FILED Dec 20, 2010

PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION –
GENERAL EQUITY PART
MERCER COUNTY

DOCKET NO. F -059553-10

CIVIL ACTION

IN THE MATTER OF
RESIDENTIAL MORTGAGE
FORECLOSURE PLEADING AND
DOCUMENT IRREGULARITIES

ORDER DIRECTING THE NAMED FORECLOSURE PLAINTIFFS TO SHOW CAUSE WHY THE COURT SHOULD NOT SUSPEND THE MINISTERIAL DUTIES OF THE OFFICE OF FORECLOSURE AND THE SUPERIOR COURT CLERK'S OFFICE REGARDING THE PROCESSING OF CERTAIN UNCONTESTED RESIDENTIAL MORTGAGE FORECLOSURE ACTIONS, STAY SHERIFFS' SALES IN THOSE FORECLOSURE ACTIONS, APPOINT A SPECIAL MASTER PURSUANT TO RULE 4:41-1 TO INVESTIGATE QUESTIONABLE FORECLOSURE PRACTICES, AND APPOINTING AN ATTORNEY TO APPEAR IN SUPPORT OF THE PROPOSED RELIEF

To: Foreclosure Plaintiffs:

ALLY FINANCIAL (F/K/A GMAC)
c/o Zucker, Goldberg & Ackerman; Phelan, Hallinan & Schmeig, PC
BANK OF AMERICA/BAC HOME LOAN SERVICING LP
c/o Stern Lavinthal Frankenberg & Norgaard, LLC; Fein Such Kahn & Shepard, PC
Zucker, Goldberg & Ackerman; Urden Law Offices, PC
JP MORGAN CHASE/ CHASE HOME FINANCE LLC
c/o Phelan, Hallinan & Schmeig, PC
WELLS FARGO/WELLS FARGO BANK NA/ WELLS FARGO FINANCIAL NEW JERSEY, INC.
c/o Phelan, Hallinan & Schmeig, PC; Powers Kirn, LLC
ONEWEST BANK FSB (F/K/A INDYMAC)
c/o McCabe Weisberg & Conway, P.C;. Fein Such Kahn & Shepard, PC
CITIBANK, NA/ CITI RESIDENTIAL LENDING
c/o Zucker, Goldberg & Ackerman; Shapiro & Perez, LLP

THIS MATTER is opened *sua sponte* by the court in furtherance of its role under R. 1:34-6, which authorizes the Office of Foreclosure in the Administrative Office of the Courts to recommend the entry of orders or judgments in uncontested foreclosure matters "subject to the approval of a Superior Court Judge designated by the Chief Justice." Historically and currently, the Chief Justice has designated the General Equity Judge in Mercer County to fulfill this role. This court, in consultation with the staff of the Office of Foreclosure, has become increasingly concerned about the accuracy and reliability of documents submitted to the Office of Foreclosure. The court has therefore determined that immediate action in the form of an Order to Show Cause is necessary to protect the integrity of the judicial foreclosure process in New Jersey and to assure the public that the process going forward will be reliable.

The nature of the problem calls for a balancing of the court's supervisory and adjudicatory roles and responsibilities. The court has therefore established the procedure in this Order to address the pressing needs of the Office of Foreclosure while providing due process to affected parties. The court will direct that the six Foreclosure Plaintiffs named in this order show cause at a hearing scheduled for January 19, 2011, why the court should not suspend the processing of all foreclosure matters involving the six Foreclosure Plaintiffs and appoint a Special Master to review their past and proposed foreclosure practices. The Foreclosure Plaintiffs named in this Order will be given an opportunity to respond in writing to the Order and to be heard on January 19, 2011. The exigencies of the circumstances, especially the immediate need to restore integrity to foreclosure processing, require the relaxation of R. 4:52-1 to the extent that the procedure outlined in this Order deviates from the requirements of the Rule. As set forth below, the six Foreclosure Plaintiffs affected by this Order were selected based on a public record of questionable practices that this court must address now in its supervisory capacity over the processing of foreclosure matters.

It appearing that deposition testimony provided by employees of the above-listed Foreclosure Plaintiffs taken in various states, as well as testimony regarding national foreclosure practices provided to Congress, has raised serious questions about the accuracy and reliability of documents submitted to courts by lenders and service providers in support of foreclosure complaints; and it appearing that the integrity of the foreclosure process in New Jersey is implicated by these circumstances, as detailed in the Administrative Order issued by the Honorable Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts, on December 20, 2010; and it appearing that the execution of affidavits, certifications, assignments, and other documents in numerous residential mortgage foreclosure actions in New Jersey and elsewhere may not have been based on personal knowledge in violation of the Rules of Court and may thus be unreliable; and it appearing that the responsibilities of the Office of Foreclosure in the Administrative Office of the Courts, which processes uncontested foreclosure actions on behalf of the General Equity Part pursuant to R. 1:34-6, including actions deemed uncontested after vicinage judges have resolved disputed claims, are being negatively affected by the doubts raised concerning the reliability of the documents submitted by the above-listed Foreclosure Plaintiffs; and it appearing to the court from the public record summarized in the Administrative Order of Judge Grant of December 20, 2010, that a review of existing practices of these Foreclosure Plaintiffs is essential to protect the integrity of foreclosure complaint processing through the New Jersey courts; and it appearing to the court that appointment of a Special Master pursuant to R. 4:41-1 is necessary to inquire into the foreclosure document execution practices of the Foreclosure Plaintiffs listed above and their subsidiaries, servicers, subservicers, specialty servicers, or outsource firms acting on their behalf, and to evaluate and report to the court on the remediation steps planned or taken by the Foreclosure Plaintiffs listed above, which evaluation will require an in-depth review of the Plaintiffs' policies, procedures, processes and systems to

ensure that sufficient, properly trained staff and adequate quality controls are in place to satisfy compliance with the Rules of Court and laws of New Jersey, and to prevent and/or cure any potential fraud upon the court, and to ensure that Plaintiffs' employees, agents, servants or third-party independent contractors acting on their behalf follow proper policies, procedures and processes:

IT IS on this 20th day of December, 2010, **ORDERED** that:

1. The Foreclosure Plaintiffs named in this Order shall appear and show cause on the 19th day of January, 2011, before the Superior Court, Chancery Division, General Equity Part, 210 South Broad Street, Trenton, New Jersey at 9:30 o'clock in the forenoon, or as soon thereafter as counsel can be heard, as to whether there are any reasons why the court should not:

   A. Direct the Office of Foreclosure to suspend the processing of orders and judgments in uncontested residential mortgage foreclosure actions where the Foreclosure Plaintiffs named in this Order, or their subsidiaries, servicers, subservicers, specialty servicers, or outsource firms acting on their behalf, are now servicing or have previously serviced the mortgage loan, pending further order of the court.

   B. Direct the Superior Court Clerk not to issue writs of execution or writs of possession where the Foreclosure Plaintiffs named in this Order or their subsidiaries, servicers, subservicers, specialty servicers, or outsource firms acting on their behalf, are now servicing or have previously serviced the mortgage loan, pending further order of the court.

   C. Direct that all pending Sheriffs' sales based on judgments associated with the Foreclosure Plaintiffs named in this Order or their subsidiaries,

servicers, subservicers, specialty servicers, or outsource firms acting on their behalf, that are now servicing or have previously serviced the mortgage loan, be stayed pending further order of the court.

D. Appoint a Special Master in accordance with R. 4:41-1 to perform the following duties:

i. To inquire into and report to the court on the extent of irregularities concerning affidavits, certifications, assignments and other documents from time to time filed with the court in residential mortgage foreclosure actions by the Foreclosure Plaintiffs.

ii. To inquire into and report to the court on the past business practices of the Foreclosure Plaintiffs and their subsidiaries, servicers, subservicers, specialty servicers, outsource firms, lawyers, or law firms acting on their behalf, for processing foreclosure pleadings and documents needed for court, including the role and responsibility of various persons referred to as robo-signers, who are or were executing affidavits, certifications, assignments or other documents submitted to the court.

iii. To inquire into and report to the court on the present business practices of the Foreclosure Plaintiffs and their subsidiaries, servicers, subservicers, specialty servicers, outsource firms, lawyers, or law firms acting on their behalf, for processing foreclosure pleadings and documents needed for court, including any remediation proposals or corrective actions taken and the

appropriateness of any present business model, remediation proposal or corrective action.

iv. To report to the court on the conformance to the court rules of the amended documents submitted by the Foreclosure Plaintiffs and their subsidiaries, servicers, subservicers, specialty servicers, outsource firms, attorneys or law firms acting on their behalf in light of improvements to their business processes, remediation proposals or corrective actions and whether the usual processing of residential mortgage foreclosure actions by the Office of Foreclosure should resume.

v. To report to the court whether sanctions should be imposed on the Foreclosure Plaintiffs and their subsidiaries, servicers, subservicers, specialty servicers, outsource firms, attorneys or law firms acting on their behalf, and, if so, proposing either a recommended amount or a suggested formula to determine an appropriate sanction.

vi. To report to the court whether the Office of Foreclosure and Superior Court Clerk's Foreclosure Processing Unit should be reimbursed and, if so, the recommended amount, for costs incurred for re-handling and re-processing foreclosure files.

E. Apportion the fees and costs of the attorney appointed in paragraph 2 of this Order and the fees and costs of a Special Master and any staff such Special Master might require among the Foreclosure Plaintiffs named in this Order as well as any other foreclosure plaintiffs or servicers who in

the future may be shown to have prepared invalid documents for submission to the court.

F. Require the Foreclosure Plaintiffs named in this Order to reimburse the Office of Foreclosure and the Superior Court Clerk's Processing Unit for the cost of added handling and processing of deficient and corrected foreclosure documents.

G. Require the Foreclosure Plaintiffs named in this order to produce up-to-date lists, including caption and docket number, of all pending residential mortgage foreclosure actions in which the plaintiffs or their subsidiaries, subservicers, specialty servicers or outsource companies acting on their behalf are servicing mortgages being foreclosed, to assist the Office of Foreclosure and the Superior Court Clerk's Office in implementing this Order.

2. Edward J. Dauber, Esquire, Greenberg, Dauber, Epstein, & Tucker, located at One Gateway Center, Suite 600, Newark, New Jersey 07102, is appointed to respond to the submissions made to the court by the Foreclosure Plaintiffs and to appear before the court on the return date of this Order to Show Cause and in all subsequent proceedings concerning the provisions of this Order to present argument supporting the appointment of a Special Master and the suspension of foreclosure processing for complaints filed by the Foreclosure Plaintiffs pending further order of the court.

3. A copy of this Order shall be served by the Acting Clerk of the Superior Court upon the attorneys for the parties in interest within three (3) days of the date hereof.

4. The Foreclosure Plaintiffs named in this Order shall file and serve an appearance, an answering affidavit, or a motion returnable on the return date of this order to show cause by January 5, 2011. Such appearance, answering affidavit, or motion must be filed with the Acting Clerk of the Superior Court, PO Box 971, 25 Market Street, Trenton, New Jersey 08625, and a copy of the papers must be sent or delivered directly to the chambers of Judge Mary C. Jacobson, P.J.Ch., at 210 South Broad Street, Trenton, N.J. 08625. A copy of all filings must be sent to the attorney appointed in paragraph 2of this Order and to all attorneys who have entered appearances in this matter.

5. The attorney appointed in paragraph 2 of this Order to support the appointment of a Special Master and a suspension of foreclosure processing pending further court order shall file a response to any filings of the Foreclosure Plaintiffs by January 12, 2011. Replies, if any, by the Foreclosure Plaintiffs shall be filed by January 14, 2011.

6. If the Foreclosure Plaintiffs named in this Order do not file and serve opposition to this Order, the application will be decided on the return date and relief may be granted by default, provided that the Acting Clerk of the Superior Court files a proof of service at least three days prior to the return date.

7. The court will entertain argument, but not testimony, on the return date unless the court is requested no later than three (3) days before the return date to allow testimony and agrees to do so.

Mary C. Jacobson, P.J.Ch.

MARY C. JACOBSON, P.J. Ch.