

FILED
SUPREME COURT
STATE OF WASHINGTON
2/8/2019 4:26 PM
BY SUSAN L. CARLSON
CLERK

Supreme Court No. 96608-7

Court of Appeals No. 76624-4-I

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

HUY YING CHEN and YUEH HUA CHEN, Husband and Wife,

Appellants,

v.

JPMORGAN CHASE BANK, AS TRUSTEE F/K/A THE CHASE
MANHATTAN BANK SUCCESSOR IN INTEREST TO THE CHASE
MANHATTAN BANK, N.A.,

Respondent

**ANSWER OF RESPONDENT THE BANK OF NEW YORK
MELLON TRUST COMPANY, N.A. FKA THE BANK OF NEW
YORK TRUST COMPANY, N.A. AS SUCCESSOR TO
JPMORGAN CHASE BANK, N.A. AS TRUSTEE FOR
RESIDENTIAL ASSET MORTGAGE PRODUCTS, INC.,
MORTGAGE ASSET-BACKED PASS-THROUGH
CERTIFICATES SERIES 2005-RP3 TO
APPELLANTS' MOTION TO DISQUALIFY RESPONDENT
COUNSEL AND STRIKE RESPONDENTS COUNSELS' ANSWER
TO PETITIONER DISCRETIONARY REVIEW**

Submitted By:
Cody M. Weston, WSBA No. 52321
PERKINS COIE LLP
1120 N.W. Couch St., Floor 10
Portland, OR 97209-4128
(503) 727-2000
cweston@perkinscoie.com

71045-0160/143268435.1

Respondent The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. (“Mellon”) as successor to JPMorgan Chase Bank, N.A. (“Chase”) as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates Series 2005-RP3, hereby responds to Appellant Chen’s Motion to Disqualify Respondent Counsel and Strike Respondent’s Counsels’ Answer to Petitioner Discretionary Review (“Motion”). Respondent respectfully requests that the Supreme Court deny the Motion.

The core of Chen’s contention appears to be that counsel for Respondent, Cody M. Weston (“Weston”) of Perkins Coie, LLP, has failed to appear in this case and thereby has avoided declaring the purportedly false statement that Respondent is a proper creditor, which Chen contends Respondent is not because Chase and Mellon are supposedly “fictitious entities.” Chen’s contention is baseless in all respects.

As an initial matter, Weston has been a counsel of record throughout Chen’s appeal to the Supreme Court and has been on the signatory block of Respondent’s filings. *See generally* Docket.

Further, as the Court of Appeals observed in response to Chen's same fictitious-entities argument, Chen did not support his conclusory assertion on any evidence or citation to the record. Moreover, Chen supports his Motion (and his Petition for Review) with a hearsay "Chain of Title and Securitization Analysis" appendix that is not part of the record and must be disregarded. *See City of Moses Lake v. Grant Cnty. Boundary Review Bd.*, 104 Wn. App. 388, 391, 15 P.3d 716 (2001); R.A.P. 10.3(a)(6) (arguments must be supported by "references to relevant parts of the record."); R.A.P. 10.3(a)(8) ("An appendix may not include materials not contained in the record on review without permission from the appellate court.").

Regardless, courts have routinely recognized that Chase is not "fictitious." *See, e.g., Heintz v. U.S. Bank Tr., N.A. for LSF9 Master Participation Tr.*, 2018 WL 418915, *1 (2018) (unpublished) ("the FDIC assigned the note and deed of trust to JP Morgan Chase Bank, N.A.... and Chase, in turn, assigned the note and deed of trust to respondent U.S. Bank."); *State v. Roy*, 2015 WL 260842 (2015) (unpublished) (upholding

conviction for bank robbery; “A reasonable jury could infer from the circumstantial evidence in this case that Chase Bank is a bank that is [a] ‘financial institution’ within the meaning of the controlling statutes.”).

Likewise, courts have issued rulings in favor of Respondent—The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, N.A. as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates Series 2005-RP3—without difficulty accepting that entity’s authority or rights as a creditor. *See, e.g., Keen v. Ocwen Loan Serv., LLC*, 2018 WL 4111938, at *1 (M.D. Tenn. Aug. 28, 2018) (granting motion to dismiss); *Bank of New York Mellon Tr. Co. N.A. v. Faber*, 2018 WL 1610955, at *1 (D.N.J. Apr. 3, 2018) (granting motion to remand).

///

For these reasons, the Motion should be denied.

RESPECTFULLY SUBMITTED this 8th day of February, 2019.

PERKINS COIE LLP

By: /s/ Cody M. Weston
Cody M. Weston, WSBA No. 52321

Attorneys for Respondent The Bank of
New York Mellon Trust Company,
National Association fka The Bank of New
York Trust Company, N.A. as successor to
JPMorgan Chase Bank, N.A. as Trustee for
Residential Asset Mortgage Products, Inc.,
Mortgage Asset-Backed Pass-Through
Certificates Series 2005-RP3

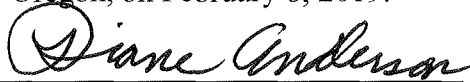
CERTIFICATE OF SERVICE

I, Diane Anderson, certify that on February 8, 2019, a copy of the above **ANSWER OF RESPONDENT THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR TO JPMORGAN CHASE BANK, N.A. AS TRUSTEE FOR RESIDENTIAL ASSET MORTGAGE PRODUCTS, INC., MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2005-RP3 TO APPELLANTS' MOTION TO DISQUALIFY RESPONDENT COUNSEL AND STRIKE RESPONDENTS COUNSELS' ANSWER TO PETITIONER DISCRETIONARY REVIEW** was served via Supreme Court Efiling Portal system on the following parties and counsel of record:

Huy Ying Chen
5112 189th Avenue NE
Sammamish, WA 98074
Pro Se Appellant

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Portland, Oregon, on February 8, 2019.



Diane Anderson
Diane Anderson

PERKINS COIE LLP

February 08, 2019 - 4:26 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96608-7
Appellate Court Case Title: JP Morgan Chase Bank v. Huy-Ying Chen, et al.
Superior Court Case Number: 08-2-13281-1

The following documents have been uploaded:

- 966087_Answer_Reply_20190208162128SC609431_0181.pdf
This File Contains:
Answer/Reply - Answer to Motion
The Original File Name was Answer of Respondent.pdf

A copy of the uploaded files will be sent to:

- hy@nobo.us

Comments:

Answer of Respondent The Bank Of New York Mellon Trust Company, N.A. fka The Bank of New York Trust Company, N.A. as Successor to JPMorgan Chase Bank, N.A. as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates Series 2005-RP3 to Appellants ♦ Motion to Disqualify Respondent Counsel and Strike Respondents Counsels ♦ Answer to Petitioner Discretionary Review

Sender Name: Cody Weston - Email: CWeston@perkinscoie.com
Address:
1120 NW COUCH ST FL 10
PORTLAND, OR, 97209-4128
Phone: 503-727-2000

Note: The Filing Id is 20190208162128SC609431