STATEMENT OF MARGERY GOLANT

Before the

SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATION LAW
Judiciary Committee
U.S. House of Representatives

"Home Foreclosures: Will Voluntary Mortgage Modification Help Families Save Their Homes, Part II"

December 11, 2009

I. Introduction

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify today regarding my experiences relating to the topic "Home Foreclosures: Will Voluntary Mortgage Modification Help Families Save Their Homes, Part II".

I am an attorney in private practice in Florida, and for several years have represented consumers. Currently, I limit my practice to representation of borrowers in foreclosure, provided that they meet my qualifications for acceptance of their case. And, I can tell you that I have no shortage of potential clients.

I bring an unique perspective to this discussion: I worked for a number of years (from approximately 1998 to 2004) on behalf of the financial services industry, as an attorney with two different Florida foreclosure law firms, and then as in-house counsel, and eventually as Assistant General Counsel of Ocwen Financial Corporation, one of the largest US subprime mortgage servicers, where I headed the Residential Litigation Subgroup. I left that position several years ago, and have since been involved in representing certain borrowers who are defendants in foreclosure actions filed against them. The benefit of seeing the foreclosure issue from both sides informs the thoughts and conclusions I offer today.

II. The Problem

I doubt that anyone would dispute that we currently have a tremendous problem in this country, which expresses itself in the foreclosures of many thousands of homes, the dispossession of the families whose homes they were, the enormous oversupply of houses for sale post-foreclosure and as hoped for "short sales". The result is a snowball effect, where the growing numbers of foreclosed properties put an increasingly larger burden on neighborhoods, communities, tax bases, homeowners associations and the budges of municipalities. I am not an economist, so will

not presume to speak to how all of that then impacts business failure, unemployment and widening economic problems.

My clients come from all walks of middle-class American life, ranging from blue collar workers to professionals and small business owners. In my practice, I defend these homeowners, most of whom have the goal of trying to "save" their homes. In that context, I am constantly looking for ways to achieve that goal. It is an incredibly difficult process, because borrowers currently have no "tools" to get there, no leverage to bring to bear. Many of my clients have tried in vain to gain entry into the Home Affordable Modification Program ("HAMP"). Many had, prior to becoming clients, tried to reason with their servicers, willingly submitted endless sets of "financials," and even, in their desperation, paid "loan modification companies" to assist them. All of these people became my clients when, despite their efforts, an Action of Foreclosure was filed against them. At that point, they realized that if they did not seek counsel, they would lose their home.

A widely misunderstood aspect of the housing problem is that if borrowers fall behind by more than sixty days, servicers thereafter reject any attempts by them to make payments, unless at the same time they "cure" the default. I frequently see people who had a period of financial hardship (i.e. an illness, a job loss or cutback) and got behind, and later were not *allowed* to resume making payments, even if they could and wanted to. In these situations, the best servicers will generally do is what is commonly called a "forbearance plan", whereby they take the delinquent amount, divide it by three, six or 12 months, and then add that on top of the contractually due payment. This results in a higher payment, which is often beyond the reach of borrowers, and sets the stage for foreclosure. Borrowers sometimes attempt to commit to a forbearance plan, generally in the hope that somehow they will manage to make the payment. However, whether they fail to meet the terms of the forbearance plan or simply refuse to agree it, foreclosure is the next step. A particularly pernicious part of the "forbearance plan" mechanism is the normal requirement that borrowers who are parties to it waive all their legal rights and defenses as a condition for entry into the plan. Then, when the plan [inevitably] fails, they are left defenseless. I have attached examples of two different forbearance plans from two servicers as an exhibit to this statement.

Other than in the very limited, and generally unsatisfactory context of a forbearance plan, achieving any sort of "voluntary" modification remains an extremely difficult undertaking. This remains true even after foreclosure has started, and even after I take up defense; it is usually true that it is only when I back the Plaintiff into an untenable and unprovable foreclosure case does any sort of potential concession emerge. Once I take up representation of people in foreclosure, I set about trying to find points of leverage because this typically is the only way to make any progress at all toward a modification.

In defending my clients, I look for, and raise, any and all legal and technical infirmities I find, and at the same time, ask the court by means of a formal Motion to require the servicer to accept a HAMP application and to impose an abatement of ninety days to allow the process (which is supposed to take ninety days although it never does) to take its course. The results are astonishing. Foreclosure counsel, who are hired by the servicers, usually fight tooth and claw to defend against my motion. In one recent case, the servicer hired a second, very high priced law firm to defend against the motion. The position the mortgage company took in that instance was that the borrower had to prove to the satisfaction of the mortgage company that he qualified for HAMP *before* there was any obligation to consider him. Clearly this was completely wrong, yet the judge accepted their argument and denied my Motion. The borrower in that case was clearly qualified for HAMP and had tried for months prior to the foreclosure being filed to get into the program. As another example, I was told about a borrower who was seeking entrée into HAMP, and instead was foreclosed upon. The servicer took the position that since the husband and wife borrowers were now divorced, the house was no longer owner-occupied, although the ex-wife borrower and the parties' children still lived in the house.

To date, I have filed approximately 60 Motions of the sort I describe above. In all but two of the cases, my opponents have opposed the motions, and the matters are set for hearing. In two of the cases, foreclosure counsel instead sent me HAMP application packets for my clients to complete. To date, not one of my clients who managed to get into a trial modification has received a permanent modification, although some have exceeded the three month trial period, and despite the fact that all of them submitted all the required documentation at the outset of the process.

How we reached this point in America is beyond the scope of this hearing. However, how we are going to resolve it is the challenge we all face.

The foreclosure crisis is creating enormous difficulty across America. Many families are being forced out of their homes, and it is difficult to imagine what will become of those people and their children. The houses sit vacant, decaying, creating attractive nuisances. For example, a child drowned in a vacant foreclosure house in Broward County, Florida recently.[1] Some vacant houses have become quarters for vagrants and drug dealers. All homeowners are impacted, since the excessive numbers of houses vacant and for sale drags down property values for all. Homeowners with performing loans are unable to sell, due to the low prices presently realizable. Many condominium and homeowners' associations are in complete disarray, not able to collect sufficient revenue to fund their operations. Most troublesome is that the owners of many of these houses could and would have made payments, had there been a viable process for establishing a sustainable mortgage modification.

[1] http://www.sun-sentinel.com/news/broward/miramar/sfl-near-drown-101109,0,3079203.story

III. Root Causes of the Current Situation

Based on my experience on both sides of the issue, I have drawn a number of conclusions about why current efforts have failed, and why voluntary modification is not, and cannot be the solution to the problem.

I do not point any fingers. Blame is beside the point. While there may be some bad motives in all this, the real problem is that there is no one in the mortgage industry with the ability, the authority and the wherewithal to take this mess on and to solve it. This is demonstrated by the dismal statistics we have all seen. Key to understanding why this is the case is recognition that the mortgage industry has changed enormously over the past 10 years or so. Few mortgages belong to the firm that originated them, and daily work relating to virtually all mortgages now is performed by mortgage servicers, who are not the owners/real parties in interest. As I am sure you are aware, the role of the mortgage servicer is roughly analogous to that of a property manager; it takes borrowers' phone calls, sends billing statements, collects payments, checks to make sure that taxes and insurance are being maintained or if the loan is escrowed, it pays the taxes. Servicers are responsible for routine collection efforts when payments become delinquent. However, the mortgage servicers' activities are defined, delineated and circumscribed by complex contracts between them and the other parties to the structured finance transactions which created the securitization trusts that own them.

The picture is further complicated by the fact that the owners of the loans are most often securitized trusts. A securitized trust is a structured finance creation that is a pool of assets having an income flow. The trust is a special purpose entity created for the sole purpose of owning the assets; it has no other reason to exist, no other business and no other assets than the loans and the income flow resulting from them. Investors buy various kinds of interests in the pool. There are usually many different configurations and risk profiles of these ownership interests, such that the interests of the holders are often potentially conflicting. The differing categories of interests are called "tranches".

Mortgage backed securitized trusts are established and operated via a series of contracts between the Depositor/Issuer, the Trustee, the Servicer and the investors. There are usually other parties to the contracts, including insurers, sub-servicers, and risk managers. The primary document which creates the entity and defines the roles and responsibilities is usually called a Pooling and Servicing Agreement, although there are other layers of documents which cumulate in the Pooling and Servicing Agreement. Each such trust has a Trustee. However, the Trustee does not normally deal with the loans that comprise the assets of the trust; this is delegated to one or more Servicers. Until the mortgage crisis erupted, servicers' processes were geared to routine maintenance and management; troubled loans were limited in numbers and generally manageable with minimal disruption. That has changed, and it is clear from the results that servicers are not equal to the challenge. Furthermore, the processes already in existence, in

particular, referral to outside counsel to commence foreclosure, are easier, are compliant with their contractual obligations to their clients (the Trusts) and are more predictable. In fact, if the foreclosure is completed, the homeowner evicted, and the property sold for a fraction of the amount owed, the servicer has done what it was obligated to do in its contract, and it suffers no hit to its bottom line from the result. Moreover, during the time it serviced the defaulted loan, it is likely that the servicer was paid a higher fee, and may also have been able to charge various "junk fees". It would therefore be normal behavior of a for-profit servicing entity to seek to maintain the loan in that posture. Furthermore, any sort of "retooling" of a servicer's operation, even if it were desirous of doing so, would be extremely complicated, expensive, and difficult.

The result of this structure is that differing and often conflicting interests and aspects of the loans comprising each pool belong to a variety of interested parties. While the servicer has a certain amount of authority and routine decision-making ability in connection with the loans, that authority is not complete. The real parties in interest, the trust investors, have delegated management of the pool to a designated trustee. There also are often other stakeholders, such as bond insurers and private mortgage insurers, who must be consulted when potential modifications are under consideration, or the trust risks waiving coverage.

This web of interests creates a very convoluted decision-making process, when non-routine decisions are under consideration. Servicers may not have authority to make such decisions, the trustees may not have authority to make the decisions, the bond insurers and private mortgage insurers may be unwilling to acquiesce in a decision which could risk increasing their exposure. Accordingly, all involved are "safe" from claims by the other parties if and only if they adhere to the traditional contractual process, which does not contemplate significant modification to the obligation.

This web of conflicting interests is a problem seriously exacerbated by the fact that, during the "bubble", there was considerable failure to perfect transfers of interests in the subject loans from the originator, along the road of securitization to the final intended owner. As a result, in many cases the entity which believes itself to be the owner may not in fact be. This problem also is manifesting itself in some recent court cases that have made headlines, where courts concluded that the party making claim to a particular loan had not convinced the court it had the right to do so. Trusts holding defective loans or defectively perfected interests have the right to force these loans to be repurchased by the entities from which they were acquired. In fact, there has been a recent spike in repurchase demands.

The current "mortgage meltdown" and foreclosure crisis is unprecedented; accordingly it was not provided for in the agreements utilized in structured finance transactions. The agreement which created and regulated the trusts and the various parties to them were based on assumptions whereby the vast majority of the loans held by the trust continued to be "performing" and therefore default was normally limited in quantity and amount. In that environment, the

agreement charged servicers with pursuing collection, including foreclosure, unless a loan could be brought back into performing status in a relatively short time. There was a time when this was a readily achievable goal, however, that is not the case today. The trust documents do not speak to solutions or grants of authority for dealing with the current crisis, or dealing with the loans which are delinquent as a result of the crisis. Accordingly, the trustees and servicers may not feel they have sufficient authority to change the terms of subject loans, and in fact, they may lack such authority. The securitized trusts are created with reference to the Internal Revenue Code, which in 1986 was changed to provide for investment vehicles called REMICs (Real Estate Mortgage Investment Conduits). So long as the many applicable rules are followed, REMICS are tax-neutral entities, so pay no income tax on the revenue flow realized from their investments. The portion of the revenue paid out to investors is taxable to investors. Trustees and servicers are charged with taking no action which could cause the trust to be in violation of REMIC rules, and in fact can become personally responsible for resulting harm, which would be calamitious, if REMIC rules are violated. The allowable activities of REMICS are extremely limited; "to holding a fixed pool of mortgages and distributing payments currently to investors. A REMIC has some freedom to substitute qualified mortgages, declare bankruptcy, deal with foreclosures and defaults, dispose of and substitute defunct mortgages, prevent defaults on regular interests, prepay regular interests when the costs exceed the value of maintaining those interests, and undergo a qualified liquidation, in which the REMIC has 90 days to sell its assets and distribute cash to its holders. All other transactions are considered to be prohibited activities and are subject to a penalty tax of 100%, as are all nonqualifying contributions. [2]

As a result of the complex management structure and the REMIC rules, servicers and trustees proceed with great trepidation, and they are further constrained by the obligation not to jeopardize what mortgage insurance coverage exists, either on the pool or on individual loans. As a result of the often lacking transactional steps properly conveying the subject mortgage loans, it is in fact that case that trustees and servicers may well completely lack the right to enforce certain loans, since they may have no rights to them. Further, there is extensive confusion within the cases as to what party is the real party in interest, what party is only the servicer, what party is a former holder who has nothing further to do with the loan and no interest in the outcome.

As if this was not complicated enough, it is made far worse by the fact that the origination of a fair number of these loans was fraudulent, deceptive, violative of Truth in Lending and other law

[2] PEASLEE, JAMES M. & DAVID Z. NIRENBERG. FEDERAL INCOME TAXATION OF SECURITIZATION TRANSACTIONS. Frank J. Fabozzi Associates (2001, with annual supplements), www.securitizationtax.com; Lynn, Theodore S., Micah W. Bloomfield, & David W. Lowden. Real Estate Investment Trusts. Securities Law Series, Vol. 29. Thomson West (2007); SILVERSTEIN, GARY J. REMICS, TAX MANAGEMENT: FASITS AND OTHER MORTGAGE-BACKED SECURITIES. Tax Management Inc.: Securities Law Series (2007).

and in other ways legally problematic. The expanding chaos puts a huge strain on the servicing industry, undoubtedly increasing the rate of errors and increasing the difficulty of acknowledging and unwinding servicing errors.

While they may be reluctant to admit it, investors in securitizations are in many ways trapped by the present crisis; they have no choice but to continue to watch the train move along the track and to suffer from the ultimate low prices the collateral realizes. However, the "default servicing" industry, which exists to process foreclosures, serve process, handle property inspections, appraisals, evictions and management of defaulted loans and foreclosed properties, prospers at the expense of these same investors, and of the owners of the homes foreclosed upon. These companies have developed the default management niche to a profitable enterprise.[3]

IV. A Potential Solution

At present, my observation is that troubled loans in default fall roughly into three categories:

a. The loans that should never have been made at all – made without any documentation of sufficient income or sufficient real collateral value to make them viable (often referred to as "liar loans"), and loans with "exotic terms" such as teaser rates, interest only features, and negative amortization.

b. The loans that are legally infirm – loans closed fraudulently, unlawfully, in violation of Truth in Lending, subject to defective loan accounting, erroneous force-placement of insurance, etc.

c. Loans that appeared to be regular and appropriate, but which the borrowers now cannot pay due to deteriorating economic conditions and rising unemployment. In the early part of the decade, borrowers who could no longer afford a particular property or who needed to move away could sell the home and pay off the mortgage, but with the large loan to value imbalance which currently exists, this no longer is possible for large numbers of homeowners.

While these categories of loans are all problematic, albeit for different reasons, those borrowers who earnestly want to pay and have the ability to pay consistent with the market value of the collateral have the potential to be reformulated into functional transactions.

It is widely recognized that something must be done to resolve this problem. It is evident that the voluntary solutions that have been attempted so far have not worked, and that in fact there are more foreclosures than ever. A solution that would allow bankruptcy judges to construct judicial modifications of these mortgages has been proposed and I would urge that it be given a chance to

[3] http://www.lpsvcs.com/AboutUs/Brochures/Pages/default.aspx

prove its value. The beauty of such a suggestion is that bankruptcy judges have extensive experience dealing with financial problems, have done so for many years, and are optimized for just such a function. It is commonplace for bankruptcy courts to sort out and to resolve debts and delinquency issues. "Judicial modification" of many kinds of secured loans has been the norm through modern commercial history. The bankruptcy process is rigorous; people and entities seeking relief must disgorge all their financial information, which is then closely scrutinized and evaluated. Assets are valued and then solutions are formulated wherein the legitimate best interests of the creditors are prioritized. The entire process is overseen by the Office of the US Trustee, a division of the US Department of Justice.

In the current mortgage crisis, it is commonplace for mortgages to exceed by 30-40 percent the value of the underlying collateral. I have many clients whose mortgage balances are $100,000, $200,000, $300,000 and more in excess of the values of their homes. In most cases, these are people who bought at the wrong time, did not recognize that they were paying too much, and were given mortgage loans which did not take into account the bubble or their ability to repay the loan. These are people who would like to find some way to work the problem out, but unless a solution is found, they are powerless to do so. If they were to sell the home at "short sale" all that would be accomplished is that market value would be realized – and the family would have no house. If the mortgage is foreclosed, all the mortgage holder would be able to realize from the foreclosure process is the current value of the home, less a substantial "REO discount" because foreclosed homes sit vacant, get overgrown, mildewed, and are rightfully perceived as risky purchases. In fact, in Florida it is generally believed that many foreclosed homes will ultimately be torn down, which highlights the tragedy of it all.

In reality, the principal writedown occurred when the housing bubble burst; all that remains is the recognition of the writedown. However, because of the tangled web of interests and lack of authority to restructure the loan to a realistic number, the servicer and holders are unable to do that, and are not vested with any other real option but to foreclose. So, none of the mechanisms in use today do anything more for the mortgage holder than to, at best, bring them the current market value of the house, less all the costs of sale, and in many cases far less. However, if the bankruptcy courts are given the ability to address this problem, they would be able to realistically value the collateral, and then to formulate a rigorous yet fair solution that would, in many cases, provide a mechanism to afford borrowers an opportunity to save their homes, without the mortgage holders taking any greater loss than they would anyway, and in many instances the holders would in fact do better; relief would be immediate, the bleeding would stop, cash flow would resume immediately, mortgage holders and their servicers would not be required to support and maintain the properties, pay taxes, insure them, monitor them, or otherwise be responsible for them. This would create the potential for a "win-win" situation, since the people committed to saving their homes would have a mechanism to do so, yet this would be founded upon a carefully constructed and strictly enforced bankruptcy court program.

Mr. Chairman and Members of the Subcommittee, I commend you for taking action to provide for judicial modification of home mortgages. Indeed, I cheered when the full House of Representatives passed H.R. 1106 earlier this year. I am joined my colleagues across the country who sit by, frustrated by our inability to help the families that seek our help every day. I know the financial services industry opposes judicial mortgage modifications and have implored Congress not to adopt this solution because of the "fragile housing recovery." Where I sit, there is no housing recovery, and will not be until we figure out how to stem the rising tide of foreclosures. We should be using every tool available to us to accomplish this goal. Otherwise, I fear we may never experience a true and robust economic recovery.

Thank you for your time and attention. I will be pleased to do my best to provide answers to any questions that you may have.

Aurora • Loan Services

2617 COLLEGE PARK • P.O. BOX 1706 • SCOTTSBLUFF, NE 69363-1706
PHONE: 800-580-0508 • FAX: 303-728-7648

WORKOUT AGREEMENT

BY AND BETWEEN AURORA LOAN SERVICES

AND

[redacted]

Property Address: [redacted] Loan No. [redacted]

This Workout Agreement is made May 20, 2009, by and between AURORA LOAN SERVICES ("Lender") located at 2617 College Park, Scottsbluff, NE 69361, and [redacted] (individually and collectively, "Customer").

WHEREAS, Lender is the servicing agent and/or the owner and holder of a certain Note dated 06-14-06, executed and delivered by Customer, in the original principal amount of $ 256,000 (the "Note"). The Note is secured by a mortgage, deed of trust or comparable security instrument dated 06-14-06, (the "Security Instrument"), on the property located at the address specified above (the "Property"). The Note and Security Instrument are collectively referred to as the "Loan Documents".

WHEREAS, Customer is in default under the Loan Documents, has failed to make payment of monthly installments of principal, interest, and escrow, if any, and has incurred additional expenses authorized under the Loan Documents, resulting in a total arrearage now due of $ 30,515.07, as more particularly set forth below:

Unpaid monthly payment(s) of PITI* from 07-01-08 through and including 05-20-09	$ 25,906.65
Accrued Late Charges	689.92
MSP Charges	.00
Legal Fees	1,808.00
Corporate Advances**	2,110.50
Other Fees***	.00
Minus Credit (suspense balance/partial payment)	.00
Total Amount Due (the "Arrearage")	$ 30,515.07

* "PITI" means the monthly payment of principal, interest, and escrows, required, for taxes and insurance premium installments.
** "Corporate Advances" include, but are not limited to, property inspection fees, property preservation fees, legal fees, foreclosure fees and costs, appraisal fees, BPO (i.e. broker price opinion) fees, title report fees, recording fees, and subordination fees.
*** "Other Fees" include, but are not limited to, short payment advances and Speed ACH fees.

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Loan No. [redacted]

WHEREAS, as a result of Customer's default, Lender (i) has the right to accelerate, and to require Customer to make immediate payment in full, all of the sums owed under the Note and secured by the Security Instrument, (ii) has so accelerated and declared due in full all such sums, and (iii) may have already commenced foreclosure proceedings to sell the Property.

WHEREAS, as of the date of execution of the Agreement, Lender commenced Foreclosure proceedings to sell the property on 10/29/08 by legal filing in the county and state where the Property is located A Foreclosure sale has not yet been scheduled.

WHEREAS, customer has requested Lender's forbearance in exercising its rights and remedies under the default provisions of the Loan Documents and with regard to any foreclosure action that may now be pending.

WHEREAS, Customer has requested and Lender has agreed to allow Customer to repay the Arrearage pursuant to a loan work-out arrangement on the terms set forth herein.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereto agree as follows:

1. Term. This Agreement shall expire on the "Expiration Date," as defined in Attachment A.

2. Lenders Forbearance. Lender shall forbear from exercising any or all of its rights and remedies now existing or arising during the term of this Agreement under the Loan Documents, provided there is no "Default", as such term is defined in paragraph 5.

3. Customer's Admissions. Customer admits that the Arrearage is correct and is currently owing under the Loan Documents, and represents, agrees and acknowledges that there are no defenses, offsets, or counterclaims of any nature whatsoever to any of the Loan Documents or any of the debt evidenced or secured thereby.

Customer admits and agrees that any and all postponements of a foreclosure sale, made during the term of this Agreement or in anticipation of this Agreement, are done by mutual consent of the Customer and Lender and that, to the extent allowed by applicable law, any such foreclosure sale may be postponed from time to time until the loan evidenced by the Note is fully reinstated or the foreclosure sale is consummated. Lender shall be under no obligation to dismiss a pending foreclosure proceeding until such time as all terms and conditions of this Agreement and Attachment A have been fully performed.

4. Terms of Workout. See Attachment A, which is made a part hereof.

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5. Default. If Customer fails to make any of the payments specified in Attachment A on the due dates and in the amount stated, or otherwise fails to comply with any of the terms and conditions herein or therein (any such even hereby defined as a "Default"), Lender, at its sole option, may terminate this Agreement without further notice to Customer. In such case, all amounts that are then owing under the Note, the Security Instrument, and this Agreement shall become immediately due and payable, and Lender shall be permitted to exercise any and all rights and remedies provided for in the Loan Documents, including, but not limited to, immediate commencement of a foreclosure action or resumption of a pending foreclosure action without further notice to Customer.

6. No Waiver. Nothing contained herein shall constitute a waiver of any of all of the Lender's rights or remedies, including the right to commence or resume foreclosure proceedings. Failure by Lender to exercise any right or remedy under this Agreement or as otherwise provided by applicable law shall not be deemed to be a waiver thereof.1

7. Status of Default and Foreclosure. Customer acknowledges that if the Lender previously notified the Customer that the account was in default, that the Note and Security Instrument are accelerated and the debt evidenced by the Note is due in full, the account remains in default, such Loan Documents remain accelerated, and such debt due in full, although Customer may be entitled by law to cure such default by bringing the loan evidenced by Note current rather than paying it in full. Lender's acceptance of any payments from Customer which, individually, are less than the total amount due to cure the default described herein shall in no way prevent Lender from continuing with collection action, or require Lender to re-notify Customer of such default, re-accelerate the loan, re-issue any notice, or resume any process prior to Lender proceeding with collection action if Customer Defaults. Customer agrees that a foreclosure action if commenced by the Lender against Customer will not be withdrawn unless Lender determines to do so by applicable law. In the event Customer Defaults, the foreclosure will commence, or resume from the point at which it was placed on hold, without further notice.

8. Limited Modification. Except as otherwise provided in this Agreement, the Note and Security Instrument, and any amendments thereto, are ratified and confirmed and shall remain in full force and effect.

1 A typical example of this would be if Lender decides to accept a partial or untimely payment from Customer instead of returning such payment or terminating this Agreement as provided herein, Lender shall not be precluded from rejecting a subsequent partial or untimely payment, terminating this Agreement, or taking any other action permitted by applicable law.

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Loan No. [redacted]

9. Application of Payments. The payments received by Lender from Customer pursuant to this Agreement shall be applied, at Lender's sole option, first to the earliest monthly payment under the Note that is due. Any amounts received by Lender that are less than the full payment under then due and owing under this Agreement shall be, at Lender's sole option, (1) returned to Customer, or (2) held by Lender in partial or suspense payment balance until sufficient sum is received by Lender to apply a full payment. If this Agreement is canceled and/or terminated for any reason, any remaining funds in this partial or suspense payment balance shall be credited towards Customer's remaining obligation owing in connection with the loan and shall not be refunded.

10. Methods of Making Payments. All payments made to Lender under this Agreement shall (i) contain the Lender's loan number shown above, (ii) unless otherwise agreed to by the Lender, be payable in certified funds by means of cashier's check, Western Union (code city: Bluff,NE) money order, or certified check, and (iii) be sent to AURORA LOAN SERVICES as specified in Attachment A. Any payment made other than strictly pursuant to the requirements of this paragraph 10 and Attachment A shall not be considered to have been received by Lender, although Lender may, in its sole discretion, decide to accept any non-conforming payment.

11. Credit Reporting. The payment status of Customer's loan in existence immediately prior to execution of this Agreement will be reported monthly to all credit reporting agencies for the duration of this Agreement and thereafter. Accordingly, Lender will report the loan subject to this Agreement as delinquent if the loan is not paid current under the Loan Documents, even if Customer makes timely payments to Lender under this Agreement. However, Lender may disclose that Customer is in a repayment or work-out plan. This Agreement does not constitute an agreement by Lender to waive any reporting of the delinquency status of loan payments.

12. Property Taxes, Insurance, and Other Amounts. If Customer's loan is not escrowed for taxes and insurance premium payments, it is Customer's responsibility to pay all property taxes, premiums for insurance, and all other amounts Customer agreed to pay as required under the terms of the Loan Documents. Customer's failure to pay property taxes, amounts owed on any senior lien security instrument, other amounts that may attain priority over the Security Instrument, or insurance premiums, in each case before their due date, shall constitute a Default hereunder.

13. The Entire Agreement. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties hereto with respect to the subject matter hereof. This Agreement supersedes all prior understandings, inducements or conditions, express or implied, oral or written, with respect thereto except as contained or referred to herein. This Agreement may not be amended, waived, discharged or terminated orally but only by an instrument in writing.

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Loan No. [redacted]

14. Time is of the Essence. The Customer agrees and understands that TIME IS OF THE ESSENCE as to all of the Customer's obligations under this Agreement. The grace period for monthly payments under the Loan Documents will not apply to payment under this Agreement. Therefore, the Lender must receive the payments under this Agreement on or before the Due Dates specified in Attachment A.

15. Assignment by Customer Prohibited. This Agreement shall be non-transferable by Customer. However, if the legal or beneficial interest or the servicing of this loan is transferred by Lender, this Agreement inures to the benefit of any subsequent servicer or beneficial interest holder of the Note.

16. Severability. To the extent that any word, phrase, clause, or sentence of this Agreement shall be found to be illegal or unenforceable for any reason, such word, phrase, clause, or sentence shall be modified or deleted in such a manner so as to make the Agreement, as modified, legal and enforceable under applicable law, and the balance of the Agreement or parts thereof shall not be affected thereby, the balance being construed as severable and independent; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to either party.

17. Execution in Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument and Agreement. Facsimile signatures shall be deemed as valid as originals.

18. Customer Contact. If Customer has any questions regarding this matter, Customer should contact one of Lender's Loan Counselors at the address above or by calling 800-550-0509.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be duly executed as of the date signed.

Dated: _____ [redacted]

Dated: _____ [redacted] Borrower

Aurora Loan Services
Dated: _____ _____

Aurora Loan Services is a debt collector. Aurora is attempting to collect a debt and any information obtained will be used for that purpose. However, if you are in bankruptcy or received a bankruptcy discharge of this debt, this communication is not an attempt to collect the debt against you personally, but is notice of a possible enforcement of the lien against the collateral property.

Aurora • Loan Services

2617 COLLEGE PARK • P.O. BOX 1706 • SCOTTSBLUFF, NE 69363-1706
PHONE: 800-550-0608 • FAX: 303-726-7648

ATTACHMENT A-STIPULATED PAYMENTS

a.1 For purposes of repayment of the Arrearage, Customer shall pay $870.41, on or before 06/01/2009. Thereafter, Customer shall pay three (3) stipulated monthly payments each in the amount of $870.41 (each, a "Plan payment"). On or before 06/01/2009 (the "Agreement Return Date"), Customer shall execute and return the Agreement, including this Attachment A, in accordance with the following instructions:

If by overnight mail service to	or if by US Postal Services to
Aurora Loan Services Attention: Home Retention 2617 College Park Scottsbluff, NE 69361	Aurora Loan Services Attention: Home Retention P.O. Box 1706 Scottsbluff, NE 69363-1706

The Agreement will be of no force and effect unless Lender receives the executed Agreement, including Attachment A, as well as the first Plan payment by the Agreement Return Date. Customer shall remit to Lender the first Plan payment, in the amount specified above, made payable to Aurora Loan Services in certified funds by means of cashier's check, money order, Western Union (code city: Bluff, NE), or certified check. All Plan payments, including the first Plan payment, shall contain the Lender's loan number shown in the Agreement and, unless otherwise agreed to by the Lender, shall be payable in certified funds as described above are to be sent to Lender's Payment Processing Center in accordance with the following instructions:

If by overnight mail service to	or if by US Postal Services to
Aurora Loan Services Attention: Cashiering Department 10350 Park Meadows Drive Littleton, CO 80124	Aurora Loan Services Attention: Cashiering Department P.O. Box 5180 Denver, CO 80217-5180

a.2 Plan payments are to be paid on or before the 1st day of every month (each, a "Due Date"). Lender must receive each Plan payment by the Due Date of each month. The Agreement shall expire on the Due Date of the last Plan payment contemplated by section a.1 above (the "Expiration Date"). At the time Customer makes the third (3rd) Plan payment under this Agreement, it shall be the Customer's responsibility to provide Aurora with accurate and complete financial information in support of the Customer's request for a loan modification or other workout option. Customer must also provide Lender with a completed Borrower's Financial Statement and proof of income (copies of Customer's two (2) most recent pay stubs) to enable Lender to properly evaluate Customer's current financial situation and the Customer's request for a loan modification or other loan workout option. Tender of the last Plan payment shall not be deemed acceptance by Aurora of a workout plan or loan modification.

Aurora • Loan Services

2617 COLLEGE PARK • P.O. BOX 1706 • SCOTTSBLUFF, NE 69363-1706
PHONE: 800-550-0508 • FAX: 303-728-7648

Loan No. [redacted]

b. The aggregate Plan payment will be insufficient to pay the Arrearage. At the Expiration Date, a portion of the Arrearage will still be outstanding. Because payment of the Plan payments will not cure the Arrearage, Customer's account will remain delinquent. Upon the Expiration Date, Customer must cure the Arrearage through a full reinstatement, payment in full, loan modification agreement or other loan workout option that Lender may offer (individually and collectively, a "Cure Method.") Customer's failure to enter into a Cure Method will result in the loan being disqualified from any future Lender Home Retention Group program with respect to the loan evidenced by the Note, and regular collection activity will continue, including, but not limited to, commencement or resumption of the foreclosure process, as specified in paragraphs 5 and 7 of the Agreement.

IN WITNESS HEREOF, the parties hereto have caused this Attachment A to be duly executed as of the date signed below.

Dated: _____ _____
[redacted] Borrower

Dated: _____ _____
[redacted] Borrower

Aurora Loan Services

Dated: _____ By: _____

Title: _____

OCWEN LOAN SERVICING LLC

FORBEARANCE AGREEMENT

[redacted]/2008

[redacted]

Re: Loan#: [redacted]
Property Address: [redacted]
Customer(s): [redacted]

In return for Ocwen Loan Servicing LLC (Ocwen Loan Servicing) not exercising its rights to remedy the delinquency presently existing on the above referenced loan property, it is hereby stipulated and agreed by and between the undersigned as follows:

WHEREAS, The Borrower(s) [redacted] (hereinafter the "Borrower(s)") executed that certain promissory note agreement (the "Note") and Mortgage on or about [redacted] in the original amount of $200,000.00 (the "Loan").

WHEREAS, The Borrower(s) also secured the Loan by virtue of that certain Mortgage/Deed of Trust covering the premises commonly known as [redacted] (the "Mortgage").

WHEREAS, The Borrower(s) agreed under the Note and Mortgage to pay legal fees and costs to the holder of the Note and Mortgage in the event of default.

WHEREAS, The Borrower(s) acknowledge their default of certain terms of the Note and Mortgage and reaffirm their obligations thereunder. The Borrower(s) acknowledge by their execution and delivery hereof, that they have no defense, setoff or counterclaim with respect to their default, and their obligations under the Note and Mortgage.

WHEREAS, The Borrower(s) acknowledge that they voluntarily release, discharge, and covenant not to sue Ocwen Loan Servicing for any and all claims, to the extent that any claims may exist now, that are related or connected in any manner, directly or indirectly, to the Note, Mortgage or the aforementioned premises.

WHEREAS, The reinstatement amount under the Note is $21,178.36 as of 1/31/2008.

NOW THEREFORE, in consideration of the mutual benefits derived from the Forbearance Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby mutually agree as follows:

1.

RECITALS The above recitals are true and correct and are incorporated herein by reference.

CONTRACTUAL DUE DATE The current contractual due date of the Note and Mortgage is 6/1/2007 and completion of this Forbearance Agreement will cure the default under the Loan.

INCREASED MONTHLY PAYMENTS The payments due under this Forbearance Agreement shall be as follows: A down payment in the amount of $3,000.00 made payable to Ocwen Loan Servicing LLC must be received the earlier of either, 5:00 PM eastern time on or before 1/31/2008 or prior to the foreclosure sale or law day, whichever occurs first, via "overnight" mail sent to Loan Resolution Dept., 12650 Ingenuity Dr., Orlando, Florida, 32826. The down payment must be in the form of certified funds. Commencing 3/1/2008 and continuing on the 1st day of each and every month through (and including) 4/1/2008 payments shall be made in the monthly amount of $1,723.00. All Monthly payments shall be in the form of a cashier's check or money order payable to Ocwen Loan Servicing LLC and sent to Ocwen Loan Servicing LLC at P.O. Box 6440, Carol Stream, IL 60197-6440 instead of 514577 Los Angeles, CA 90051-4577. All payments shall clearly include the above referenced Loan number. As to each and every payment required hereby, time shall be *strictly of the essence*. In other words, there is no grace period under this Forbearance Agreement and even the slightest default shall be considered a material breach. Notwithstanding the foregoing, additional increased

Borrower Initials : [redacted]

"Exhibit C"

payments may be necessary to fully reinstate the Mortgage. The sum of any such additional increased payments shall equal any additional attorney fees and expenses incurred by Ocwen Loan Servicing in excess of $ _____.

EFFECT ON PENDING FORECLOSURE ACTION
In the event that a foreclosure is pending, the foreclosure action will not be dismissed, however it will be placed on hold pending the completion of this Forbearance Agreement, unless Ocwen Loan Servicing is unable to place the foreclosure on hold as set forth in the paragraph below entitled "Foreclosure Sale/Lost Day". In the event of default under this agreement Ocwen Loan Servicing LLC may immediately proceed with the pending foreclosure without further notification.

MONTHLY LATE CHARGES AND ADDITIONAL FEES AND COSTS

Late Charges:
Monthly late charges shall continue to accrue, including during the term of this Forbearance Agreement, until the contractual due date of the Note and Mortgage have been brought current.

Additional Fees and Costs:
Your account may still have additional fees, expenses and charges which have not yet been billed or posted to your loan account. Any such additional charges will be added to your loan balance when received, and it will be necessary that you pay them in order to fully reinstate your mortgage, in addition to the payments provided for in this forbearance plan. Borrower(s) understands that they will be responsible for repayment of these charges.

CREDIT REPORTING
While you are on this forbearance plan, your loan is still considered delinquent, and will be reported as contractually delinquent to the credit reporting agencies to which Ocwen reports, until such time as the loan is brought current.

MODIFICATION CONTINGENCY If the Borrower(s) fully comply with the terms of the Note, Mortgage and Forbearance Agreement and have otherwise provided written evidence of an insurable first lien position, then Ocwen shall agree to a loan modification with a new principal balance of [redacted] and fixed interest rate of 6.00% . The first payment under the proposed loan modification shall be due on 5/1/2008 and the term will be for a period of 329 months. Before the proposed loan modification becomes effective, however, the required escrow balance will need to be remitted and the monthly escrow impound added to the payment schedule. Borrower(s) shall be responsible for paying all closing costs associated with the proposed loan modification, which include, but are not limited to, title update and endorsement, recording fees and attorneys' fees and costs. The Borrower(s) also understand the responsibility for obtaining written evidence of subordination or release of all outstanding liens, judgments and other mortgages, if any, is solely the Borrower(s) and Ocwen has no responsibility to assist the Borrower(s) in this regard. Failure to deliver an insurable first lien prior to the expiration of the Forbearance Agreement shall nullify any obligation to modify the Loan hereto and shall otherwise entitle Ocwen to exercise its remedies under the Forbearance Agreement and/or Loan and Mortgage, including resuming or commencing foreclosure without any further notification.

MONTHLY STATEMENTS Borrower(s) understand they will be receiving monthly statements from Ocwen and that failure to receive a statement is not a valid reason for failing to submit payments timely. Likewise, borrower(s) understand that during the term of the Forbearance Agreement, the monthly statement(s) may indicate the Loan is otherwise current or paid in advance. Borrower(s) understand the payment status represented on the monthly statements shall not impair, waive or otherwise alter the obligation to make each and every payment required under this Forbearance Agreement.

FORECLOSURE NOT DISMISSED So long as the Borrower(s) comply with all of the conditions set forth in this Forbearance Agreement, Ocwen will undertake no affirmative steps to advance this pending foreclosure action. (Notwithstanding the foregoing, Borrower(s) specifically agree Ocwen shall be entitled to continually postpone this foreclosure action or sale, file notices with the Court, publish this foreclosure, complete service or otherwise take any action reasonable necessary to maintain the pending status of this foreclosure action. Likewise, if Ocwen, or its designated agent, has submitted any motion or order with the Court, Ocwen shall not be required to withdraw such motion or order by virtue of this Forbearance Agreement. Rather, the Borrower(s) agree to permit the Court to consider such motion and to enter any order reasonably required thereby. Borrower(s) understand that any breach of this Forbearance Agreement, including a late payment, shall entitle Ocwen to proceed with the foreclosure action without any further notice to the borrower(s).

Borrower Initials : [redacted]

FORECLOSURE SALE/LAW DAY Borrower(s) understand if a foreclosure sale or law day is scheduled to occur within 72 hours after Ocwen has received both the signed Forbearance Agreement and down payment, then Ocwen may not be able to stop the sale or vesting. In this event, the down payment will be returned to the borrower and the Forbearance Agreement shall have no further force and effect. Ocwen assumes no liability for failing to 'stop' the sale or to otherwise unwind, rescind or reverse the sale or vesting should such sale or vesting occur within the time period prescribed herein. If in the event the Parties agree to undertake any effort to amend, rescind or reverse the sale or vesting, then any attorney fees and costs resulting from such activity shall be added to the Loan balance provided any such fees and costs are not prohibited by state law.

Borrowers acknowledgement of the above paragraph: _____ _____

CHANGE IN FINANCIAL CONDITION Borrower(s) agree that upon 30-days written notice, Ocwen Loan Servicing shall have the right to increase the monthly payment required under the Forbearance Agreement if Ocwen Loan Servicing has verified that (I) either there has been a material change in the Borrower(s)' financial condition or that there were significant inaccuracies in the financial information last submitted by the Borrower(s) and (II) that the Borrower(s) are financially able to make increased payments.

TAXES AND HAZARD INSURANCE As additional consideration for this Forbearance Agreement, upon the request of Ocwen Loan Servicing, Borrower(s) with non-impounded accounts shall deposit with Ocwen Loan Servicing in monthly installments, an amount equal to one-twelfth(1/12) of the estimated aggregate annual real estate taxes and/or insurance premiums on all policies of insurance required under the Mortgage. If at any time and for any reason the funds so deposited with Ocwen Loan Servicing are or will be insufficient to pay such amounts as may be then or subsequently due, Ocwen Loan Servicing may notify Borrower(s) and Borrower(s) shall immediately deposit an amount equal to such deficiency with Ocwen Loan Servicing. If taxes or insurance requirements decrease, the Forbearance Agreement payments will not decrease. Such surplus shall be applied against the Loan delinquency regardless if the loan had been impounded prior to executing the agreement.

Borrowers acknowledgement of the above paragraph for tax and insurance. _____ _____

PREPAYMENTS If all payments past due under the terms of the Note and Mortgage are paid prior to completion of the Forbearance Agreement, the Forbearance Agreement shall terminate and the monthly payments required by the original Note and Mortgage will begin again. The amount of the original payments, however, may be different due to changes to escrow requirements.

CUSTOMER AGREES TO PAY FEES/COSTS ASSOCIATED WITH RELEASE:
RELEASE Upon payment of all sums secured by the Mortgage, the Mortgage shall be released. The Borrower(s) acknowledge that they shall pay any recordation costs. In addition, Ocwen Loan Servicing may charge Borrower(s) a fee for releasing the Mortgage. This language modifies and supercedes the language in the Mortgage Instrument. The provisions of this Section shall survive the term or termination of this Agreement for any reason.

TERMINATION CONDITIONS This Forbearance agreement is automatically terminated under any of the following circumstances:

a. The mortgaged property is abandoned or left vacant for more than sixty (60) days.
b. Borrower(s) no longer use the mortgaged property as a principal residence unless Borrower(s) can provide evidence of a temporary relocation by the primary employer or, if in the military, assignment to a new post.
c. Borrower(s) transfer ownership or interest in the property, Note or Mortgage without consent of Ocwen Loan Servicing.
d. The facts or circumstances relating to Borrower(s) financial condition, which caused Ocwen Loan Servicing to enter into this Agreement, are substantially changed.
e. Incorrect information in connection with securing this Forbearance Agreement was submitted to Ocwen Loan Servicing.
f. Borrower(s) fail to meet any of the terms of this Forbearance Agreement or the original Note and Mortgage.

Any Obligation to provide Notice of Termination is waived by parties. No written notice of termination will be given. Upon any one of the circumstances set forth above, OCWEN shall be entitled to commence or resume foreclosure without any further notice whatsoever.

Borrower Initials : [redacted]

TERMINATION OF RIGHTS If termination results from any of the above conditions, Ocwen Loan Servicing can require that Borrower(s):

a. Return to the terms of the original Note and Mortgage. If the payments are still past due at that time, Ocwen Loan Servicing shall be entitled to commence or resume foreclosure without any further notice whatsoever.

ORIGINAL NOTE AND MORTGAGE Borrower(s) understand all the rights and obligations of the Note and Mortgage, except as expressly changed by this Forbearance Agreement, shall remain in full force. Nothing contained herein shall be construed to impair the Mortgage or effect or impair rights or powers under the Note and Mortgage to recover the any sum due under the Note, together with interest and costs.

PREVIOUS DISCHARGE IN BANKRUPTCY In the event that the underlying debt has been discharged as a result of a prior bankruptcy proceeding, Ocwen Loan Servicing hereby acknowledges that it is not assessing personal liability for the debt to the borrower(s) and that its recourse in collection matters shall be limited to the collateral described in the security instrument.

Mortgagor(s)

[redacted] 2/15/08

[redacted] Date

STATE OF FL
COUNTY OF _____

The foregoing instrument was executed and acknowledged before me this ____ day of 2008 by [redacted] who is personally known to me or has produced _____ as identification.

_____
Notary Public, State of FL