

# Fitzgerald, O'Brien & Robin

---

1200 Converse Street  
Longmeadow, Massachusetts 01106  
Telephone (413) 567-3131  
Facsimile (413) 565-3131

Jennifer N. Fitzgerald  
Joan E. O'Brien  
Louis S. Robin\*  
Lauren Elliott\*\*

Attorneys & Counselors  
at Law  
\* Also admitted in New York  
\*\* Of Counsel

July 30, 2010

Bank of America/BAC Home Loans Servicing, LP  
7105 Corporate Drive  
Plano, TX 75024-4100

Re: Nancy Santana, Account: 186500349  
Property Address: 34 Beech Street, Springfield, MA 01105

Dear Sirs/Madam:

We are counsel to Nancy Santana. We write to resolve Nancy Santana's claims against you and to place you on notice of claims, including claims under Massachusetts General Laws Chapter 93A which includes treble damages, costs, and legal fees. Bank of America/BAC Home Loans Servicing, LP ("Bank of America") holds a mortgage recorded in the Hampden County Registry of Deeds at Book 17550 Page 2 and assigned to it by a document filed at Book 18288 Page 261.

## Background

Nancy Santana is a mortgagor of the above referenced loan executed on October 30, 2008. She has not executed the note, although the mortgage, as referenced above, identifies her as a "borrower". There are arrears owed on the obligation, and Ms. Santana has received letters from you and your attorneys concerning the arrears. For example, by letter dated March 25, 2010, to *Nancy Santana* you state that that (i) "you have the right to cure the default"; (ii) "Your loan is in default", and "If you are unable to cure the default . . . BAC Home Loans Servicing, LP wants you to be aware of various options . . . If you are interested in discussing any other these foreclosure alternatives . . . you must contact us immediately." There are other references to Ms. Santana identifying her as a borrower in this March 25<sup>th</sup> letter.

Similarly, your counsel, Harmon Law Offices, P.C., by letter dated July 22, 2010, and addressed to Ms. Santana, referred to Ms. Santana "breach of the condition of the loan documents" and Ms. Santana's rights to "reinstate the loan", among other references.

Copies of the March 25, 2010 letter and the first page of the July 22, 2010 letter are attached hereto.

**Demand**

This letter constitutes demand for your issuing a modification of Ms. Santana of a mortgage gy waiver of all arrears (representing approximately \$5,000), waiver of \$10,000 of principal, waiver of all interest charges, late fees, and costs including any legal fees, and payment to Ms. Santana of \$10,000, for her legal fees and emotional distress incurred by her as a result of Bank of Ameica's failure to properly process her application. The modified mortgage will include an amortization of principal over 30 years with an interest rate of 2% for the first five (5) years, 3% for the sixth (6<sup>th</sup>) year, 4% for the seventh (7<sup>th</sup>) year, and 5% for the following 23 years. This demand is made pursuant to Massachusetts General Laws Chapter 93A. Should you fail agree to the preceding demand or to offer a reasonable resolution within thirty (30) days of the receipt of this letter, then Ms. Santana will pursue her legal remedies against you, which include commencing legal action under Massachusetts General Laws 93A, seeking damages, including triple damages and attorneys' fees. We will also investigate Ms. Santana's legal rights because we believe that Bank of America's acceptance of "TARP" funds and participation under "HAMP" (Home Affordable Mortgage Program") may require Bank of America to administer applications and requests such as Ms. Santana's in a prompt, timely and professional manner (none of which occurred in this case). *See Matthew W. McCourt, et al v. Beneficial Massachusetts, Inc.*, Superior Court (Hampshire), Civil Docket #HSCV2010-00143, the Court (C. Brian McDonald, J.), where a preliminary injunction was entered preventing a foreclosure where the defendant was found to have violated the covenants of good faith and fair dealing by failing to process properly a loan modification request.

Sincerely,

Louis S. Robin

LR/bh  
Enclosures

Cc: Nancy Santana (with exhibits)

**Bank of America's Refusal to Discuss the Loan with Ms. Santana**

In July, 2010, Ms. Santana, by herself, contacted Bank of America, to discuss a possible loan modification. Bank of America refused to discuss the loan because she did not sign the promissory note, even though she had signed the mortgage and was a (co)owner of the real property at issue.

On August 3, 2010, Ms. Santana and I, together, contacted Bank of America, again to discuss a possible loan modification. Bank of America again refused to discuss the loan because Ms. Santana did not sign the promissory note, even though she had signed the mortgage and was a (co)owner of the real property at issue. Immediately thereafter, I contacted Harmon Law Offices, P.C., to inquire on any scheduled date for foreclosure, and discussed Bank of America's refusal to discuss a modification of the loan. I was assured by Kat of the Green Team of the Harmon Law Offices, P.C., that Ms. Santana and I could discuss this matter. Kat said that she would contact Bank of America, and she confirmed later that day that I could contact Bank of America to negotiate a loan modification as she had contacted Bank of America, informed them that Ms. Santana could negotiate a loan modification, and has Bank of America to so note that in their records..

On August 10, 2010, Ms. Santana and I, together, again contacted Bank of America, to discuss a possible loan modification. Bank of America again refused to discuss the loan because she did not sign the promissory note. I immediately contacted KAT, who suggested that I conference call her with Bank of America, which I did. We reached "Andrew NBKNGK4". Although KAT, after identifying herself as counsel to Bank of America, informed "Andrew NBKNGK4" that Bank of America was authorized to negotiate a loan modification; I would even state that KAT directed "Andrew NBKNGK4" to discuss a mortgage modification with Ms. Santana. Although KAT identified Harmon Law Offices, P.C. as Bank of America's legal counsel, Andrew denied this by saying that they were only the attorneys hired to foreclose. Ironically, "Andrew NBKNGK4" stated that the reason why he could not discuss a modification with my client was because he would be "fired" (for failure to comply with regulations).

After a few minutes of discussion, KAT had Mathew Daly, Esq., of Harmon Law Offices, P.C., join the conversation, and subsequently Andrew had a supervisor, Enzo VALBIBIA, replace him on the telephone call, and May DiGiampaolo, Esq., replaced Mathew Daly, Esq. Despite the consistent and persistent requests of Harmon Law Offices, P.C., Bank of America's counsel, over a total period of at least 45 minutes over the telephone, Bank of America steadfastly refused to enter into any discussions with the Debtor.