

FILED Aug 09, 2013

**JOSEPH A. CHANG & ASSOCIATES, L.L.C.**  
ATTORNEYS AT LAW

JOSEPH A. CHANG \*  
JC@JOSEPHCHANGLAW.COM

MICHAEL A. CASSATA ◊  
MC@JOSEPHCHANGLAW.COM

\* ADMITTED NY/NJ  
◊ CERTIFIED BY THE SUPREME COURT OF  
NEW JERSEY AS A CIVIL TRIAL ATTORNEY



951 Madison Avenue, Paterson, New Jersey 07501  
Tel. (973) 925-2525\* Fax (973) 925-9090  
www.josephchangelaw.com

DAVID R. CUBBY \*  
DC@JOSEPHCHANGLAW.COM

KARENA J. STRAUB \*  
KS@JOSEPHCHANGLAW.COM

JOSEPH M. BIMONTE  
JB@JOSEPHCHANGLAW.COM

August 9, 2013

**VIA JEFIS**

Foreclosure Process Service  
Superior Court Clerk's Office  
25 West Market Street, 6<sup>th</sup> Floor, Northwing  
Trenton, New Jersey 08611

**VIA FEDERAL EXPRESS**

Honorable Paul Innes, P.J.Ch.,  
Mercer County Superior Court  
175 South Broad Street  
Trenton, New Jersey 08650

**Re: In Re Application by Beneficial Financial I, Inc. to Issue Corrected Notice of Intent to Foreclose on Behalf of Indentified Foreclosure Plaintiffs in Uncontested Cases  
Order to Show Cause Docket No. F-015390-13  
Docket No: F-048479-10 (Morris County)**

Dear Judge Innes and Clerk:

This firm is counsel to Defendant Patrick Brigante ("Defendant") in the above captioned matter. Please find enclosed objection to Beneficial Financial I, Inc. Order to Show Cause and Objection to the Proposed Corrective Notice of Intent to Foreclose, which is being filed with JEFIS.

Should you have any questions, please do not hesitate to contact our office. Thank you your attention to this matter.

Very truly yours,  
**JOSEPH A. CHANG & ASSOCIATES, L.L.C.**

/s/ David R. Cubby  
David R Cubby

DRC/em

cc: Ian S. Marx, Esq. (Via Facsimile and Federal Express, with enclosures)

**JOSEPH A. CHANG & ASSOCIATES, L.L.C.**

951 Madison Avenue

Paterson, New Jersey 07501

973-925-2525

*Attorneys for Patrick Brigante*

|  |   |
|--|---|
| <p>IN RE APPLICATION BY BENEFICIAL<br/>FINANCIAL I, INC., ET AL., TO ISSUE<br/>CORRECTED NOTICES OF INTENT TO<br/>FORECLOSE ON BEHALF OF<br/>IDENTIFIED FORECLOSURE<br/>PLAINTIFFS</p> | <p>SUPERIOR COURT OF NEW JERSEY<br/>CHANCERY DIVISION<br/>MERCER COUNTY</p> <p>Docket No.: F-015390-13</p> <p><u>Civil Action</u></p> <p><b>CERTIFICATION OF FILING<br/>AND SERVICE</b></p> |
|--|---|

I, Elizabeth Marriott, am a paralegal at the law firm of Joseph A. Chang & Associates, L.L.C., attorneys for Defendant Patrick Brigante (“Defendant”). I hereby certify that on August 9, 2013, the original of the within Opposition to Beneficial Financial I, Inc. Order to Show Cause caused to be filed with the Clerk, Superior Court of New Jersey, via JEFIS E-Filing.

I further certify that on August 9, 2013, a copy the within Opposition was served upon:

Ian S, Marx, Esq.  
Greenburg Traurig LLP  
200 Park Place  
Post Office Box 677  
Florham Park, New Jersey 07932  
*Counsel for Beneficial Financial I, Inc.*

And

Honorable Paul Innes, P.J.Ch.,  
Mercer County Superior Court  
175 South Broad Street  
Trenton, New Jersey 08650

I hereby 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.

**JOSEPH A. CHANG & ASSOCIATES, LLC**

August 9, 2013

/s/ Elizabeth Marriott

Elizabeth Marriott

**JOSEPH A. CHANG & ASSOCIATES, L.L.C.**

951 Madison Avenue

Paterson, New Jersey 07501

973-925-2525

*Attorneys for Patrick Brigante*

|  |  |
|--|--|
| <p>IN RE APPLICATION BY BENEFICIAL<br/>FINANCIAL I, INC., ET AL., TO ISSUE<br/>CORRECTED NOTICES OF INTENT TO<br/>FORECLOSE ON BEHALF OF<br/>IDENTIFIED FORECLOSURE<br/>PLAINTIFFS</p> | <p>SUPERIOR COURT OF NEW JERSEY<br/>CHANCERY DIVISION<br/>MERCER COUNTY</p> <p>Docket No.: F-015390-13</p> <p><u>Civil Action</u></p> <p><b>OBJECTION TO<br/>ORDER TO SHOW CAUSE</b></p> |
|--|--|

Patrick Brigante, recipient of applicant's Order to Show Cause and defendants in Docket No. F-015390-13 object to Beneficial Financial I, Inc, Beneficial Mortgage Corporation, Household Finance Corporation III, and HSBC Mortgage Services, Inc.'s (collectively HSBC, per Plaintiff's pleadings) order to show cause for the following reasons:

**Objection:** Patrick Brigante is not properly within the class of homeowners identified by the Order to Show Cause.

The order to show cause was authorized specifically for uncontested foreclosure cases. Mr. Brigante filed a contesting answer in Docket No. F-048479-10 on January 11, 2011.

A request to reform the Notice of Intent to Foreclose, as is at issue in the pending order to show cause, would be more properly heard by the trial judge, Hon. Stephen Hansbury, of the Morris County Superior Court, Chancery Division. As such, Mr. Brigante objects to being subject to the order to show cause and the permission to file a corrective Notice of Intent to Foreclose. They ask that this Court deny the order to show cause as it directly effects the defendants of Docket No. F-048479-10. This request is brought before the wrong court and must be withdrawn and filed through the contested foreclosure action.

**Objection:** Counsel did not receive notice of the pending action.

Counsel has appeared of record in the underlying foreclosure action referenced in the exhibit to the Order to Show Cause. However, counsel was not notified by HSBC that an Order to Show Cause had been issued which affects the proceedings in the foreclosure matter. Instead, HSBC chose to communicate directly with the clients outside of the presence of counsel in violation of the Rules of Court and the Rules of Professional Conduct. R. 1:5-1 and 2; RPC 4.2.

Counsel's due diligence in searching the voluminous exhibits revealed which clients were subject to the Order.

**Objection:** Notice of Intent deficiency issues have been raised in applications filed under the foreclosure dockets.

Counsel has filed objections to the sufficiency of the Notices of Intent. Counsel has properly brought the issue before the Chancery Court and has been litigating in search of a remedy appropriate to the circumstances of the case. To permit HSBC to correct the Notices of Intent at this point would be fundamentally unfair to the homeowners that have raised the issue, and are either awaiting argument, awaiting an order, or awaiting a final judgment before raising the issue on appeal. Permitting the proposed corrections at this juncture strips the homeowners of the rights they have asserted in presenting the issue as an affirmative defense.

**Objection:** HSBC did not properly serve the identified homeowners.

The Order to Show Cause requires that the packages be sent certified and regular mail to all homeowners identified in the exhibit. The only exception pertained to married borrowers. The certified mail copy of the packages was not received by the homeowners, and it is believed that HSBC only sent the packages via regular mail. Additionally, certain homeowners identified in the exhibits did not even receive the regular mail copy of the package. Counsel's due diligence permits a response on their behalf, but many of the homeowners identified in the exhibit are not represented by counsel and do not have a 3<sup>rd</sup> party protecting their interests.

**Objection:** HSBC has not attached as an exhibit or otherwise served Defendant with a copy of the proposed corrective NOI.

Pursuant to Paragraph 3 of the Order, "HSBC will serve the corrected NOI, the Explanatory Letter, and a copy of this Order to Show Cause..." HSBC has failed to serve the corrected NOI with their OSC package. This would obviously prevent the Defendant from objecting to the NOI's form and contents, and is a direct violation of the Court's order.

**Objection:** HSBC is improperly using judicial resources to address an issue more properly determined by the legislature.

HSBC is attempting to create a safe harbor form with judicial approval. The judiciary, however, should not be asked en masse to approve a business form for a private corporation in an effort to circumvent the normal judicial process. HSBC has brought one action regarding hundreds of borrowers requiring significant time and resources of the judiciary to save their own resources by not bringing each action in the individual matter it affects. This does not constitute judicial efficiency, so much as corporate savings for the movant. If the legislature intended that there be one specific form that addressed all of the issues required by a Notice of Intent to Foreclose, they would have added such a form to the statute. Their declining to do so is not to be seen as an oversight, but as an indication of their intent. In addition, HSBC has failed to comply with the very heart of the order; to serve a corrected NOI. HSBC did not treat this application seriously enough to be entitled to the relief sought.

**Objection:** Nationstar has not provided reliable contact information for questions and concerns.

The Fair Foreclosure Act demands that an individual be named in the Notice of Intent who can address the many concerns a homeowner might have when receiving a notice. HSBC has failed to provide a corrective NOI, and while this violates the Order and the Fair Foreclosure Act, it also deprives Defendant of the ability to contact someone who can address their concerns about the mortgage.

For the reasons stated above and for those reasons that may be raised in the additional objections, it is respectfully requested that HSBC's Order to Show Cause be denied in its entirety and/or denied as to the specifically identified homeowner at issue in this objection. It is also respectfully requested that counsel fees be awarded in favor of the identified homeowners for bringing this action against parties not appropriately within the defined class.

**JOSEPH A. CHANG & ASSOCIATES, LLC**

DATED: August 9, 2013

*/s/ David R. Cubby*

\_\_\_\_\_  
David R. Cubby, Esq.