	\$1,321.50
05/01/2017	at	\$1,321.50
06/01/2017	at	\$1,321.50
07/01/2017	at	\$1,468.41
08/01/2017	at	\$1,468.41
09/01/2017	at	\$1,468.41
10/01/2017	at	\$1,468.41
11/01/2017	at	\$1,468.41
12/01/2017	at	\$1,468.41
01/01/2018	at	\$1,468.41
02/01/2018	at	\$1,708.33

Late Charges:		\$2,834.36
Other Charges:	Uncollected NSF Fees:	\$0.00
	Other Fees:	\$0.00
	Corporate Advance Balance:	\$6,329.28
	Escrow Advance Balance:	\$29,804.96
	Unapplied Balance:	<u>(\$0.00)</u>

TOTAL YOU MUST PAY TO CURE DEFAULT: \$114,878.35

You can cure this default by making a payment of \$114,878.35 by 03/22/2018. Please note any additional monthly payments, late charges and other charges that may be due under the Note, Security Instrument and applicable law after the date of this notice must also be paid to bring your account current. You may contact our Loss Mitigation Department at 1-800-643-0202 to obtain updated payment information. This letter is in no way intended as a payoff statement for your mortgage, it merely states an amount necessary to cure the current default. Please include your loan number and property address with your payment and send to:

Ditech Financial LLC
 Ditech Payment Processing PO Box 660934
 Dallas, TX 75266-0934

If you wish to dispute the delinquency, or if you dispute the calculation of amount of the delinquency and

reinstatement amount, you may contact us by calling 1-800-643-0202. Or call us via TDD at 1-800-643-0202 #711.

IF YOU ARE UNABLE TO BRING YOUR ACCOUNT CURRENT, Ditech Financial LLC offers consumer assistance programs designed to help resolve delinquencies and avoid foreclosure. These services are provided without cost to our customers. You may be eligible for a loan workout plan or other similar alternative. If you would like to learn more about these programs, you may contact the Loss Mitigation Department at 1-800-643-0202, Monday - Friday 7 am to 8 pm and Saturday 7 am to 1 pm CST. WE ARE VERY INTERESTED IN ASSISTING YOU.

You have the right to reinstate the loan after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense to acceleration and foreclosure. If foreclosure proceedings are undertaken, we may pursue a deficiency judgment, if permitted by applicable law. Failure to respond to this letter may result in the loss of your property. To the extent your obligation has been discharged or is subject to the automatic stay in a bankruptcy case, this notice is for informational purposes only and does not constitute a demand for payment or an attempt to collect a debt as your personal obligation. If you are represented by an attorney, please provide us with the attorney's name, address and telephone number.

Ditech Financial LLC is attempting to collect a debt, and any information obtained will be used for that purpose. Unless you notify us within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, we will assume this debt is valid. If you notify us within thirty (30) days from receiving this notice that you dispute the validity of this debt or any portion thereof, we will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. Upon your written request within thirty (30) days after the receipt of this letter, we will provide you with the name and address of the original creditor, if the original creditor is different from the current creditor.

You are notified that this default and any other legal action that may occur as a result thereof may be reported to one or more local and national credit reporting agencies by Ditech Financial LLC.

Attention Servicemembers and Dependents: Servicemembers on active duty, or a spouse or dependent of such a servicemember, may be entitled to certain protections under the Servicemembers Civil Relief Act ("SCRA") regarding the servicemember's interest rate and the risk of foreclosure. SCRA and certain state laws provide important protections for you, including prohibiting foreclosure under most circumstances. If you are currently in the military service, or have been within the last twelve (12) months, AND joined after signing the Note and Security Instrument now in default, please notify Ditech Financial LLC immediately. When contacting Ditech Financial LLC as to your military service, you must provide positive proof as to your military status. Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. Homeowner counseling is also available at agencies such as Military OneSource (www.militaryonesource.mil; 1-800-342-9647) and Armed Forces Legal Assistance (<http://legalassistance.law.af.mil>), and through HUD-certified housing counselors (<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>). You can also contact us toll-free at 1-800-643-0202 if you have questions about your rights under SCRA.

For your benefit and assistance, there are government approved homeownership counseling agencies designed to help homeowners avoid losing their homes. To obtain a list of approved counseling agencies, please call 1-800-569-4287 or visit <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>. You may also contact the Homeownership Preservation Foundation's Hope hotline at 1-888-995-HOPE (4673).

This matter is very important. Please give it your immediate attention.



Sincerely,

Ditech Financial LLC
P.O. Box 6172
Rapid City, SD 57709-6172
1-800-643-0202

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Against Ditech Financial, Fannie Mae Criticizes Allegedly Unlawful Property Inspection Fees](#)
