IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA  

NICHOLE WILLIAMS, et al.  

v.  

TIMOTHY F. GEITHNER, et al.  

Plaintiffs,  

No. 09-CV-1959 ADM JJG  

Defendants.  

DECLARATION OF MICHAEL J. CIATTI IN SUPPORT OF BRIEF OF DEFENDANTS  
FEDERAL NATIONAL MORTGAGE ASSOCIATION (d/b/a FANNIE MAE) AND  
FEDERAL HOME LOAN MORTGAGE CORPORATION (d/b/a FREDDIE MAC) IN  
OPPOSITION TO PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION  

Michael J. Ciatti declares under penalty of perjury, pursuant to 28 U.S.C. § 1746:  

1. I am a partner in the firm of King & Spalding LLP, and am one of the counsel for  
Defendant Federal Home Loan Mortgage Corporation (d/b/a Freddie Mac) in the above-  
captioned matter.  

2. I submit this declaration in support of the Brief Of Defendants Federal National  
Mortgage Association (d/b/a Fannie Mae) And Federal Home Loan Mortgage Association (d/b/a  
Freddie Mac) In Opposition To Plaintiffs’ Motion For A Preliminary Injunction.  

3. Attached to this declaration are true and correct copies of the following  
documents:  

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Document Description</th>
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<tr>
<td>Exhibit 1</td>
<td>Freddie Mac Single-Family Seller/Servicer Guide, Ch. 1.2; Ch. 5.3.1; Ch. B65.1; Ch. C65.4; Ch. C65.6; Ch. C65.7; Ch. C65.14</td>
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<td>Exhibit 2</td>
<td>Freddie Mac Quarterly Report (Form 10-Q) (Aug. 7, 2009)</td>
<td></td>
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Dated: September 16, 2009  

/s/ Michael J. Ciatti  
Michael J. Ciatti
Exhibit 1
1.1: Overview (08/21/06)

The Single-Family Seller/Servicer Guide (Guide) consists of two volumes containing Freddie Mac's requirements for Mortgages secured by 1- to 4- unit properties.

Freddie Mac's requirements for Multifamily Mortgages are set forth in the Freddie Mac Multifamily Seller/Servicer Guide. The Multifamily Seller/Servicer Guide and related forms are available electronically over the Internet. If you are a Program Plus® lender or an approved Freddie Mac Multifamily Servicer, you can access the electronic version of the Multifamily Seller/Servicer Guide on AllRegs® through the MultiSuite® on the Internet application.

If you are not a Program Plus lender or a Freddie Mac Multifamily Servicer and you would like a subscription to the electronic version of the Multifamily Guide, you can contact AllRegs at http://www.allregs.com.
1.2: Legal effect of the Single-Family Seller/Servicer Guide (10/20/08)

(a) Status as a contract

The Single-Family Seller/Servicer Guide (Guide) is one of the Purchase Documents. Purchase Documents, as defined in the Glossary of the Guide, are incorporated by reference into, and constitute a part of, each Purchase Contract. A Seller agrees to sell Mortgages in accordance with the terms of each Purchase Contract entered into between the Seller and Freddie Mac.

A Seller must service all Mortgages that the Seller has sold to Freddie Mac and has assented to service for Freddie Mac in accordance with the standards set forth in the Seller's Purchase Documents. All of a Seller's obligations to service Mortgages for Freddie Mac shall be considered to constitute, and shall be performed pursuant to, a unitary, indivisible master Servicing contract, and the Servicing obligations assumed pursuant to any contract to sell Mortgages to Freddie Mac shall be deemed to be merged into, and shall be performed pursuant to, such unitary, indivisible master Servicing contract.

A Seller acknowledges that Freddie Mac's agreement to purchase Mortgages from the Seller pursuant to any individual Purchase Contract is based upon the Seller's agreement that the Mortgages purchased will be serviced by the Seller pursuant to the unitary, indivisible master Servicing contract. The Seller agrees that any failure to service any Mortgage in accordance with the terms of the unitary, indivisible master Servicing contract, or any breach of any of the Seller's obligations under any aspect of the unitary, indivisible master Servicing contract, shall be deemed to constitute a breach of the entire contract and shall entitle Freddie Mac to terminate the contract.

If a Servicer who services Mortgages for Freddie Mac is not also the Seller of the Mortgages to Freddie Mac, the Servicer must agree to service Mortgages for Freddie Mac by separate agreement, which incorporates the applicable Purchase Documents. In such case, the separate agreement shall be deemed to be one of the "Purchase Documents" that constitute the unitary, indivisible master Servicing contract.

In addition, in certain cases, a Seller and/or Servicer who uses certain Freddie Mac services will, by virtue of the provisions of the Guide, be deemed to have agreed upon certain terms and conditions related to such services and their use.

The Guide may not be amended or modified orally, and no provision of the Guide may be waived or amended except in a writing signed by the necessary parties. Such written waiver or amendment must expressly refer to the Guide and be denominated as an amendment to the Guide. However, the Guide may be amended or supplemented generally from time to time by the issuance of revised pages by Freddie Mac or by other written communications from Freddie Mac.

Whether and how an amendment to Volume 1 applies to a Purchase Contract depends on the nature and terms of both the contract and the amendment. An amendment to Volume 1 is effective on the date specified by Freddie Mac if the amendment modifies the processes or functions involved in Freddie Mac's purchase, and a Seller's sale, of Mortgages, including, but not limited to, changes in MIDANET® and MIDANET software or changes in procedures for or methods of delivery of information and/or documents. See Section A1.4 for information regarding applicability of amendments to Guide chapters providing terms for the sale of Mortgages to Freddie Mac using the Freddie Mac Selling System (Selling System). See Section A1.5 for information regarding applicability of amendments, modifications, revisions, changes and/or updates made to the Selling System by Freddie Mac.

All other amendments apply as follows:

- To any mandatory delivery Purchase Contract having a Date of Seller's Offer on or after the effective date of the amendment
- To any Cash Purchase Contract or Guarantor conversion that is under a mandatory delivery master commitment dated on or after the effective date of the amendment
• For optional delivery Purchase Contracts (excluding optional delivery Purchase Contracts under mandatory delivery master commitments) and Guarantor conversions under an optional delivery master commitment, to any delivery made on or after the effective date of the amendment.

An amendment to Volume 2 of this Guide, which constitutes part of the unitary, indivisible master Servicing contract between Freddie Mac and each Seller/Servicer or Servicer, is effective on the date specified by Freddie Mac.

The effective date of each section of the Guide is located at the beginning of each section, to the right of the section number and name.

(b) Copyright

The Guide (including related supplements, bulletins and industry letters) is copyrighted. Limited permission to photocopy the Guide is granted to Seller/Servicers strictly for their own use in originating and selling Mortgages to, and in Servicing Mortgages for, Freddie Mac. No part of the Guide may be reproduced for any other reason (in any form or by any means) without the express written permission of Freddie Mac. Requests for such permission to reproduce the Guide must be sent to Freddie Mac (see Directory 1).

Requests will be reviewed and answered by Freddie Mac in the ordinary course of business.

Freddie Mac reserves the right to revoke permission to reproduce the Guide upon 60 days' notice to any and all Sellers and Servicers. Under no circumstances will Freddie Mac permit the Guide to be reproduced by any electronic or mechanical means, including, but not limited to, reproduction in, or as a component of, any information storage and retrieval system.

(c) Reliance

By entering into a Purchase Contract or into the unitary, indivisible master Servicing contract with Freddie Mac, the Seller or Servicer acknowledges that it is not relying upon Freddie Mac or any employee, agent or representative thereof, in making its decision to enter into the contract and that it has relied upon the advice and counsel of its own employees, agents and representatives as to the regulatory, business, corporate, tax, accounting and other consequences of entering into and performing its obligations under a Purchase Contract or the unitary, indivisible master Servicing contract.

(d) Assignments; security interests

A Seller or Servicer shall not, in whole or in part, assign or transfer or grant a security interest in, any of its obligations, rights or interest under any Purchase Contract or under the unitary, indivisible master Servicing contract, including any of its rights or obligations under this Guide or any of the Purchase Documents, without Freddie Mac's prior written consent. Any purported or attempted assignment or transfer of, or grant of a security interest in, any such obligations, rights or interest is prohibited and shall be null and void.

Notwithstanding the provisions of the immediately preceding paragraph, Freddie Mac may consent to a Servicer's grant to one or more third parties of a security interest under the Uniform Commercial Code in the conditional, nondelegable contract right of the Servicer to service Home Mortgages for Freddie Mac pursuant to the terms of the unitary, indivisible master Servicing contract ("Freddie Mac Servicing rights"). Freddie Mac will indicate its consent only by executing an Acknowledgment Agreement, which must also be executed by a Servicer and the third party to whom the Servicer grants a security interest. A Servicer may write to Freddie Mac (see Directory 1) for a copy of the Acknowledgment Agreement and instructions for completing and executing it.

A Servicer's grant to a third party of a security interest in the Servicer's Freddie Mac Servicing rights, as more specifically defined in the Acknowledgment Agreement, may be made only for a purpose specified in the instructions for the Acknowledgment Agreement. Any purported or attempted grant of a security interest in any other rights or interest of the Servicer under the Guide or any of the Purchase Documents, or for the purpose of securing any other type of obligation, is prohibited and shall be null and void. In addition, a Servicer's purported or attempted grant to a third party of a security interest in the Servicer's Freddie Mac Servicing rights without the Servicer and the third party also having executed the Acknowledgment Agreement is prohibited and shall be null and void.
Freddie Mac has the right to sell, assign, convey, hypothecate, pledge or in any way transfer, in whole or in part, its interest under the Purchase Documents with respect to any Mortgage it purchases.

(e) Severability

If any provision of this Guide shall be held invalid, the legality and enforceability of all remaining provisions shall not in any way be affected or impaired thereby, and this Guide shall be interpreted as if such invalid provision were not contained herein.

(f) Effective dates

Volume 1 of the Guide governs Purchase Contracts with a Date of Acceptance of April 1, 1976, through September 14, 1978, and Purchase Contracts with a Date of Seller's Offer of September 15, 1978, and thereafter. Previous Sellers' Guides and Master Selling Agreements in effect on the Date of Acceptance govern Purchase Contracts with Dates of Acceptance preceding April 1, 1976.

(g) Construction of Guide

This Guide shall not be construed against Freddie Mac as being the drafter hereof.

(h) Entire agreement

This Guide, including the exhibits attached to the Guide and all Purchase Documents incorporated by reference in the Guide, constitutes the entire understanding between Freddie Mac and the Seller or Servicer and supersedes all other agreements, covenants, representations, warranties, understandings and communications between the parties, whether oral or written, with respect to the transactions contemplated by the Guide.

(i) Governing law

This Guide shall be construed, and the rights and obligations of Freddie Mac and the Seller or Servicer hereunder determined, in accordance with the laws of the United States. Insofar as there may be no applicable precedent, and insofar as to do so would not frustrate any provision of this Guide or the transactions governed thereby, the laws of the State of New York shall be deemed reflective of the laws of the United States.
5.3.1: Notice of intent to terminate voluntarily as a Freddie Mac Seller or Servicer (04/25/06)

The Seller/Servicer may voluntarily terminate its status as a Freddie Mac approved Seller and/or Servicer by giving notice of its intent to voluntarily terminate to Freddie Mac. The notice of intent to voluntarily terminate as a Freddie Mac approved Seller and/or Servicer may be submitted in writing or may be submitted or transmitted in the form of a Record or Electronic Record by the Seller/Servicer's authorized employee or representative. If the notice is in electronic form, it must be signed using the Seller/Servicer's Electronic Signature and will be subject to Section 1.3 of the Guide. The notice will be deemed to have been duly given to and received by Freddie Mac on the date such notice is:

- Received in writing by Freddie Mac (see Directory 1) via first class mail, or
- Received in electronic form (e-mail) as an Electronic Record by Freddie Mac's computer information processing system via the Internet, at its Internet e-mail address, which is institutional_eligibility@freddiemac.com, or
- Received as a Record or Electronic Record in electronic form (facsimile) by Freddie Mac's electronic facsimile machine or system at Freddie Mac (see Directory 1)

Other addresses may be substituted for the above upon notice of the substitution.

The Seller/Servicer may also voluntarily terminate its status as a Freddie Mac approved Seller and/or Servicer by giving notice of its intent to voluntarily terminate by completing the appropriate section of the Form 1107SF, Seller/Servicer Change Notification Form, and submitting the form to Freddie Mac.

The Seller/Servicer's voluntary termination shall not be effective until acknowledged and accepted by Freddie Mac in writing or in a Record or Electronic Record from an authorized representative of Freddie Mac.
B65.1: Introduction (05/26/09)

Borrowers may qualify for a modification under the federal government’s Home Affordable Modification Program (HAMP). With respect to your loss mitigation activities, you must first consider HAMP-eligible Borrowers in accordance with the requirements of Chapter C65. If a Borrower who is 31 days or more delinquent is not eligible for a modification under HAMP, you must consider the Borrower for a workout modification (as prescribed in Sections B65.12 through B65.26) or other alternative to foreclosure, pursuant to this Chapter B65. If you determine, in accordance with the requirements of Chapter C65, that a Borrower who is current or less than 31 days delinquent is not eligible for a modification under HAMP, you may evaluate the Borrower for another alternative to foreclosure pursuant to this Chapter B65 if you determine that the circumstances warrant further consideration.

Once you have determined that your collection efforts will not resolve a Delinquency, and that the use of a relief option is not a viable alternative to foreclosure, then you must consider whether the use of a workout option will prevent foreclosure. To consider a workout option you must analyze the Borrower’s situation, including the nature of the involuntary inability to pay, and determine the condition and value of the property according to the guidelines and requirements in Chapter 65, Loss Mitigation. Apply the requirements in this chapter to decide whether to recommend a workout option to us.

If you have a Borrower whose situation does not meet all the workout option requirements, but you believe that a workout option is still the best solution to the Delinquency, then you may submit a recommendation to us for review along with the reason for your recommendation. Follow the submission procedures in this chapter.

Additionally, we have a charge-off option available to cease collection and loss mitigation activities on a Mortgage, under certain conditions.
C65.4: Eligibility (05/26/09)

The following requirements are included in this section:

- Mortgage, Property and Borrower eligibility requirements
- Mortgages ineligible to be modified under HAMP

(a) Mortgage, Property and Borrower eligibility requirements

The requirements in this chapter apply to Freddie Mac-owned Mortgages that meet the following requirements:

- First Lien Mortgages owned, securitized or guaranteed by Freddie Mac originated on or before January 1, 2009, including super conforming Mortgages and Conforming Jumbo Mortgages sold to Freddie Mac under a Seller’s negotiated Purchase Documents, which are secured by:
  - 1- to 4-unit, single-family Primary Residences, including Condominium Units and Guide-eligible Manufactured Homes that are not abandoned, vacant or condemned. Cooperative Share Mortgages sold under a Seller’s negotiated Purchase Documents are also eligible. Servicers must verify that the property serves as the Borrower’s Primary Residence using the Borrower’s most recent signed federal income tax return (or transcript of the tax return obtained from the IRS), a credit report and one other form of documentation that would supply reasonable evidence that the property is the Borrower’s Primary Residence (such as utility bills for the subject property in the Borrower’s name).
  - The Borrower must currently have a monthly housing expense-to-income ratio that is greater than 31% of the Borrower’s verified and documented gross monthly income

Borrowers who, due to hardship, have defaulted on their Mortgages are eligible for modification under HAMP. Borrowers who are current or less than 31 days delinquent but who, due to hardship, may be in imminent default, are also eligible for modification under HAMP. Such a Borrower must be screened for imminent default in accordance with the criteria set forth in this section.

The reason for hardship must be identified and explained in the Hardship Affidavit (refer to Section C65.2). On the Hardship Affidavit, Servicers must request from the Borrower and co-Borrower information for government monitoring purposes, including the ethnicity, race and sex of the Borrower and co-Borrower. See Section C65.13(b) for additional information regarding requirements related to requests for collection of government monitoring data.

HAMP will expire on December 31, 2012. For a Mortgage to be eligible for modification under HAMP, the Servicer must have received the Trial Period Plan executed by the Borrower together with the first Trial Period payment and verified all HAMP eligibility requirements have been met on or before December 31, 2012.

With respect to FHA, VA and RHS Mortgages, Servicers must comply with the guidance issued by the relevant agency.

Foreclosure/Bankruptcy

The Mortgage may be in foreclosure or in other pending litigation. The Borrower may be in active bankruptcy; however, the Servicer should consult with its own legal counsel on the proper method to communicate with and offer a modification under HAMP to a Borrower in active bankruptcy. For Borrowers who have received a Chapter 7 bankruptcy discharge but did not reaffirm the mortgage debt under applicable law, the Servicer must make an authorized change to the Trial Period Plan and the Modification Agreement as described later in Section C65.7(d). Servicers must follow applicable federal, State and local laws, including, but not limited to, judicial and professional rules of conduct governing discussions with opposing parties in litigation when represented by counsel and federal bankruptcy laws, rules and regulations that govern
entering into a loan modification when the Borrower is a debtor in bankruptcy.

Another workout arrangement

If the Borrower is currently performing under another interim workout arrangement that has not been completed but requests to be considered for a modification under HAMP, the Servicer must consider the Borrower for such a modification.

Junior liens

Borrowers are not required to satisfy any outstanding junior lien(s). In addition, the Servicer must not consider the monthly payment on any junior lien(s) in calculating the Borrower's PITI/AS Payment or the Target Payment; however, the monthly payment on any junior lien(s) must be included in the Borrower's total monthly debt payment-to-income ratio.

Escrows

The Borrower must agree to set up an Escrow account on the Mortgage if an Escrow account is not currently maintained on the Mortgage, provided its establishment is not prohibited under applicable federal, State and local law. (Refer to Section C65.6(d) for additional information on establishing an Escrow account.)

Determining imminent default

A Borrower who (a) is current or less than 31 days delinquent, (b) contacts the Servicer for a modification, (c) appears potentially eligible for a modification, and (d) claims a hardship must be screened for imminent default.

In the process of making a determination for imminent default, the Servicer must evaluate the Borrower's financial condition in light of the Borrower's hardship as well as inquire as to the condition of and any circumstances affecting the property securing the Mortgage loan. If the Servicer determines that the Borrower has not experienced a hardship, then the Borrower does not qualify for the Program.

The Borrower is required to identify the hardship type and detail the circumstances of the hardship on the Hardship Affidavit. In addition, the Borrower will be required to complete and sign page two of Form 1126, Borrower Financial Information, and the Servicer must legibly print the Borrower's name below the Borrower's signature and add the Freddie Mac loan number to the form. Servicers are to rely on the Hardship Affidavit, page 2 of Form 1126, the Borrower's credit report, and income documentation to determine the hardship and financial condition of the Borrower.

If the Servicer makes a preliminary determination that the Borrower has a hardship and is otherwise eligible for evaluation under the Program, the Servicer shall determine whether the Borrower is in imminent default in accordance with the procedures described below. This imminent default calculation is independent of the calculation of the monthly housing expense-to-income ratio and the total monthly debt payment-to-income ratio.

- The Servicer must consider the Borrower's financial condition, liquid assets, combined monthly income from wages and all other identified sources of income, monthly liabilities (including personal debts, revolving accounts and installment loans), other monthly expenses, including a reasonable allowance for living expenses such as food, utilities, etc., and make a determination of whether the Borrower is in imminent default based on the following evaluation:

  - The Servicer must consider the Borrower for a modification under the Program if both:
    - The Borrower's Debt Coverage Ratio ("DCR Ratio") is less than 1.20, and
    - The Borrower's Cash Reserves are less than three times the current monthly PITIA payment (if the loan is not currently escrowed, use estimated taxes, insurance and HOA assessments).

The following are definitions for purposes of this calculation: