

RECEIVED

FEB 21 2014

**SUPERIOR COURT
CLERK'S OFFICE**

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-PASSAIC COUNTY

IN RE APPLICATION BY BANK OF
AMERICA, N.A. TO ISSUE
CORRECTED NOTICES OF INTENT
TO FORCLOSE ON BEHALF OF
IDENTIFIED FORECLOSURE
PLAINTIFFS IN UNCONTESTED
CASES

DOCKET NO: F-041084-13

DEFENDANTS WRITTEN OBJECTION

COME NOW, SHARON SMITH on behalf of herself and LEON SMITH, and pursuant to the Court's instruction in the Order to Show Cause file this their Written Objection to the Order to Show Cause.

1. BASIS FOR OBJECTION

On February 16, 2010, Bank of America ("Plaintiff") filed a Complaint asking that THE SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION-ESSEX VICINAGE (DOCKET NO: F-9753-10 for that case) foreclose on the Defendant's property located at 70 South Munn Ave, Apt 1106 in East Orange New Jersey as a result of a payment default on the mortgage securing such property.

In February of 2010 Leon Smith and Sharon Smith ("Defendants") filed an Answer to Plaintiff's Complaint setting forth Defendant's defenses to Plaintiff's Complaint.

The parties had a case management hearing on August 20, 2010, following which a Case Management Order was entered whereby Plaintiff was instructed to provide origination documents

and copies of an assignment to Defendant(s) by September 20, 2010 and given leave to file a motion for summary judgment after October 4, 2011.

Since that time Defendant's have been working with Plaintiff's representative, Robin Angus, to obtain a modification of the terms of the loan for the mortgage on the property.

On January 25, 2014, Defendant's received a response to their modification request, which provides for a short sale of the property and give Defendant's 30 days to appeal the decision (copy attached).

Defendants are working with Ms. Robin Angus to determine whether an appeal is appropriate or a new application in light of a change in circumstances.

Plaintiff should not be allowed to proceed with a foreclosure action or issue corrected Notice of Intent to Foreclose in respect of Leon Smith and Sharon Smith as they are actively working with Plaintiff's representatives to modify the terms of their loan and have previously contested the Plaintiff's actions with respect to the foreclose proceeding for the subject property and as a result are erroneously identified as "plaintiffs in uncontested cases."

2. Name of Attorney to try case

Defendant appearing pro se.

Dated: February 18, 2014

R. Sharon Smith
Leon Smith
Defendants
135 West 50th Street, 20th Flr
NY, NY 10020
(917) 701-7691

By: /R. Sharon Smith/

January 25, 2014

Sharon Smith
70 S Munn St 1106
East Orange, NJ 07018

Loan Number: 872279970

Dear Sharon Smith:

Thank you for contacting us to discuss available loan assistance options. While we realize this decision comes at a difficult time in your life, we regret to inform you that based on careful review of the information provided, you do not meet the eligibility requirements to qualify for a loan modification or other payment assistance program, but you are qualified to pursue a short sale. More information about your short sale option and reason(s) why your loan is not eligible for a modification is included in the enclosed *Results of Your Evaluation* section.

A short sale will provide you time to transition out of the property. While you are attempting to short sale your property, we will suspend the foreclosure process and postpone any foreclosure sale until the close of the short sale or until the end of the marketing period, whichever occurs sooner. If you have a scheduled foreclosure sale date, as long as you are complying with the requirements of this short sale program, we will make every effort to postpone the foreclosure sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale may not halt the scheduled sale. **Please do not disregard or ignore any foreclosure notifications or letters.** If you do not sell the property within the marketing period, we will initiate or continue with existing foreclosure proceedings according to the terms and conditions of this short sale program and applicable law.

About a short sale

A short sale is the sale of your property for less than the amount you owe on your mortgage loan. With a short sale, we will release our mortgage lien on your property once we receive the proceeds from the sale of the property, even though the proceeds are less than the amount you owe. Benefits to you may include:

- Avoiding foreclosure and eviction
- Eliminating or reducing your mortgage debt (please consult with a tax professional to discuss potential tax consequences)
- Having more control over the timing and manner in which you transition out of the property

What you need to do next

- Your customer relationship manager will be contacting you to discuss your next steps and will continue to be your single point of contact during this process. Additionally, if you have any questions please reach out to him or her at 1.800.669.6650.
- If you are interested in pursuing a short sale, please contact a licensed real estate professional who has experience with short sales, which are more complex than traditional sales, to list your property if it is not currently listed. Bank of America requires you to list your property with a licensed real estate professional of your choice to complete a short sale. You will not have to pay the cost of the real estate professional, as he or she will be paid from the proceeds of the sale of the house. We will work with your licensed real estate professional during the process to help you complete the short sale.

After reviewing your application, you are not eligible for loan assistance programs. However you are qualified for a short sale.

Please contact a real estate professional to assist you and read this letter for next steps.

If you need assistance locating a licensed real estate professional in your area, please visit the Short Sale Professional Locator at bankofamerica.com/agentlocator. The purpose of this tool is to facilitate contact information with professionals who have had experience with Bank of America short sales. Bank of America does not endorse or recommend any professional appearing on the tool or require that a professional on this list be used for a short sale transaction. You are free to use any licensed real estate professional or attorney of your choice, unless you are related to or have a close personal or business relationship with that person.

- Once you have selected a real estate professional, we will need your consent to discuss the short sale with him/her. Please let us know when you have selected a real estate professional and we will send you an authorization form that will provide us permission to discuss the short sale with that individual.
- Once a potential buyer's offer is received, contact us immediately at 1.866.880.1232 and we will work with the investor on your loan and review the offer.

Please note that program qualification is conditional until the investor on your loan and any mortgage insurers agree to accept a short sale on your property. The final approval also depends upon any offers you receive on the property, the valuation of the property and the release of any subordinate liens, such as a home equity loan, if applicable. We may require additional information prior to final approval.

How we evaluated your request

In an effort to find the best available loan assistance program for which you are eligible, we evaluate your financial information against the list of assistance programs available to you in the order required by your investor. Once we determine that you qualify for a particular program, we offer it to you. Depending upon where the offered program is in that order, there may be other programs lower in the list that we are unable to offer you under investor requirements. We are required under applicable law to identify these programs for you. The attachment to this letter lists the program you are approved for (if any), those that you did not qualify for after we reviewed your information, and any programs in the order that we are unable to offer you.

We are here to help

If you have questions, please contact us at 1.800.669.6650 Monday - Friday 7 a.m. to 12 a.m. and Saturday 8 a.m. to 6 p.m. Eastern. We want to help you avoid foreclosure, so please consider this opportunity.

Robin Angus
Home Loan Team
Bank of America, N.A.

Enclosed: (1) Results of Your Evaluation (2) Servicemembers Civil Relief Act Notice

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector.

If you are currently in a bankruptcy proceeding, or have previously obtained a discharge of this debt under applicable bankruptcy law, this notice is for information only and is not an attempt to collect the debt, a demand for payment, or an attempt to impose personal liability for that debt. You are not obligated to discuss your home loan with us or enter into a loan modification or other loan-assistance program. You should consult with your bankruptcy attorney or other advisor about your legal rights and options.

Mortgages funded and administered by an  Equal Housing Lender.
♻️ Protect your personal information before recycling this document.

1. Copy of lease agreement & new payment letter

OR Other Property 866-452-4818

Results of the Evaluation

As part of the evaluation process, we reviewed your loan for programs for which you are eligible.

What you are qualified for

has this application changed? must

You are qualified for the following program:

- **A traditional short sale.** In a traditional short sale, we will provide you with a recommended list price for the property. You will work with a local, licensed real estate agent of your choice to list your property for sale at fair market value, even if that value is lower than what you owe on your mortgage. If a buyer is identified and the property is sold, the proceeds from the sale are used to pay off your mortgage debt, even if the proceeds are less than the amount owed on the mortgage. You will receive a letter in the next few days that explains the terms and conditions of this short sale program.

Your customer relationship manager will be contacting you to discuss your next steps. If you have any questions please reach out to him or her at 1.800.669.6650 Monday - Friday 7 a.m. to 12 a.m. and Saturday 8 a.m. to 6 p.m. Eastern.

Programs you did not qualify for

We determined that you do not meet the eligibility requirements for the following program(s). You may request to be re-evaluated for any loan modification program(s) listed below if you believe our decision is incorrect. Below each reason is a list of required documents (if applicable) we need you to submit with your request if you wish to be re-evaluated. We have also provided instructions in this enclosure on how to request a re-evaluation.

- **Home Affordable Modification Program:** Your loan is not eligible for the reason(s) stated below.

- You do not live in the property as your primary residence.

Required document to dispute this finding:

- Copy of your most recent utility bill

break down of how they calculate my income

- **Fannie Mae Modification 24 Program:** Your loan is not eligible for the reason(s) stated below.

- You do not live in the property as your primary residence.

Required document to dispute this finding:

- Copy of your most recent utility bill

either way paper for \$3000 or more \$15K

- Your modified monthly housing expense would be either less than 10% or more than 55% of your monthly gross income of \$29,820.88 (before taxes and other deductions), which falls outside the program guidelines that we must follow. *\$3000*

than \$15K in mortgage payments

- **Fannie Mae Standard Modification Program:** Your loan is not eligible for the reason(s) stated below.

- Your modified monthly housing expense would be either less than 10% or more than 55% of your monthly gross income of \$29,820.88 (before taxes and other deductions), which falls outside the program guidelines that we must follow.

- **Fannie Mae Alt Mod 3.0 Program:** Your loan is not eligible for the reason(s) stated below.

- Your loan does not meet the delinquency requirements of this program.
- Your loan is in a Short Sale or a Deed in Lieu of Foreclosure status.

- **Fannie Mae Capitalization and Extension Modification Program:** Your loan is not eligible for the reason(s) stated below.

- Your financial hardship is not resolved.

*11904-27
Residual
Income*

*line
#17916-66*



- Your loan does not meet the delinquency requirements of this program.
- Your loan is in a Short Sale or a Deed in Lieu of Foreclosure status.
- Your loan is not a fixed-rate mortgage.
- **Fannie Mae Streamlined Modification Program:** Your loan is not eligible for the reason(s) stated below.
 - Your loan does not meet the delinquency requirements of this program.
 - Your loan is in a Short Sale or a Deed in Lieu of Foreclosure status.

Programs that are not available to you

We evaluate your financial information against the list of assistance programs available to you in the order required by your investor. Once we determine that you qualify for a particular program, we offer it to you. Depending upon where the offered program is in that order, there may be other programs lower in the list that we are unable to offer you under investor requirements. We are required under applicable law to identify these programs for you.

- Deed in lieu of foreclosure programs where you agree to transfer ownership of your home to us in partial or full satisfaction of the outstanding loan balance.

How to request a re-evaluation

If you believe our review of your eligibility for a loan modification was incorrect, you have 30 calendar days from the date of this letter to contact us at 1.800.854.6865 and provide information to show why our determination of eligibility was in error.

Please fax any required documents to 1.800.658.9351. Address your fax cover sheet to the attention of **Bank of America Appeals Intake** and write your loan number on all pages submitted. Also, keep a copy of all documents you fax to us and proof of your fax submission for your records. Please note that all requests to reconsider the reason(s) for non-approval must be made within 30 calendar days. Any information or documentation we receive from you after this timeframe will not be reviewed.

Note that during the period referenced above in which you may contact us and provide information which you believe shows our decision is incorrect, we will not move for a judgment of foreclosure or order of sale, or conduct a foreclosure sale. If you have a foreclosure sale already scheduled, we will make every effort to postpone the sale during this period. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale may not halt the scheduled sale. Do not ignore any legal notices about your house.

Additional assistance available to you

You can also seek assistance at no charge from U.S. Department of Housing and Urban Development-approved housing counselors by calling the HOPE Hotline Number (1.888.995.HOPE). Assistance in understanding this notice is available through the HOPE Hotline by asking for MHA HELP.

Required Disclosures

Bank of America, N.A. is required by law to inform you that we are unable to fulfill your request for a loan modification and the Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

Our credit decision was based in whole or in part on information obtained from an affiliate or from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, no later than 60 days after you receive this notice, for disclosure of the nature of this information. If you have any questions regarding this notice, you should contact us at:

Bank of America, N.A.
5401 N Beach St.
Mail Stop: TX2-977-01-34
Fort Worth, TX 76137

Our credit decision was based in whole or in part on information in a report from the consumer reporting agencies listed below. While the information was provided by these agencies, these agencies played no part in our decision and are unable to supply specific reasons for our decision. You have a right under the Fair Credit Reporting Act to obtain a copy of your credit report from the agencies below. The report will be free if you request it within 60 days after you receive this notice. You also have the right to dispute with the agencies below the accuracy or completeness of any information in your report.

Equifax Credit Information Services (EFX)
P.O. Box 740241, Atlanta, GA 30374
Phone: 1.800.685.1111
(for credit report orders)
Phone 1.800.685.5000 (for disputes)

Trans Union Corporation (TUC)
P.O. Box 1000, Chester, PA 19022
Phone: 1.800.888.4213
(for credit report orders)
Phone: 1.800.916.8800 (for disputes)

Experian (XPN)
P.O. Box 2002, Allen, TX 75013
Phone: 1.888.397.3742
(for credit report orders)

The Servicemembers Civil Relief Act (SCRA)

Important Notice for Military Servicemembers Considering a Short Sale or Deed in Lieu of Foreclosure

If you or your spouse is a member of the military, please carefully review this document and notify your bank representative immediately. You may qualify for benefits and protections afforded by law.

The Servicemembers Civil Relief Act, 50 U.S.C. App. §§501 et seq. (the "SCRA") provides military personnel and their dependants with a wide range of legal and financial protections. SCRA benefits and protections:

- Limit the maximum rate of interest that may be charged on debt incurred by an eligible servicemember before the servicemember began military service.
- May prevent the sale, foreclosure, or seizure of real estate, except when a valid court order exists that approves the sale, foreclosure, or seizure of the real estate.
- May stop a landlord or lender from evicting a servicemember from his/her residence.

Depending upon your military status and when your loan was originated, the SCRA may prevent the lender from foreclosing on your property. However, we understand that despite this protection, Servicemembers may still want to be relieved of the debt obligation associated with a home loan.

If you would like to discuss foreclosure alternatives such as a short sale or a deed in lieu of foreclosure, please contact us. Any negotiation for a short sale or a deed in lieu of foreclosure is not a threat of current or future litigation or an action to foreclose on the property, and should not be considered as such.

Our Military Assistance Team is Here to Help

For further assistance and to obtain information about the many benefits and protections available to military servicemembers, please contact the Bank of America Military Assistance Team at:

1.877.430.5434 (1.817.685.6491 outside the U.S.)
Bank of America, N.A. – Military Assistance Team
1515 W. 14th Street
Mall Code: AZ1.807.01.19
Tempe, AZ 85281

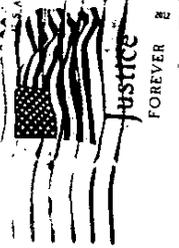
For Additional Information

There are a number of other resources you can use to gain a better understanding of your SCRA rights and protections. Use these helpful sources to get started.

- **CONSULT AN ATTORNEY.** To fully understand your rights under the law, and before waiving your rights or voluntarily surrendering property, please consult an attorney.
- **JAG / LEGAL ASSISTANCE:** Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at <http://legalassistance.law.af.mil/content/locator.php>.
- **MILITARY ONESOURCE:** "Military OneSource" is the U. S. Department of Defense's information resource. Go to www.militaryonesource.com/scra or call 1.800.342.9647 (toll free from the United States) to find out more information. Dialing instructions for areas outside the United States are provided on the website.

Smith

135 West 50th Street
20th Floor
New York, NY 10020



Superior Court Clerk's Office
foreclosure Processing Services
Attention: Office of Intention to foreclose
PO Box 971

Trenton, NJ 08625
086250971