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March 25, 2013

Via Jefis and NJLS

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

**RE: IN RE APPLICATION OF STURDY SAVINGS BANK TO ISSUE
CORRECTIVE NOTICES OF INTENTION TO FORECLOSE IN
PENDING UNCONTESTED FORECLOSURE ACTIONS**

Dear Judge Innes:

Stern, Lavinthal & Frankenberg, LLC represents Sturdy Savings Bank in the filing of a Verified Complaint and Order to Show Cause which seeks an Order of the Court permitting it to serve corrected Notices of Intent to Foreclose (hereinafter "NOI") on some of its pending uncontested pre final judgment actions. The pleadings filed herein, are filed pursuant to the decision of the Court in U.S. Bank v. Guillaume, 209 N.J. 449 (2012) and the procedure established by the April 4, 2012 Order of Justice Stuart Rabner.

That procedure authorizes the Court to entertain summary actions by Order to Show Cause as to why lenders or servicers who have served NOIs which may be deemed less than fully compliant with the Fair Foreclosure Act, should not be allowed to issue corrected NOIs to the obligor defendants in pre final judgment actions. The Order of April 4, 2012 also requires that a

corrected NOI be accompanied by correspondence advising the obligor defendant of the following information: the reasons why the corrected NOI is necessary; the procedure in place for the filing of an objection to the corrected NOI by the defendant/obligor; the name of a contact who can respond to questions of the Defendant/obligor; a statement that the receipt of the corrected NOI permits the obligor defendant 30 days in which he/she may either cure the default or object to the issuance of the corrected NOI. A form of letter which will explain the procedure in accordance with the April 4, 2012 notice of the Court is attached as Exhibit C to the Verified Complaint.

The Guillaume Court established that dismissal was not the sole remedy for the service of an NOI which was not strictly compliant with the Fair Foreclosure Act. While the deficiencies in some of the NOI's for which Sturdy Savings Bank is seeking permission to re breach do not involve the naming of the lender and/or servicer as in Guillaume, the deficiencies could be interpreted as preventing the execution of a Certification of Diligent Inquiry. Therefore, Sturdy Savings Bank is seeking an Order of the Court allowing for the re breaching of these files as well.

Sturdy Savings Bank is a state chartered bank which services residential mortgages primarily in Cape May and Atlantic Counties. Sturdy Savings Bank services its own loans and services some loans held by others. None of Sturdy Savings Bank's loans are serviced by other entities. It is the policy of Sturdy Savings Bank to diligently work with the borrowers in an effort to resolve the default. Sturdy Savings Bank is a conservative lender, which utilizes foreclosure only as a last resort. Once efforts to address the default have proven less than

Fruitful, an NOI is sent to the obligors in accordance with the Fair Foreclosure Act, N.J.S.A. 2A:50-56.

The NOI in use by Sturdy Savings Bank has been revised to comply with the Court's ruling in the case of U.S. Bank v. Guillaume, 209 N.J. 449 (2012), and to enable counsel to sign a Certification of Diligent Inquiry in accordance with recent revisions to the Rules of Court. (See the paragraph 9 to the Verified Complaint). The proposed NOI is attached as Exhibit B to the Verified Complaint. The cases listed on Exhibit A to the Verified Complaint are those which Sturdy Savings Bank is seeking to send out a corrective NOI. It is respectfully urged that in each case, the summons and complaint was served. Thus, for each case, there has been an opportunity for the obligor defendant to address the default. To date, none of these loans has been reinstated.

Plaintiff proposes to send the corrective NOI accompanied by an Explanatory Letter, which is attached as Exhibit C to the Verified Complaint. It is respectfully submitted that the proposed NOI complies with the Fair Foreclosure Act, and that the Explanatory Letter is in compliance with the tenets expressed in the April 4, 2012 Order of the Court. It is further respectfully urged that the corrective NOI is not prejudicial to the obligor defendants in that the reinstatement figure incorporated in the NOI will not include any attorney fees and costs which have been incurred in the pending foreclosure action.

Should the Court enter the Order proposed by Sturdy Savings Bank, counsel will publish a notice in the form attached to the Certification of Laura Scurko, Esq., attached hereto. In light of the fact that the loans which are included in this matter are all venued in Cape May County, it is

respectfully urged that the publication requirements be relaxed, so as to require that the notice only be published in the Atlantic City Press and the Gloucester Times.

It is respectfully urged that this Court grant the relief sought and that it order that if the Defendant Obligor fails to cure the default or object in a timely manner to the service of the NOI, that the case should proceed to Final Judgment as an uncontested matter.

Respectfully submitted,
STERN, LAVINTHAL, & FRANKENBERG, LLC


Laura Scurko, Esq.

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