

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

IN RE:)	
)	CHAPTER 13
ROBERT A. RANDALL)	CASE NO. 07-42360-HJB
Debtor(s))	
)	
ROBERT A. RANDALL)	
Plaintiff(s))	ADVERSARY PROCEEDING
vs.)	NO. <u>10-04027</u>
AMERICA HOME MORTGAGE SERVICING INC, and)	
OPTION ONE MORTGAGE CORPOATION, and)	
NEW ENGLAND REGIONAL MORTGAGE CORP, and)	
INDEPENDENCE COMMUNITY BANK, and)	
WELLS FARGO BANK, N.A., as Trustee for the)	
Structured Asset Securities Corporation Mortgage)	
Pass-Through Certificates, Series 2006-OPT1)	
Defendant(s))	
)	

**RESPONSE TO MOTION FOR DISMISSAL
BY AHMSI AND WELLS FARGO BANK AS TRUSTEE**

TO the Honorable HENRY J. BOROFF, Bankruptcy Judge:

Now comes ROBERT A. RANDALL, the Debtor, in the above-captioned case and respectfully represents to this Court:

STATEMENT OF ALLEGATIONS:

The Defendant American Home Mortgage Servicing Inc., (AHMSI) and Wells Fargo Bank, NA (WELLS), recite the basic allegations accurately with one major exception. The Defendants ignore any reference to the title problems set forth in the Factual Allegations portion of the Plaintiffs Complaint. Further, Defendants are unnecessarily dismissive of the importance of the statutory provisions improperly. Defendants are relying on FRCP 12(b)(6) in order to have this Adversary Proceeding Dismissed. In so doing they quote Bell Atlantic v. Twombly, 550 U.S. 544, 555 (2007). Specifically "to survive a motion to dismiss, the plaintiff must plead sufficiently specific allegations' to raise a right of relief above the speculative level... on the assumption that all of the allegations in the complaint are true...". All of the legal issues set forth in Defendants writing on standard of review are correct; it is their legal argument set forth that is faulty.

LEGAL ARGUMENT:

COUNTS III AND IV:

Plaintiff concedes that as to Counts III and IV, the assertion of violations of the Truth In Lending Act (TILA) and Massachusetts Consumer Credit Costs Disclosures Act (MCCCCDA) Plaintiff may not use the statutes as offensive plea but can assert them as an affirmative defense and counterclaim to an action by Defendants. While Plaintiff must agree with Defendants that Plaintiff may not seek affirmative damages Plaintiff, argues that he may raise all relevant statutes which have been violated by Defendants, to defend against any "adversary proceeding" such as a foreclosure against him.

As to the damages sought by Plaintiff he will concede that the claim for monetary damages are in fact time barred they should be dismissed. However, because the use is defensive as well as offensive it is the remedy only that should be considered time barred not the use of the statute to show gross violations of the mortgage settlement process.

COUNT II:

Again the Defendants complain that Plaintiffs allegations should be given no credence because they are being raised more than four (4) years after loan origination. Again for purposes of defending against foreclosure, the violations should be used to show a pattern of conduct by Defendants that survives the statute of limitations on an affirmative action.

Further, Defendant opines that arguments over the servicing rights and transfers of said rights are also time barred, Plaintiff maintains that 12 USC 2605 is clear in its application to ongoing servicing problems. The requirement for servicers to notice a borrower of a change in the servicer is an ongoing obligation for the entire period of the loan. In this case it became critical especially during Plaintiffs attempt to obtain a modification.

Defendants reliance on a four (4) year statute of limitations flies in the face of the statute and accompanying regulatory provisions, which require notice to be given.

In this case, the very issues 11 USC §2605 was meant to prevent, have arisen. Further, they have arisen with a denial from Defendants that there are any problems or that they violated any provisions of §2605.

TOLLING OF STATUTES OF LIMITATIONS:

Plaintiff for purposes of issues raised in this response only will concede that the Chapter 13 case did not toll the statutes which were plead affirmatively and as a "sword". The Plaintiffs rights are not extinguished to defend himself against an unwarranted and unjust foreclosure proceeding. Defendants fail throughout their motion to deal with the issues of Equity.

Defendants in their discussion of 11 USC 363 and 1303 ignore the nature of this particular proceeding. Defendants argue "none of the rights enumerated in section 363 include a right to extend the statute of limitations for *non bankruptcy proceedings*". The case cited by Defendants is for an Adversary Proceeding on a tort claim for malpractice. In the present case, as distinguished

from all of the Defendants citations and quotations, the powers to extend the statute of limitations should be exerted because the matter is very much a bankruptcy proceeding. The Plaintiff is in a Chapter 13 Plan for reorganization. His house is necessary for the reorganization, therefore any matter dealing with retention of the homestead is critical and core to the filing itself. In essence we have a Plaintiff in Chapter 13 utilizing the powers granted to the Trustee in order to effect the reorganization which would constitute a proper reason for tolling the statutes of limitations.

UNFAIR AND DECEPTIVE TRADE PRACTICES:

Defendants argue that Count V of the Complaint, is a claim for unfair and deceptive trade practices. They go on to state that it is governed under MGL c. 93A must fail because there was no pre-suit demand letter filed. Based on the fact that Defendants have neither offices in the Commonwealth or assets (WELLS acting as a Trustee, not as a bank), the Defendants are not afforded the right to a pre-suit demand letter.

“The demand requirements of this paragraph shall not apply if the claim is asserted by way of counterclaim or cross-claim, *or if the prospective respondent does not maintain a place of business or does not keep assets within the Commonwealth* , (emphasis provided) but such respondent may otherwise employ the provisions of this section by making a written offer of relief and paying the rejected tender into court as soon as practicable after receiving notice of an action commenced under this section.” MGL c. 93A §9(3).

As to the assertion that the allegations made by Plaintiff all of Count V should fail due to its being based on statutes which are time barred, Plaintiffs Count V paragraph 43 states “by failing to negotiate a modification in good faith, Defendant AHMSI and the loans owner, presumed to be WELLS as Trustee, engaged in an unfair and deceptive practice”. This obviously does not rely on the statutes that are time barred as the attempts to obtain a modification are ongoing even during this proceeding. This is especially true based on EXHIBIT I, which was taken from the Defendant AHMSI website.

The most outrageous defense Defendant WELLS argues us that WELLS the Trustee is not engaged in trade or commerce. The argument that as Trustee it serves a private function strains belief. WELLS holds itself out as a business entity willing to perform services not just for a limited group, such as in the Office One Inc. and Edinburg cases cited by the Defendants where the Trustees were filling a role only for one entity such as a condominium or closely held corporation. In those cases the Trustees were not professional Trustees making a business out of such capacity. A better analagous situation would be WELLS under contract for whatever entity will hire it to perform a specialized function. The fact that its actions are governed by contract, in this case a trust instrument and a pooling and servicing agreement, does not take them out of “trade and commerce”. To argue that a corporate fiduciary, like a bank’s trust department where the bank serves as trustee for any entity which will hire it, is not in trade and commerce is absurd.

Taking this a step further, it is an unfair and deceptive practice to bring a foreclosure and file a Proof of Claim with no legal standing to do so. The question of who owned the loan and mortgage at any point in time and who the “official” servicer was is very much in doubt as shown by the following chronology.

1. Origination December 2005 in the name of the Lender, New England Regional

- Mortgage, which funded the loan.
2. 4/24/2007 Option One (OOMC) assigns to Wells Fargo Trustee.
 3. 4/24/2007 WELLS files for Order in Land Court.
 4. 7/12/2007 OOMC files Proof Of Claim in the Bankruptcy proceeding.
 5. 6/16/2008 OOMC sends Notice to Plaintiff about the ARM rate change.
 6. 8/13/2008 New England Regional Mortgage FOR THE FIRST TIME assigns mortgage/loan. The Assignee is American Home Mortgage (AHMSI is successor to OOMC).

As can be seen by the chronology of the title, Option One assigned the loan to Defendant WELLS without authority. Subsequently OOMC filed a Proof of Claim in a Bankruptcy proceeding without authority. OOMC sends a Notice about a rate change to Plaintiff without authority and AHMSI and New England Regional Mortgage never served the Plaintiff with the required Notice of Change in Servicer. The confusion evident on paper rises to being an unfair and deceptive trade practice as it has deprived the Plaintiff of the ability to enter into meaningful negotiations to settle this matter, said attempted negotiations having been begun even before the August 13, 2008 Assignment.

The Defendants in their subsequent Paragraph E, argue that violations of HAMP and HARP are not claims upon which relief can be granted. To the contrary AMHSI holding itself out as a participant in the making Home Affordable Program, negotiating with the Plaintiff and not adhering to program guidelines and precepts is an unfair and deceptive practice. (Please see further discussion subsequent)

UNJUST ENRICHMENT:

For the Defendants argument regarding unjust enrichment to prevail one must first conclude that the Defendants were entitled to take action and collect money in the form of monthly payments which is not supported by the record. Moving through the Defendants enumeration of the elements under Massachusetts Law:

1. There was an enrichment in that a party not entitled to do so collected money.
2. There is no requirement for one to become impoverished, which the language in the cited case which is the language cited by Defendants from the McCabe case. All that is needed to show is that the Plaintiff suffered a loss due to the unjust acts of the Defendant, which profited from their actions.
3. The enrichment or gain and impoverishment or loss in this situation are self evident. Payments were made by the Plaintiff to his detriment in an excessive amount to Defendants. As stated above they improperly profited from this transaction.
4. The issue of justification discusses not rationalization but justification. Simply put there had to be a *right* for Defendants to become enriched in order to avoid the claim. Again if they had no legal right to collect the funds there is no justification for the enrichment. And again if the Defendants violated certain statutory proscriptions even though no cause of action may be brought under those statutes does eliminate "justification".
5. Absence of remedy at law is argued by Defendants in the first part of the Answer and Memorandum of Law. They argue that all statutes are time barred thus eliminating a remedy at law, leaving only remedies in equity.

The Plaintiffs last argument, which relies on McCabe, dealing with contracts ignores any issues concerning the equitable nature of contract proceedings as they revolve around two parties in unequal bargaining positions, the more sophisticated and professional party taking advantage of an unsophisticated unlearned other party.

Unjust enrichment is clearly an "equitable remedy". The Defendants cannot argue that both claims under statute are time barred and that the matter turns on contract, and at the same time ignores their bad acts and unclean hands. Plaintiff agrees that, if all actions in this transaction had been transparent and above board and that Plaintiff and Defendants were of equal sophistication and equal bargaining power throughout the course of this loan, seeking equitable relief might be inappropriate.

HAMP VIOLATIONS:

Despite Defendants argument that stating AHMSI has a pattern and practice of not negotiating and modifying mortgages and its characterizations of Plaintiffs citing Treasury Department Reports as being "very bald assertions, unsupportable conclusions and opprobrious epithets", the record speaks for itself. Said Defendant has ranked low in its actual numbers of modifications and percentage of eligible loans being modified. In the most recent report Defendant AHMSI ranked seventeen out of nineteen out of being reported specifically by the Treasury Department. Exhibit II shows the consistent exceptionally poor performance by AHMSI.

As to whether AHMSI is following the regulations, the Agreement between said Defendant and the Treasury states that "Servicer shall perform the loan modification and other foreclosure prevention services... described in... "financial instrument"; "the program guidelines and procedures issued by the Treasury;..."; and "any supplemental documentation, instructions... compliance requirements... issued by the Treasury, Fanny Mae or Freddy Mac...". (Exhibit III, Page 2 Section 1.79).

Further, as is set out in the Agreement, the Servicer is also responsible for adhering to the representations and warranties in the "Financial Instrument" (EXHIBIT IV, page I).

The agreement goes on to say in Section 2, that "servicer shall perform the services for all mortgage loans its [sic] services, whether it services such mortgage loans for its own account or for the account of another party, including any holders of mortgage backed securities".

While there is no recitation of a private cause of action, the failure to adhere to the agreement as evidence of a lack of good faith and as evidence of a pattern and practice by Defendant, is certainly subject to "credit by the Court". Perhaps Defendants are arguing that Defendants' only recourse is to file a Complaint with the regulatory bodies supervising the HAMP. Even if that is true it does not preclude Defendants from being subject to Judicial Notice of Agreements available to the public between said Defendant AHMSI and Defendant Wells Fargo and the US Department of Treasury, Fanny Mae and Freddie Mac.

CONCLUSION:

It is Plaintiffs position that while it is appropriate for the Court to Dismiss Counts II and III, and by implication Count IV, as affirmative and offensive claims, Plaintiff maintains Counts I, V,

and VI not only have merit but should survive a Motion To Dismiss based on their being adequate facts and law both in law and equity to support continuation of this action. Further, Plaintiff argues that the facts underlying Counts II, III, and IV are not disputed, and therefore can be used to show behavior by Defendants.

Finally, Plaintiff maintains that under its equitable powers this Court can "credit" all of the actions of Defendants not only in the three remaining counts but in the three counts which are time barred but of which Defendants violated the statutory requirements.

NOW THEREFORE Plaintiff respectfully requests this Court to deny the request for Dismissal.

Dated: June 7, 2010

/s/ Richard I. Isacoff
Richard I. Isacoff, Esq.
RICHARD I. ISACOFF, P.C.
BBO #247760
100 North Street, Suite 405
Pittsfield, MA 01201
413 443 8164 Telephone
413 443 8171 Facsimile
rii@isacofflaw.com

UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF MASSACHUSETTS

IN RE: ROBERT A. RANDALL

**CASE NO. 10-04027
CHAPTER 13**

CERTIFICATE OF SERVICE

I, Richard I. Isacoff, hereby certify that on June 7, 2010, I served a copy of the foregoing Response To Motion For Dismissal by ECF to the parties listed below by ECF:

United States Bankruptcy Court
595 Main Street
Worcester, MA 01608

United States Trustee
600 Main Street
Worcester, MA 01608

Denise Pappalardo, Esq.
Chapter 13 Trustee
Post Office Box 16607
Worcester MA 01601

Portnoy & Greene PC
Attn: Barry Green, Esq.
687 Highland Avenue
Needham, MA 02494

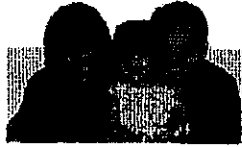
AHMSI
Attn: Bankruptcy Department
3 Ada
Irvine, CA 92618

Hinshaw & Culbertson
Samuel C. Bodurtha, Esq.
One International Place, 3rd Floor
Boston, MA 02110

June 7, 2010

/s/ Richard I. Isacoff
Richard I. Isacoff, Esq.
RICHARD I. ISACOFF, P.C.
BBO #247760
100 North Street, Suite 405
Pittsfield, MA 01201
413 443 8164 Telephone
413 443 8171 Facsimile
rii@isacofflaw.com

EXHIBIT I



"They did more than stand behind us,
They stood beside us."

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Possible Solutions



If you're past due or facing foreclosure, American Home Mortgage Servicing, Inc. Home Retention Team may be able to work out a way for you to catch up or minimize the damage to your credit. They determine eligibility on a case-by-case basis and may be able to arrange one of the following loan solutions.

You can contact the Home Retention Team at 877.304.3100 or you can also [log in](#) to your online account and go to Payment Help. You'll find the necessary forms there to help you through this process.

You may want to consider getting advice from a housing counselor approved by the U.S. Department of Housing and Urban Development. For a listing of HUD-approved housing counseling agencies, call 800.569.4287 toll free, or access www.hud.gov/offices/hsg/sfh/hcc/hccpro14.cfm.

Here are some of the possible solutions that we may be able to offer you. Fax your information to 866.452.1837

Repayment Plan or Special Forbearance

American Home Mortgage Servicing Inc. may be able to arrange a plan based on your financial situation to spread out repayment of your past-due balance over an extended period of time.

Loan Modification

It may be possible to modify your mortgage contract to incorporate your past-due amounts and sometimes even reduce your monthly payment. This may be done by extending the loan term, lowering the interest rate or capitalizing past-due interest. However, this is a legal change to the terms of the loan and involves obtaining approval from the loan owner or investor.

Pre-Qualifying Factors

- Customer must have a source of Income
- Income must be stable:
 - No Temporary Source of Income
 - No Unemployment or Temporary Social Security
 - Pensions are allowed as long as they are permanent.
- Property and Mortgage must belong to person/s applying for the Loan Modification
- All liable parties must be willing to sign the Modification Documents

****Note - A Processing Fee may apply, if applicable**

Items Required For Review of Workout

- Completion of Financial Analysis Form
- A letter detailing the circumstances surrounding your current financial situation (Hardship Letter)
- Copy of 2 most recent bank statements.
- Copy of 2 most recent pay-stubs
- **Note - 6 months of Profit and loss statements applicable, if self-employed**
- Previous year's Tax Return or W2

Mortgage Insurance Claim

American Home Mortgage Servicing Inc. may be able to work with you to obtain a one-time loan from the mortgage insurance fund to bring your mortgage current. Then the borrower would have to pay back this loan to the insurance company over time.

Short Sale or Pre-Foreclosure Sale

This will allow you to avoid foreclosure by selling your property for less than the amount you owe on your mortgage. This may be less damaging to your credit than a foreclosure.

Pre-Qualifying Factors

- There is a formal written offer on the Property
- The offer for the property is equal or less than the amount to payoff in full
- Jr. Liens (i.e. 2nd mortgages) must be willing to have an open line of communication with customer on possible negotiation efforts.
- The customer must be willing to allow AHMSI to evaluate the property's interior to gain a proper value for the workout
- **Note - The customer may provide their own appraisal if available**
- Preferred that the property has been listed for sale on the market

Items Required For Review of Workout

- Completion of Financial Analysis Form
- Signed Purchase Contract by Seller and Buyer
- Estimated HUD1 or Net Sheet
- Pre-Approval letter for buyer, with no contingencies
 - **Note - For cash purchases proof of available funds
- Listing Agreement
- A letter detailing the circumstances surrounding your current financial situation (Hardship Letter)
- Copy of 2 most recent bank statements.
- Copy of 2 most recent pay-stubs
 - **Note - 6 months of Profit and loss statements **applicable, if self-employed**
- Previous year's Tax Return or W2
- Letter of authorization for third parties, if applicable

Deed-In-Lieu of Foreclosure

As a last resort, you may be able to voluntarily "give back" your property to the lender. You won't be able to stay in your home, but it is not as damaging to your credit rating as a foreclosure. This option is only available if there are no other liens or judgments on the property.

Pre-Qualifying Factors

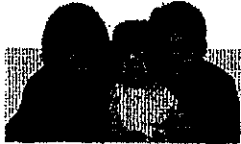
- No liens or judgments (i.e. 2nd mortgages)
(Small liens or judgments that may be negotiated to accept less may still qualify for a DIL.)
- Upon approval, property must be vacant and "open house clean" or "broom swept clean".
- The customer must be willing to allow AHMSI to evaluate the property's interior to gain a proper value for the workout
 - **Note - The customer may provide their own appraisal if available
- Preferred that the property has been listed prior and during the DIL process, but not required

Items Required For Review of Workout

- Completion of Financial Analysis Form
- A letter detailing the circumstances surrounding your current financial situation (Hardship Letter)
- Copy of 2 most recent bank statements.
- Copy of 2 most recent pay-stubs
 - **Note - 6 months of Profit and loss statements **applicable, if self-employed**
- Previous year's Tax Return or W2

Privacy Policy

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They stood beside us."

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Home Retention Team



American Home Mortgage Servicing, Inc. has a team of associates dedicated to helping borrowers work through financial difficulties. In fact, American Home Mortgage Servicing, Inc. is one of the nation's top-rated loan servicing companies just for this reason.

The Home Retention Team is:

- Experienced – typically with 5-8 years of experience working with borrowers facing financial difficulties
- Well-Trained – completes 120 hours of training before ever taking a call and as much as 40 hours per year of specialized training
- Empowered – to work things out directly with the borrower and make recommendations for approval.
- Compassionate – they know the importance of homeownership and they want to help people get through their difficulties as successfully as possible

How to Get Help

Call Us

If you're facing a tough situation, the best thing to do is [contact us](#) as soon as possible. You can speak with a Home Retention Team member by calling 877.304.3100. The only way we can help is if we're able to communicate with you.

Request Help Online

You can also [log in](#) to your account and request help online at Payment Help. There you'll find answers to frequently asked questions, necessary forms and other materials to help you through this process.

Get Help In Person

American Home Mortgage Servicing, Inc. has a homeownership preservation team that visits various cities for several days at a time to meet, in person, with borrowers facing financial difficulties.

Additional Information

Find out more about the impact of past-due payments and foreclosures.

- [Past-Due Fact Sheet](#)
- [Foreclosure Fact Sheet](#)



Credit Counseling

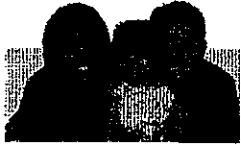
American Home Mortgage Servicing, Inc. provides borrowers facing financial difficulties with free credit counseling through its partnership with national non-profit organizations dedicated to helping consumers manage their debt. These credit counselors may be able to help you with budgeting and make recommendations about lowering your monthly expenses.

Financial Literacy

American Home Mortgage Servicing, Inc. supports several organizations dedicated to financial literacy that help educate consumers on borrowing and financial management. Find out [here](#).

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Past Due Fact Sheet



Your mortgage loan is a business contract in which you promise to repay the money loaned to you in a timely fashion. However, while being late or missing a payment has consequences, it does not necessarily put you in danger of losing your home. The key to getting through payment difficulties is your willingness to work with American Home Mortgage Servicing, Inc. to find alternative solutions.

Impact of Past Due or Missed Payments

The Lender

Every month, American Home Mortgage Servicing, Inc. has an obligation to pay the owner or investor of your home loan. When you don't pay your loan, American Home Mortgage Servicing, Inc. still has to pay this obligation on your behalf. We charge fees for past-due or missed payments to make up the cost of paying your obligations for you.

The Borrower

Late or missed payments can have a negative effect on your credit rating, which may make it more difficult for you to get credit cards and loans in the future. You also may have to pay a higher interest rate on loans and credit cards you do get.

American Home Mortgage Servicing, Inc. has an obligation to report past due or missed payments to credit bureaus. American Home Mortgage Servicing, Inc. reports to major credit bureaus every month. When payments are made on time, this monthly reporting has the advantage of building a positive credit history. Timely payment of your mortgage has the greatest impact – positive or negative – on your credit history.

Help for Past-Due Borrowers

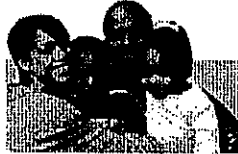
Step one to protecting your home and your credit is to stay in touch. As soon as you know you're going to be late with your payment, contact American Home Mortgage Servicing, Inc.. A Customer Care associate can help minimize the negative impact and even help you get on the road to resolving your financial difficulties.

If you're more than 60 days past due, you may be put in touch with a Home Retention Team member who is an expert in working out loan solutions. You may qualify for free credit counseling, job hunting assistance or assistance in selling your home.

Doing nothing guarantees the worst possible outcome – foreclosure, the loss of your home, and damaged credit, which will impact your ability to buy a home or get any kind of loan or credit card in the future.

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Foreclosure Fact Sheet



For American Home Mortgage Servicing, Inc., as for any lender, foreclosure is always a last resort. No one profits from foreclosure. American Home Mortgage Servicing, Inc. only forecloses on a property when all attempts to contact a borrower or to work out an alternative payment plan or other solution have failed – a process that usually takes several months.

What is Foreclosure?

Foreclosure is when the lender takes possession of a property because the borrower is not making loan payments.

The Lender

For the lender, foreclosure results in the loss of tens of thousands of dollars, sometimes as much as 40 percent of the loan principal or home value.

The Borrower

Not only does the borrower have to re-locate from their home, foreclosure also results in long-term damage to the borrower's credit rating. Even when the borrower recovers from their financial difficulties, a foreclosure can make it difficult to get a loan for a future home purchase, for college expenses or to even get a VISA or MasterCard. Even if the borrower is able to get credit, they will likely have to pay higher interest rates.

Avoiding Foreclosure

Stay In Touch

One of the main reasons foreclosures happen is because borrowers do not take the opportunity to work something out with their lender. When facing financial difficulties, many people just stop communicating. They don't return phone calls or answer their mail. This essentially guarantees that the borrower will lose their home.

Instead, borrowers should contact American Home Mortgage Servicing, Inc. as soon as they know they're going to have difficulty making their payments. If a borrower is willing to work with American Home Mortgage Servicing, Inc., American Home Mortgage Servicing, Inc. is willing to work with the borrower.



If you receive a call about your past-due mortgage, the best thing to do is take the call and start down the path to resolving the problem.

Home Retention Team

American Home Mortgage Servicing, Inc. has a specially trained, highly experienced team of associates dedicated to helping borrowers who are past due or who are facing foreclosure. This team is knowledgeable and empowered to make decisions to work out loan problems.

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EXHIBIT II

Making Home Affordable Program

Servicer Performance Report Through April 2010

HAMP Modification Activity by Servicer

Servicer	Estimated Eligible 60+ Day Delinquent Borrowers	Trial Plan Offers ¹	All HAMP Trials Started	Active Trial Modifications	Permanent Modifications	Active Trials+ Permanent as Share of Eligible 60+ Day Delinquencies (column 5+6)
American Home Mortgage Servicing, Inc.	52,247	19,911	16,530	9,392	6,971	31.3%
Aurora Loan Services, LLC	41,125	47,970	41,956	11,269	11,069	54.3%
Bank of America, N.A. [*]	477,509	402,398	302,981	214,562	56,398	56.1%
Carrington Mortgage Services LLC	6,196	3,216	2,495	850	1,614	39.7%
ClithMortgage, Inc.	152,357	153,389	144,176	54,947	28,556	54.8%
GMAC Mortgage, Inc.	23,960	53,160	43,011	13,950	20,471	143.6%
Green Tree Servicing, LLC	7,341	7,031	5,763	3,279	1,134	60.1%
HomeEq Servicing	16,872	5,505	4,355	1,869	2,282	24.7%
J.P. Morgan Chase Bank, N.A. [*]	246,185	256,423	189,014	118,997	39,507	64.4%
Litton Loan Servicing, LP	54,888	36,671	30,224	17,852	6,146	43.7%
NationStar Mortgage LLC	22,687	24,446	20,599	7,318	6,993	62.8%
Owen Financial Corp., Inc.	27,852	23,325	19,014	5,497	12,119	63.2%
OneWest Bank	57,459	58,863	41,375	27,347	9,612	64.3%
PNC Mortgage ⁶	21,016	21,761	17,782	8,412	980	44.7%
Saxon Mortgage Services, Inc.	36,658	44,505	39,701	12,946	10,566	64.1%
Select Portfolio Servicing	21,178	60,716	36,940	9,784	12,903	107.0%
US Bank, N.A.	19,554	12,381	9,581	3,559	4,648	42.0%
Wachovia Mortgage, FSB ⁷	30,232	8,969	6,285	6,243	43	20.8%
Wells Fargo Bank, N.A. ⁸	174,995	233,284	171,704	75,322	36,094	63.6%
Other SPA servicers ⁹	17,515	13,670	11,216	5,996	4,131	
Other GSE Servicers ¹⁰	194,308	NA	59,373	27,942	23,169	
Total:	1,702,134	1,487,594	1,214,085	637,353	295,348	54.8%

Calculated and Re-Formatted to Match All Prior MHA Monthly Reports

Active Modifications as a Share of Estimated Eligible 60+ Day Delinquencies

Note: Bayview, BankUnited, CCO No Longer Reported

¹ Estimated eligible 60+ day delinquent borrowers as reported by servicers as of March 31, 2010, include those in conventional loans:
 • In foreclosure and bankruptcy.
 • With a current mortgage principal balance less than \$729,750 on a one-unit property, \$342,250 on a two-unit property, \$1,123,250 on a three-unit property and \$200,000 on a four-unit property.
 • Origination date on or after January 1, 2009.
 Estimated eligible 60+ day delinquent borrowers excludes:
 • Those in FHA and VA loans.
 • Those in loans that are current for less than 60 days delinquent, which are eligible for HAMP if a borrower is in imminent default.
 • Those borrowers with delinquent status less than 31% or a negative NPV trail.
 • Owners of vacant properties or properties otherwise excluded (see footnote of page 7 for further explanation).
 Exclusions for OII and NPV are estimated using market analytics.
 For servicers ending after February 1, 2010 trial did not participate in the 60+ day delinquency survey, the delinquency count is from the servicer registration form.
² As reported in the weekly servicer survey through April 29, 2010.
³ Active trial end period modifications as reported into the HAMP system of record by servicer.
⁴ Bank of America, N.A. includes Bank of America, N.A. BAC Home Loans 3.1P, Mortgage Chase Bank, N.A. includes EMC Mortgage Corporation.
⁵ Formerly National City Bank.
⁶ Formerly National City Bank.
⁷ Formerly Wachovia Bank, N.A. includes a portion of the loans previously included in Wachovia Mortgage, FSB.
⁸ Other SPA servicers are entities with less than 5,000 estimated eligible 60+ day delinquent borrowers that have signed participation agreements with Treasury and Fannie Mae. A full list of participating servicers is in the Appendix.
⁹ Includes servicers of loans owned or guaranteed by Fannie Mae and Freddie Mac.
¹⁰ Active trials initiated at least six months ago.
 Note: Excludes Wachovia Mortgage, FSB at 0%.

*These items caused a reduction in Estimated Eligible (column 2) by 49.9%

Making Home Affordable Program

Servicer Performance Report Through March 2010

HAMP Modification Activity by Servicer

Servicer	Estimated Eligible 60+ Day Delinquency	Trial Plan Offers Extended ²	All HAMP Trial Offers ³	Active Trial Modifications ¹	Permanent Modifications ¹	Pending Permanent Modifications ¹	Active Trials + Permanent as Share of Eligible 60+ Day Delinquencies
American Home Mortgage Servicing Inc	12,342	18,214	15,001	10,740	4,194	7,597	12%
Aurora Loan Services, LLC	75,550	47,508	41,286	15,335	9,387	1,497	33%
Bank of America, NA ⁴	1,085,894	389,043	289,951	250,658	32,900	38,074	26%
Bank United	5,277	1,667	1,389	635	736	528	26%
Bayview Loan Servicing, LLC	9,685	2,711	4,630	3,567	619	91	45%
Carriation Mortgage Services, LLC	18,235	3,082	1,708	298	1,398	49	9%
CCO Mortgage	5,880	1,942	1,476	1,230	246	487	25%
GuilMortgage, Inc	246,582	153,113	142,804	92,597	22,455	9,533	47%
GMAC Mortgage, Inc	66,750	51,420	40,494	14,742	17,102	2,776	48%
Green Tree Servicing LLC	12,336	6,795	5,429	3,029	556	1,470	34%
HomeEq Servicing	40,568	4,879	2,116	1,313	713	1,117	5%
J.P. Morgan Chase Bank, NA ⁵	431,341	247,530	186,769	129,992	31,460	17,894	37%
Liberty Loan Servicing LP	105,933	36,430	30,169	19,734	5,469	878	24%
National Mortgage, LLC	45,616	23,870	20,198	8,241	5,740	877	31%
Ocean Financial Corporation, Inc	61,949	21,767	17,720	5,771	11,060	2,764	27%
OneWest Bank	109,555	56,902	38,598	28,214	6,883	5,673	32%
PNC Mortgage	44,303	21,731	17,562	10,979	743	853	26%
Saxon Mortgage Services, Inc	68,028	43,164	38,584	15,973	8,721	4,061	36%
Select Portfolio Servicing	55,543	58,953	35,074	11,568	11,463	1,639	42%
US Bank, NA	34,180	11,890	9,157	4,817	4,191	1,393	26%
Wadovna Mortgage, FSB ⁶	65,426	6,665	3,902	3,894	5	0	6%
Wells Fargo Bank, NA ⁷	378,480	225,610	165,217	114,918	30,014	9,162	38%
Other SPA servicers ¹⁰	22,895	3,616	2,916	1,283	1,411	NA	12%
Other GSE servicers ¹¹	287,624	NA	55,678	30,826	19,735	NA	18%
Total	3,398,612	1,436,902	1,168,925	780,951	227,922	108,212	30%

¹ Estimated eligible 60+ day delinquent mortgages as reported by servicers as of February 28, 2010, include conventional loans:

- In foreclosure and bankruptcy;
- with a current unpaid principal balance less than \$729,750 on a one-unit property, \$934,200 on a two-unit property, \$1,123,250 on a three-unit property, and \$1,403,400 on a four-unit property;
- on a property that was owner-occupied at origination;
- originated prior to January 1, 2009.

Estimated eligible 60+ day delinquent loans excludes:

- FHA and VA loans;
- loans that are current or less than 60 days delinquent, which may be eligible for HAMP if a borrower is in imminent default;
- For servicers ending after January 1, 2010 that did not participate in the 60+ day delinquency survey, the delinquency count is from the servicer registration form;
- As reported in the weekly servicer survey through April 1, 2010;
- Active trial and permanent modifications as reported into the HAMP system of record

^{1a} As reported by servicers. Pending permanent modifications have been approved by the servicer but have not yet been accepted by the borrower. While pending, modifications are reflected in the count of active trials. This metric will be reported through March 2010.

² Bank of America, NA includes Bank of America, NA, BAC Home Loans Servicing LP, Home Loan Services and Washfile Credit Corporation.

³ Formerly National City Bank.

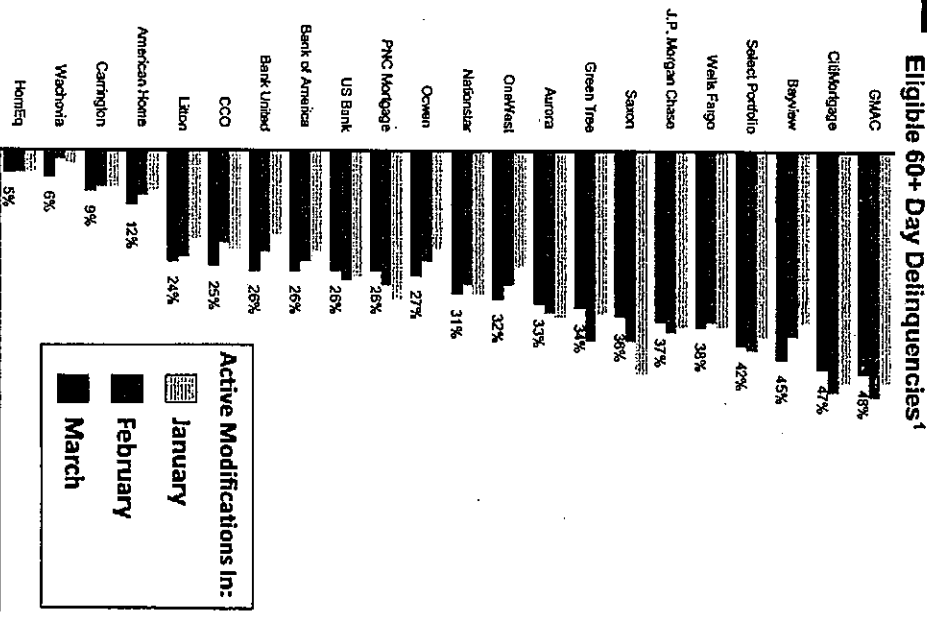
⁴ Wadovna Mortgage, FSB consists of Pick-a-Payment loans.

⁵ Wells Fargo Bank, NA includes a portion of the loans previously included in Wadovna Mortgage, FSB.

⁶ Other SPA servicers are entities with less than 5,000 estimated eligible 60+ day delinquencies that have signed participation agreements with Treasury and Finance Mesa. A full list of participating servicers is in the Appendix.

¹¹ Includes servicers of loans owned or guaranteed by Fannie Mae and Freddie Mac.

Active Modifications as a Share of Estimated Eligible 60+ Day Delinquencies¹



Note: Includes active trial and permanent modifications. Servicer contributions are the same as the table at left. Modifications through January as share of 60+ day delinquencies on December 31, 2009. Modifications through February as share of 60+ day delinquencies on January 31, 2010. Modifications through March as share of 60+ day delinquencies on February 28, 2010.

Making Home Affordable Program

Servicer Performance Report Through January 2010

HAMP Modification Activity by Servicer

Servicer	Estimated Eligible 60+ Day Delinquency	Total Plan Others Extended	All HAMP Trials Started	Active Trial Modifications	Permanent Modifications ¹	Pending Permanent Modifications	Active Trials + Permanent as Share of Eligible 60+ Day Delinquencies
American Home Mortgage Servicing Inc	127,521	15,137	12,142	11,764	333	2,173	9%
Aurora Loan Services, LLC	77,985	43,666	38,187	21,299	6,554	2,235	36%
Bank of America, NA ⁵	1,066,025	329,745	237,766	221,395	12,761	13,701	22%
Bank United	9,287	1,211	944	816	128	629	18%
Bayview Loan Servicing, LLC	10,413	4,603	3,960	3,564	249	48	37%
Carrington Mortgage Services, LLC	18,623	2,761	1,514	693	811	33	8%
CCO Mortgage	5,387	1,168	1,132	1,103	29	311	21%
Chili Mortgage, Inc.	246,038	146,200	130,817	111,247	10,929	7,299	50%
Forestar Credit Management Corp.	9,527	78	8	6	0	NA	0%
GMAC Mortgage, Inc.	65,751	45,880	34,196	21,330	31,394	7,352	50%
Green Tree Servicing LLC	11,250	5,604	4,055	3,728	227	389	35%
HomeEq Servicing	41,513	3,250	2,020	1,333	596	16	5%
J.P. Morgan Chase Bank, NA ⁶	432,416	222,192	170,028	150,902	11,581	17,959	38%
Liberty Loan Servicing LP	110,795	30,114	22,782	18,454	2,568	942	19%
Nelsonist Mortgage, LLC	49,596	24,399	17,427	12,953	2,274	698	31%
Oakwell Financial Corporation, Inc.	65,608	18,938	14,217	7,032	8,930	4,836	21%
Olivebank Bank	112,200	46,548	30,509	24,741	3,087	5,848	25%
PNC Mortgage ⁷	41,965	20,472	15,523	13,141	77	832	32%
Saxon Mortgage Services, Inc.	71,429	40,375	36,964	28,685	5,312	4,989	48%
Select Portfolio Servicing	62,041	50,149	31,630	17,915	6,761	1,402	40%
US Bank, NA	29,393	10,626	7,799	6,873	1,126	2,366	27%
Wachovia Mortgage, FSB ⁸	86,461	11,418	2,834	2,443	320	873	3%
Wells Fargo Bank, NA	357,443	188,749	144,904	119,476	17,652	7,554	38%
Other SPA servicers ⁹	22,981	2,635	1,923	1,131	750	NA	8%
Other GSE Servicers ¹⁰	277,253	NA	44,650	28,612	13,741	NA	15%
Total	3,404,501	1,289,357	1,008,216	830,438	116,297	78,482	28%

¹ Estimated eligible 60+ day delinquent mortgages as reported by servicers as of December 31, 2009 include conventional loans.

² As reported in the weekly servicer survey through January 28, 2010.

³ Active trial and permanent modifications as reported into the HAMP system of record by servicers.

⁴ As reported by servicers. Pending permanent modifications have been approved by the servicer but have not yet been accepted by the borrower.

⁵ While pending, modifications are reflected in the count of active trials.

⁶ Bank of America, NA includes Bank of America, NA, BAC Home Loans Servicing LP, Home Loan Services and Wilshire Credit Corporation.

⁷ J.P. Morgan Chase Bank, NA includes EMC Mortgage Corporation.

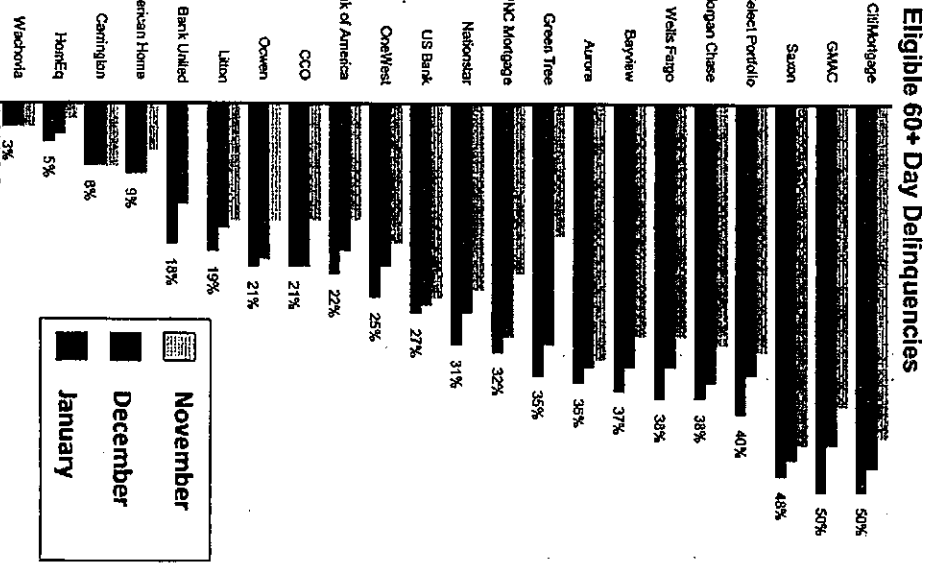
⁸ Formerly National City Bank.

⁹ Wachovia Mortgage FSB includes Wachovia Bank, NA.

¹⁰ Other SPA servicers are entities with less than 5,000 estimated eligible 60+ day delinquencies that have signed participation agreements with Treasury and Fannie Mae. A full list of participating servicers is in the Appendix.

¹¹ Includes servicers of loans owned or guaranteed by Fannie Mae and Freddie Mac.

Active Modifications as a Share of Estimated Eligible 60+ Day Delinquencies



Note: Includes active trial and permanent modifications. Servicer combinations are the same as the table at left.

November trials as a share of 60+ day delinquencies on October 31, 2009.

December trials as a share of 60+ day delinquencies on November 30, 2009.

January trials as a share of 60+ day delinquencies on December 31, 2009.

Making Home Affordable Program

Servicer Performance Report Through November 2009

HAMP Modification Activity by Servicer

Servicer	Participation Date	Estimated Eligible 60+ Day Delinquencies ¹	Trial Plan Offers Extended	All HAMP Trials Started	Active Trial Identifications ²	Permanent Modifications ³	Active Trials as Share of Eligible 60+ Day Delinquencies ⁴
American Home Mortgage Servicing, Inc.	7/22/09	120,797	12,621	7,642	7,430	201	6%
Ally Bank	5/1/09	75,829	38,410	32,994	21,717	3,622	33%
Bank of America NA ⁵	4/1/09	1,018,192	244,139	158,462	156,964	96	15%
Bank United	10/23/09	5,102	672	0	0	0	0%
Bayview Loan Servicing, LLC	7/1/09	9,808	3,638	2,995	2,884	50	90%
Carrington Mortgage Services, LLC	4/27/09	18,413	2,238	1,481	1,198	280	8%
CCO Mortgage	6/17/09	5,173	1,353	789	789	0	15%
Chitkhotage, Inc. ⁶	4/13/09	233,824	127,584	103,478	100,126	274	43%
Franklin Credit Management Corporation	9/11/09	9,612	0	0	0	0	0%
GMAC Mortgage, Inc.	4/13/09	67,539	39,637	28,275	19,539	7,111	39%
Green Tree Servicing, LLC	4/24/09	4,072	1,154	754	682	2	17%
Home Servicing	8/5/09	40,969	1,987	657	657	0	2%
J.P. Morgan Chase Bank NA ⁷	4/13/09	446,815	199,035	143,027	38,566	4,302	31%
Litton Loan Servicing LP	8/12/09	109,614	22,702	6,909	18,870	39	15%
Nationstar Mortgage, LLC	7/17/09	2,283	392	19	49	0	2%
Owens Financial Corporation, Inc.	4/16/09	66,351	15,961	9,793	5,519	4,252	15%
Residential Credit Solutions	8/28/09	111,674	35,313	19,623	19,623	0	18%
OneWest Bank	6/23/09	45,240	17,526	10,561	9,902	18	22%
PNC Mortgage ⁸	6/12/09	2,189	399	368	270	98	17%
RG Mortgage Corporation	6/17/09	3,223	348	90	87	21	3%
Saxon Mortgage Services, Inc.	4/13/09	80,309	38,145	35,608	35,565	42	44%
Select Portfolio Servicing	4/13/09	61,616	42,244	26,906	19,552	216	32%
US Bank NA	9/9/09	26,354	9,084	6,518	6,480	38	25%
Wachovia Mortgage, FSB ⁹	7/1/09	82,457	8,542	2,371	1,990	351	3%
Wells Fargo Bank, NA	4/13/09	34,949	148,240	104,908	96,517	3,537	30%
Other SPA servicers ¹⁰		4,779	434	432	251	167	8%
Other GSE servicers ¹¹		262,842	NA	53,021	24,877	6,281	NA
Total		3,299,730	1,032,637	739,058	697,826	31,382	24%

¹ Estimated eligible 60+ day delinquent mortgages as reported by servicers as of October 31, 2009 include loans:

- in foreclosure and bankruptcy;
- with a current unpaid principal balance less than \$728,730 on a one-unit property, \$934,200 on a two-unit property, \$1,123,250 on a three-unit property and \$1,403,400 on a four-unit property;
- on a property that was owner-occupied at origination;
- originated prior to January 1, 2008;

Estimated eligible 60+ day delinquent loans exclude:

- 1st and 2nd lien loans;
- loans that are more than 60 days delinquent, which may be eligible for HAMP if a borrower is in imminent default;
- services ending after November 1 did not participate in the 60+ day delinquency survey;
- loans that had permanent modifications as reported from the HAMP system of report by servicers.

² Active trial and permanent modifications as reported from the HAMP system of report by servicers.

³ Includes HAMP trials that began on or after October 23, 2009.

⁴ Includes HAMP trials that began on or after October 23, 2009.

⁵ Includes HAMP trials that began on or after October 23, 2009.

⁶ Includes HAMP trials that began on or after October 23, 2009.

⁷ Includes HAMP trials that began on or after October 23, 2009.

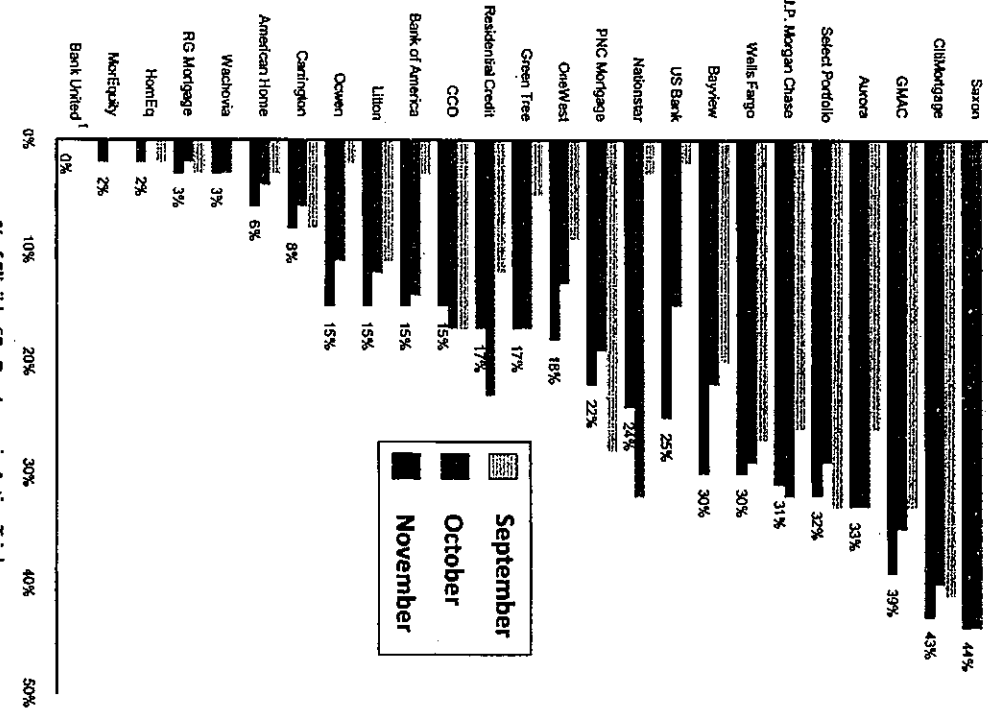
⁸ Includes HAMP trials that began on or after October 23, 2009.

⁹ Includes HAMP trials that began on or after October 23, 2009.

¹⁰ Includes HAMP trials that began on or after October 23, 2009.

¹¹ Includes HAMP trials that began on or after October 23, 2009.

Trial Modification Tracker: Active Modifications as a Share of Estimated Eligible 60+ Day Delinquencies



¹ Bank United began participation on October 23, 2009.

Note: Includes active trial and permanent modifications. Servicer combinations are the same as the table at left.

September trials as a share of 60+ day delinquencies on August 31, 2009.

October trials as a share of 60+ day delinquencies on September 30, 2009.

November trials as a share of 60+ day delinquencies on October 31, 2009.

Making Home Affordable Program

Servicer Performance Report Through October 2009

HAMP Modification Activity by Servicer

Servicer	Participation Date	Estimated Eligible 60+ Day Delinquencies	Trial Plan Offers Extended	Trial Plan Offers as Share of Estimated Delinquencies	Active Trial Modifications	Trial Share of Estimated Eligible 60+ Day Delinquencies
American Home Mortgage Servicing Inc	7/22/08	116,742	9,849	8%	5,082	4%
Aurora Loan Services, LLC	5/1/08	74,846	39,897	53%	24,193	33%
Bank of America, N.A.	4/1/08	990,628	212,753	21%	136,994	14%
Bank United	10/23/09	9,046	0	0%	0	0%
Bayview Loan Servicing, LLC	7/1/09	9,639	2,672	28%	2,116	22%
Carriington Mortgage Services LLC	4/27/09	18,277	1,981	11%	1,195	6%
CCO Mortgage	6/17/09	4,662	115	2%	78	1%
Chill Mortgage, Inc.	4/13/09	22,191	110,796	50%	68,988	40%
Franklin Credit Management Corporation	9/11/09	2,643	0	0%	0	0%
GMAC Mortgage, Inc.	4/13/09	66,946	33,690	50%	28,078	36%
Green Tree Servicing LLC	4/24/09	4,034	102	2%	694	17%
Home Servicing	8/5/08	40,766	134	0%	91	0%
J.P. Morgan Chase Bank, N.A.	4/13/09	422,807	182,422	43%	133,998	32%
Litton Loan Servicing LP	8/12/09	110,027	17,784	16%	13,093	12%
MortEquity, Inc.	7/17/09	2,289	123	5%	3	0%
National City Bank	6/28/09	42,504	15,621	37%	7,906	19%
Nationsstar Mortgage LLC	5/28/09	31,736	20,110	63%	10,154	32%
Owens Financial Corporation, Inc.	4/16/09	67,912	13,196	19%	7,666	11%
OneWest Bank	8/28/09	110,496	30,331	27%	14,044	13%
Residential Credit Solutions	8/12/09	1,524	379	25%	350	23%
RG Mortgage Corporation	6/17/09	3,237	937	29%	70	2%
Saxon Mortgage Services, Inc.	4/13/09	80,477	38,322	48%	35,027	44%
Select Portfolio Servicing	4/13/09	62,094	37,695	61%	18,156	29%
US Bank NA	9/9/09	29,854	8,590	29%	4,877	5%
Wachovia Mortgage, FSBS	7/1/09	78,272	5,162	7%	2,363	3%
Wells Fargo Bank, NA	4/13/09	323,198	132,182	41%	93,652	29%
Other SPA servicers ¹		5,134	337	7%	213	4%
Other GSE Servicers ²		288,747	NA	NA	28,424	9%
Total		3,219,192	819,985	25%	650,944	20%

¹ Estimated eligible 60+ day delinquent mortgages as reported by servicers as of September 30, 2009 include loans:

- In foreclosure and bankruptcy.
- With a current unpaid principal balance less than \$750,000 on a one-unit property, \$920,000 on a two-unit property, \$1,120,000 on a three-unit property and \$1,400,000 on a four-unit property.
- Original delinquency date of delinquency at origination.
- Original delinquency date of delinquency on or after January 1, 2008.
- PAID and VA loans.

Loans that are current or less than 60 days delinquent, which may be eligible for HAMP if a borrower is in imminent default.

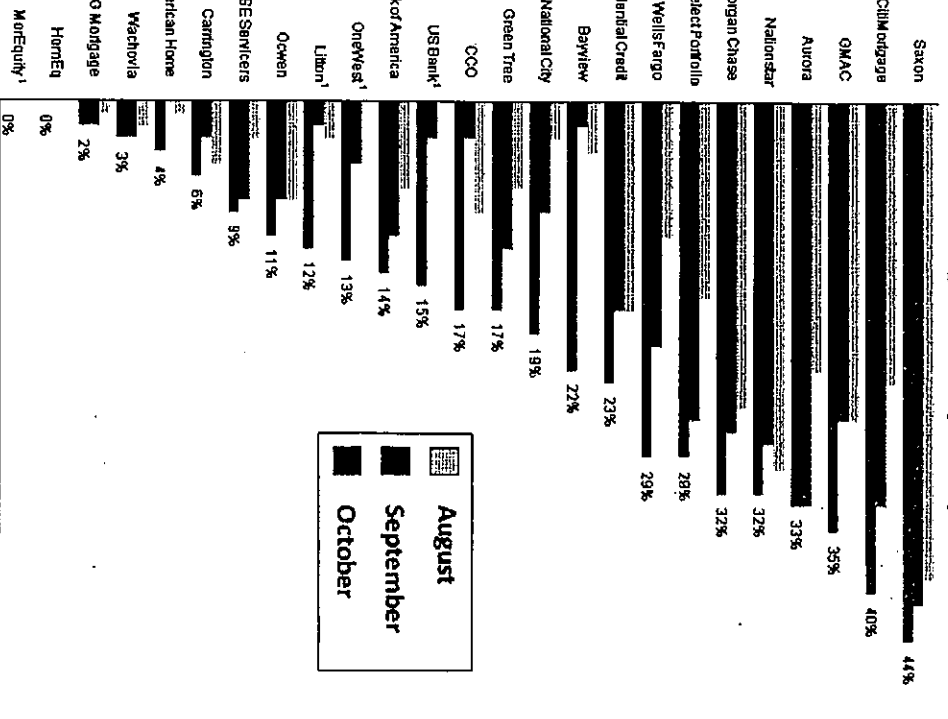
For servicers starting after October 1, delinquency counts are taken from the servicer's report.

² Other SPA servicers as reported into the HAMP system of record include:

- Bank of America, NA; Citicredit; Citicredit Home Loans Servicing, P. Home Loan Servicing and Wachovia Credit Corporation.
- J.P. Morgan Chase Bank, NA; Indefinite ERM Mortgage Corporation.

³ Includes approximately 2,300 participants that services loans owned or purchased by Fannie Mae and Freddie Mac.

Trial Modification Tracker: Active Trial Modifications as a Share of Estimated Eligible 60+ Day Delinquencies



¹ HomeEq, Litton, OneWest and USBank began participant after July 31, 2009. Bank United is excluded from this list as it began participation on October 23.

Note: Servicer rollups are the same as the table at left.

August trials as a share of 60+ day delinquencies on July 31, 2009.

September trials as a share of 60+ day delinquencies on August 31, 2009.

October trials as a share of 60+ day delinquencies on September 30, 2009.



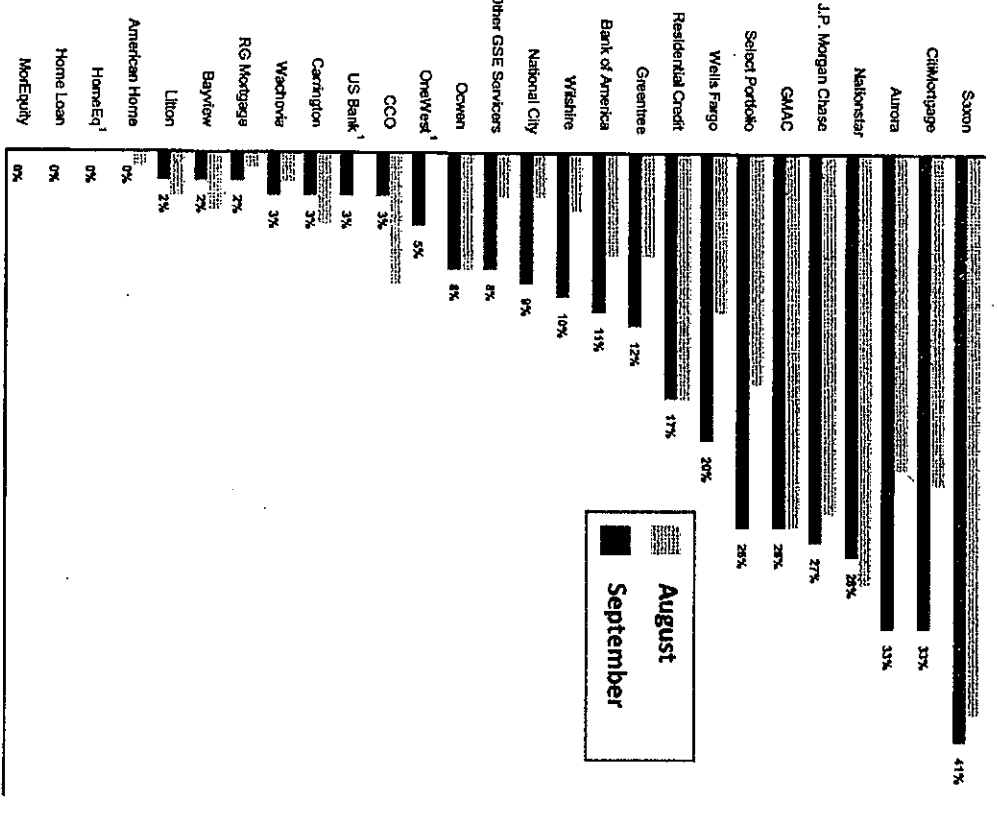
Making Home Affordable Program

Servicer Performance Report Through September 2009

HAMP Modification Activity by Servicer

Source	Participation %	Estimated Eligible 60+ Day Delinquencies	Trial Plan Offers	Trial Plan Offers as Share of Estimated Eligible 60+ Day Delinquencies	Trial Modifications as Share of Estimated Eligible 60+ Day Delinquencies
American Home Mortgage Servicing, LLC	7/22/09	114,272	6,817	6%	440
Aurora Loan Services, LLC	5/17/09	72,912	37,831	52%	23,889
Bank of America, NA	4/17/09	875,917	156,120	18%	94,918
Bayview Loan Servicing, LLC	7/1/09	8,987	2,158	24%	196
CCO Mortgage	4/27/09	17,149	1,584	9%	584
GreenTree Servicing, LLC	6/17/09	4,640	879	19%	158
Franklin Credit Management Corporation	4/13/09	208,427	88,472	42%	69,248
GMAC Mortgage, Inc.	9/11/09	2,635	0	0%	NA
Green Tree Servicing, LLC	4/13/09	73,498	91,720	49%	19,331
Home Loan Servicing, Inc.	4/24/09	4,114	810	20%	474
Home Loan Servicing, Inc.	9/6/09	99,934	444	1%	0
J.P. Morgan Chase Bank, NA	4/20/09	45,822	278	1%	26
Litton Loan Servicing LP	4/13/09	437,652	163,917	37%	117,196
MortEquity, Inc.	8/12/08	107,341	13,587	13%	2,223
National City Bank	7/17/09	2,244	11	0%	0
Nationstar Mortgage, LLC	6/26/09	40,582	9,267	23%	845
Oaklawn Financial Corporation, Inc.	5/28/09	28,846	16,974	57%	8,419
OneWest Bank	4/16/09	68,088	10,650	16%	5,193
Residential Credit Solutions	8/26/09	109,222	23,017	21%	5,217
RG Mortgage Corporation	8/12/09	1,831	364	20%	313
Saxon Mortgage Services, Inc.	6/17/09	3,473	173	5%	64
Selected Portfolio Servicing	4/13/09	79,921	36,332	46%	32,931
US Bank, NA	4/13/09	60,848	32,024	53%	15,706
Wachovia Mortgage, FSB	9/9/09	28,356	6,925	24%	863
Wells Fargo Bank, NA	7/1/09	75,074	2,896	4%	2,019
Wells Fargo Bank, NA	4/13/09	310,716	106,327	34%	62,949
Washstate Credit Corporation	4/20/09	29,153	6,412	22%	2,929
Other SFA servicers ¹		4,684	185	4%	102
Other GSE servicers ²		242,959	NA	NA	18,808
Total		3,100,305	757,958	24%	487,081

Trial Modification Tracker: Trial Modifications as a Share of Estimated Eligible 60+ Day Delinquencies



¹ Estimated eligible 60+ day delinquent mortgages as of August 31, 2009 include:

- in foreclosures and bankruptcies;
- with current unpaid principal balance less than \$729,750 on a one-unit property; \$204,200 on a two-unit property; \$1,129,250 on a three-unit property; and \$1,400,400 on a four-unit property;
- on a property that was never occupied at origination;
- origination prior to January 1, 2009;
- eligible for VA or other veteran home loan exclusions;
- eligible for HAMP if a borrower is in imminent default;
- Bank of America, NA includes Countrywide Home Loans Servicing LP;
- J.P. Morgan Chase Bank, NA includes SLMC Mortgage Corporation;
- Other SFA servicers include Wachovia Bank, NA;
- Other GSE servicers are entities with less than 1,000 estimated eligible 60+ day delinquencies that have signed participation agreements with Treasury and the servicer.

² Trial and permanent modifications as reported into the HAMP system of report.

³ Trial and permanent modifications as reported into the HAMP system of report.

⁴ Other SFA servicers include Wachovia Bank, NA.

⁵ Other GSE servicers are entities with less than 1,000 estimated eligible 60+ day delinquencies that have signed participation agreements with Treasury and the servicer.

⁶ NA denotes a not-yet reported servicer that is fully reporting for the program.

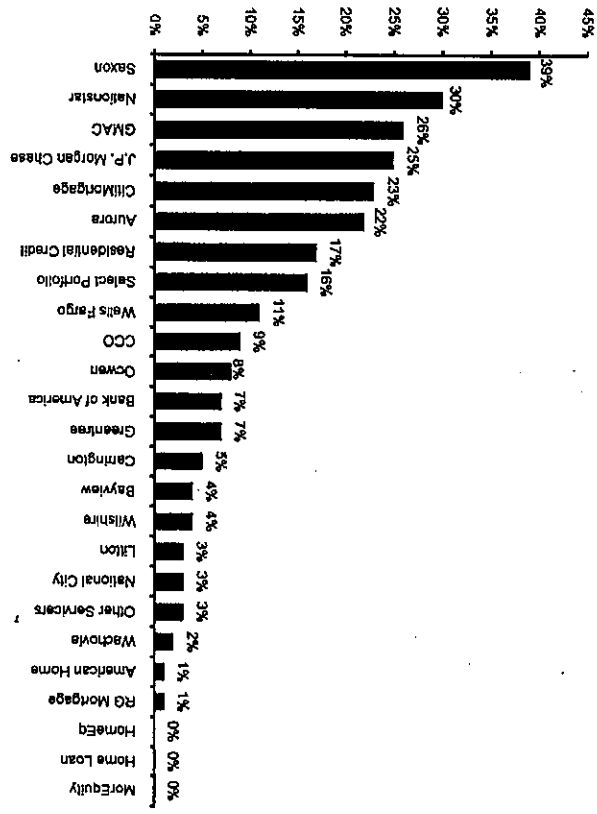
Making Home Affordable Program

Servicer Performance Report through August 2009

HAMP Modification Activity by Servicer

Servicer	Participation Date	Estimated Eligible 60+ Day Delinquencies	% of Plan Others Extended	Trial Plan Offers as Share of Estimated Eligible 60+ Day Delinquencies	Trial Modifications Standard	Trial Modifications as Share of Estimated Eligible 60+ Day Delinquencies
American Home Mortgage Servicing Inc	7/22/2009	84,754	900	1%	407	0%
Aurora Loan Services, LLC	9/12/2009	17,580	42,480	59%	16,044	22%
Bank of America, NA ¹	4/17/2009	835,680	126,338	15%	56,682	7%
Bayview Loan Servicing, LLC	7/12/2009	5,907	718	12%	218	4%
Centipro Mortgage Services, LLC	6/27/2009	15,978	1,308	8%	878	5%
CCO Mortgage	6/17/2009	4,401	634	14%	378	9%
GMAC Mortgage	4/12/2009	191,128	59,916	31%	44,750	23%
Greenlight Mortgage Company	6/23/2009	23	9	39%	9	39%
Home Loan Servicing, Inc.	5/17/2009	347	0	0%	0	0%
First Bank	7/29/2009	347	0	0%	0	0%
Fidelity Federal Services and Loan	6/19/2009	20	3	15%	3	15%
GAAC Mortgage, Inc.	6/12/2009	67,661	26,210	39%	17,241	25%
Green Tree Servicing LLC	6/24/2009	2,343	610	11%	366	7%
Horizon Servicing	9/22/2009	90,527	3	0%	0	0%
Home Loan Services, Inc.	4/26/2009	38,530	0	0%	0	0%
EMC Residential Mortgage, Federal Credit Union	7/10/2009	89	4	5%	1	1%
J.P. Morgan Chase Bank, NA ²	4/12/2009	617,341	139,450	23%	106,288	17%
Lend Lease Bank	9/22/2009	40	18	45%	2	5%
Lend Lease Bank	7/10/2009	1	0	0%	0	0%
Lend Lease Bank	8/12/2009	103,871	8,980	9%	2,600	3%
Melroe Federal Credit Union	7/22/2009	20	1	5%	0	0%
Mortgage, Inc.	7/17/2009	2,223	0	0%	0	0%
Mortgage Center, LLC	7/22/2009	255	2	1%	1	0%
National City Bank	6/23/2009	37,936	5,381	14%	1,435	4%
Nationstar Mortgage, LLC	6/23/2009	27,736	13,904	48%	8,218	30%
Oakland Municipal Credit Union	6/22/2009	14	0	0%	0	0%
Owen Financial Corporation, Inc.	4/16/2009	57,203	9,082	16%	4,785	8%
OneWest Bank ³	9/28/2009	128,934	NA	NA	NA	NA
Parity/Metric Loan Services, Inc.	8/12/2009	303	0	0%	0	0%
PNC Bank, National Association	7/17/2009	756	6	1%	3	0%
Purdue Employees Federal Credit Union	7/29/2009	11	0	0%	0	0%
Residential Credit Solutions	6/12/2009	1,896	320	20%	274	17%
RG Mortgage Corporation	6/17/2009	3,379	148	4%	90	3%
Roundrock Mortgage Servicing Corporation	8/28/2009	67	NA	NA	NA	NA
Saxon Mortgage Services, Inc.	4/13/2009	73,994	5,622	8%	3,011	4%
Select Portfolio Servicing	4/13/2009	53,184	25,116	47%	9,500	18%
Shiner Bank	8/12/2009	258	3	1%	0	0%
Shiner Bank	7/17/2009	247	0	0%	24	10%
Sterling Federal Credit Union	8/28/2009	16	NA	NA	NA	NA
Technology Credit Union	6/26/2009	1	0	0%	0	0%
Washington Mortgage, FSB ⁴	7/12/2009	74,231	2,470	3%	1,191	2%
Wells Fargo Bank, NA ⁵	4/13/2009	282,515	71,716	25%	33,172	12%
Western Central Credit Union	6/16/2009	163	65	40%	46	28%
Wishart Credit Corporation	4/20/2009	19,280	3,728	19%	246	4%
Other GSE Servicers ⁶	2/29/2009	299,833	NA	NA	22,147	7%
Total		2,955,980	571,354	19%	390,165	12%

Trial Modification Tracker: Trial Modification Starts as a Share of Estimated Eligible 60+ Day Delinquencies



Note: NA denotes a newly signed servicer that has not yet started reporting

Estimated eligible 60+ day delinquent mortgages as of July 31, 2009 include loans:

- In foreclosure and bankruptcy;
- with a current unpaid principal balance less than \$729,750 on a one unit property, \$934,200 on a two unit property, \$1,282,250 on a three unit property and \$1,403,400 on a four unit property;
- on a property owner-occupied at origination;
- originated prior to January 1, 2009;

Estimated eligible 60+ day delinquent loans excludes:

- FHA and VA loans;
- loans that are current or less than 60 days delinquent, which may be eligible for HAMP if a borrower is in imminent default;
- 2 Bank of America, NA includes Countywide Home Loans Servicing LP;
- 3 J.P. Morgan Chase Bank, NA includes EMC Mortgage Corporation;
- 4 Washington Mortgage FSB includes Watovia Bank NA;
- 5 Includes approximately 2,300 participants that service loans owned or guaranteed by Fannie Mae and Freddie Mac;
- 6 Estimated Eligible 60+ Day delinquencies based on the servicer registration form;
- 7 Other Servicers include entities with less than 1,000 Estimated Eligible 60+ Day Delinquencies.

Making Home Affordable Program

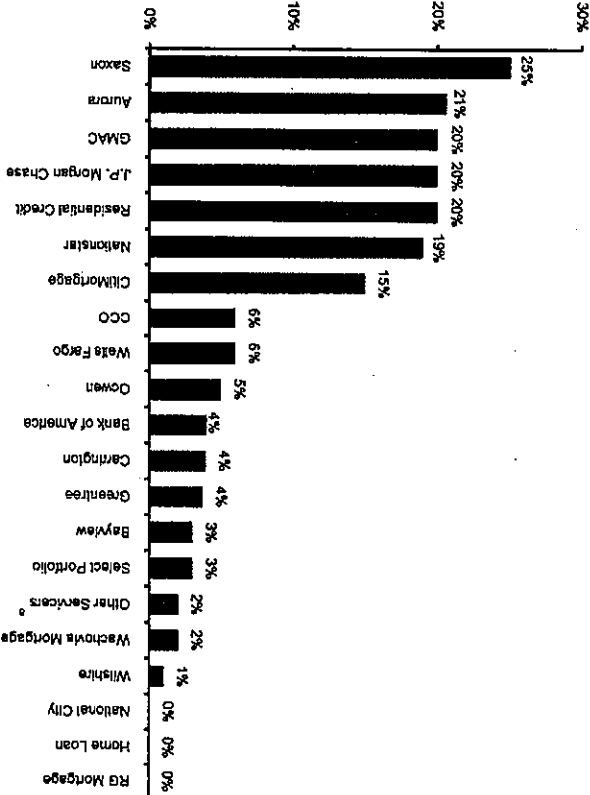
Servicer Performance Report through July 2009

HAMP Modification Activity by Servicer

Servicer	Participation Date	Estimated Eligible 60+ Day Delinquency	Trial Plan Offers Extended	Trial Plan Offers as Share of Estimated Eligible 60+ Day Delinquency	Trial Modifications Started	Trial Modifications as Share of Estimated Eligible 60+ Day Delinquency
American Home Mortgage Servicing Inc.	7/22/2009	153,097	NA	NA	NA	NA
Aurora Loan Services, LLC	5/1/2009	27,898	26,966	36%	15,320	21%
Bank of America, NA	4/17/2009	796,467	99,649	13%	27,965	4%
Bankwest Loan Servicing, LLC	7/1/2009	4,425	225	5%	148	3%
Countrywide Mortgage Services, LLC	4/27/2009	16,128	688	4%	97	0%
COO Mortgage	6/17/2009	3,818	402	11%	237	6%
J.P. Morgan Chase Bank, NA	4/13/2009	94,075	11,258	30%	20,304	20%
Cheniere, Inc.	4/13/2009	185,416	38,673	21%	21,571	15%
Countrywide Financial	6/26/2009	28	0	0%	7	0%
EMC Mortgage Corporation	7/17/2009	8	NA	NA	NA	NA
Farmers State Bank	7/29/2009	648	NA	NA	NA	NA
First Bank	8/19/2009	16	1	6%	1	6%
First Federal Savings and Loan	4/13/2009	61,326	20,824	34%	12,540	20%
GMAC Mortgage, Inc.	4/20/2009	33,193	14,51	4%	2,209	4%
Home Loan Services, Inc.	7/10/2009	72	4	6%	4	6%
Home Loan Services, Inc.	7/10/2009	1	0	0%	1	100%
Liberty National Bank	7/22/2009	34	NA	NA	NA	NA
Madison Federal Credit Union	7/17/2009	2,196	NA	NA	NA	NA
Mortgage, Inc.	7/22/2009	235	NA	NA	NA	NA
National City Bank	6/26/2009	37,126	82	0%	4	0%
National Mortgage LLC	5/28/2009	25,680	11,443	45%	4,554	19%
OneWest Financial Corporation	4/16/2009	55,516	6,502	12%	2,517	5%
PNB Bank, National Association	7/17/2009	724	NA	NA	NA	NA
Purdue Employees Federal Credit Union	7/29/2009	11	NA	NA	NA	NA
Residential Credit Solutions	6/12/2009	1,304	301	23%	286	20%
RG Mortgage Corporation	4/13/2009	3,309	372	11%	0	0%
Saxon Mortgage Services, Inc.	4/13/2009	94,190	30,817	33%	21,130	25%
Schaeff Portfolio Servicing	4/13/2009	57,450	11,474	20%	1,849	3%
Stone Bank	7/17/2009	223	NA	NA	NA	NA
Technology Credit Union	6/26/2009	10	0	0%	0	0%
Wendover Mortgage, FSB	7/17/2009	82,862	2,028	3%	1,356	2%
Wichita Bank, NA	7/20/2009	2,593	NA	NA	NA	NA
Wilder Fargo Bank, NA	4/13/2009	329,085	38,673	12%	20,219	6%
Wilmington Federal Credit Union	6/19/2009	136	40	29%	38	28%
Worshiper Credit Corporation	4/20/2009	3,411	621	18%	20	1%
Other GSE Servicers	3,14,283	2,705,302	466,542	15%	19,071	6%
Total					225,247	9%

Note: NA denotes a newly signed servicer that has not yet started reporting

Trial Modification Tracker: Trial Modification Starts as a Share of Estimated Eligible 60 Plus Day Delinquencies



Estimated eligible sixty plus day delinquent loans include loans:

- in foreclosure and bankruptcy;
- with a current unpaid principal balance less than \$729,750 on a one unit property, \$934,200 on a two unit property, \$1,129,250 on a three unit property and \$1,403,400 on a four unit property;
- on a property owner-occupied at origination;
- originated prior to January 1, 2009.

Estimated eligible sixty plus day delinquent loans excludes:

- FHA and VA loans;
- loans that are current or less than 60 days delinquent, which may be eligible for HAMP if a borrower is in imminent default;
- Bank of America, NA includes Countrywide Home Loans Servicing LP;
- J.P. Morgan Chase Bank, NA includes EMC Mortgage Corporation;
- includes approximately 2,300 participants that service loans owned or guaranteed by Fannie Mae and Freddie Mac;
- Estimated Eligible 60+ Day delinquencies based on the servicer registration form;
- Other Servicers include entities with less than 1,000 Estimated Eligible 60+ Day Delinquencies.

EXHIBIT III

**COMMITMENT TO PURCHASE FINANCIAL INSTRUMENT
and
SERVICER PARTICIPATION AGREEMENT
for the
HOME AFFORDABLE MODIFICATION PROGRAM
under the
EMERGENCY ECONOMIC STABILIZATION ACT OF 2008**

This Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the "Commitment") is entered into as of the Effective Date, by and between Federal National Mortgage Association, a federally chartered corporation, as financial agent of the United States ("Fannie Mae"); and the undersigned party ("Servicer"). Capitalized terms used, but not defined contextually, shall have the meanings ascribed to them in Section 12 below.

Recitals

WHEREAS, the U.S. Department of the Treasury (the "Treasury") has established a Home Affordable Modification Program (the "Program") pursuant to section 101 and 109 of the Emergency Economic Stabilization Act of 2008 (the "Act"), as section 109 of the Act has been amended by section 7002 of the American Recovery and Reinvestment Act of 2009;

WHEREAS, the Program includes loan modification and other foreclosure prevention services;

WHEREAS, Fannie Mae has been designated by the Treasury as a financial agent of the United States in connection with the implementation of the Program;

WHEREAS, Fannie Mae will, in its capacity as a financial agent of the United States, fulfill the roles of administrator, record keeper and paying agent for the Program, and in conjunction therewith must standardize certain mortgage modification and foreclosure prevention practices and procedures as they relate to the Program, consistent with the Act and in accordance with the directives of, and guidance provided by, the Treasury;

WHEREAS, Federal Home Loan Mortgage Corporation ("Freddie Mac") has been designated by the Treasury as a financial agent of the United States and will, in its capacity as a financial agent of the United States, fulfill a compliance role in connection with the Program; all references to Freddie Mac in the Agreement shall be in its capacity as compliance agent of the Program;

WHEREAS, all Fannie Mae and Freddie Mac approved servicers are being directed through their respective servicing guides and bulletins to implement the Program with respect to mortgage loans owned, securitized, or guaranteed by Fannie Mae or Freddie Mac (the "GSE Loans"); accordingly, this Agreement does not apply to the GSE Loans;

WHEREAS, all other servicers, as well as Fannie Mae and Freddie Mac approved servicers, that wish to participate in the Program with respect to loans that are not GSE Loans (collectively, "Participating Servicers") must agree to certain terms and conditions relating to the respective roles and responsibilities of Program participants and other financial agents of the government; and

WHEREAS, Servicer wishes to participate in the Program as a Participating Servicer on the terms and subject to the conditions set forth herein.

Accordingly, in consideration of the representations, warranties, and mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Fannie Mae and Servicer agree as follows.

Agreement

1. Services

A. Subject to Section 10.C., Servicer shall perform the loan modification and other foreclosure prevention services (collectively, the "Services") described in (i) the Financial Instrument attached hereto as Exhibit A (the "Financial Instrument"); (ii) the Program guidelines and procedures issued by the Treasury, including, without limitation, the net present value assessment requirements of the Program (the "Program Guidelines"); and (iii) any supplemental documentation, instructions, bulletins, letters, directives, or other communications, including, but not limited to, business continuity requirements, compliance requirements, performance requirements and related remedies, issued by the Treasury, Fannie Mae, or Freddie Mac in order to change, or further describe or clarify the scope of, the rights and duties of the Participating Servicers in connection with the Program (the "Supplemental Directives" and, together with the Program Guidelines, the "Program Documentation"). The Program Documentation will be available to all Participating Servicers at www.financialstability.gov. The Program Documentation, as the same may be modified or amended from time to time in accordance with Section 10 below, is hereby incorporated into the Commitment by this reference.

B. Servicer's representations and warranties, and acknowledgement of and agreement to fulfill or satisfy certain duties and obligations, with respect to its participation in the Program and under the Agreement are set forth in the Financial Instrument. Servicer's certification as to its continuing compliance with, and the truth and accuracy of, the representations and warranties set forth in the Financial Instrument will be provided annually in the form attached hereto as Exhibit B (the "Annual Certification"), beginning on June 1, 2010 and again on June 1 of each year thereafter during the Term (as defined below).

C. The recitals set forth above are hereby incorporated herein by this reference.

2. Authority and Agreement to Participate in Program

A. Servicer shall perform the Services for all mortgage loans its services, whether it services such mortgage loans for its own account or for the account of another party, including any holders of mortgage-backed securities (each such other party, an "Investor"). Servicer shall use reasonable efforts to remove all prohibitions or impediments to its authority, and use reasonable efforts to obtain all third party consents and waivers that are required, by contract or law, in order to effectuate any modification of a mortgage loan under the Program.

B. Notwithstanding subsection A., if (x) Servicer is unable to obtain all necessary consents and waivers for modifying a mortgage loan, or (y) the pooling and servicing agreement or other similar servicing contract governing Servicer's servicing of a mortgage loan prohibits Servicer from performing the Services for that mortgage loan, Servicer shall not be required to perform the Services with respect to that mortgage loan and shall not receive all or any portion of the Purchase Price (as defined below) otherwise payable with respect to such loan.

C. Notwithstanding anything to the contrary contained herein, the Agreement does not apply to GSE Loans. Servicers are directed to the servicing guides and bulletins issued by Fannie Mae and Freddie Mac, respectively, concerning the Program as applied to GSE Loans.

D. Servicer's performance of the Services and implementation of the Program shall be subject to review by Freddie Mac and its agents and designees as more fully set forth in the Agreement.

3. Set Up; Prerequisite to Payment

Servicer will provide to Fannie Mae: (a) the set up information required by the Program Documentation and any ancillary or administrative information requested by Fannie Mae in order to process Servicer's participation in the Program as a Participating Servicer on or before the Effective Date of the Commitment; and (b) the data elements for each mortgage eligible

for the Program as and when described in the Program Documentation and the Financial Instrument. Purchase Price payments will not be remitted pursuant to Section 4 with respect to any modified mortgage for which the required data elements have not been provided.

4. Agreement to Purchase Financial Instrument; Payment of Purchase Price

A. Fannie Mae, in its capacity as a financial agent of the United States, agrees to purchase, and Servicer agrees to sell to Fannie Mae, in such capacity, the Financial Instrument that is executed and delivered by Servicer to Fannie Mae in the form attached hereto as Exhibit A, in consideration for the payment by Fannie Mae, as agent, of the Purchase Price (defined below). The conditions precedent to the payment by Fannie Mae of the Purchase Price are: (a) the execution and delivery of the Commitment and the Financial Instrument by Servicer to Fannie Mae; (b) the execution and delivery by Fannie Mae of the Commitment to Servicer; (c) the delivery of copies of the fully executed Commitment and Financial Instrument to Treasury on the Effective Date; (d) the performance by Servicer of the Services described in the Agreement, in accordance with the terms and conditions thereof, to the reasonable satisfaction of Fannie Mae and Freddie Mac; and (e) the satisfaction by Servicer of such other obligations as are set forth in the Agreement.

B. Solely in its capacity as the financial agent of the United States, and subject to subsection C. below, Fannie Mae shall: (i) remit compensation payments to Servicer; (ii) remit incentive payments to Servicer for the account of Servicer and for the credit of borrowers under their respective mortgage loan obligations; and (iii) remit payments to Servicer for the account of Investors, in each case in accordance with the Program Documentation (all such payments, collectively, the "Purchase Price"); all payments remitted to Servicer for the credit of borrowers or for the account of Investors under the Program Documentation shall be applied by Servicer to the borrowers' respective mortgage loan obligations, or remitted by Servicer to Investors, as required by the Program Documentation. Fannie Mae shall have no liability to Servicer with respect to the payment of the Purchase Price, unless and until: (a) Servicer and all other interested parties have satisfied all pre-requisites set forth herein and in the Program Documentation relating to the Program payment structure, including, but not limited to, the delivery of all data elements required by Section 3 of this Commitment; and (b) the Treasury has provided funds to Fannie Mae for remittance to Servicer, together with written direction to remit the funds to Servicer in accordance with the Program Documentation.

C. The Purchase Price will be paid to Servicer by Fannie Mae as the financial agent of the United States as and when described herein and in the Program Documentation in consideration for the execution and delivery of the Financial Instrument by Servicer on or before the Effective Date of the Agreement, upon the satisfaction of the conditions precedent to payment described in subsections A. and B. above.

D. The value of the Agreement is limited to \$1,272,490,000.00 (the "Program Participation Cap"). Accordingly, the aggregate Purchase Price payable to Servicer under the Agreement may not exceed the amount of the Program Participation Cap. For each loan modification that becomes effective, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be reduced by the maximum Purchase Price potentially payable with respect to that loan modification. In the event the Purchase Price actually paid with respect to that loan modification is less than the maximum Purchase Price potentially payable, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be increased by the difference between such amounts. Notwithstanding the foregoing, no agreements with borrowers intended to result in new loan modifications will be effected under the Agreement, and no payments will be made with respect to any new loan modifications from and after the date on which the aggregate Purchase Price paid or payable to Servicer under the Agreement equals the Program Participation Cap. Treasury may, from time to time in its sole discretion, adjust the amount of the Program Participation Cap. Servicer will be notified of all adjustments to the Program Participation Cap in writing by Fannie Mae.

E. Servicer shall maintain complete and accurate records of, and supporting documentation for, the borrower payment, including, but not limited to, PITIA (principal, interest, taxes, insurance (including homeowner's insurance and hazard and flood insurance) and homeowner's association and/or condo fees), and delinquency information and data provided to Fannie Mae regarding each agreement relating to a trial modification period and each loan modification agreement executed under the

Program, which will be relied upon by Fannie Mae when calculating, as financial agent for the United States, the Purchase Price to be paid by the Treasury through Fannie Mae or any other financial agent. Servicer agrees to provide Fannie Mae and Freddie Mac with documentation and other information with respect to any amounts paid by the Treasury as may be reasonably requested by such parties. In the event of a discrepancy or error in the amount of the Purchase Price paid hereunder, at Fannie Mae's election, (x) Servicer shall remit to Fannie Mae the amount of any overpayment within thirty (30) days of receiving a refund request from Fannie Mae, or (y) Fannie Mae may immediately offset the amount of the overpayment against other amounts due and payable to Servicer by Fannie Mae, as financial agent of the United States, upon written notice to Servicer. Servicer shall still be obligated to credit to the respective mortgage loan obligations of borrowers, and to the respective accounts of Investors, any portion of the Purchase Price to which they are entitled (if any) notwithstanding such offset unless otherwise directed by Fannie Mae.

F. At the election and upon the direction of the Treasury and with prior written notice to Servicer, Fannie Mae may deduct from any amount to be paid to Servicer any amount that Servicer, Investor, or borrower is obligated to reimburse or pay to the United States government, provided, however, that any amount withheld under this subsection F. will be withheld only from the amounts payable to, or for the account or credit of, the party which is liable for the obligation to the United States government.

G. In the event that the Agreement expires or is terminated pursuant to Section 5 or Section 6, and subject to Fannie Mae's rights under Section 6, Fannie Mae shall, solely in its capacity as the financial agent of the United States, continue to remit all amounts that are properly payable pursuant to subsection A. above to Servicer in accordance with the Program Documentation until paid in full, provided, however, that Purchase Price payments will be made only with respect to qualifying mortgage loan modifications that were submitted by Servicer and accepted by Fannie Mae for inclusion in the Program in accordance with the Program Documentation prior to the date of expiration or termination and that do not exceed the Program Participation Cap.

H. Notwithstanding anything to the contrary contained in subsection G. above, in the event that the Agreement is terminated pursuant to Section 6 B. in connection with an Event of Default by Servicer under Section 6 A., no compensation with respect to any loan will be paid to Servicer for the account of the Servicer subsequent to termination; subject to Fannie Mae's rights under Section 6, Fannie Mae's only continuing obligations as financial agent of the United States subsequent to termination will be to remit payments to Servicer (or, at Fannie Mae's discretion, an alternative provider) for the account of borrowers and Investors, as provided in the Agreement.

I. Notwithstanding anything to the contrary contained in subsection F. above, in the event that the Agreement is terminated pursuant to Section 6 C. in connection with an Event of Default by an Investor or a borrower under Section 6 A., no compensation with respect to any loan will be paid to Servicer for the credit or account of the defaulting party subsequent to termination; subject to Fannie Mae's rights under Section 6, Fannie Mae's only continuing obligations as financial agent of the United States subsequent to termination will be to remit payments to Servicer for the credit or account of non-defaulting parties as described in the Program Documentation.

J. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States, may reduce the amounts payable to Servicer under Section 4.B., or obtain repayment of prior payments made under Section 4.B., in connection with an Event of Default by Servicer or in connection with an evaluation of performance that includes any specific findings by Freddie Mac that Servicer's performance under any performance criteria established pursuant to the Program Documentation is materially insufficient; provided, however, Fannie Mae will seek to obtain repayment of prior payments made under Section 4.B. only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted by, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default or findings giving rise to this remedy. These remedies are not exclusive; they are available in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

K. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States, may reduce the amounts payable to Servicer for the credit or account of an Investor or a borrower under Section 4.B., or

obtain repayment of prior payments made for the credit or account of such parties under Section 4.B., in connection with an Event of Default by an Investor or a borrower. Servicer will reasonably cooperate with, and provide reasonable support and assistance to, Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae's case, in connection with its efforts to obtain repayment of prior payments made to Investors and borrowers as provided in this subsection. These remedies are not exclusive; they are available in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

5. Term

A. Qualifying mortgage loans may be submitted by Servicer and accepted by Fannie Mae as described in the Financial Instrument and the Program Documentation from and after the Effective Date until December 31, 2012 (the "Initial Term"), subject to Program extensions by the Treasury or earlier termination of the Agreement by Fannie Mae pursuant to the provisions hereof or suspension or termination of the Program by the Treasury, provided, however, no new qualifying mortgage loans may be submitted by Servicer or accepted by Fannie Mae from and after the date on which the Program Participation Cap is reached.

B. Servicer shall perform the Services described in the Program Documentation in accordance with the terms and conditions of the Agreement during the Initial Term and any extensions thereof (the Initial Term, together with all extensions thereof, if any, the "Term"), and during such additional period as may be necessary to: (i) comply with all data collection, retention and reporting requirements specified in the Program Documentation during and for the periods set forth therein; and (ii) complete all Services that were initiated by Servicer, including, but not limited to, mortgage modifications and the completion of all documentation relating thereto, during the Term. Servicer agrees that it will work diligently to complete all Services as soon as reasonably possible after the end of the Term or earlier termination.

C. The Agreement may be terminated by Fannie Mae or Servicer prior to the end of the Term pursuant to Section 6 below.

6. Defaults and Early Termination

A. The following constitute events of default under the Agreement (each, an "Event of Default" and, collectively, "Events of Default"):

(1) Servicer fails to perform or comply with any of its material obligations under the Agreement, including, but not limited to, circumstances in which Servicer fails to ensure that all eligibility criteria and other conditions precedent to modification specified in the Program Documentation are satisfied prior to effectuating modifications under the Program.

(2) Servicer: (a) ceases to do business as a going concern; (b) makes a general assignment for the benefit of, or enters into any arrangement with creditors in lieu thereof; (c) admits in writing its inability to pay its debts as they become due; (d) files a voluntary petition under any bankruptcy or insolvency law or files a voluntary petition under the reorganization or arrangement provisions of the laws of the United States or any other jurisdiction; (e) authorizes, applies for or consents to the appointment of a trustee or liquidator of all or substantially all of its assets; (f) has any substantial part of its property subjected to a levy, seizure, assignment or sale for or by any creditor or governmental agency; or (g) enters into an agreement or resolution to take any of the foregoing actions.

(3) Servicer, any employee or contractor of Servicer, or any employee or contractor of Servicer's contractors, or any Investor or borrower, commits a grossly negligent, willful or intentional, or reckless act (including, but not limited to, fraud) in connection with the Program or the Agreement.

(4) Any representation, warranty, or covenant made by Servicer in the Agreement or any Annual Certification is or becomes materially false, misleading, incorrect, or incomplete.

(5) An evaluation of performance that includes any specific findings by Freddie Mac, in its sole discretion, that Servicer's performance under any performance criteria established pursuant to the Program Documentation is materially insufficient, or any failure by Servicer to comply with any directive issued by Fannie Mae or Freddie Mac with respect to documents or data requested, findings made, or remedies established, by Fannie Mae and/or Freddie Mac in conjunction with such performance criteria or other Program requirements.

B. Fannie Mae may take any, all, or none of the following actions upon an Event of Default by Servicer under the Agreement:

(1) Fannie Mae may: (i) withhold some or all of the Servicer's portion of the Purchase Price until, in Fannie Mae's determination, Servicer has cured the default; and (ii) choose to utilize alternative means of paying any portion of the Purchase Price for the credit or account of borrowers and Investors and delay paying such portion pending adoption of such alternative means.

(2) Fannie Mae may: (i) reduce the amounts payable to Servicer under Section 4.B; and/or (ii) require repayment of prior payments made to Servicer under Section 4.B, provided, however, Fannie Mae will seek to obtain repayment of prior payments made under Section 4.B. only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default giving rise to the remedy.

(3) Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

(4) Fannie Mae may terminate the Agreement and cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement.

(5) Fannie Mae may require Servicer to submit to information and reporting with respect to its financial condition and ability to continue to meet its obligations under the Agreement.

C. Fannie Mae may take any, all, or none of the following actions upon an Event of Default involving an Investor or a borrower in connection with the Program:

(1) Fannie Mae may withhold all or any portion of the Purchase Price payable to, or for the credit or account of, the defaulting party until, in Fannie Mae's determination, the default has been cured or otherwise remedied to Fannie Mae's satisfaction.

(2) Fannie Mae may: (i) reduce the amounts payable to Servicer for the credit, or account of, the defaulting party under Section 4.B; and/or (ii) require repayment of prior payments made to the defaulting party under Section 4.B. Servicer will reasonably cooperate with, and provide reasonable support and assistance to, Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae's case, in connection with its efforts to obtain repayment of prior payments made to Investors and borrowers as provided in this subsection.

(3) Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

(4) Fannie Mae may cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement that relate to the defaulting Investor or borrower.

D. In addition to the termination rights set forth above, Fannie Mae may terminate the Agreement immediately upon written notice to Servicer:

- (1) at the direction of the Treasury;
- (2) in the event of a merger, acquisition, or other change of control of Servicer;
- (3) in the event that a receiver, liquidator, trustee, or other custodian is appointed for the Servicer; or
- (4) in the event that a material term of the Agreement is determined to be prohibited or unenforceable as referred to in Section 11.C.

E. The Agreement will terminate automatically:

(1) in the event that the Financial Agency Agreement, dated February 18, 2009, by and between Fannie Mae and the Treasury is terminated; or

(2) upon the expiration or termination of the Program.

F. The remedies available to Fannie Mae upon an Event of Default under this Section are cumulative and not exclusive; further, these remedies are in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

G. In the event of termination of the Agreement under any circumstances, Servicer and Fannie Mae agree to cooperate with one another on an ongoing basis to ensure an effective and orderly transition or resolution of the Services, including the provision of any information, reporting, records and data required by Fannie Mae and Freddie Mac.

H. If an Event of Default under Section 6.A.1., Section 6.A.4., or Section 6.A.5. occurs and Fannie Mae determines, in its sole discretion, that the Event of Default is curable and elects to exercise its right to terminate the Agreement, Fannie Mae will provide written notice of the Event of Default to Servicer and the Agreement will terminate automatically thirty (30) days after Servicer's receipt of such notice, if the Event of Default is not cured by Servicer to the reasonable satisfaction of Fannie Mae prior to the end of such thirty (30) day period. If Fannie Mae determines, in its sole discretion, that an Event of Default under Section 6.A.1., Section 6.A.4., or Section 6.A.5. is not curable, or if an Event of Default under Section 6.A.2. or Section 6.A.3. occurs, and Fannie Mae elects to exercise its right to terminate the Agreement under Section 6.B.4., Fannie Mae will provide written notice of termination to the Servicer on or before the effective date of the termination.

7. Disputes

Fannie Mae and Servicer agree that it is in their mutual interest to resolve disputes by agreement. If a dispute arises under the Agreement, the parties will use all reasonable efforts to promptly resolve the dispute by mutual agreement. If a dispute cannot be resolved informally by mutual agreement at the lowest possible level, the dispute shall be referred up the respective chain of command of each party in an attempt to resolve the matter. This will be done in an expeditious manner. Servicer shall continue diligent performance of the Services pending resolution of any dispute. Fannie Mae and Servicer reserve the right to pursue other legal or equitable rights they may have concerning any dispute. However, the parties agree to take all reasonable steps to resolve disputes internally before commencing legal proceedings.

8. Transfer or Assignment

A. Servicer must provide written notice to Fannie Mae and Freddie Mac pursuant to Section 9 below of: (i) any transfers or assignments of mortgage loans subject to this Agreement; and (ii) any other transfers or assignments of Servicer's rights and obligations under this Agreement. Such notice must include payment instructions for payments to be made to the transferee or assignee of the mortgage loans subject to the notice (if applicable), and evidence of the assumption by such transferee or assignee of the mortgage loans or other rights and obligations that are transferred, in the form of Exhibit C (the "Assignment and Assumption Agreement"). Servicer acknowledges that Fannie Mae will continue to remit payments to Servicer in accordance with Section 4.B. with respect to mortgage loans that have been assigned or transferred; and that Servicer will be liable for underpayments, overpayments and misdirected payments, unless and until such notice and an executed Assignment and Assumption Agreement are provided to Fannie Mae and Freddie Mac. Any purported transfer or assignment of mortgage loans or other rights or obligations under the Agreement in violation of this Section is void.

B. Servicer shall notify Fannie Mae as soon as legally possible of any proposed merger, acquisition, or other change of control of Servicer, and of any financial and operational circumstances which may impair Servicer's ability to perform its obligations under the Agreement.

9. Notices

All legal notices under the Agreement shall be in writing and referred to each party's point of contact identified below at the address listed below, or to such other point of contact at such other address as may be designated in writing by such party. All such notices under the Agreement shall be considered received: (a) when personally delivered; (b) when delivered by commercial overnight courier with verification receipt; (c) when sent by confirmed facsimile; or (d) three (3) days after having been sent, postage prepaid, via certified mail, return receipt requested. Notices shall not be made or delivered in electronic form, except as provided in Section 12 B. below, provided, however, that the party giving the notice may send an e-mail to the party receiving the notice advising that party that a notice has been sent by means permitted under this Section.

To Servicer:

American Home Mortgage Servicing, Inc
1525 S. Beltline Rd.
Coppel, TX 75019
Attention: [REDACTED]
Phone: [REDACTED]
Cell: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]

To Fannie Mae:

Fannie Mae
3900 Wisconsin Avenue, NW
Washington, DC 20016
Attention: [REDACTED]
Facsimile: [REDACTED]

To Treasury:

Chief
Office of Homeownership Preservation

Office of Financial Stability
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Facsimile: [REDACTED]

To Freddie Mac:

Freddie Mac
8100 Jones Branch Drive
McLean, VA 22102
Attention: Vice President, Making Home Affordable – Compliance
Facsimile: (703) 903-2544
Email: MHA_Compliance@freddiemac.com

10. Modifications

A. Subject to Sections 10.B. and 10.C., modifications to the Agreement shall be in writing and signed by Fannie Mae and Servicer.

B. Fannie Mae and the Treasury each reserve the right to unilaterally modify or supplement the terms and provisions of the Program Documentation that relate (as determined by Fannie Mae or the Treasury, in their reasonable discretion) to the compliance and performance requirements of the Program, and related remedies established by Freddie Mac, and/or to technical, administrative, or procedural matters or compliance and reporting requirements that may impact the administration of the Program.

C. Notwithstanding Sections 10.A. and 10.B., any modification to the Program Documentation that materially impact the borrower eligibility requirements, the amount of payments of the Purchase Price to be made to Participating Servicers, Investors and borrowers under the Program, or the rights, duties, or obligations of Participating Servicers, Investors or borrowers in connection with the Program (each, a "Program Modification" and, collectively, the "Program Modifications") shall be effective only on a prospective basis; Participating Servicers will be afforded the opportunity to opt-out of the Program when Program Modifications are published with respect to some or all of the mortgage loans sought to be modified under the Program on or after the effective date of the Program Modification, at Servicer's discretion. Opt-out procedures, including, but not limited to, the time and process for notification of election to opt-out and the window for such election, will be set forth in the Program Documentation describing the Program Modification, provided, however, that Servicer will be given at least thirty (30) days to elect to opt-out of a Program Modification. For the avoidance of doubt, during the period during which Servicer may elect to opt-out of a Program Modification and after any such opt-out is elected by Servicer, Servicer will continue to perform the Services described in the Financial Instrument and the Program Documentation (as the Program Documentation existed immediately prior to the publication of the Program modification prompting the opt-out) with respect to qualifying mortgage loan modifications that were submitted by Servicer and accepted by Fannie Mae prior to the opt-out.

11. Miscellaneous

A. The Agreement shall be governed by and construed under Federal law and not the law of any state or locality, without reference to or application of the conflicts of law principles. Any and all disputes between the parties that cannot be settled by mutual agreement shall be resolved solely and exclusively in the United States Federal courts located within the District of Columbia. Both parties consent to the jurisdiction and venue of such courts and irrevocably waive any objections thereto.

B. The Agreement is not a Federal procurement contract and is therefore not subject to the provisions of the Federal Property and Administrative Services Act (41 U.S.C. §§ 251-260), the Federal Acquisition Regulations (48 CFR Chapter 1), or any other Federal procurement law.

C. Any provision of the Agreement that is determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement, and no such prohibition or unenforceability in any jurisdiction shall invalidate such provision in any other jurisdiction.

D. Failure on the part of Fannie Mae to insist upon strict compliance with any of the terms hereof shall not be deemed a waiver, nor will any waiver hereunder at any time be deemed a waiver at any other time. No waiver will be valid unless in writing and signed by an authorized officer of Fannie Mae. No failure by Fannie Mae to exercise any right, remedy, or power hereunder will operate as a waiver thereof. The rights, remedies, and powers provided herein are cumulative and not exhaustive of any rights, remedies, and powers provided by law.

E. The Agreement shall inure to the benefit of and be binding upon the parties to the Agreement and their permitted successors-in-interest.

F. The Commitment and the Assignment and Assumption Agreement (if applicable) may be executed in two or more counterparts (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

G. The Commitment, together with the Financial Instrument, the Annual Certifications, the Assignment and Assumption Agreement (if applicable) and the Program Documentation, constitutes the entire agreement of the parties with respect to the subject matter hereof. In the event of a conflict between any of the foregoing documents and the Program Documentation, the Program Documentation shall prevail. In the event of a conflict between the Program Guidelines and the Supplemental Directives, the Program Guidelines shall prevail.

H. Any provisions of the Agreement (including all documents incorporated by reference thereto) that contemplate their continuing effectiveness, including, but not limited to, Sections 4, 5 B., 6 F., 6 G., 9, 11 and 12 of the Commitment, and Sections 2, 3, 5, 7, 8, 9 and 10 of the Financial Instrument, and any other provisions (or portions thereof) in the Agreement that relate to, or may impact, the ability of Fannie Mae and Freddie Mac to fulfill their responsibilities as agents of the United States in connection with the Program, shall survive the expiration or termination of the Agreement.

12. Defined Terms; Incorporation by Reference

A. All references to the "Agreement" necessarily include, in all instances, the Commitment and all documents incorporated into the Commitment by reference, whether or not so noted contextually, and all amendments and modifications thereto. Specific references throughout the Agreement to individual documents that are incorporated by reference into the Commitment are not inclusive of any other documents that are incorporated by reference, unless so noted contextually.

B. The term "Effective Date" means the date on which Fannie Mae transmits a copy of the fully executed Commitment and Financial Instrument to Treasury and Servicer with a completed cover sheet, in the form attached hereto as Exhibit D (the "Cover Sheet"). The Commitment and Financial Instrument and accompanying Cover Sheet will be faxed, emailed, or made available through other electronic means to Treasury and Servicer in accordance with Section 9.

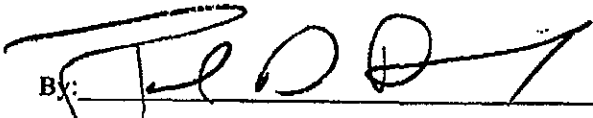
C. The Program Documentation and Exhibit A – Form of Financial Instrument, Exhibit B – Form of Annual Certification, Exhibit C – Form of Assignment and Assumption Agreement and Exhibit D – Form of Cover Sheet (in each case, in form and, upon completion, in substance), including all amendments and modifications thereto, are incorporated into this Commitment by this reference and given the same force and effect as though fully set forth herein.


[SIGNATURE PAGE FOLLOWS; REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In Witness Whereof, Servicer and Fannie Mae by their duly authorized officials hereby execute and deliver this Commitment to Purchase Financial Instrument and Servicer Participation Agreement as of the Effective Date.

SERVICER: American Home Mortgage Servicing, Inc

FANNIE MAE, solely as Financial Agent of the United States

By: 
Name: Jordan D. Doreault
Title: EVP, chief legal officer & secretary
Date: July 10, 2009

By: 
Name: W. DAVID WORRALL
Title: VICE PRESIDENT
Date: 7.22.09

EXHIBITS

- Exhibit A Form of Financial Instrument
- Exhibit B Form of Annual Certification
- Exhibit C Form of Assignment and Assumption Agreement
- Exhibit D Form of Cover Sheet

EXHIBIT IV

FINANCIAL INSTRUMENT

This Financial Instrument is delivered as provided in Section 1 of the Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the "Commitment"), entered into as of the Effective Date, by and between Federal National Mortgage Association ("Fannie Mae"), a federally chartered corporation, acting as financial agent of the United States, and the undersigned party ("Servicer"). This Financial Instrument is effective as of the Effective Date. All of the capitalized terms that are used but not defined herein shall have the meanings ascribed to them in the Commitment.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Servicer agrees as follows:

1. Purchase Price Consideration; Services. This Financial Instrument is being purchased by Fannie Mae pursuant to Section 4 of the Commitment in consideration for the payment by Fannie Mae, in its capacity as a financial agent of the United States, of various payments detailed in the Program Documentation and referred to collectively in the Commitment as the "Purchase Price." The conditions precedent to the payment by Fannie Mae of the Purchase Price are: (a) the execution and delivery of this Financial Instrument and the Commitment by Servicer to Fannie Mae; (b) the execution and delivery by Fannie Mae of the Commitment to Servicer; (c) the delivery of copies of the fully executed Commitment and Financial Instrument to Treasury on the Effective Date; (d) the performance by Servicer of the Services described in the Agreement; and (e) the satisfaction by Servicer of such other obligations as are set forth in the Agreement. Servicer shall perform all Services in consideration for the Purchase Price in accordance with the terms and conditions of the Agreement, to the reasonable satisfaction of Fannie Mae and Freddie Mac.
2. Authority and Agreement to Participate in Program. Subject to the limitations set forth in Section 2 of the Agreement, Servicer shall use reasonable efforts to remove all prohibitions or impediments to its authority and to obtain all third party consents and waivers that are required, by contract or law, in order to effectuate any loan modification under the Program.
3. Audits, Reporting and Data Retention.
 - (a) Freddie Mac, the Federal Housing Finance Agency and other parties designated by the Treasury or applicable law shall have the right during normal business hours to conduct unannounced, informal onsite visits and to conduct formal onsite and offsite physical, personnel and information technology testing, security reviews, and audits of Servicer and to examine all books, records and data related to the Services provided and Purchase Price received in connection with the Program on thirty (30) days' prior written notice.
 - (b) Servicer will collect, record, retain and provide to Treasury, Fannie Mae and Freddie Mac all data, information and documentation relating to the Program and borrowers, loans and loan modifications implemented, or potentially eligible for modification, under the Program and any trials conducted in connection with the Program, as required by the Program Documentation. All such data, information and documentation must be provided to the Treasury, Fannie Mae and Freddie Mac as, when and in the manner specified in the Program Documentation. In addition, Servicer shall provide copies of executed contracts and tapes of loan pools related to the Program for review upon request.
 - (c) Servicer shall promptly take corrective and remedial actions associated with reporting and reviews as directed by Fannie Mae or Freddie Mac and provide to Fannie Mae and Freddie Mac such evidence of the effective implementation of corrective and remedial actions as Fannie Mae and Freddie Mac shall reasonably require. Freddie Mac may conduct additional reviews based on its findings and the corrective actions taken by Servicer.

- (d) In addition to any other obligation to retain financial and accounting records that may be imposed by Federal or state law, Servicer shall retain all information described in Section 3(b), and all data, books, reports, documents, audit logs and records, including electronic records, related to the performance of Services in connection with the Program. In addition, Servicer shall maintain a copy of all computer systems and application software necessary to review and analyze these electronic records. Unless otherwise directed by Fannie Mae or Freddie Mac, Servicer shall retain these records for at least 7 years from the date the data or record was created, or for such longer period as may be required pursuant to applicable law. Fannie Mae or Freddie Mac may also notify Servicer from time to time of any additional record retention requirements resulting from litigation and regulatory investigations in which the Treasury or any agents of the United States may have an interest, and Servicer agrees to comply with these litigation and regulatory investigations requirements.

4. Internal Control Program.

- (a) Servicer shall develop, enforce and review on a quarterly basis for effectiveness an internal control program designed to: (i) ensure effective delivery of Services in connection with the Program and compliance with the Program Documentation; (ii) effectively monitor and detect loan modification fraud; and (iii) effectively monitor compliance with applicable consumer protection and fair lending laws. The internal control program must include documentation of the control objectives for Program activities, the associated control techniques, and mechanisms for testing and validating the controls.
- (b) Servicer shall provide Freddie Mac with access to all internal control reviews and reports that relate to Services under the Program performed by Servicer and its independent auditing firm to enable Freddie Mac to fulfill its duties as a compliance agent of the United States; a copy of the reviews and reports will be provided to Fannie Mae for record keeping and other administrative purposes.

5. Representations, Warranties and Covenants. Servicer makes the following representations, warranties and covenants to Fannie Mae, Freddie Mac and the Treasury, the truth and accuracy of which are continuing obligations of Servicer. In the event that any of the representations, warranties, or covenants made herein cease to be true and correct, Servicer agrees to notify Fannie Mae and Freddie Mac immediately.

- (a) Servicer is established under the laws of the United States or any state, territory, or possession of the United States or the District of Columbia, and has significant operations in the United States. Servicer has full corporate power and authority to enter into, execute, and deliver the Agreement and to perform its obligations hereunder and has all licenses necessary to carry on its business as now being conducted and as contemplated by the Agreement.
- (b) Servicer is in compliance with, and covenants that all Services will be performed in compliance with, all applicable Federal, state and local laws, regulations, regulatory guidance, statutes, ordinances, codes and requirements, including, but not limited to, the Truth in Lending Act, 15 USC 1601 § et seq., the Home Ownership and Equity Protection Act, 15 USC § 1639, the Federal Trade Commission Act, 15 USC § 41 et seq., the Equal Credit Opportunity Act, 15 USC § 701 et seq., the Fair Credit Reporting Act, 15 USC § 1681 et seq., the Fair Housing Act and other Federal and state laws designed to prevent unfair, discriminatory or predatory lending practices and all applicable laws governing tenant rights. Subject to the following sentence, Servicer has obtained or made, or will obtain or make, all governmental approvals or

registrations required under law and has obtained or will obtain all consents necessary to authorize the performance of its obligations under the Program and the Agreement. The performance of Services under the Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction by which Servicer is bound, provided, however, that Fannie Mae acknowledges and agrees that this representation and warranty is qualified solely by and to the extent of any contractual limitations established under applicable servicing contracts to which Servicer is subject. Servicer is not aware of any other legal or financial impediments to performing its obligations under the Program or the Agreement and shall promptly notify Fannie Mae of any financial and/or operational impediments which may impair its ability to perform its obligations under the Program or the Agreement. Servicer is not delinquent on any Federal tax obligation or any other debt owed to the United States or collected by the United States for the benefit of others, excluding any debt or obligation that is being contested in good faith.

- (c) Servicer covenants that: (i) it will perform its obligations in accordance with the Agreement and will promptly provide such performance reporting as Fannie Mae may reasonably require; (ii) all mortgage modifications and all trial period modifications will be offered to borrowers, fully documented and serviced in accordance with the Program Documentation; and (iii) all data, collection information and other information reported by Servicer to Fannie Mae and Freddie Mac under the Agreement, including, but not limited to, information that is relied upon by Fannie Mae or Freddie Mac in calculating the Purchase Price or in performing any compliance review will be true, complete and accurate in all material respects, and consistent with all relevant servicing records, as and when provided.
- (d) Servicer covenants that it will: (i) perform the Services required under the Program Documentation and the Agreement in accordance with the practices, high professional standards of care, and degree of attention used in a well-managed operation, and no less than that which the Servicer exercises for itself under similar circumstances; and (ii) use qualified individuals with suitable training, education, experience and skills to perform the Services. Servicer acknowledges that Program participation may require changes to, or the augmentation of, its systems, staffing and procedures, and covenants and agrees to take all actions necessary to ensure it has the capacity to implement the Program in accordance with the Agreement.
- (e) Servicer covenants that it will comply with all regulations on conflicts of interest that are applicable to Servicer in connection with the conduct of its business and all conflicts of interest and non-disclosure obligations and restrictions and related mitigation procedures set forth in the Program Documentation (if any).
- (f) Servicer acknowledges that the provision of false or misleading information to Fannie Mae or Freddie Mac in connection with the Program or pursuant to the Agreement may constitute a violation of: (a) Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or (b) the civil False Claims Act (31 U.S.C. §§ 3729-3733). Servicer covenants to disclose to Fannie Mae and Freddie Mac any credible evidence, in connection with the Services, that a management official, employee, or contractor of Servicer has committed, or may have committed, a violation of the referenced statutes.
- (g) Servicer covenants to disclose to Fannie Mae and Freddie Mac any other facts or information that the Treasury, Fannie Mae or Freddie Mac should reasonably expect to know about Servicer and

- (h) Servicer covenants that it will timely inform Fannie Mae and Freddie Mac of any anticipated Event of Default.
 - (i) Servicer acknowledges that Fannie Mae or Freddie Mac may be required to assist the Treasury with responses to the Privacy Act of 1974 (the "Privacy Act"), 5 USC § 552a, inquiries from borrowers and Freedom of Information Act, 5 USC § 552, inquiries from other parties, as well as formal inquiries from Congressional committees and members, the Government Accounting Office, Inspectors General and other government entities, as well as media and consumer advocacy group inquiries about the Program and its effectiveness. Servicer covenants that it will respond promptly and accurately to all search requests made by Fannie Mae or Freddie Mac, comply with any related procedures which Fannie Mae or Freddie Mac may establish, and provide related training to employees and contractors. In connection with Privacy Act inquiries, Servicer covenants that it will provide updated and corrected information as appropriate about borrowers' records to ensure that any system of record maintained by Fannie Mae on behalf of the Treasury is accurate and complete.
 - (j) Servicer acknowledges that Fannie Mae is required to develop and implement customer service call centers to respond to borrowers' and other parties' inquiries regarding the Program, which may require additional support from Servicer. Servicer covenants that it will provide such additional customer service call support as Fannie Mae reasonably determines is necessary to support the Program.
 - (k) Servicer acknowledges that Fannie Mae and/or Freddie Mac are required to develop and implement practices to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws. Servicer covenants that it will fully and promptly cooperate with Fannie Mae's inquiries about loan modification fraud and legal compliance and comply with any anti-fraud and legal compliance procedures which Fannie Mae and/or Freddie Mac may require. Servicer covenants that it will develop and implement an internal control program to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws, among other things, as provided in Section 4 of this Financial Instrument and acknowledges that the internal control program will be monitored, as provided in such Section.
 - (l) Servicer shall sign and deliver an Annual Certification to Fannie Mae and Freddie Mac beginning on June 1, 2010 and again on June 1 of each year thereafter during the Term, in the form attached as Exhibit B to the Agreement.
6. Use of Contractors. Servicer is responsible for the supervision and management of any contractor that assists in the performance of Services in connection with the Program. Servicer shall remove and replace any contractor that fails to perform. Servicer shall ensure that all of its contractors comply with the terms and provisions of the Agreement. Servicer shall be responsible for the acts or omissions of its contractors as if the acts or omissions were by the Servicer.
7. Data Rights.
- (a) For purposes of this Section, the following definitions apply:

- (i) "Data" means any recorded information, regardless of form or the media on which it may be recorded, regarding any of the Services provided in connection with the Program.
 - (ii) "Limited Rights" means non-exclusive rights to, without limitation, use, copy, maintain, modify, enhance, disclose, reproduce, prepare derivative works, and distribute, in any manner, for any purpose related to the administration, activities, review, or audit of, or public reporting regarding, the Program and to permit others to do so in connection therewith.
 - (iii) "NPI" means nonpublic personal information, as defined under the GLB.
 - (iv) "GLB" means the Gramm-Leach-Bliley Act, 15 U.S.C. 6801-6809.
- (b) Subject to Section 7(c) below, Treasury, Fannie Mae and Freddie Mac shall have Limited Rights, with respect to all Data produced, developed, or obtained by Servicer or a contractor of Servicer in connection with the Program, provided, however, that NPI will not be transferred by Fannie Mae in violation of the GLB and, provided, further, that Servicer acknowledges and agrees that any use of NPI by, the distribution of NPI to, or the transfer of NPI among, Federal, state and local government organizations and agencies does not constitute a violation of the GLB for purposes of the Agreement. If requested, such Data shall be made available to the Treasury, Fannie Mae, or Freddie Mac upon request, or as and when directed by the Program Documentation, in industry standard useable format.
- (c) Servicer expressly consents to the publication of its name as a participant in the Program, and the use and publication of Servicer's Data, subject to applicable state and federal laws regarding confidentiality, in any form and on any media utilized by Treasury, Fannie Mae or Freddie Mac, including, but not limited to, on any website or webpage hosted by Treasury, Fannie Mae, or Freddie Mac, in connection with the Program, provided that no Data placed in the public domain will: (i) contain the name, social security number, or street address of any borrower or other information that would allow the borrower to be identified; or, (ii) if presented in a form that links the Servicer with the Data, include information other than program performance and participation related statistics such as the number of modifications, performance of modifications, characteristics of the modified loans, or program compensation or fees, with any information about any borrower limited to creditworthiness characteristics such as debt, income, and credit score. In any Data provided to an enforcement or supervisory agency with jurisdiction over the Servicer, these limitations on borrower information do not apply.

8. Publicity and Disclosure.

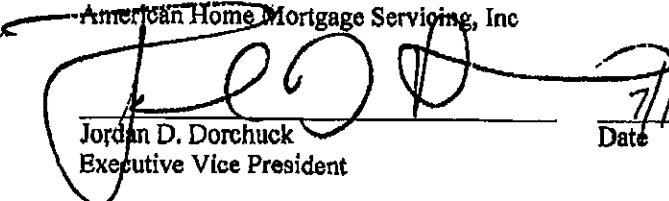
- (a) Servicer shall not make use of any Treasury name, symbol, emblem, program name, or product name, in any advertising, signage, promotional material, press release, Web page, publication, or media interview, without the prior written consent of the Treasury.
- (b) Servicer shall not publish, or cause to have published, or make public use of Fannie Mae's name, logos, trademarks, or any information about its relationship with Fannie Mae without the prior written permission of Fannie Mae, which permission may be withdrawn at any time in Fannie Mae's sole discretion.

(c) Servicer shall not publish, or cause to have published, or make public use of Freddie Mac's name (i.e., "Freddie Mac" or "Federal Home Loan Mortgage Corporation"), logos, trademarks, or any information about its relationship with Freddie Mac without the prior written permission of Freddie Mac, which permission may be withdrawn at any time in Freddie Mac's sole discretion.

9. Limitation of Liability. IN NO EVENT SHALL FANNIE MAE, THE TREASURY, OR FREDDIE MAC, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO SERVICER WITH RESPECT TO THE PROGRAM OR THE AGREEMENT, OR FOR ANY ACT OR OMISSION OCCURRING IN CONNECTION WITH THE FOREGOING, FOR ANY DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO DIRECT DAMAGES, INDIRECT DAMAGES, LOST PROFITS, LOSS OF BUSINESS, OR OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE OR UNDER ANY LEGAL THEORY WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE REASONABLY FORESEEABLE; PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT LIMIT FANNIE.MAE'S OBLIGATION TO REMIT PURCHASE PRICE PAYMENTS TO SERVICER IN ITS CAPACITY AS FINANCIAL AGENT OF THE UNITED STATES IN ACCORDANCE WITH THE AGREEMENT.

10. Indemnification. Servicer shall indemnify, hold harmless, and pay for the defense of Fannie Mae, the Treasury and Freddie Mac, and their respective officers, directors, employees, agents and affiliates against all claims, liabilities, costs, damages, judgments, suits, actions, losses and expenses, including reasonable attorneys' fees and costs of suit, arising out of or resulting from: (a) Servicer's breach of Section 5 (Representations, Warranties and Covenants) of this Financial Instrument; (b) Servicer's negligence, willful misconduct or failure to perform its obligations under the Agreement; or (c) any injuries to persons (including death) or damages to property caused by the negligent or willful acts or omissions of Servicer or its contractors. Servicer shall not settle any suit or claim regarding any of the foregoing without Fannie Mae's prior written consent if such settlement would be adverse to Fannie Mae's interest, or the interests of the Treasury or Freddie Mac. Servicer agrees to pay or reimburse all costs that may be incurred by Fannie Mae and Freddie Mac in enforcing this indemnity, including attorneys' fees.

IN WITNESS WHEREOF, Servicer hereby executes this Financial Instrument on the date set forth below.

American Home Mortgage Servicing, Inc

Jordan D. Dorchuck
Executive Vice President
Date 7/10/09