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**Filed Dec 09, 2013**
**Paul Innes, P.J.Ch**

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| **IN RE APPLICATION BY COLE TAYLOR BANK TO ISSUE CORRECTED NOTICES OF INTENT TO FORECLOSE ON BEHALF OF FORECLOSURE PLAINTIFF COLE TAYLOR BANK IN UNCONTESTED CASES** | **SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION**<br><br>**DOCKET NO.: F-43116-13**<br><br>**MERCER COUNTY**<br><br>**CIVIL ACTION**<br><br>**ORDER TO SHOW CAUSE TO PROCEED SUMMARILY PURSUANT TO R. 4:67-2** |

THIS MATTER being opened to the Court by Milstead & Associates, LLC, for Plaintiff Cole Taylor Bank, seeking relief by way of Order to Show Cause, pursuant to the Supreme Court's Order dated April 4, 2012 and based upon the New Jersey Supreme Court's decision in U.S. Bank vs. Guillaume, 209 N.J. 449 (2012), to direct the entry of an order permitting the Movant to issue a corrected Notice of Intent to Foreclosure ("NOI") letter together with a letter of explanation; 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 **9th** day of **December, 2013**

ORDERED that the borrowers / defendants listed in Exhibit "A", annexed hereto, appear and show cause on the **6th** day of **March, 2014** before the Honorable Paul Innes, P.J.Ch., Superior Court of New Jersey, Mercer County, Chancery Division, at 175 S.

Broad Street, New Jersey at **11:00** o'clock, why judgment should not be entered as follows:

A. Permitting Cole Taylor Bank, through its counsel, to send new Notices of Intention to Foreclose, giving the borrower(s) at least thirty (30) 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 (without exhibits) upon all individuals obligated on the Note secured by a Mortgage on residential property that is the borrower's, or their immediate family's, principal residence. Service shall be effectuated by certified mail, return receipt requested, and by regular mail, addressed to the property address and the last known address (if different), reflected 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 http://www.judiciary.state.nj.us.
3. A true copy of this order to Show Cause and Verified Complaint (without exhibit), shall be served upon borrowers listed in Exhibit "A" annexed hereto, by certified mail, return receipt requested (or by registered mail, with respect to any borrower listed in Exhibit "A" annexed hereto, who reside outside the United States), and simultaneously by regular mail. All other interested parties shall be served by publication as set forth in this Order.

4. Along with this Order to Show Cause, Plaintiff shall serve a corrective Notice of Intention to Foreclose allowing the borrower at least thirty (30) days to cure the default on the subject mortgage without having to pay attorney's fees and costs in the format annexed hereto as Exhibit "B". Plaintiff shall also serve a Cover Letter in the form annexed hereto as Exhibit "C".

   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 Compliant 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 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 once the provisions of the automatic stay in the bankruptcy case are not longer in place. In the alternative, Plaintiff may seek relief from 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 the property lies requesting

permission to send the corrective NOI. 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 "D" annexed hereto, on at least two days prior to **January 8, 2014** in the following newspapers:

   a. The Star-Ledger

   b. The 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 who wishes to object to the process shall file the objection under the docket number for this Order to Show Cause, **in writing**, with the:

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

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

Hon. Paul Innes, P.J.Ch., at
Mercer County Civil Courts Building
175 South Broad Street
Trenton, NJ 08650-0068

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

Nelson Diaz, Esq.
Milstead & Associates, LLC
220 Lake Drive East, Suite 301
Cherry Hill, NJ 08002

Objections to this Order to Show Cause must state, with specificity, the basis for the objection and must be filed no later than **January 29, 2014.**

7. In the event a timely objection is not filed, the matter may proceed to judgment in accordance with the Rules of the Court.

8. Any objection in regard to a specific corrected NOI in a specific foreclosure case must be filed, in writing, **under the docket number of the individual foreclosure action, NOT 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,

9. Parties in interest are hereby advised that a telephone call to the Plaintiff, to the Plaintiff's attorney, to the Superior Court Clerk's Office, or to the Court, will not protect your rights; you must file and serve your written objection as outlined 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. In the event no party in interest files and serves a timely objection to this Order to Show Cause, as provided for above, then the application may be decided by the Court on the date this matter is scheduled to be heard, provided that Plaintiff has filed a Proof of Service and a proposed form of judgment as required by this Order to Show Cause.

12. In the event a written objection to this Order to Show Cause is filed, Plaintiff's written reply brief shall be filed and served by **February 12, 2014.** A copy of the reply, if any, shall be served upon the Clerk of Superior Court, with a courtesy copy directly to the Hon. Paul Innes, P.J. Ch.. 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 in this matter is scheduled to be heard no later than **9** days before the date in 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 Clerk of Superior Court 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 **9** days before the return date.

Hon. Paul Innes, P.J.Ch.