

PHELAN HALLINAN & DIAMOND, PC

By: Vladimir Palma, Esquire
400 Fellowship Road, Suite 100
Mount Laurel, NJ 08054
(856) 813-5500
Attorneys for Plaintiff

IN RE NOTICES OF INTENTION TO
FORECLOSE SERVED BY WEICHERT
FINANCIAL SERVICES

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

DOCKET NO: F-038366-13

CIVIL ACTION

**ORDER TO SHOW CAUSE TO
PROCEED SUMMARILY PURSUANT
TO R. 4:67-2**

This Matter being brought before the court by the law firm of Phelan, Hallinan & Diamond, P.C., attorneys for plaintiff, Weichert Financial Services, seeking relief by way of summary action as set forth in Chief Justice Stuart Rabner's April 4, 2012 Order and based upon the facts set forth in the Verified Complaint filed herewith; and the Court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to R. 4:67-2 and for good cause shown;

IT IS on this ____ day of ____, 2013,

ORDERED that the parties in interest listed in Exhibit B of the Certification of _____ appear and show cause on the ____ day of _____, 2013 before the Honorable _____, Superior Court, Chancery Division, at the _____ County Courthouse in _____, New Jersey at ____ o'clock, why judgment should not be entered as follows:

- A. Allowing Weichert Financial Services to send new Notices of Intention to Foreclose in the form attached to the Verified Complaint, giving the borrower(s) at least thirty days from the date the letter is mailed to cure the default on the mortgage without having to pay legal fees or costs; and
- B. Granting such other relief as the court deems equitable and just.

IT IS FURTHER ORDERED that;

1. Plaintiff shall serve a copy of this Order to Show Cause and Verified Complaint upon all individuals obligated on the Note secured by a Mortgage on residential property that is the borrower's or their immediate family's, principle residence. Service shall be effectuated by certified mail to the property address and the last known address (if different) in plaintiff's records.
2. A copy of this Order to Show Cause and Verified Complaint shall be posted on the Judiciary Web Page at www.judiciary.state.nj.us.
3. A true copy of this Order to Show Cause, Verified Complaint, and Certification (without exhibits), shall be served upon the parties in interest listed in Exhibit "B" of the Certification of _____ by certified mail, return receipt requested (or by registered mail, return receipt requested with respect to any party in interest who resides outside the United States) and by regular mail. All other interested parties shall be served by publication as outlined in this Order.
4. Along with this Order to Show Cause, Plaintiff may serve the corrective Notice of Intention to Foreclose allowing the borrower at least thirty days to cure the default on the subject mortgage without having to pay attorneys fees or costs, in a form as set forth in Exhibit A of the the Verified Complaint. Plaintiff shall also serve a Cover Letter in the

form set forth in Exhibit D of the Certification of Vladimir Palma, Esquire in the Verified Complaint.

- a. For any borrower in an active Bankruptcy case where the provisions of the automatic stay are still in place, Plaintiff may serve a copy of this Order to Show Cause and verified Complaint but may choose to delay serving a corrective Notice of Intention to Foreclose until such time that the stay is vacated, if it believes that doing so will violate the automatic stay.
- b. If the Court grants final relief on the return date of this Order to Show Cause and plaintiff has not already sent a corrective Notice of Intention to Foreclose, Plaintiff shall serve the corrective Notice of Intention to Foreclose, Plaintiff shall serve the corrective Notice of Intention to Foreclose once the provisions of the automatic stay in the bankruptcy case are no longer in place. In the alternative, Plaintiff may apply to the United States Bankruptcy Court for relief from the provisions of the automatic stay to effectuate service of the corrective notice of Intention to Foreclose pursuant to this Order.
- c. In the event that Plaintiff does not serve a corrective Notice of Intention to Foreclose with this Order to Show Cause, Plaintiff may not proceed with a foreclosure action until such Notice of Intention is served as authorized by this Court's Order.
- d. If Plaintiff believes that service of this application will be a violation of the provisions of the automatic stay, once the stay is vacated, Plaintiff may file a motion with the Chancery Judge in the vicinage where their property lies requesting permission to send a new Notice of Intention to Foreclose. Plaintiff

shall not be required to file a new Order to Show Cause for cases currently in bankruptcy.

5. Plaintiff shall publish the legal notice of this action as set forth in Exhibit C to the certification of Vladimir Palma, Esq. on at least two days prior to ____ _ ____ in the following newspapers:

- a. Star Ledger
- b. Bergen Record
- c. The Press of Atlantic City
- d. The Gloucester County Times

6. The Court will only entertain objections to the process outlined in the Supreme Court's April 4, 2012 Order. Any party in interest who wishes to object to the process shall file the objection, **in writing**, with the:

Clerk of the Superior Court, Foreclosure Processing Services
Attention: Objection to Notice of Intention to Foreclose
Hughes Justice Complex
25 Market Street
PO Box 971
Trenton, NJ 08625-0971

A copy of the objection to the Order to Show Cause must also be sent to:

Honorable Margaret Mary McVeigh, P.J.Ch.
Passaic County Courthouse
71 Hamilton Street, Chambers 100
Paterson, NJ 07505

Honorable Paul Innes, P.J.Ch.
Mercer County Civil Courthouse
175 South Broad Street
Trenton, NJ 08650

A copy of the objection to the Order to Show Cause must also be served upon the attorney for the Plaintiff at:

Vladimir Palma, Esq.
Phelan, Hallinan & Diamond, P.C.
400 Fellowship Road
Suite 100
Mount Laurel, NJ 08054

Objections to this order to show cause must state with specificity the basis for the objection and must be filed in writing no later than _____ . 2013.

7. If a timely objection is not filed, the matter may proceed to judgment in accordance with the Rules of Court.
8. Any objection in regard to a specific NOI in a specific foreclosure case must be filed in writing **under the docket number of in individual action, NOT under this Order to Show Cause**. Any objection must state the basis for the objection with specificity and be filed and served as set forth in Paragraph 6 above. Objections to a specific NOI will be referred to the Chancery Court in the vicinage in which the property lies for resolution.
9. Parties in interest are hereby advised that a telephone call to the Plaintiff, to the Plaintiff's attorney, to the Office of Foreclosure, or to the Court will not protect your rights; you must file and serve your written objection as outlines in this Order.
10. If you cannot afford an Attorney, you may call the Legal Services Office in the county in which you live. If you do not have an attorney or are not eligible for free legal assistance through the Legal Services Office (or such office does not provide services for this particular type of proceeding), you may obtain a referral to an attorney by calling one of the Lawyer Referral Services.

11. If no party in interest timely files an serves a response to this Order to Show Cause as provided for above, the application may be decided by the Court on the date this matter is scheduled to be heard, and may be decided on the papers without a hearing, provided that the Plaintiff has filed a proof of service and a proposed form of judgment as required by this Order to Show Cause.
12. If written objection to this Order to Show Cause is filed, the Plaintiff's written reply shall be filed and served by _____, 2013. A copy of the reply, if any, shall be served upon the Clerk of the Superior Court, with a courtesy copy directly to the Honorable _____. Plaintiff is only required to serve its response upon any party or parties who have filed written objections to this Order to Show Cause.
13. Plaintiff shall submit to the Court an original and two copies of a proposed form of judgment addressing the relief sought on the date this matter is scheduled to be heard no later than ____ days before the date this matter is scheduled to be heard.
14. The Plaintiff shall file proof of service of the Verified Complaint, this Order to Show Cause, and all supporting documents with the Office of Foreclosure no later than nine (9) days before the return date of this matter.
15. The court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the court advised to the contrary no later than _____ days before the return date.
