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August 18, 2011

Via Hand Delivery

The Honorable Walter R. Barisonek  
Union County Courthouse  
Courtroom 101  
2 Broad Street  
Elizabeth, New Jersey 07207

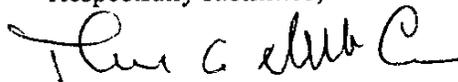
**Re: *Third Joint Submission of HSBC, Household and Beneficial entities in response to Judge Barisonek, Docket No. F-238-11***

Dear Judge Barisonek:

This firm represents HSBC Bank USA, N.A., HSBC Mortgage Corporation (USA), Beneficial Financial I Inc., successor by merger to Beneficial New Jersey, and Household Finance Corp. III, misidentified in Administrative Order 01-2010 as Household Finance Co. (collectively, HSBC).

Enclosed is HSBC's third submission pursuant to Administrative Order 01-2010, which is made in response to Your Honor's supplemental request for information during our July 14, 2011 conference.

Respectfully submitted,



THOMAS A. DELLA CROCE

Encl.

-cc: Superior Court Clerk (w/ enclosure via e-mail)

IN THE MATTER OF RESIDENTIAL  
MORTGAGE FORECLOSURE  
PLEADING AND DOCUMENT  
IRREGULARITIES

Administrative Order 01-2010  
Docket No. F-00238-11

**SECOND SUPPLEMENTAL  
CERTIFICATION OF SCOTT A.  
WHITNEY  
IN RESPONSE TO THE HONORABLE  
WALTER R. BARISONEK**

SCOTT A. WHITNEY, being of full age, hereby certifies and states as follows:

1. I am a Vice President of CML Default Services at HSBC Consumer and Mortgage Lending. I have held this position for approximately three years and am responsible for management and oversight of the foreclosure process for all HSBC real estate entities. I have been employed by various HSBC entities since September 2002.

2. I make this Certification on behalf of HSBC Bank USA, N.A. ("HSBC Bank"), HSBC Mortgage Corporation (USA) ("HSBC Mortgage"), Beneficial Financial I Inc., successor by merger to Beneficial New Jersey ("Beneficial"), which assigned its servicing responsibilities to HSBC Bank as of June 13, 2011, and Household Finance Corp. III, misidentified as Household Finance Co. ("Household," together with Beneficial, "Consumer Lending") (HSBC Bank, HSBC Mortgage, Beneficial and Household are collectively referred to herein as "HSBC"). This certification is in response to inquiries by The Honorable Walter R. Barisonek raised during a meeting with HSBC's counsel on July 14, 2011 pursuant to the Administrative Order 01-2010 issued by the Honorable Glenn A. Grant, Acting Administrative Director of the Courts, dated December 20, 2010 as modified by the Supplemental Administrative Order dated January 31, 2011 (collectively, the "Administrative Order"). The policies and procedures discussed below apply to each of these HSBC entities unless specifically noted otherwise.

3. I am authorized to make this Certification on behalf of HSBC and I am fully familiar with the facts set forth herein through my personal knowledge and from my personal review of HSBC's business records, which HSBC maintains in the ordinary course of its business.

#### **Introduction**

4. HSBC views foreclosure of a residential mortgage loan as an option of last resort. As described in previous submissions to this Court, and in particular the Certification of Donald J. Scarcello dated June 17, 2011 ("Scarcello Certification"), HSBC offers extensive loss mitigation options to defaulting mortgage loan borrowers and makes numerous efforts to work with borrowers to avoid foreclosure through loan modifications or other types of work-out plans.

5. In instances in which other loss mitigation options are unable to resolve a mortgage loan default, HSBC takes appropriate precautions to help ensure that its residential foreclosure process complies with applicable New Jersey law with respect to uncontested cases. Following is a summary of HSBC's policies and procedures relevant to compliance with New Jersey Court Rules 4:64-1 and 4:64-2. This certification supplements the prior certifications submitted to this Court on February 11, 2011 and June 17, 2011.

#### **New Jersey Court Rule 4:64-1**

6. HSBC takes appropriate precautions to help ensure that it complies with the legal requirements of Rule 4:64-1 for foreclosure actions in New Jersey prior to filing a foreclosure complaint.

7. As previously described in the Certification of Susan Wojnar,<sup>1</sup> dated June 16, 2011 ("Wojnar Certification"), mortgage loan information concerning the borrower(s), the real

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<sup>1</sup> See Wojnar Cert ¶ 7

property securing the loan, the material loan terms (such as principal, interest rate, monthly payment and loan duration) are loaded directly into the Record System<sup>2</sup> by the New Loan Setup team when HSBC initiates or acquires a new residential mortgage loan. HSBC's New Loan group performs a quality control check on samples of these entries immediately after input. Copies of the note, mortgage or deed of trust, title policy (when applicable), assignments (if any), and other servicing records are loaded into the Record System, and original loan documents for HSBC asset loans are maintained in HSBC's vault. Payment history, interest, fees and payoff information relating to the mortgage loan are also tracked on the Record System.

8. Following a borrower's default on a residential mortgage loan, HSBC actively seeks work-outs or other resolution with the borrower, as previously described in the Scarcello Certification, to avoid formal foreclosure proceedings. These efforts have resulted in approximately 55% of HSBC's real estate portfolio being modified or re-aged as of December 2010. The loan modification program has provided an average 25% reduction in payment relief to borrowers.<sup>3</sup>

9. Through the Legal Entity Review Team, HSBC performs a legal entity review ("Legal Entity Review") to validate the chain of title for the mortgage from the original lender to the current HSBC entity when an account is delinquent for approximately 60 days. The Legal Entity Review is conducted prior to referral to outside foreclosure counsel in cases in which the loan remains in default and no work-out has been reached for that particular loan. The Legal Entity Review helps ensure that all intervening assignments either are recorded, or prepared and then sent for recording, in order to perfect the chain of title sequence. This is done by reviewing

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<sup>2</sup> As previously defined in the Wojnar Certification at ¶ 15, the HSBC "Record System" collectively refers to the LPS Mortgage Servicing System, MortgageServ, Century II, and Panagon servicing record systems

<sup>3</sup> See Scarcello Cert. ¶ 7

the original loan documents in HSBC's vault, as well as any additional imaged documents on the Record System uploaded (or "boarded") by the HSBC Records Department in the ordinary course of business. The Legal Entity Review Team reviews the note, allonges, endorsements, mortgage, assignments, and any other relevant legal documents. When verifying the chain of title, the Legal Entity Review Team checks that the borrower(s) name(s) and property address from the original executed note and the original recorded mortgage match the information on the Record System.

10. As previously described in the Scarcello Certification, if HSBC's loan modification efforts remain unsuccessful by the time the borrower is 70 days past due, HSBC sends the customer a Notice of Intent to Foreclose consistent with New Jersey's Fair Foreclosure Act.<sup>4</sup>

11. HSBC does not refer a delinquent account (including those it services for other lenders) to outside foreclosure counsel for at least fifty-nine days, and in many instances even longer. For example, delinquent loans owned by HSBC entities are typically not referred to outside foreclosure counsel for approximately 120 days after default. As previously described in the Scarcello and Wojnar Certifications, loan modifications or other work-outs continue to be pursued even after the account is referred to foreclosure counsel.<sup>5</sup>

12. The HSBC Foreclosure Review Department ("Foreclosure Department") conducts an independent review to determine whether the account meets all state, federal and internal requirements for proceeding with a foreclosure action. The review includes a check to confirm that the borrower is in default, that the Notice of Intent letter was issued to the borrower, and that

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<sup>4</sup> See Scarcello Cert. ¶ 11

<sup>5</sup> See Wojnar Cert. ¶ 14 and Scarcello Cert. ¶ 5.

the appropriate loss mitigation efforts have been made. It is only after this review is complete that the matter may be referred to outside foreclosure counsel to commence foreclosure proceedings.<sup>6</sup>

13. Any additional updates relating to an account, such as receipt of a payment, correspondence with the borrower(s) or enrollment in a work-out program, are automatically updated in LPS during the foreclosure process at the time that it is entered into the Record System. If such an update is made on a pending foreclosure file, HSBC notifies foreclosure counsel through the LPS “intercom” function (which is similar to an email) of the change in the borrower’s status and follows up the intercom alert with a telephone call to foreclosure counsel to verify that counsel has received that alert. Foreclosure counsel therefore has contemporaneous access to the most up-to-date information on HSBC’s systems of record relating to mortgages that are in foreclosure and can modify, stay or dismiss such proceedings accordingly.<sup>7</sup>

14. As previously described in the Scarcello Certification, when a loan modification is approved, the loan will be placed “on hold” in HSBC’s Record System until the modification is finalized.<sup>8</sup> In the event that a payment from the borrower or other activity is relevant to a pending foreclosure action against that borrower, HSBC has a Foreclosure Hold Monitoring team that reviews all foreclosure holds for accuracy and helps ensure that holds on mortgage foreclosures are recorded properly in HSBC’s Servicing System and handled appropriately by HSBC’s Foreclosure Department and outside foreclosure counsel.<sup>9</sup> As a result of these

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<sup>6</sup> See Scarcello Cert ¶ 13.

<sup>7</sup> See Wojnar Cert. ¶ 15.

<sup>8</sup> See Scarcello Cert ¶ 7.

<sup>9</sup> See Wojnar Cert ¶ 16

procedural protections, I am unaware of any instance in which a foreclosure sale has been held for a New Jersey residential mortgage loan borrower whose account was on hold.

15. In instances in which a loan modification or other work-out plan is not reached on a mortgage loan that remains in default and foreclosure is deemed appropriate by HSBC's Foreclosure Department, HSBC retains one of a selected panel of four New Jersey law firms that specializes in residential foreclosure law to commence a foreclosure action.

16. Information relating to the delinquent account is loaded onto the secure<sup>10</sup> LPS Desktop ("LPS") communication system to facilitate referral to outside foreclosure counsel. These documents on LPS include, among other things, the note, mortgage, assignments, payment history, payoff statement, the name of the plaintiff entity, and notice of intent to foreclose.

17. HSBC then provides this loan information to outside counsel on LPS to facilitate preparation of the foreclosure complaint.

18. Outside foreclosure counsel has access to the most up to date information regarding the mortgage loan account through LPS, which is automatically and simultaneously updated with any new information for accounts on the Record System.

19. HSBC instructs outside counsel to conduct a title search of the property for the purpose of indentifying any lienholder or other person or entity with an interest in the property that would be subject to the foreclosure. HSBC further instructs outside counsel to perform a military service check on the mortgagor(s).

20. Foreclosure counsel uses the loan documents provided by HSBC and other materials to prepare an initial draft of the foreclosure complaint. Foreclosure counsel then transmits the draft complaint to the HSBC Foreclosure Department for review.

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<sup>10</sup> As described in previous submissions, LPS is password protected and access is restricted to only certain authorized employees and designated foreclosure counsel

21. Upon receipt of the draft complaint, one of approximately 26 Foreclosure Specialists in HSBC's Foreclosure Department prepares a review package that includes all source documents necessary to verify the substantive accuracy of the complaint, including the note, mortgage, assignments (if any), payment history, and any other business records relevant to the information contained in the complaint.

22. The source documents are then delivered to HSBC's Late Stage Default Quality Review Department ("Quality Review Department") for a comprehensive review prior to filing the complaint. The Quality Review Department uses source documents and screen prints from the Servicing System, along with any other documents referred to in the complaint to confirm the accuracy of the content of the complaint. A Quality Review Department checklist assists each reviewer with this task. If all evidentiary documentation is not provided, the complaint is rejected and returned to the Foreclosure Department.

23. In the event that the Quality Review Department identifies any inaccuracies, they are corrected by the Foreclosure Department and then re-reviewed by the Quality Review Department until the complaint is confirmed to be accurate according to HSBC records maintained in the ordinary course of business.

24. To the extent that corrections need to be made, the above process is repeated until the complaint is determined to contain correct information. HSBC Foreclosure Specialists and outside counsel communicate through LPS, e-mail and/or telephone for this purpose in the event that any additional information or clarification is required.

25. After being determined to be accurate, HSBC returns the complaint through LPS for further review by outside foreclosure counsel and filing.<sup>11</sup>

#### **New Jersey Court Rule 4:64-1**

##### **Preparation of Certification of Diligent Inquiry**

26. The HSBC Foreclosure Specialist also communicates to the outside foreclosure counsel that he or she has personally reviewed the complaint and confirmed the accuracy of its content based on HSBC's business records kept in the regular course of business. If HSBC is the servicer of the loan for another lender, then the Foreclosure Specialist also identifies to outside counsel the relationship between HSBC and the plaintiff and confirms that HSBC has authority to act on behalf of the plaintiff. The Foreclosure Specialist reviews the draft complaint, note, mortgage and any assignments relating to the mortgage loan and uses a checklist to confirm that the information in the draft complaint is accurate according to HSBC's business records. If the information is accurate, the Foreclosure Specialist signs and dates the checklist to memorialize his or her personal review of the business records and documents referenced in the foreclosure complaint and transmits the checklist to outside foreclosure counsel to prepare its Certification of Due Diligence pursuant to Rule 4:64-1.

#### **New Jersey Court Rule 4:64-2**

##### **Preparation of Certification of Proof of Amount Due**

27. As described above with respect to filing a complaint, HSBC also takes appropriate precautions to help ensure that the legal requirements of Rule 4:64-2 are satisfied for foreclosure actions in New Jersey, particularly with respect to preparation of the certification of amount due.

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<sup>11</sup> If the complaint is verified, then the original hardcopy is also sent to outside foreclosure counsel

28. HSBC provides to foreclosure counsel through LPS the documents necessary to prepare a draft certification of amount due. As mentioned above, these documents include, among other things, the note, mortgage, assignments, payment history, payoff statement, the name of the plaintiff entity, and the notice of intent to foreclose.

29. Upon receipt of the draft certification, a Foreclosure Specialist in HSBC's Foreclosure Department prepares a review package that includes all source documents necessary to verify the substantive accuracy of the certification, including a print out of the draft certification of amount due, the payoff statement to confirm the financial information for the mortgage loan, and any loan documents, and any other business records relevant to the information contained in the certification.

30. All such documents are then delivered to the Quality Review Department for a comprehensive review prior to execution. The Quality Review Department uses source documents and screen prints from the Servicing System, along with any other documents referred to in the certification to confirm the accuracy of the content of the certification. A Quality Review Department checklist assists each reviewer with this task. If all evidentiary documentation is not provided, the certification is rejected and returned to the Foreclosure Department.

31. In the event that the Quality Review Department identifies any inaccuracies, they are corrected by the Foreclosure Department and then re-reviewed by the Quality Review Department until the certification is determined to be accurate according to HSBC records maintained in the ordinary course of business.

32. HSBC Foreclosure Specialists and outside counsel communicate through LPS, e-mail and telephone in the event that any additional information or clarification is required

33. Accurate certifications are then transmitted to Foreclosure Management for further review and signature.

34. HSBC requires that all certifications in New Jersey residential foreclosure proceedings be executed by an employee at the Manager level or higher. Prior to signing, one of the seven Foreclosure Managers who executes the certification of amount due receives the review package prepared by the Foreclosure Specialist.

35. Each Foreclosure Manager authorized to execute a certification has completed HSBC business records training and has been approved by the director of the Quality Review Department and notice is provided to Quality Review Department management and the corporate secretaries to have the individual added to the approved signing authority list for the relevant HSBC corporate entity.

36. Upon receipt, the Foreclosure Manager reviews the draft certification, including personally reviewing all documents in the package and validates the accuracy of the information contained in the certification. The Foreclosure Manager also verifies through his or her own personal knowledge and/or HSBC's business records that HSBC in fact has authority to execute the certification relating to the mortgage loan at issue. Upon verifying that the information in the certification is correct, the Foreclosure Manager executes the certification.

37. If the Foreclosure Manager's review discovers an error or discrepancy between the information in the certification and the information in the review package, the Foreclosure Manager does not execute the certification, but instead returns the package to the Quality Review Department. After the correct documentation is located and/or the certification is amended to reflect the loan information correctly, the review process is repeated until the Foreclosure Manager, through his or her personal review, is satisfied that the certification is substantively

correct and executes the certification. HSBC then returns the executed certification for further review by outside foreclosure counsel and filing.

38. HSBC instructs its outside foreclosure counsel not to alter or amend certifications that have been executed by HSBC personnel. If subsequent review by outside counsel necessitates any change to a certification or other foreclosure document previously executed by an HSBC employee, HSBC requires the certification to be revised by outside counsel and sent to HSBC for re-execution with the correct information. Under no circumstances do HSBC policies and procedures authorize outside counsel to alter or amend a certification after it has been signed by HSBC.

39. Following review and approval, HSBC's outside counsel typically files the executed certification of proof of amount due and any accompanying motion documents with the Office of Foreclosure in Trenton or the Court before which the foreclosure action is pending.

#### **New Jersey Court Rule 4:64-2**

##### **Preparation of Certification of Diligent Inquiry**

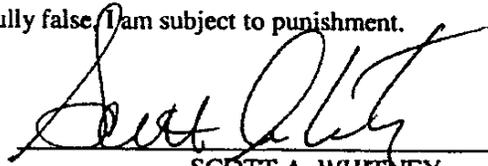
40. The HSBC Foreclosure Specialist also communicates to the outside foreclosure counsel that he or she has personally reviewed the certification of amount due and the original or true copy of the note, mortgage and recorded assignments, if any, submitted with the certification of amount due. The Foreclosure Specialist reviews the complaint, note, mortgage, any assignments, and the draft certification of amount due, and uses a checklist to confirm that the information in the draft certification of amount due is accurate according to HSBC's business records. If the information is accurate, the Foreclosure Specialist signs and dates the checklist to memorialize his or her personal review of the business records and documents referenced in the

certification of amount due and then transmits the checklist to outside foreclosure counsel to prepare its Certification of Due Diligence pursuant to Rule 4:64-2.

41. HSBC's policies and procedures are currently being reviewed by an outside auditor to help ensure that they comply with the mandates of new Rules 4:64-1 and 4:64-2. We expect that review to be completed by the end of September 2011.

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: August 16, 2011

  
SCOTT A. WHITNEY

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IN THE MATTER OF RESIDENTIAL  
MORTGAGE FORECLOSURE  
PLEADING AND DOCUMENT  
IRREGULARITIES

Administrative Order 01-2010  
Docket # F-238-11

**RULE 1:4-4(c) CERTIFICATION**

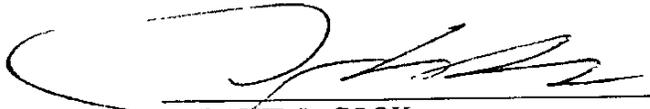
David L. Cook, being of full age, hereby certifies and states as follows:

1. I am an attorney-at-law licensed to practice in the State of New Jersey and am Of Counsel at the law firm Sills Cummis & Gross P.C., attorneys for respondents HSBC Bank USA, N.A., HSBC Mortgage Corporation (USA), Beneficial Financial I Inc , successor by merger to Beneficial New Jersey, and Household Finance Corp. III, misidentified as Household Finance Co (collectively, "HSBC") in the above matter.

2. The accompanying certification of Scott A. Whitney dated August 16, 2011, contains his PDF signature. I certify pursuant to R. 1:4-4(c) that Mr. Whitney has acknowledged the genuineness of his signature and that the original signed document will be filed if requested by the Court.

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: August 18, 2011

  
DAVID L. COOK