

FEIN, SUCH, KAHN & SHEPARD, PC
7 Century Drive - Suite 201
Parsippany, New Jersey 07054
(973) 538-9300
Attorneys for Movant, BSI Financial
BSI032

FILED
SEP 10 2012
Chancery/General Equity

IN THE MATTER OF APPLICATION BY :
TO ISSUE CORRECTIVE NOTICES OF :
INTENT TO FORECLOSE ON BHEALF :
OF IDENTIFIED PLAINTIFF(S) IN :
UNCONTESTED FORECLOSURE CASES :
: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION
: PASSAIC COUNTY
: DOCKET NO.: F-13792-12
: Civil Action
: ORDER TO SHOW CAUSE
: Defendants.

THIS MATTER being brought before the Court by Fein Such, Kahn and Shepard, P.C., attorneys for the applicant, BSI Financial Services, Inc., (hereinafter referred to as "BSI"), authorized to act on behalf of foreclosure plaintiffs (RESFUND LLC in this matter) in pending foreclosure actions in New Jersey, seeking relief by way of a summary proceeding to direct the entry of an Order permitting the movant to issue a corrective Notice of Intent to Foreclose ("hereinafter referred to as "NOI"), and based upon the New Jersey Supreme Court's decision in U.S. Bank v. Guillaume, 209 N.J. 449 (2012), the implementing Order of the New Jersey Supreme Court dated April 4, 2012, and for good cause shown;

IT IS on this 10 day of September, 2012,
ORDERED, that the Foreclosure Defendants who appear on the

Annexed Corrected NOI list attached as Schedule A. hereto may appear and show cause before the Superior Court of New Jersey at the Passaic County Courthouse at 91 Hamilton Street, Courtroom 100, in Paterson New Jersey 07505 at ^{9:30 AM} o'clock in the forenoon on November 26, 2012 ~~why an Order should not be issued permitting to issue a curative NOI as follows:~~ ^{to object to this Court's allowing BSI to issue} ~~issued~~ ^{Corrected NOI} ~~as follows:~~ ^{pursuant to this Order} ~~to show cause~~

A. That, as instructed by the New Jersey Supreme Court in its April 4, 2012 Order, BSI Financial Inc. will issue a corrective Notice of Intention to Foreclose in the form attached hereto as Exhibit and an Explanatory Letter to each defendant mortgagor and/or parties obligated on the debt ("Foreclosure Defendants") in the pending uncontested foreclosure action(s) which form is to be issued by the Court.

B. That BSI will issue a corrected NOI in the form attached as Exhibit B to the Verified Complaint, and shall attach such NOI to the Explanatory Letter made reference to in paragraph B above. The corrected NOI will not include attorneys's fees or foreclosure costs that have been incurred in the pending foreclosure matter(s). Such corrected NOI and Explanatory letter shall be served by Certified Mail, return receipt requested to the last known address of the Foreclosure Defendant, as husband and wife,

C. Validating the new Corrected NOI as curative and effective, thereby permitting the applicant to continue with its action to foreclose a residential mortgage, and

it is further

ORDERED, that:

1. A copy of the executed Order to Show Cause, Verified Complaint, Explanatory Letter and the Corrected NOI (the "OSC Package"), shall be served via certified mail, return receipt requested and regular mail at the last known address of the borrowers as husband and wife.
2. BSI shall file with the court a proof of service of the OSC Package on the Foreclosure Defendants no later than nine (9) days before the return date of the Order to Show Cause.
3. YOU, the Foreclosure Defendants will have until Nov. 14, 2012 in which to object to the Order to Show Cause, the issuance of the Corrected NOI and/or to the content in the Corrected NOI. Any objections to this Order to Show Cause or the issuance of the Corrected NOI shall be made in writing, stating forth the basis of the objection with specificity. Said objection must be filed with the Clerk of the Superior Court, CN971, Trenton, New Jersey 08625 AND to the Judge executing the Order to Show Cause, and to the Fein, Such, Kahn and Shepard, Shari Seffer, Esquire, attorneys for the movant at 7 Century Drive, Parsippany, New Jersey 07054. A telephone call will not protect your rights and you may not appear in

person at the Clerk of the Superior Court in Trenton; you must file and serve your objection as set forth above if you want the Court to hear your objection to the relief that BSI is seeking.

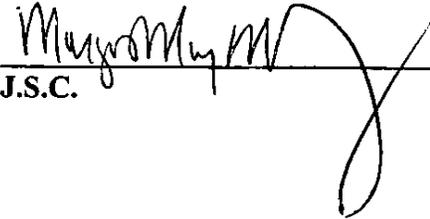
4. You, foreclosure defendants also have the right to object to the corrective NOI you receive. You will also have thirty (30) days from the date of service of the NOI to cure your default. If you object to any of the corrections. You must file a written objection under Docket NO F-37079-09 which is the docket number of your foreclosure action. You must set forth with specificity the basis of your objection and file our objection with the Superior Court Clerk's office, CN 971, Trenton, New Jersey 08625, on or before Nov. 14, 2012. You must also serve a copy of the objection on BSI's attorney, Shari Seffer, Esq., at Fein Such Kahn and Shepard, P.C. 7 Century Drive, Parsippany, New Jersey 07054 and mail a copy of your objection to the Honorable Margaret Mary McVeigh, 71 Hamilton Street, Chambers 100, Paterson, New Jersey 07505.
5. In the event that a foreclosure has been suspended or stayed as a result of a bankruptcy filing or loss mitigation activity, the Order to Show Cause package shall not be sent unless or until the stay has been lifted or loss mitigation options have ceased. In such circumstances, the following procedure shall be used.

BSI shall mail the Order to Show Cause package within forty-five (45) days of the lifting of the stay or suspension of the foreclosure action, You, the foreclosure defendant will have either thirty (30) days in which to object to the corrected NOI, or thirty (30) days from the date of service of the Order to Show Cause to cure your default. Any objection, to the relief set forth in this Order to Show Cause, which written objection must be set forth with specificity, shall be made in writing to Passaic, County as it is the County in which your foreclosure is pending. You must also send a copy of your written papers to BIS's attorneys, Fein Such Kahn and Shepard, attention Shari Seffer, Esq., 7 Century Drive, Parsippany, New Jersey 07054 or the court handling your foreclosure action will not be able to consider your objection.

6. If the Foreclosure Defendant cannot afford an attorney, you may call the Legal Services Office on the County in which you live. A list of these offices is provided with the Corrected NOI.
7. A proposed form of Order addressing the relief sought on the return date (along with a self-addressed, stamped envelope with proper postage affixed thereon) must be submitted to the court no later than nine (9) days prior to the return date of this Order to Show Cause.
8. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless

BSI is advised to the contrary no later than Nov. 20
days before the return date.

9. A proposed form of Order is annexed hereto.



J.S.C.

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 7 Century Drive - Suite 201
 Parsippany, New Jersey 07054
 (973) 538-9300
 Attorneys for Movant, BSI Financial
 BSI032

	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION
	:	COUNTY
IN THE MATTER OF APPLICATION BY	:	
TO ISSUE CORRECTIVE NOTICES OF	:	DOCKET NO.: F-013792-12
INTENT TO FORECLOSE ON BHEALF	:	
OF IDENTIFIED PLAINTIFF(S) IN	:	Civil Action
UNCONTESTED FORECLOSURE CASES	:	
	:	VERTIFIED COMPLAINT IN SUPPORT
	:	OF SUMMARY PROCEEDING PURSUANT
	:	TO ORDER OF THE NEW JERSEY
Defendants.	:	SUPREME COURT DATED APRIL 4,
	:	2012 TO CURE A DEFICIENT NOTICE
	:	OF INTENT TO FORECLOSE

BSI FINANCIAL SERVICES, INC., authorized to act on behalf of Foreclosure Plaintiff RESFUND, LLC in a pending pre-judgment uncontested foreclosure action, brings this action pursuant to the April 4, 2012 Order of the New Jersey Supreme Court (the "April Order"), which was entered in response to the the Court's decision in U.S. Bank v. Guillaume, 209 N.J. 449, (2012).

BSI respectfully sets forth the following:

1. BSI FINANCIAL SERVICES, INC., (hereinafter referred to as "BSI") is a servicing agent acting on behalf of the plaintiff, RESFUND, LLC.,
2. BSI is responsible for servicing mortgage loans on residential properties in the State of New Jersey on behalf of RESFUND, LLC pursuant to a written agreement by

and between BSI and RESFUND, LLC.

3. In its role as a servicer, it accepts monthly mortgage payments from borrowers, engages in negotiations with regard to modifications, considers offers for short sale and other loss mitigation efforts, makes payments for taxes and insurance on behalf of borrowers on escrowed loans. As the loan is owned by another entity, RESFUND, LLC., BSI engages in these responsibilities pursuant to its contractual relationship with RESFUND, LLC., the Rules of Court of the State of New Jersey and other applicable laws and guidelines. As the entity which accepts payments, BSI holds the information relevant to the amount of the monthly payment, the amount of funds received or disbursed on behalf of a borrower, and therefore, the information as to whether a borrower is in default on his/her payments and the amount of default. This information is maintained in BSI's business records. The lender is not likely to have possession of all the servicing information as our New Jersey Supreme Court has recognized when it amended the New Jersey Rules of Court governing mortgage foreclosures at Rule 4:64-1 and R. 4:64-2. Thus, BSI makes the instant application to this Honorable Court pursuant to the authority granted to it as the servicing agent of the foreclosing plaintiff.
4. One of the duties as a servicer on a defaulted loan in New Jersey is to prepare and mail an Notice of Intention to Foreclose in accordance with the New Jersey Fair

Foreclosure Act, N.J.S.A. 2A:50-56. The NOI is prepared based on the loan information within the possession of BSI and includes items such as the amount to cure the default and reinstate the mortgage loan.

5. The Supreme Court decision in U.S. Bank v. Guillaume requires strict compliance with the notice requirements set forth in the Fair Foreclosure Act. The Guillaume court further held that a court adjudicating a foreclosure action in which the strict requirements of N.J.S.A.2A:50-56 were not met has the judicial discretion to choose an appropriate remedy permitting the cure of a deficient NOI, or another form of relief as designed by that Court.
6. In response to the Guillaume decision, the Supreme Court further entered an Order on April 4, 2012 authorizing the Honorable Mary Margaret McVeigh, of the Passaic County vicinage and the Honorable Paul Innes, of the Mercer County vicinage to entertain Orders to Show Cause in a Summary Proceeding as to why Plaintiffs in uncontested foreclosures relating to residential mortgage filed on or before February 27, 2012, in which a final judgment has not been entered, who caused NOIs to be mailed which are deficient under the Fair Foreclosure Act, should not be allowed to served corrective NOIs on borrowers obligated under the debt (the "Foreclosure Defendants").
7. The April 4, 2012 Order requires that any Corrected NOI

also be accompanied by a letter to the Foreclosure Defendants setting forth the reason why the corrected NOI is being served, the procedure to follow if a Foreclosure Defendant intends to object to the NOI, the name of a person to contact with any questions, and that the receipt of the corrected NOI allows the Foreclosure Defendant thirty (30) days in which to object or to cure the default.

8. BSI has reviewed its pending foreclosure portfolio with the firm of Fein Such Kahn and Shepard as counsel and it has identified only one (1) case which is a residential foreclosure, pre-judgment and which will require a Corrected NOI because the plaintiff's name and address were not included in the NOI previously mailed. The list is attached hereto as Schedule "A."
9. BSI will also mail with the NOI the court ordered form of letter of explanation to send to the Foreclosure Defendants.
10. The Corrected NOI will not include either attorney's fees or foreclosure costs incurred during the course of the pending foreclosure action. It will include the requisite information pertinent to the Foreclosure Defendants' mortgage, including the plaintiff's name and address and amount necessary to reinstate the loan, among other items.
11. In the action presently pending before this Court, there is only one pending action. While most cases would

require an Omnibus action pertaining to multiple actions, BSI has only identified one defective NOI in its portfolio to date.

12. Furthermore, BSI is aware that the Foreclosure Defendants still reside at the mortgaged premises as the parties engaged in the State Mediation program as recently as January, 2012. Unfortunately, the mediation was unable to resolve the instant action. Based on the fact that there is only one action and we have confirmation that the borrowers still reside at the mortgaged premises, it is respectfully requested that BSI need not publish in this particular circumstance.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order permitting BSI to issue a corrective NOI as permitted in the April 4, 2012 Order on the uncontested residential mortgage foreclosure action in which a judgment in foreclosure has not been entered, direct that the new NOI be deemed curative and satisfactory for the applicant to continue to enter judgment in its foreclosure action, and for such other and further relief as this Court may deem just and equitable under the circumstances.

FEIN, SUCH, KAHN AND SHEPARD, P.C.

Dated: June 12, 2012

By:


SHARI SEFFER

CERTIFICATION

I certify pursuant to Rule 4:5-1 that, to the best of my knowledge, this matter is not the subject of any other pending action in any other court or of a pending arbitration proceeding, other than an action to foreclose a mortgage against premises nor is any other action contemplated. I further certify that I am not aware of any non-party who should be joined in this action pursuant to Rule 4:28 or who is subject to joinder pursuant to Rule 4:29-1(b) because of potential liability to any party based on the same transactional facts.

FEIN, SUCH, KAHN AND SHEPARD, P.C.

Dated: June 12, 2012

By:

A handwritten signature in cursive script, appearing to read "Shari Seffer", is written over a horizontal line.

SHARI SEFFER

VERIFICATION

STATE OF Pennsylvania :

COUNTY OF Crawford :

I, Karen L Shoup being duly sworn,

1. I am the AVP of Loss Mitigation

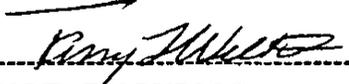
for BSI, the applicant in the foregoing Verified Complaint in Support of a Summary Proceeding.

2. The allegations in the Verified Complaint are true to the best of my knowledge and belief.

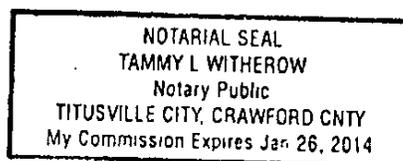
3. The exhibits attached to the Verified Complaint are true and correct copies.


Karen L Shoup

SWORN AND SUBSCRIBED TO BEFORE
ME ON THIS 11th DAY OF July, 2012



NOTARY PUBLIC
Tammy L Witherow



CERTIFICATION OF MAILING AND SERVICE

I hereby certify that on *July 17*, 2012 an original and two (2) copies of the within Order to Show Cause and supporting papers have been transmitted for filing to Jennifer Perez, Esq., Clerk of the Superior Court, CN 971, Trenton, New Jersey 08625 by Lawyers Service.

By: *Sharon Albert*

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Attorneys for Movant, BSI Financial
BSI032

: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION
: PASSAIC COUNTY
IN THE MATTER OF APPLICATION BY :
TO ISSUE CORRECTIVE NOTICES OF :
INTENT TO FORECLOSE ON BEHALF : DOCKET NO.: F-013792-12
OF IDENTIFIED PLAINTIFF(S) IN :
UNCONTESTED FORECLOSURE CASES : Civil Action
: CERTIFICATIOF OF SHARI SEFFER
: IN SUPPORT OF ORDER TO SHOW
: CAUSE ON BEHALF OF BSI
Defendants. : FINANCIAL AS SERVICER FOR

RESFUND, LLC.

SHARI SEFFER, does hereby certify as follows:

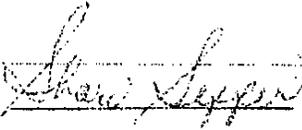
1. I am an attorney at law of the State of New Jersey and of counsel with the firm of Fein Such Kahn and Shepard, PC, attorneys for the applicant in the above entitled action. I am duly authorized to make the instant certification and am fully familiar with the facts and circumstances surrounding the instant application.
2. This application has been made on behalf of the investor Resfund, LLC by BSI Financial Services, INC (hereinafter referred to as "BSI"), for its solitary action pending in a pre-judgment invalid Notice of Intention to Foreclose "NOI"). As I was able to ascertain

from BSI, they are not able to include all investors in one application in light of the fact that the investor will be paying the attorney's fees and costs for this application. To require each investor to be included in the same application would result in a co-mingling of funds. It would be impossible to dissect which investor would be responsible for payment of which portion of the fees and costs associated with this application. Thus, as counsel for the applicant herein, the undersigned ascertained that it was vital to separate out the smaller investor portfolios.

3. It is my understanding that there is a strictly, small and limited number of investors which would fall into this category with BSI. As such, the number of similar applications by this investor, upon information and belief, is de minimus.
4. The foregoing is not necessarily the case with the larger servicers. The instant investor is small investor with a very limited portfolio of cases.
5. It is the intent of this office to limit the number of applications to be brought before this court as we recognize the necessity to ensure that judicial economy remain an important concern to all parties involved in the residential mortgage foreclosure process.
6. Furthermore, it was the intent of the undersigned to limit this case as a special circumstance in light of the fact that the borrower does still reside at the property

since a mediation was conducted fairly recently. The instant application is not intended to present a viable format for other matters which should be presented before either of the two (2) judges appointed by the New Jersey Supreme Court to handle the "Guillaume Orders to Show Cause."

7. 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.



SHARI SEFFER

Dated; July 24, 2012