

STERN LAVINTHAL & FRANKENBERG LLC  
105 Eisenhower Parkway - Suite 302  
Roseland, NJ 07068  
(973) 797-1100  
Attorneys for Abacus Federal Savings Bank

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**IN RE APPLICATION BY ABACUS  
FEDERAL SAVINGS BANK TO ISSUE  
CORRECTIVE NOTICES OF  
INTENTION TO FORECLOSE IN  
PENDING UNCONTESTED  
FORECLOSURE ACTIONS.**

**SUPERIOR COURT OF NEW JERSEY**

**CHANCERY DIVISION**

**Docket No: F -029907-12**

**CIVIL ACTION**

**VERIFIED COMPLAINT IN SUPPORT  
OF SUMMARY ACTION TO ISSUE  
CORRECTIVE NOTICES OF INTENT  
TO FORECLOSE**

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Plaintiff Abacus Federal Savings Bank, through their attorneys, Stern, Lavinthal & Frankenberg, LLC, by way of Verified Complaint, hereby says as follows:

1. Abacus Federal Savings Bank (hereinafter "Abacus") is a federally chartered savings bank with an office at 116 NASSAU STREET, 10TH FLOOR, NEW YORK, NY, 10838.
2. Abacus services residential mortgage loans primarily in New York and New Jersey. Abacus services its own loans. Abacus is currently servicing 400 residential mortgage loans in New Jersey, 15 of which are in default. The loans in issue in this action are all held by Abacus.
3. It is Abacus' policy to aggressively address default by contacting borrowers in an effort to resolve the default. Prior to the referral of an action to foreclosure counsel, contact is

attempted with the borrower. Should that contact not result in a resolution of the default, a Notice of Intention to foreclose would be sent to all obligors in accordance with the Fair Foreclosure Act.

4. The Supreme Court of New Jersey issued its opinion in the case of U.S. Bank National Association v Guillaume, 209 NJ. 449 (2012) in February, 2012. That case established that strict compliance with the terms of the Fair Foreclosure Act is required. Taken in tandem with the amendments to the Court Rules which required the execution of a Certification of Diligent Inquiry, any errors in the Notice of Intent to Foreclose would render a case impossible to move forward.
5. On April 4, 2012, the Supreme Court of New Jersey issued an Order which set forth the procedure for addressing any errors or omissions on a Notice of Intent to Foreclose. That procedure requires the filing of an Order to Show Cause and Verified Complaint. This action is being filed in accordance with the procedure set forth by the Court in that Order.
6. Abacus currently has 12 pending foreclosure actions in the State of New Jersey. Of those matters, there are three cases in which while Abacus was the originating lender, the Notices of Intent to Foreclose may be deficient such that a Certification of Diligent Inquiry cannot be executed.
7. Attached as Exhibit A hereto to the is the list of uncontested Foreclosure actions filed by or on behalf of Abacus in which Final Judgment has not been entered, and for which Abacus is seeking an Order permitting the service of a new Notice of Intent to Foreclose. This exhibit also lists the particular deficiency in each of the matters. For each of these matters, Abacus was the originating lender. For each of these matters Abacus sent an NOI to the Property address as well as to the last known address of the obligor as

contained in Abacus' records. All mailings were sent via regular and certified mail. No complaint was filed in any action prior to the expiration of 30 days after the date of the mailing of the NOI.

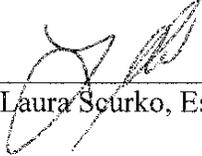
8. Attached as Exhibit B hereto is a true and accurate copy of the form Notice of Intent to Foreclose that Abacus proposes to utilize should the Court grant its request for relief. Abacus Federal Savings Bank will not include attorney fees or costs for the currently pending foreclosure action in the newly issued Notice of Intention to Foreclose.
9. Abacus is seeking the Court's permission to provide an Explanatory letter to each obligor along with the corrective NOI. Attached as Exhibit C is a proposed form of the Explanatory letter which Abacus will cause to have sent to the obligors.

WHEREFORE, Abacus respectfully requests judgment:

- (a) Deeming the form Notice of Intention to Foreclose attached as Exhibit B hereto compliant with the requirements of the Fair Foreclosure Act;
- (b) Permitting Plaintiff to serve new Notice of Intentions to Foreclose, in the form attached as Exhibit B hereto to defendant obligor and/or parties obligated on the underlying debt, for pre-judgment foreclosure actions listed on Exhibit A to this pleading.
- (c) Authorizing Plaintiff to serve the Explanatory Letter as proposed at Exhibit C.
- (d) Any further relief the Court deems equitable and just.

Stern, Lavinthal & Frankenberg, LLC  
Attorneys for ABACUS FEDERAL SAVINGS  
BANK

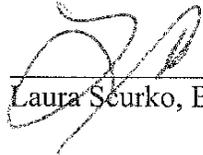
Dated: 12-14-12

  
By: Laura Scurko, Esq

CERTIFICATION

I certify pursuant to Rule 4:5-1 that, to the best of my knowledge, this matter is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated, other than the pending foreclosure actions on Exhibit B hereto. I further certify that I am unaware of any non-party who should be joined in this action pursuant to Rule 4:28 or who is subject to joinder pursuant to Rule 4:29-1(b) because of potential liability to any party based on the same transactional facts.

12-14-12

  
\_\_\_\_\_  
Laura Scurko, Esq.

VERIFICATION

STATE OF NEW YORK )

COUNTY OF New York )

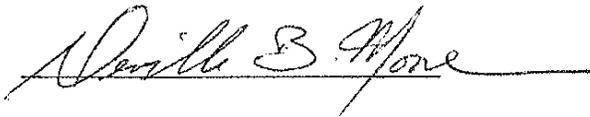
I, Edward Cheung, of full age certify as follows:

1. I am an Assistant Vice President of ABACUS FEDERAL SAVINGS BANK.
2. I have read the contents of the Verified Complaint and verify the statements contained therein are true to the best of my knowledge and personal information.
3. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12/7/2012

  
Edward Cheung  
Assistant Vice President  
Abacus Federal Savings Bank

Sworn to before me DECEMBER  
This 7 day of ~~November~~, 2012



NEVILLE B. MOORE  
Notary Public, State of New York  
No. 01M05048562  
Qualified in Kings County  
Commission Expires Aug. 28, 2013

EXHIBIT A

The following is a list of files in which Plaintiff is seeking to issue corrective Notices of Intent to foreclose

VICINAGE	DOCKET NUMBER	DEFENDANT NAME	DEFICIENCY IN NOI
BERGEN	F-29293-10	SOBERANO, ALEJANDRO EDGARDO C., SOBERANO, ALFONSO GODOFREDO, III	IDENTIFICATION OF LOAN
BERGEN	F-28837-10	SOBERANO, ALEJANDRO EDGARDO C., SOBERANO, ALFONSO GODOFREDO, III	IDENTIFICATION OF LOAN
UNION	F-21765-10	ZHENG, QI XIU	CALCULATION OF AMOUNT OF TIME TO REINSTATE

EXHIBIT B

PROPOSED COPY OF NOTICE OF INTENT TO FORECLOSE

Via Certified Mail:

[Date]

[Name]  
[Address]  
[City, State, Zip]

Re: Mortgage Encumbering Real Property Located at:

[Collateral Address]  
[Account Number]

NOTICE OF INTENT TO ACCELERATE AND FORECLOSE

Dear Borrower:

The Mortgage Note you executed on [Contract Date] in the original amount of [Original Amount] which is secured by a First mortgage on the above referenced property is in default.

This letter is to inform you that you are in default of your obligations pursuant to the above referenced obligation for failure to pay the regular monthly payment due from [Next Payment Date].

You have the right to cure the default as provided in Section 5 of the Fair Foreclosure Act, Title 2A, Chapter 50 of the New Jersey Statutes. In order to cure your default, you must pay to the lender identified below the sum of [Amount Due] on or before [65 days from the date of notice]. All payments must be tendered in the form of certified check, money order or cashier's check.

All payments should be made to: Abacus Federal Savings Bank, 104-116 Nassau Street, New York, NY 10038.

If you do not cure the default set forth by the date specified, the lender may take steps to terminate your ownership interest in the above referenced property by commencing a foreclosure suit in the Superior Court of New Jersey. If you fail to cure the default by the above specified date and the lender refers this matter to an attorney for institution of a foreclosure suit in the Superior Court of the State of New Jersey, you still retain the right to cure the default pursuant to Section 5 of the Fair Foreclosure Act up to the time of the entry of a final foreclosure judgment or an order of redemption, but you shall be responsible for the lender's court costs and attorney's fees in an amount not to exceed that amount permitted pursuant to the rules governing the courts of New Jersey.

You have the right to transfer the real estate to another person subject to the mortgage and the transferee has the right to cure the default as provided in the Fair Foreclosure Act, subject to the terms and conditions of the mortgage.

You are advised to seek counsel from an attorney of your own choosing concerning your residential mortgage default situation. If you are unable to obtain an attorney, you may communicate with the New Jersey Bar Association or Lawyer Referral Service in the county in which your property is located. If you are unable to afford an attorney, you may communicate with Legal Services Office in the county in which your property is located. (A list of Legal Services Offices is attached).

You may be eligible for financial assistance for curing your default pursuant to programs operated by the state or federal government or non-profit organizations, as identified by the Commissioner of Banking. A list of such programs promulgated by the Commissioner is attached thereto.

The current holder/servicer of your Note and Mortgage is Abacus Federal Savings Bank.

You may contact a loan representative at Abacus Federal Savings Bank, Mortgage Servicing Department, 104-116 Nassau Street, New York, NY 10038 or by telephone 212-266-8910, if you disagree with the lender's assertion that a default has occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default.

#### IMPORTANT NOTICE CONCERNING YOUR RIGHTS

Unless you notify us in writing within thirty (30) days after receipt of this letter that the debt, or any part of it, is disputed, we will assume that the debt is valid. If you do notify us in writing within thirty (30) days after receipt of this letter that you dispute the debt or any part of it, we will obtain verification of the debt and mail it to you. Also, upon your written request within thirty (30) days after receipt of this letter, we will provide you with the name and address of the original creditor if different from the current creditor. This letter is an attempt to collect a debt and any information obtained will be used for that purpose.

ABACUS FEDERAL SAVINGS BANK

BY: \_\_\_\_\_  
Neville B. Moore  
Assistant Manager-Loan Servicing

Cc: Regular mail

Schedule B

**Fair Foreclosure Act Notice of Intention to Foreclose - List of Entities Providing Assistance**

The following is a list of governmental and non-profit entities that may provide financial assistance or counseling to borrowers in foreclosure.

<p><b>American Credit Alliance, Inc.</b> 26 S. Warren St. Trenton, NJ 08608 609-393-5400</p>	<p><b>Atlantic Human Resources, Inc.</b> 1 S. New York Ave. Atlantic City, NJ 08401 609-348-4131</p>	<p><b>Consumer Credit Counseling Service of Central New Jersey</b> 1931 Nottingham Way Hamilton, NJ 08619 609-586-2574</p>
<p><b>Consumer Credit Counseling Service of New Jersey</b> 185 Ridgedale Ave. Cedar Knolls, NJ 07927-1812 973-267-4324</p>	<p><b>Fair Housing Council of Northern New Jersey</b> 131 Main St. Hackensack, NJ 07601 201-489-3552</p>	<p><b>Garden State Consumer Credit Counseling, Inc.</b> 225 Willowbrook Road Freehold, NJ 07728 1-800-992-4557</p>
<p><b>Jersey Counseling &amp; Housing Development, Inc.</b> 29 S. Blackhorse Pike Blackwood, NJ 08012 856-227-3683</p>	<p><b>Jersey Counseling &amp; Housing Development, Inc.</b> 1840 S. Broadway Camden, NJ 08104 856-541-1000</p>	<p><b>Mercer County Hispanic Association</b> 200 E. State St., 2nd Floor Trenton, NJ 08607 609-392-2446</p>
<p><b>Middlesex County Economic Opportunities Corporation</b> 1215 Livingston Ave. North Brunswick, NJ 08902 732-780-3344</p>	<p><b>Monmouth County Human Services Housing Services Unit</b> P.O. Box 3000 Freehold, NJ 07728 732-431-7998</p>	<p><b>NJ Citizen Action (main office/financial education center)</b> 744 Broad St., Suite 2080 Newark, NJ 07102 973-643-8900 1-800-NJ-OWNER (loan counseling) 1-888-TAXES-11 (free tax preparation assistance)</p>
<p><b>NJ Citizen Action (Central Jersey)</b> 85 Raritan Ave., Suite 100 Highland Park, NJ 08904 732-246-4772</p>	<p><b>NJ Citizen Action (South Jersey)</b> 2 Riverside Drive, Suite 362 Camden, NJ 08103 856-966-3091</p>	<p><b>Ocean Community Economic Action Now, Inc.</b> 22 Hyers St. Toms River, NJ 08753-0773 732-244-2351, ext. 2</p>
<p><b>Paterson Coalition for Housing, Inc.</b> 262 Main St., 5th floor Paterson, NJ 07505 973-684-5998</p>	<p><b>Paterson Task Force for Community Action, Inc.</b> 155 Ellison St. Paterson, NJ 07505 973-279-2393</p>	<p><b>Puerto Rican Action Board Housing Coalition Unit</b> 90 Jersey Ave. New Brunswick, NJ 08903 732-249-9700</p>
<p><b>Tri-County Community Action Agency, Inc.</b> 110 Cohansey St. Bridgeton, NJ 08302 856-451-6330</p>	<p><b>Urban League for Bergen County</b> 106 W. Palisade Ave. Englewood, NJ 07631 201-568-4988</p>	<p><b>Urban League for Essex County</b> 508 Central Ave. Newark, NJ 07101 973-624-9535</p>
<p><b>Urban League of Union County</b> 288 N. Broad St. Elizabeth, NJ 07208 908-351-7200</p>	<p><b>Homelessness Prevention Program</b> New Jersey Department of Community Affairs (866) 889-6270*</p>	

\*Basic eligibility is limited to: (a) single family owner/occupied dwellings with all those on the deed and mortgage occupying the house; (b) no more than one mortgage or lien encumbrance on the property; (c) no initiated or ongoing bankruptcy. Assistance will be in the form of a loan, and a lien will be placed on the property. The family must document the financial reason for nonpayment. At the time of the eligibility decision, the household must have and document income sufficient to support the household and repay the loan. There is a fee for the credit check and property search.

**EXHIBIT C**

**EXPLANATORY LETTER**

**STERN, LAVINTHAL & FRANKENBERG LLC**

**COUNSELLORS AT LAW**

**105 Eisenhower Parkway, Suite 302**

**Roseland, New Jersey 07068**

**(973) 797-1100**

**Telecopier (973) 228-2679**

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**DATE**

**PLEASE READ THIS LETTER AND THE ENCLOSED DOCUMENTS CAREFULLY, AS THEY  
CONTAIN IMPORTANT INFORMATION CONCERNING YOUR RIGHTS**

Defendant Name

Defendant Address

Defendant City, State Zip Code

RE: Order to Show Cause and Docket Number: CAPTION AND DOCKET  
NUMBER

Your foreclosure Action: CAPTION AND DOCKET NUMBER

Dear Borrower:

Please be advised that the New Jersey Supreme Court recently held in U.S. Bank, N.A. v Guillaume, 209 N.J. 449 (2012) that mortgage lenders seeking to foreclose must comply with the New Jersey Fair Foreclosure Act's requirement that a Notice of Intention to foreclose set forth the name and address of the lender.

**Why You Are Receiving this Letter**

You are receiving this letter because you are the defendant in a pending foreclosure action, and it is believed that the Notice of Intention to Foreclose served upon you prior to the commencement of the foreclosure action did not comply with the requirements of the Fair Foreclose Act.

By the Court's Order to Show Cause dated \_\_\_\_\_, 2012 and in compliance with the Supreme Court's opinion in U.S. Bank N.A. V Guillaume, Hon \_\_\_\_\_ gave permission to Abacus Federal Savings Bank to serve, along with the Order to Show Cause and Verified Complaint, corrected Notices of Intention to foreclose on all defendant mortgagors or parties obligated on the debt in

pending foreclosure actions filed before February 28, 2012 in which Abacus Federal Savings Bank is the plaintiff and/or servicer.

**Information about the Order to Show Cause and Verified Complaint**

Enclosed with this letter are copies of the Order to Show Cause and Verified Complaint. The Verified Complaint lists all of the matters for which Abacus Federal Savings Bank is seeking to issue new Notices of Intention to Foreclose.

The attachments to the Verified Complaint which lists the foreclosure actions, in which lenders are Plaintiffs, will be made available on the New Jersey Courts website at <http://www.judiciary.state.nj.us>. If you are unsure of the docket number for your foreclosure action, you can access that information on the court's website on the attached exhibits to the verified complaint by entering your name on the automatic search field of the Court's website. If you do not have access to a computer or have trouble locating that information on the Court's website you can contact a representative of Abacus Federal Savings at \_\_\_\_\_ who can assist you in locating the information about your foreclosure.

**Information About the Corrected Notice of Intention to Foreclose**

Also enclosed with this letter is the corrected Notice of Intention to Foreclose. It allows you an additional 30 days in which to cure the default without having to pay the plaintiff's court costs and attorney's fees. It also sets forth important information about your loan, including information on how you can cure the default; the consequences of failing to cure the default; contact information for the plaintiff; and information about retaining counsel and borrower assistance. If you fail to cure the default by the date set forth in the corrected Notice of Intention to Foreclose, the foreclosure action against you will proceed

With the passage of time since the foreclosure action was filed against you, the lender on your loan may have changed from the named plaintiff in the foreclosure action. The corrected Notice of Intention to Foreclose lists the name and address of the current lender on your loan.

**Questions about the Notice of Intention to Foreclose**

Should you have question with regard to your loan or the corrected Notice of Intention to foreclose, please contact Abacus Federal Savings Bank at \_\_\_\_\_. Additional contact information is provided in the corrected Notice of Intention to Foreclose.

**How to file an Objection**

You have the right to object to the enclosed Order to Show Cause (the process by which the court gave the plaintiff permission to serve the corrected Notice of Intention to Foreclose). To do so, you must file a written objection under the docket number for the Order to Show Cause.

You also have the right to object to the enclosed corrected Notice of Intention to Foreclose. To do so, you must file a written objection under the docket number for the foreclosure action in your individual case.

For either type of objection, you must set forth with specificity the basis of the objection, and file the objection with the Superior Court Clerk's Office at the following address within 30 days:

Superior Court Clerk's Office, Foreclosure Processing services  
Attention: Objection to NOI  
PO Box 971  
Trenton, NJ 08625

You must also serve a copy of the objection on the plaintiff's attorney, Laura Scurko, Esq, at Stern, Lavinthal & Frankenberg, LLC, 105 Eisenhower Parkway, Suite 302, Roseland, NJ 07068, and mail a copy of the objection to the following Judge:

Hon. Paul Innes,  
Chancery Division, General Equity Part  
Mercer County Superior Court,  
Civil Courthouse, P.O. Box 8068  
175 S. Broad Street  
Trenton, NJ 08650-0068

Your personal appearance at the Superior Court' Clerk's Office or your local courthouse will not qualify as an objection. A telephone call will not protect your rights; you must file your objection and serve it on the plaintiff's attorney if you want the court to hear your objection to the relief the plaintiff is seeking. If you file a specific written objection, the case will be sent to a Judge for resolution. You will be informed by the Judge of the time and place of the hearing your objection.

Questions about filing an Objection:

Should you have any questions related to the procedure for filing an objection, please visit the New Jersey Court on Line Self Help Center at [http://www. Judiciary.state.nj.us/prose/index.htm](http://www.Judiciary.state.nj.us/prose/index.htm). You may also contact the Superior Court Clerk's office at (609-421-6100 or at [SCCOForeclosure.Mailbox@judiciary.state.nj.us](mailto:SCCOForeclosure.Mailbox@judiciary.state.nj.us).

Very truly yours,

Stern, Lavinthal & Frankenberg, LLC

Enclosures:     Corrected Notice of Intent to Foreclose  
                         Order of the Superior Court





