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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION –
GENERAL EQUITY PART
MERCER COUNTY

DOCKET NO. F-59553-10

IN THE MATTER OF
RESIDENTIAL MORTGAGE
FORECLOSURE PLEADING AND
DOCUMENT IRREGULARITIES

CIVIL ACTION

ORDER APPROVING THE REPORT OF THE SPECIAL MASTER CONCERNING ONEWEST BANK, FSB AND AUTHORIZING ONEWEST TO RESUME PROSECUTION OF UNCONTESTED FORECLOSURE PROCEEDINGS

The court having entered an Order to Show Cause on December 20, 2010, directing the six Respondents to show cause why the processing of pending uncontested residential mortgage foreclosure actions should not be suspended, and why a Special Master should not be appointed to review the practices of the Respondents to prevent the kind of document irregularities commonly known as "robo-signing;" and the court having appointed Edward J. Dauber, Esquire, as Special Counsel to the court in regard to the Order to Show Cause; and the Respondents and Special Counsel having negotiated and executed a Recommended Stipulation setting forth the Respondents' agreement to the appointment of a Special Master to review their processes and procedures regarding the preparation of documents for submission to the Superior Court of New Jersey in uncontested foreclosure cases; and that Stipulation having been submitted to the court for review on March 18, 2011; and the court having approved the Recommended Stipulation on March 29, 2011, and having appointed the Honorable Richard J. Williams, J.A.D. (retired), as the Special Master, with the consent of the Respondents, to undertake the extensive systemic review of Respondents' procedures and practices set forth in the Stipulation; and the Special

Master having been directed to prepare a Report making a determination as to whether each Respondent has made a Prima Facie Showing of the reliability of its processes so as to be permitted to resume prosecution of uncontested foreclosure proceedings, including those set forth in its Servicer Portfolio; and a Prima Facie Showing having been identified in the Stipulation as requiring the submission of information from the Respondents on the following issues:

(a) If the Respondent is acting on behalf of a mortgagee, but is not the mortgagee itself, provide examples of the source of the Respondent's authority to act, including providing representative samples of documentation evidencing the authority to act on behalf of mortgagees;

(b) Does the Respondent have a record keeping system of Business Records that provides accurate up to date information on the payment history and status of the loan? If so, describe the system;

(c) Describe the Respondent's case processing steps for the review of information contained in, and the execution of, affidavits/certifications submitted in support of foreclosure proceedings;

(d) Has the Respondent established specific procedures for staff to ensure that the information set forth in affidavits/certifications submitted in foreclosure proceedings is based on a personal review of Business Records? If so,

i. Describe the procedures;
ii. Produce all documents evidencing establishment of the procedures;
iii. Produce samples of all documents or screens reviewed by staff in the affidavit/certification of indebtedness process; and
iv. Provide the numerical range and average of how much time is spent per loan to review the Respondent's business records and complete an affidavit/certification of indebtedness.

(e) Has the Respondent implemented a training program for its staff to review relevant Business Records and source documents and complete foreclosure affidavits/certifications based on a personal review of such materials? If so,

i. Describe the program;
ii. Produce copies of all written materials used and screen samples from any powerpoint or other presentations; and
iii. Produce a statement that all staff who are preparing affidavits/certifications have received this training.

(f) Has the Respondent established quality assurance procedures to insure that the established procedures for review of relevant source documents and completion of foreclosure affidavits/certifications based on a personal review of Business Records are followed in each case? If so,

i. Describe the procedures; and
ii. Produce copies of all documents evidencing establishment of quality assurance procedures.

(g) Does the Respondent have a process for insuring effective and timely communication with foreclosure counsel in connection with the completion and execution of foreclosure affidavits/certifications? If so,

i. Describe the process; and
ii. Describe the procedures that will enable foreclosure counsel to comply with their duties concerning the completion and execution of foreclosure affidavits/certifications, under the Court Rules as they are finally adopted by the New Jersey Supreme Court.

And the Special Master having provided to this court his Report as to Respondent OneWest Bank, FSB; and the court having reviewed the Report; and the Report having provided a thorough explanation of the Special Master's review and findings as to each of the necessary Prima Facie Showings required by the Stipulation; and the Special Master having determined that OneWest has shown, on a Prima Facie basis, that it has processes and procedures in place which, if adhered to, will ensure that the information set forth in affidavits or certifications

submitted in foreclosure proceedings will be provided by an affiant authorized to act on behalf of the plaintiff in the action, and that each affidavit or certification submitted will be properly executed and will be based upon knowledge gained through a personal review of relevant records that were made in the regular course of business as part of OneWest's regular practice to make such records; and OneWest having certified that all uncontested mortgage foreclosure cases in its Servicer Portfolio will be prosecuted under the processes outlined in its Prima Facie Showing; and the court agreeing with the Special Master's findings that OneWest Bank, FSB has provided information satisfying the Prime Facie Showings required by the Stipulation; and the Respondents having agreed to a monitoring program of their compliance with the Prima Facie Showings by the Special Master for a period of twelve months following entry of this Order; and for good cause shown:

IT IS on this 17th day of August, 2011, **HEREBY ORDERED** that:

1. OneWest Bank, FSB shall be permitted to resume the prosecution of uncontested residential mortgage foreclosure cases, including those set forth in its Servicer Portfolio.
2. Nothing in this Order shall be construed as altering or interfering with the right of any party to a foreclosure action to contest the foreclosure by filing a contesting answer, by challenging an amount due on a mortgage in default submitted to the Office of Foreclosure with a final judgment package, or pursuing any right guaranteed by law or court rule to a party contesting a foreclosure. Nor shall anything in this Order be construed as altering or interfering with the discretion of any Superior Court Judge of the State of New Jersey to adjudicate all issues raised by the parties in contested foreclosure matters.

3. The Special Master is hereby authorized under paragraph 7 of the Stipulation to monitor OneWest's compliance with the Prima Facie Showings as OneWest resumes processing uncontested mortgage foreclosure cases. OneWest is directed to cooperate with the Special Master in the monitoring process.

4. Counsel for OneWest shall provide a copy of this order to the attorneys on the service list. The order shall be filed in the electronic case jacket of the JEFIS system for foreclosure matters maintained by the Office of Foreclosure in the Superior Court Clerk's Office.

Mary C. Jacobson, P.J.Ch.

MARY C. JACOBSON, P.J. Ch.