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**Washington State
Supreme Court**

Supreme Court No. 99426-9

Court of Appeals No. 80913-0-I

**SUPREME COURT
OF THE STATE OF WASHINGTON**

MICHAEL SHIELDS AND BONNIE SHIELDS,

Plaintiffs-Petitioners,

v.

**DEUTSCHE BANK NATIONAL TRUST COMPANY AS
TRUSTEE FOR SAXON ASSET SECURITIES TRUST 2006-2
MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES
2006-2,**

Defendant-Respondent,

PETITION FOR REVIEW

**MICHAEL AND BONNIE SHIELDS
Plaintiffs/Appellants Pro Se
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I IDENTITY OF PETITIONERS

Michael and Bonnie Shields are the Petitioners herein.

II CITATION TO COURT OF APPEALS DECISION

On November 16, 2020, the Court of Appeals filed its decision in the case that is the subject of this Petition for Review. Plaintiffs timely moved the Court for reconsideration. On December 14, 2020, the Court entered an order denying the motion.

Pursuant to RAP 13.4(a), this Petition is timely filed.

III ISSUE PRESENTED FOR REVIEW

1. Whether the Court of Appeals committed reversible error by upholding the Trial Court's dismissal, with prejudice, of Plaintiffs' Motion to Vacate the Decree of Foreclosure granted by the Trial Court on March 15, 2016.

IV STATEMENT OF THE CASE AND ARGUMENT

A. Summary Dismissal of Actions

The issues here involved are legal in nature. Accordingly, the standard of review is de novo. *State v. Thach*, 126 Wn. App. 297, 319, 106 P.3d 782 (2005).

Summary Dismissal with prejudice has the effect of a summary judgment. *Fahim v. Flemmer*, 2009 Wash. App. LEXIS 95, *8. The purpose of summary dismissal with prejudice is to avoid trial when there is *no* genuine issue of material fact. However, a trial is necessary if there is

a genuine issue as to any material fact. *LaPlante v. State*, 85 Wn.2d 154, 158, 531 P.2d 299 (1975). A "material fact" is one upon which the outcome of the litigation depends. *Barber v. Bankers Life & Cas. Co.*, 81 Wn.2d 140, 500 P.2d 88 (1972).

The moving party must demonstrate by uncontroverted evidence that there is no genuine issue of material fact. *LaPlante*, 85 Wn.2d at 158; and 6 J. Moore, *Federal Practice* 56.07, 56.15(3) (2d ed. 1948). If the moving party does not sustain that burden, the court should not grant summary dismissal with prejudice, even if the non-moving party submits no materials in opposition to the motion. See Trautman, *Motions for Summary Judgment: Their Use and Effect in Washington*, 45 Washington Law Review 1, 15 (1970).

B. Relevant Parts of the Record.

The parts of the record relevant to this Motion are the deed of trust dated March 31, 2006 ("DOT") (Appendix A-1 thru A-12); the Order Appointing General Receiver entered on August 5, 2014 ("Order") (Appendix A-13 thru A-25); the Second Amended Complaint ("SAC") filed by Deutsche on or about October 15, 2015 (Appendix A-26 thru A-40); and the Judgment and Decree of Foreclosure entered on March 15, 2016 (Appendix A-41 thru A-45).

C. DOT Conveyed to Regional Legal Title to Property and Right to Sell It.

On March 31, 2006, Plaintiff Michael Shields entered a mortgage loan transaction. Plaintiff evidenced the loan by executing a promissory

note dated March 31, 2006. On the same day, to irrevocably secure “(i) repayment of the Loan, and (ii) the performance of Borrower’s covenants and agreements under [the DOT] and the Note” (*Appendix* at A-3), Plaintiff Michael Shields issued the DOT. The language of the DOT could not be more clear: “For this purpose (i.e., the purpose of securing repayment of the loan, and performance of Plaintiffs’ covenants and agreements under the Note and DOT), Borrower *irrevocably* grants and conveys to Trustee [and no one else in the world!], in trust, with power of sale, the following described property located in the County of King:” *Id.* (text in parentheses and brackets added).

D. Court Must Enforce Clear Language of Contract.

When the language of a contract is clear and unambiguous, the court must enforce the contract as written. *Quadrant Corp. v. Am. States Ins. Co.*, 154 Wn.2d 165, 175 (2005) (“But the Cook court concluded that when the language of an insurance policy is clear and unambiguous, a court must enforce the contract as written”); *Wash. Public Util. Dist's Utils. Sys. v. Public Util. Dist. No. 1*, 112 Wn.2d 1, 10 (1989). The court may not modify the language or create ambiguity where none exists. *Weyerhaeuser Co. v. Commercial Union Ins. Co.*, 142 Wn. 2d 654, 666 (2000) (“If the language is clear and unambiguous, the court must enforce it as written and may not modify it or create ambiguity where none exists”).

E. Regional Held Lien Interest, Irrevocably, when 2014 Litigation Commenced.

The DOT is a contract between Deutsche Bank National Trust Company (“Deutsche”) and Michael Shields. The language of the DOT clearly, unambiguously, and irrevocably¹ conveys legal title to the Property, and the power to sell it, to only one entity in the world—Regional Trust Company (“Regional”), the Successor Trustee.

F. Deutsche Initiated 2014 Judicial Foreclosure Action After Regional’s Receivership Commenced.

The King County Superior Court appointed a general receiver, Pivotal Solutions, Inc. (“PSI”), for all Regional’s estate property on August 5, 2014, *Appendix* at A-13. On August 5, 2014, Regional’s estate property included the lien interest Regional irrevocably acquired—and never relinquished—in Plaintiffs’ Property.

The Order Appointing General Receiver directs that PSI shall have “exclusive possession and control over all Assets, . . .” *Id.* at A-14. The entry of the Order operated as a stay, applicable to all persons, of “any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property[.]” RCW 7.60.110(1)(c).

1. Order Forbade Any Act to Possess, Interfere With, or Control Estate Property.

RCW 7.60.110(1)(c) forbids “Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control

¹¹ The only lawful ways to revoke Regional’s ownership of the lien interest in the Property was for Regional to resign the trustee post or for Deutsche to appoint a successor trustee. Neither of these things happened prior to August 5, 2014.

over, estate property[.]” after entry of an order appointing a general receiver with respect to all of a person’s property. On August 5, 2014, Regional was the Successor Trustee. This is an undisputed fact. Therefore, on August 5th, Regional, and no other person or entity in the world, indisputably, possessed the lien interest, and the power to sell, the Property.

In Washington, for more than a century, a DOT’s transfer of legal title to property to a trustee has been interpreted by Washington courts as a transfer to the Trustee of a “lien interest” in the property. *Gleason v. Hawkins*, 32 Wash. 464, 468 (1903) (“A mortgage, while it is but a mere lien, . . .”); *Bain v. Metro. Mortg. Grp., Inc.*, 175 Wn.2d 83, 92 (2012) (“In Washington, ‘[a] mortgage creates nothing more than a lien in support of the debt which it is given to secure’”).

2. Under RCW Chapter 7.60.005(6), Interest Conveyed to Trustee Is “Lien.”

In relevant part, under RCW 7.60.005(6), the word “lien” is defined as “a[n] . . . interest in property to secure payment of a debt or the performance of an obligation. The DOT conveys legal title to the Property—an interest in Property—to Regional to secure to Deutsche (the Lender) repayment of the mortgage debt and performance of the covenants and agreements of the Note and DOT. *Appendix at A-3*. Therefore, the DOT’s conveyance of legal title to the Property to Regional satisfied RCW 7.60.005(6)’s definition of a “lien.”

3. The Lien Interest Is “Property” Under RCW 7.60.110(9).

Regional’s lien interest was “property” under RCW 7.60.110(9). Under that Subpart, “property” includes “all . . . interests, . . . , in . . . any property of a person with respect to which a receiver is appointed, regardless of the manner by which the property has been or is acquired.” Consequently, the “lien interest” conveyed to Regional by the DOT is “property of a person”—Regional. Therefore, the lien interest conveyed to Regional is property under RCW 7.60.110(9).

4. The Lien Interest Was Part of Regional’s Estate on August 5, 2014.

The “estate” of the person over whose property a receiver is appointed is defined as “the entirety of the property with respect to which a receiver’s appointment applies[.]” *RCW 7.60.005(3)*. Plaintiffs proved Regional possessed the “lien interest” in the Property on August 5, 2014, and the “lien interest” was “property” under RCW 7.60.110(9). Hence, pursuant to RCW 7.60.005(3) and 7.60.110(9), Plaintiffs proved the “lien interest” was part of the “estate property” Regional assigned, conveyed, transferred, and set over unto the general receiver on August 5, 2014.

5. Deutsche Never Held Lien Interest During 2014 Litigation.

Deutsche was the *beneficiary* of the “lien interest” conveyed to Regional by the DOT, but, unquestionably, the lien interest itself belonged to Regional on August 5, 2014. Because Regional held the lien interest when the Court entered the Order, staying all acts to obtain possession of,

interfere with, or exercise control over the lien interest, the Trial Court did not take possession or control of the lien interest when Deutsche commenced the Judicial Foreclosure Action on August 15, 2014, ten (10) days after the receivership commenced.

On and after August 5, 2014, the Receiver, PSI, held the lien interest, not Regional. To bring the lien interest into the Trial Court, Deutsche would have had to include PSI as a defendant in the case. Because of the prohibitions in RCW Chapter 7.60, this it could not lawfully do. Hence, the lien interest was never in the Trial Court.

6. Deutsche Misinformed 2014 Trial Court.

In the SAC, Deutsche represented to the Trial Court that Deutsche possessed and controlled the lien interest (i.e., the security interest) in the Property: “The terms of the Note and Deed of Trust entitle Plaintiff [Deutsche] to recover the reasonable attorneys’ fees and costs incurred to enforce the terms of the Note and Deed of Trust, including such sums advance[d] to protect its security interest.” *Appendix* at A-29: ¶ 25. And, “Such a declaration is necessary in that Plaintiff[‘s] [Deutsche’s] and Defendant Fidelity National Title Insurance Co.’s positions are conflicting as to who has a first position [lien] interest in the Property.” *Id.* at A-33: ¶ 52.

However, according to the clear, unambiguous language of the DOT, Deutsche did not control or possess the lien interest. Deutsche was the beneficiary of Regional’s possession and control of the lien interest.

Id. at A-3.

Deutsche never bothered to make Regional or PSI a party to Deutsche's 2014 litigation. As a result, the "lien interest" Deutsche convinced the Trial Court to allow it to exercise was never in the Trial Court. It could not have been. Entry of the Order appointing PSI operated as a stay, "*applicable to all persons, of: . . . "(c) Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property;" RCW 7.60.110(1)(c).*

In the absence of PSI's lien interest, the Trial Court lacked a legal foundation upon which to base a decree of foreclosure. At no time during the 2014 litigation did the Trial Court obtain jurisdiction over the lien interest upon which the case was based.

Nevertheless, the Trial Court clearly believed it had acquired jurisdiction over the lien interest:

3. The Deed of Trust executed by Michael Shields, dated March 31, 2006 and recorded on April 25, 2006 under King County recording No. 20060425001597, is a valid first position lien for the amount of the Trust's judgment set forth above against all real property, situated in King County, Washington, commonly known as 2805 Cedar Avenue South, Renton, Washington, King County Parcel No. 8898701170, and legally described as:

.....

4. Pursuant to the Court's Order Granting Motion for Summary Judgment and Entry of Judgment and Decree of Foreclosure and the Agreed Declaratory Judgment and Order Dismissing Saxon Mortgage, Inc., the Trust [Deutsche] holds a valid, binding security interest in the Property, . . .

5. The Deed of Trust is described in paragraph 3 above is hereby foreclosed

Appendix at A-43: ¶ 3 thru A-44: ¶ 5.

Transparently, the Trial Court issued the Judgment and Decree of Foreclosure (“Judgment”) without lawful authority. Consequently, the Judgment was void from the moment the Trial Court entered it. More importantly, whether the Trial Court had sufficient control of the lien interest in the Property to grant the Judgment is certainly a “material issue.” And, at the very least, Plaintiffs herein have raised a sufficient question about the Trial Court’s control of the lien interest to warrant denial of Deutsche’s Motion for Dismissal with Prejudice.

G. The Appellate Court Opinion.

In the Opinion, the Court correctly indicates that entry of an order appointing a receiver automatically initiates a stay of the commencement of a judicial proceeding against the person over whose property the receiver is appointed. *Opinion* at 7. It also acknowledges that in some cases a violation of a stay is considered void. *Id.*

Additionally, and inexplicably, the Court explained that RCW 7.60.110(1)(a) does not apply in this case because a receiver was appointed over Regional’s property, not over Shields’s property. As such, the Court concluded, the stay prohibited an action against Regional, but not against the Shields. *Id.* at 8. And since Deutsche did not name Regional a Defendant, it did not violate the stay. *Id.* The problem with the Court’s reasoning is the Shields did not hold the lien interest either.

The Court’s analysis, as far as it goes, is correct. The problem is

the analysis fails to go far enough. The Opinion analyzes RCW 7.60.110(1)(a) as if it were the only prohibition in RCW 7.60.110. It is not.

The Appellate Court failed to consider the subpart of RCW 7.60.110(1) that applies to this case. The failure was intentional. In our Motion for Reconsideration, Plaintiffs informed the Court of the language in RCW 7.60.110(1)(c). We also informed the Court that by filing the 2014 litigation on August 15, 2014 to enforce SPI's lien, Deutsche violated RCW 7.60.110(1)(c).

We also informed the Court that RCW 7.60.110 is modeled after 11 U.S.C. §362, the Section of the Federal Bankruptcy Code that provides for the *automatic stay* of bankruptcy proceedings under the specific sets of circumstances identified in 11 U.S.C. §362. We pointed out the similarity between the language of RCW 7.60.110(1)(c) (“Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property”) and 11 U.S.C. § 362(a)(3) (“any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate”).

We concluded by informing the Court that actions taken in violation of 11 U.S.C. § 362(a)(3) are void. *In re General Associated Investors Ltd. Pshp.*, 159 B.R. 551, 556 (1993); *In re Pyle*, 2020 Bankr. LEXIS 3009 *1; *Cont'l Flight Ctr., Inc. v. Leichner (In re Midland Euro Exch. Inc.)*, 2005 Bankr. LEXIS 1603 *65. Since RCW 7.60.110(1)(c) is

unambiguously modeled after 11 U.S.C. §362(a)(3), and is the Receivership statutory provision that provides for the automatic stay, the same the Trial Court's actions in this case should be void.

The Appellate Court denied Plaintiffs' Motion for Reconsideration without commenting on Plaintiffs' analysis of RCW 7.60.110(1)(c).

At this stage, the Court need not decide whether to void the 2014 Judgment. It need only decide whether Plaintiffs' analysis of RCW 7.60.110(1)(c) raises an issue of material fact. It does.

H. ARGUMENT

Application of the relevant law to the facts revealed in the preceding Sections of this Petition establish the Court should grant the Petition. Numerous decisions of this Court and the Court of Appeals, all divisions, hold that a dismissal with prejudice must be denied if a fact material to the outcome of the case remains in question.

In this case, Plaintiffs have demonstrated that Regional and PSI's lien interest—the interest the Trial Court had to obtain jurisdiction over to acquire lawful authority to issue the Judgment—was never in the Trial Court's jurisdiction. Deutsche claimed it possessed the lien interest throughout the 2014 litigation. And though they did not have to at that stage of the litigation, Plaintiffs alleged and proved that did not possess the lien interest.

At both the Trial and Appellate Court levels, there was a clear dispute between Plaintiffs and Deutsche about the most material issue in

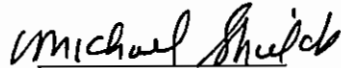
the case—whether the Trial Court had jurisdiction over the lien interest at the moment it granted the Judgment. The answer is it did not. And for that reason, the Trial Court’s decision to grant the Judgment conflicts with Washington Supreme and Appellate decisions and provisions of RCW Chapter 7.60. Additionally,

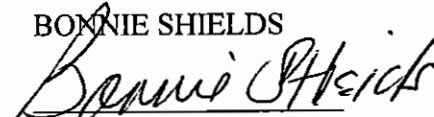
V CONCLUSION

Because Plaintiffs sufficiently raised an issue of material fact in the Trial and Appellate Courts, Plaintiffs request the Court Grant Plaintiffs’ Petition for Review.

DATED this 11th day of January 2021.

Respectfully Submitted

MICHAEL SHIELDS

Michael Shields,
Appellant pro se

BONNIE SHIELDS

Bonnie Shields,
Appellant pro se

DECLARATION OF SERVICE

I, Bonnie Shields, certify under penalty of perjury under the laws of the State of Washington that, on the date stated below, I caused to be served on Deutsche Bank National Trust Company a copy of Appellants' Petition for Review, with Accompanying Appendix, by personal service on the following person at the following address:

Synova M. L. Edwards, WSBA# 43063
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612 S. Lucile St., Suite 300
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DATED this 11th day of January 2021 at Renton, Washington.

Respectfully Submitted

MICHAEL SHIELDS


Michael Shields, Plaintiff Pro se

BONNIE SHIELDS


Bonnie Shields, Plaintiff
Pro se

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DEUTSCHE BANK NATIONAL
TRUST COMPANY, as trustee for
Saxon Asset Securities Trust
2006-2 Mortgage Loan Asset
Backed Certificates Series 2006-2,

Respondent,

v.

MICHAEL SHIELDS and BONNIE
SHIELDS,

Appellants,

FIDELITY NATIONAL TITLE
INSURANCE COMPANY; SAXON
MORTGAGE, INC., all occupants
of the premises; and all other
persons or parties unknown
claiming any right, title, estate, lien,
or interest in the real estate
described in the complaint herein,

Defendants.

No. 80913-0-1

DIVISION ONE

UNPUBLISHED OPINION

SMITH, J. — Michael and Bonnie Shields appeal the denial of their motion to vacate a foreclosure judgment as void. Shields contends that the court that granted the foreclosure did not have jurisdiction because a different judge at the superior court had stayed proceedings in a related action. Because the court had jurisdiction over the foreclosure action and the related proceedings were stayed only as to a third party, we affirm.

FACTS

Michael Shields took out a mortgage in 2006 against a home (property) which his sister Bonnie was living in. Shields explains that this mortgage was granted on different terms than those Shields had agreed to, and the mortgage was ultimately the source of significant dispute and litigation. In 2008, Shields defaulted on the loan. Deutsche Bank National Trust Company, the holder of the deed of trust for the property, initiated several trustee sales which were subsequently discontinued.

In 2012, Shields filed a lawsuit in King County Superior Court against several parties, including Deutsche Bank and Regional Trustee Services Corporation,¹ the purported trustee for the property. Shields's lawsuit sought to enjoin the pending nonjudicial foreclosure sale and alleged that the defendants had violated the Washington Consumer Protection Act (CPA), chapter 19.86 RCW, through misrepresentations regarding the transfer of the mortgage promissory note and the basis for the foreclosure proceeding. Two days later, Regional discontinued the pending trustee's sale.

On July 25, 2014, the trial court for the 2012 action granted a motion for summary judgment which purported to dismiss all claims against Deutsche Bank but not against Regional. The order did not include any findings, as provided for in CR 54(b), that there was no just reason for delay. On August 5, the court entered an order appointing a receiver for Regional, and the case was stayed

¹ Regional later changed its name to Old RTSC Corp. For simplicity, we refer to it as "Regional."

pursuant to RCW 7.60.110.

On August 15, 2014, Deutsche Bank filed a judicial foreclosure action against Shields, also in King County Superior Court, but the action was assigned to a different judge. Regional was not listed as a party. On February 10, 2016, the trial court for the 2014 action granted Deutsche Bank's motion for summary judgment and entered a decree of foreclosure.

On April 8, 2016, Shields filed an appeal of the foreclosure order. On April 13, 2016, Shields's 2012 CPA lawsuit, which had been largely inactive since the stay was ordered, was dismissed without prejudice.

We affirmed the foreclosure order. Deutsche Bank Nat'l Tr. Co. for Saxon Asset Sec. Tr. 2006-2 Mortgage Loan Asset Backed Certificates Series 2006-2 v. Shields, No. 75044-5-I (Wash. Ct. App. Oct. 2, 2017) (unpublished), <http://www.courts.wa.gov/opinions/pdf/750445.PDF>. On July 27, 2018, we issued a mandate terminating review. Subsequently, Shields filed a motion to vacate the foreclosure order, contending that the order was void because the 2014 court did not have jurisdiction to hear the case. The trial court denied the motion to vacate, holding that the 2014 court had proper jurisdiction over Deutsche Bank's 2014 foreclosure action. Shields appeals.

ANALYSIS

Shields contends that the trial court erred in denying the motion to vacate. Shields asserts that the foreclosure order was void because the 2012 court retained jurisdiction over the parties and the property until the 2012 action was dismissed. Shields also contends Deutsche Bank could not file its foreclosure

complaint while the 2012 action was stayed. We disagree.

Standard of Review

Generally, a trial court's order on a motion to vacate is reviewed for abuse of discretion. Larson v. State, 9 Wn. App. 2d 730, 744, 447 P.3d 168 (2019), review denied, 194 Wn.2d 1019 (2020). However, courts have "a nondiscretionary duty to vacate void judgments." Leen v. Demopolis, 62 Wn. App. 473, 478, 815 P.2d 269 (1991). Therefore, we review a decision whether to vacate a judgment for voidness de novo. Ahten v. Barnes, 158 Wn. App. 343, 350, 242 P.3d 35 (2010) (quoting Dobbins v. Mendoza, 88 Wn. App. 862, 871, 947 P.2d 1229 (1997)).

CR 60(b)(5) permits a court to vacate a judgment if the judgment is void. A court's judgment is void if the court "lacks jurisdiction of the parties or of the subject matter, or . . . lacks the inherent power to make or enter the particular order involved." Metro. Fed. Sav. & Loan Ass'n of Seattle v. Greenacres Mem'l Ass'n, 7 Wn. App. 695, 699, 502 P.2d 476 (1972) (quoting Robertson v. Commonwealth, 181 Va. 520, 536, 25 S.E.2d 352 (1943)). However, if a court has jurisdiction, "no error in the exercise of such jurisdiction can make the judgment void." Greenacres, 7 Wn. App. at 700 (quoting Dike v. Dike, 75 Wn.2d 1, 8, 448 P.2d 490 (1968)). Accordingly, the question of whether an order is void does not depend on whether it was rightly decided, but only on whether the court had jurisdiction to enter it.

Trial Court's Jurisdiction To Hear the Foreclosure Action

Shields contends that the 2014 court did not have jurisdiction to hear

Deutsche Bank's 2014 action because Deutsche Bank was still a party to the 2012 action when it filed its complaint. We agree that Deutsche Bank was still a party but disagree that the 2014 court did not have jurisdiction.

CR 54(b) addresses judgments in cases with multiple parties and provides that "the court may direct the entry of a final judgment as to . . . fewer than all of the . . . parties only upon an express determination in the judgment, supported by written findings, that there is no just reason for delay and upon an express direction for the entry of judgment." Furthermore, "[i]n the absence of such findings, determination and direction, any order . . . which adjudicates . . . the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the . . . parties." CR 54(b). If these findings have been omitted, the trial court may revise the order to add them on its own motion or on motion of a party. CR 54(b).

"Under the priority of action rule, the trial court which first obtains jurisdiction is the court in which this matter will normally proceed." Seattle Seahawks, Inc. v. King County, 128 Wn.2d 915, 916, 913 P.2d 375 (1996); see also RCW 4.28.020 ("From the time of the commencement of the action . . . the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings."). Thus, if complaints are filed in two different courts, we will ask whether the actions share the same subject matter, parties, and relief, to determine whether a decision in one court would bar proceedings in the other. In re Matter of 13811 Highway 99, Lynnwood, Washington, 194 Wn. App. 365, 374, 378 P.3d 568 (2016) (quoting Bunch v. Nationwide Mut. Ins. Co., 180 Wn.

App. 37, 41-42, 321 P.3d 266 (2014)).

In this case, the order dismissing Deutsche Bank from the 2012 action did not include the findings described in CR 54(b) that there was “no just reason for delay.” As such, Shields correctly notes that the order failed to dismiss Deutsche Bank from the action.

Nonetheless, this failure did not strip the 2014 court of authority to hear the 2014 action. Shields does not contend that the superior court as a whole lacked subject matter jurisdiction to hear the 2014 action, only that the 2014 court was precluded from hearing it because Deutsche Bank was still a party to the 2012 action.² However, both the 2012 court and the 2014 court are part of the same superior court, and it was the King County Superior Court, not a specific judge, who had jurisdiction over Shields's 2012 action. See State v. Caughlan, 40 Wn.2d 729, 731-32, 246 P.2d 485 (1952) (court did not err by hearing motion to dismiss while case was pending before another department of the same court: “Although there are sixteen departments in the Superior Court for King County, each department presided over by a different judge, there is only one Superior Court for King County, and the authority of all of the judges therein is identical”).³

² We further note that there is no basis to conclude that the court lacked personal jurisdiction over Shields, because the issue of personal jurisdiction is waived if not raised in or before the responsive pleading. CR 12(h)(1).

³ Jurisdiction is a potentially ambiguous term. In family law cases in particular, a specific judge may sometimes choose to retain “jurisdiction” over a specific matter and instruct parties to bring future disputes before that judge’s department. In re Marriage of Rounds, 4 Wn. App. 2d 801, 806, 423 P.3d 895 (2018). This use of the word jurisdiction “does not refer to personal jurisdiction or subject matter jurisdiction.” Rounds, 4 Wn. App. 2d at 802 n.1. As such, the retention of jurisdiction in that meaning of the word would not strip another judge

Thus, even if we were to conclude that Deutsche Bank's 2014 foreclosure action was substantially the same as Shields's 2012 CPA action, this would not render the 2014 court's order void. While it may have avoided confusion for both actions to be heard before the same judge, there is no basis to conclude the judgment was void under CR 60(b)(5).⁴

Effect of the Stay of Proceedings

Shields contends that the stay of proceedings in Shields's 2012 action stripped the 2014 court of authority to hear the 2014 foreclosure action. We disagree.

RCW 7.60.110(1)(a) provides that the entry of an order appointing a receiver automatically initiates a stay of the "commencement . . . of a judicial . . . proceeding against the person over whose property the receiver is appointed." This stay automatically expires 60 days after the order of appointment is entered unless the court extends it. RCW 7.60.110(2). In some cases, a violation of a stay is considered void. See Brunetti v. Reed, 70 Wn. App. 180, 184, 852 P.2d 1099 (1993) (action taken in violation of a bankruptcy proceeding stay is void); but see Everett Shipyard, Inc. v. Puget Sound Env'tl. Corp., 155 Wn. App. 761, 769, 231 P.3d 200 (2010) (superior court retained jurisdiction during stay of proceedings pending arbitration and therefore erred in vacating a dismissal on

in the same court of "the inherent power to make or enter the particular order involved." See Greenacres, 7 Wn. App. at 699.

⁴ Shields further contends that Deutsche Bank misrepresented facts in the motion to vacate hearing. Because these facts do not affect whether the judgment is void, we need not address this argument. See Reed v. Davis, 65 Wn.2d 700, 709, 399 P.2d 338 (1965) ("We may sustain the trial court on a correct ground not considered by it.").

the basis that it had not had jurisdiction).

In this case, a receiver was appointed over Regional's property, not over Shields's property. As such, the stay prohibited the commencement of certain actions against Regional, but not against Shields. RCW 7.60.110. Because Deutsche Bank's 2014 action did not name Regional as a defendant,⁵ it did not violate the stay of proceedings. Thus, the 2014 court's order granting a foreclosure was not void, and the trial court properly denied the motion to vacate.

Shields raises concerns about the effect of racial prejudice associated with mortgage practices when discussing the terms and conditions under which Shields acquired the mortgage. The fact that racism persists in home lending practices, with lasting impacts on the access to housing and wealth available to people of color generally and Black people specifically, has been explored in legal and academic scholarship.⁶ While this reality should be kept in mind when

⁵ Shields contends that because Deutsche Bank included as a defendant "all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein," Regional was a party to the 2014 action. This statement was added pursuant to RCW 4.28.150, which provides for service by publication for unknown entities, and does not apply to Regional, whose role as trustee was known. Regional served as a trustee for the previously attempted nonjudicial foreclosure and did not have a role in the judicial foreclosure. See Klem v. Washington Mut. Bank, 176 Wn.2d 771, 789-90, 295 P.3d 1179 (2013) (In a judicial foreclosure, as opposed to a nonjudicial foreclosure, the judge takes the role of the trustee as the impartial third party to the sale.).

⁶ See, e.g., Benjamin Howell, Exploiting Race and Space: Concentrated Subprime Lending as Housing Discrimination, 94 CALIF. L. REV. 101, 102 (2006) ("Where lending discrimination once took a binary form—bigoted loan officers rejecting loan applicants because of their skin color—the new model of discrimination is exploitation. Unscrupulous lenders now prey on a history of racial redlining by aggressively marketing overpriced loan products with onerous terms in the same neighborhoods where mainstream lenders once refused to lend." (citation omitted)).

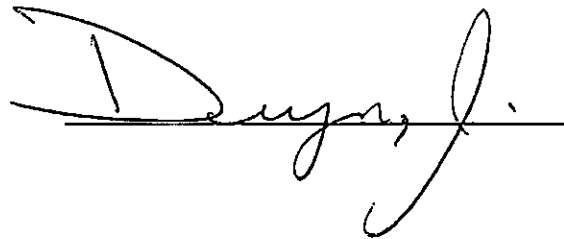
addressing the significant issues surrounding foreclosures, Shields has not shown that this had any effect on the narrow procedural issue presented in this case. The trial court did not err.

Deutsche Bank requests attorney fees on appeal. Attorney fees may be awarded on appeal where permitted by statute or contract. Aiken v. Aiken, 187 Wn.2d 491, 506, 387 P.3d 680 (2017). In this case, the deed provides that the lender is entitled to recover reasonable attorney fees in any action to construe or enforce the deed. Similarly, the note permits the note holder to recover reasonable attorney fees in an action to enforce the note. We therefore grant Deutsche Bank's request for fees pursuant to RAP 18.1.

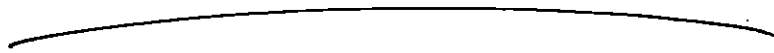
We affirm.

A handwritten signature in cursive script, appearing to read "Shields", is written over a horizontal line.

WE CONCUR:

A handwritten signature in cursive script, appearing to read "Brunner, J.", is written over a horizontal line.A handwritten signature in cursive script, appearing to read "Dwyer, J.", is written over a horizontal line.

Appendix



[Redacted] SX052C SX0002 CP

Return to: STEWART MORTGAGE SERVICES
ATTENTION: TRAIL DOCS
3910 KIRBY DRIVE, SUITE 300
HOUSTON, TX 77098



20060425001597

FIDELITY NATIO DT 82.00
PAGE 001 OF 020
04/25/2006 13:59
KING COUNTY, WA

Lot 117, Victoria Hills, according to the plat thereof recorded in Volume 113 of Plats, Page 79 through 83, records of King County Auditor, situated in the City of Renton, County of King, State of Washington.

Property Tax Parcel Number: 889870117005

Loan No: [Redacted] [Space Above This Line For Recording Date] Data ID: 321
Borrower: MICHAEL SHIELDS 9/15/03

DEED OF TRUST 1000346
INSURED BY
FIDELITY NATIONAL TITLE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated March 31, 2006, together with all Riders to this document.

(B) "Borrower" is MICHAEL SHIELDS, AS HIS SEPARATE ESTATE. Borrower is the trustor under this Security Instrument.

(C) "Lender" is SAXON MORTGAGE, INC.. Lender is a CORPORATION organized and existing under the laws of the State of VIRGINIA. Lender's address is 27121 TOWNE CENTRE DRIVE, SUITE 230, FOOTHILL RANCH, CA 92610. Lender is the beneficiary under this Security Instrument.

(D) "Trustee" is ~~ACTION ESCROW~~ Fidelity National Title



11

Loan No: [REDACTED]

Data ID: 321

(B) "Note" means the promissory note signed by Borrower and dated March 31, 2006. The Note states that Borrower owes Lender THREE HUNDRED EIGHTY THOUSAND and NO/100---Dollars (U.S. \$ 380,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than April 1, 2036.

(C) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(D) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(E) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input checked="" type="checkbox"/> Planned Unit Development Rider | |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |
| <input checked="" type="checkbox"/> Other(s) [specify] Arbitration Rider | | |

(F) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(G) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(H) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(I) "Escrow Items" means those items that are described in Section 3.

(J) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(K) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(L) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(M) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(N) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

WASHINGTON - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3048 1/01 (Page 2 of 12 Pages)



P+0011971949+0817+02+12+WACNVAUT

A-2

Loan No: [REDACTED]

Data ID: 321

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of KING:

Lot 117, Victoria Hills, according to the plat thereof recorded in Volume 113 of Plats, Page 79 through 83, records of King County Auditor; situated in the City of Renton, County of King, State of Washington.

which currently has the address of 2805 CEDAR AVENUE SOUTH,

RENTON, WASHINGTON
[City]

[Street]

98056
[Zip Code]

("Property Address"):

WASHINGTON - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3048 1/01 (Page 3 of 12 Pages)



P+0011971949+0017+03+12+WACNVADT

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.



3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.



5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.



7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.



Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such Insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

WASHINGTON - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3048 1/01 (Page 8 of 12 Pages)



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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.



18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.



Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property at public auction at a date not less than 120 days in the future. The notice shall further inform Borrower of the right to reinstate after acceleration, the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale, and any other matters required to be included in the notice by Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and/or any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of the Property for a period or periods permitted by Applicable Law by public announcement at the time and place fixed in the notice of sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs and the Trustee's fee for preparing the reconveyance.

24. Substitute Trustee. In accordance with Applicable Law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Use of Property. The Property is not used principally for agricultural purposes.

26. Attorneys' Fees. Lender shall be entitled to recover its reasonable attorneys' fees and costs in any action or proceeding to construe or enforce any term of this Security Instrument. The term "attorneys' fees," whenever used in this Security Instrument, shall include without limitation attorneys' fees incurred by Lender in any bankruptcy proceeding or on appeal.



Loan No: [REDACTED]

Data ID: 321

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY,
EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT
OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Michael Shields (Seal)
MICHAEL SHIELDS - Borrower

[Space Below This Line For Acknowledgment]

State of Washington §
County of KING §

On this day personally appeared before me MICHAEL SHIELDS to me known to be the person described in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 31st day of March, 2009

[Seal]

Molly Joy Mack
Notary Public in and for the State of WA,
residing at Kirkland

Molly Joy Mack
(Printed Name)

My commission expires: 03/22/09



FILED

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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

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PRESENT IN PERSON

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

In the Receivership of:

OLD RTSC CORP., a Washington corporation

No. 14-2-21548-7 SEA

ORDER APPOINTING GENERAL RECEIVER PURSUANT TO RCW 7.08.030(3) AND RCW 7.60.025(1)(j)

This matter came before the Court upon the petition (the "Petition") of Old RTSC Corp. ("Assignor") for the appointment of Pivotal Solutions, Inc. ("Assignee") as general receiver of all of Assignor's assets pursuant to chapter 7.08 RCW and chapter 7.60 RCW.

The Court, being fully informed, finds as follows:

A. On August 5, 2014, Assignor assigned, conveyed, transferred, and set over (the "Assignment") unto Pivotal Solutions, Inc. (the "Assignee"), all of Assignor's property for the benefit of Assignor's creditors pursuant to RCW 7.08.030(1).

B. A copy of the Assignment, including the schedules required by RCW 7.08.030 and RCW 7.60.090(3), was attached to the Petition as Exhibit 1.

ORDER APPOINTING GENERAL RECEIVER - I

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 C. On August 5, 2014, Assignee accepted the trust created by the Assignment
2 and agreed to faithfully and without delay carry out Assignee's duties under the Assignment.
3

4 D. Appointment of Assignee as general receiver is appropriate pursuant to
5 RCW 7.08.030(4) and RCW 7.60.025(1)(j).
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7

8 NOW THEREFORE it is hereby ORDERED as follows:
9

10 1. **Appointment.** Assignee is hereby appointed general receiver (hereinafter,
11 the "Receiver") to take charge over all of Assignor's property, including but not limited to
12 all assets listed on the schedules attached to the Assignment, wherever located (the
13 "Assets"). During the receivership, and until further order of the Court, the Assets shall
14 remain under this Court's exclusive jurisdiction in accordance with RCW 7.60.055. The
15 Receiver shall not be subject to the control of any of the parties to this matter, but shall be
16 subject only to the Court's direction in the fulfillment of the Receiver's duties. Entry of this
17 Order, countersigned by the Receiver, evidences the Receiver's acceptance of its rights and
18 duties hereunder and constitutes administration of any required oath of office.
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21 2. **Bond.** The Receiver shall post a \$5,000 bond with the Clerk of the Court to
22 secure performance of the Receivers duties hereunder pursuant to RCW 7.60.045. The
23 Receiver is authorized to pay the initial bond premium, and for any extension thereof, from
24 funds in his possession in the receivership estate.
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26

27 3. **Authority of the Receiver.** Unless and until otherwise ordered by the Court,
28 the Receiver shall be a general receiver, with exclusive possession and control over all
29 Assets, with the power, rights and authority vested in it by RCW 7.60.060, including but not
30 limited to authority and control over all of Assignor's accounts (including without
31 limitation, bank accounts). In addition:
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ORDER APPOINTING GENERAL
RECEIVER - 2

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Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

A-14

1 a. The Receiver is authorized to liquidate the Assets and/or wind-up the
2 Assignors' affairs, pursuant to RCW 7.60.260. The Receiver's sale of Assets shall be
3 effected free and clear of liens and of all rights of redemption, whether or not the sale will
4 generate proceeds sufficient to fully satisfy all claims secured by the property. Upon any
5 sale free and clear of liens in accordance with this order, all security interests and other liens
6 encumbering the property conveyed transfer and attach to the proceeds of the sale, net of
7 reasonable expenses incurred in the disposition of the property and receivership expenses
8 allocated to the disposition of the property, in the same order, priority, and validity as the
9 liens had with respect to the property immediately before the conveyance. The Receiver
10 may file a motion to sell any of the Assets (a "Sale Motion") upon 30 days' written notice to
11 Assignor, all parties on the master mailing list and any other party requesting notice in this
12 receivership.
13

14 b. The Receiver is authorized to contract with or hire, pay, direct and
15 discharge all persons deemed necessary by the Receiver, in its sole discretion, for the
16 operation, management, and maintenance and liquidation of the Assets.
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18 c. The Receiver may bring and prosecute actions for the recovery of any
19 Assets that may be in the possession of any third party.
20

21 d. The Receiver shall have the power to do all things which the owner of
22 the business or property might do in the ordinary course of the operation of the business as a
23 going concern or use of the property including, but not limited to, the purchase and sale of
24 goods or services in the ordinary course of such business, and the incurring and payment of
25 expenses of the business or property in the ordinary course.
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27 e. The Receiver shall establish a segregated account ("Bank Account")
28 at a federally insured bank with branches in the State of Washington. The Receiver shall
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ORDER APPOINTING GENERAL
RECEIVER - 3

32984-0013/LEGAL122889099.2

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

A-15

1 have the power to present for payment any checks, money orders, and other forms of
2 payment made payable to the Assignor, or such similar names, which constitute or are
3 derived from the rents and profits of the Assets, endorse same and collect the proceeds
4 thereof, such proceeds to be used and maintained as elsewhere provided herein. The
5 Receiver shall have the sole and exclusive authority to disburse funds from the Bank
6 Account. The Receiver shall have authority to take possession of bank and other deposit
7 accounts of the Assignor related to the Assets, and to use, open, transfer and change all bank
8 and trade accounts relating to the Assets, so that all such accounts are in the name of the
9 Receiver.

10
11 f. The Receiver shall also disburse funds from the Bank Account to pay
12 all amounts necessary to maintain adequate all risk hazard property damage and all risk
13 comprehensive liability insurance on the Assets. Payment of expenses incurred in the
14 ordinary course of business, along with payroll, payroll taxes, employee benefits, property
15 management company fees, as applicable, utilities, insurance, taxes, landscaping, janitorial
16 services, and maintenance shall not require prior approval of the Court.

17
18 4. Collections. The Receiver is authorized to bring and prosecute actions for
19 (i) the recovery of any Assets held by third parties; and (ii) collection of any sums owing to
20 Assignor which constitute Assets. The Receiver may undertake his collection duties in
21 Assignor's and/or the Receiver's name in assisting him with the collection of Assignor's
22 uncollected accounts receivable. The Receiver may alter the place of payment, settle,
23 compromise and otherwise take all actions necessary to collect all outstanding accounts
24 receivable of Assignor, without further order of the Court and to liquidate all other Assets,
25 including without limitation notifying account debtors to pay the Receiver directly the
26 proceeds of all outstanding accounts receivable and a copy of this Order may be remitted to
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ORDER APPOINTING GENERAL
RECEIVER - 4

32984-0013/LEGAL122889099.2

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Phone: 206.359.8000
Fax: 206.359.9000

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1 account debtors and may be relied upon by account debtors as authority to pay the Receiver
2 solely and directly. Any account debtor who makes payment to the Receiver shall have full
3 credit in the amount of such payment with respect to its obligations owing to Assignor.
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7 5. Reports. The Receiver shall file with the Court quarterly reports of the
8 Receiver's operations and financial affairs including the information required by
9 RCW 7.60.100, which reports shall be due by the last day of the month subsequent to the
10 end of the quarter. Copies of such reports shall be furnished to the Assignor and any party
11 requesting notice in this proceeding. The receiver is excused from filing such reports on a
12 monthly basis.
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19 6. Services/Tax Returns. The Receiver is authorized to perform and/or direct
20 performance of legal, accounting, consulting and tax services with respect to the Assets, as
21 necessitated by this proceeding or by law in connection with the performance of the
22 Receiver's duties. The Receiver shall be under no obligation to complete or file tax returns
23 or other regulatory or governmental reports on behalf of Assignor, such responsibility to
24 remain with Assignor; but the Receiver shall furnish Assignor with such access to books and
25 records within the Receiver's custody or control as reasonably may be requested by them
26 and necessary in order for them to complete and file such returns, or other regulatory or
27 governmental filings or reports. Nothing herein shall be construed as imposing any
28 obligation on the Receiver for any taxes except as set forth in RCW 7.60.170(1)(b). In order
29 to perform his responsibilities, the Receiver is further authorized, without further order of
30 the Court, to contract in his name or in Assignor's name, or otherwise provide for goods,
31 materials, services and supplies as determined by the Receiver to be necessary and
32 appropriate for the administration of the Receivership or the preservation of the Assets, and
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ORDER APPOINTING GENERAL
RECEIVER - 5

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1 to pay such sums as the Receiver determines to be reasonable for such goods, materials,
2 services and supplies.
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5 7. Executory Contracts/Leases. The Receiver is authorized to assume or
6 reject executory contracts and unexpired leases of Assignor, as the Receiver deems in his
7 reasonable business judgment to be in the best interests of the creditors generally, provided
8 such assumption or rejection shall require a further order of this Court upon appropriate
9 notice to the parties in accordance with RCW 7.60.130.
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14 8. Abandonment. In accordance with RCW 7.60.150, the Receiver, upon order
15 of the Court following notice and a hearing, and upon the conditions or terms the court
16 considers just and proper, may abandon any estate property that is burdensome to the
17 Receiver or is of inconsequential value or benefit. Property that is abandoned no longer
18 constitutes estate property.
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24 9. No Liability. No obligation incurred by the Receiver in the good faith
25 performance by it of the Receiver's duties in accordance with the order of this Court, except
26 to the extent such obligation is found to have resulted from willful misconduct or fraudulent
27 behavior, whether pursuant to any contract, by reason of any tort, or otherwise, shall be the
28 Receiver's personal obligation; rather, the recourse of any person or entity to whom the
29 Receiver becomes obligated in connection with the performance of its responsibilities, shall
30 be solely against the Assets. Notwithstanding any provisions of this Order which may be
31 construed otherwise, the Receiver shall not be required to expend any personal funds to
32 comply with any of the provisions of this order.
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42 10. Preservation of Assets.

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44 a. The Receiver is authorized to do all things determined by the
45 Receiver to be necessary to protect and preserve the Assets and the proceeds thereof and to
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ORDER APPOINTING GENERAL
RECEIVER - 6

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1 maintain or enhance their value or income producing potential and to exercise all of the
2 powers, duties and other authorities as may be provided by law or which may be necessary
3 in the fulfillment of his duties, and all powers which the owner of the Assets itself might
4 exercise with respect thereto or with respect to the business associated with them, including
5 the power to pay obligations incurred prior to the Receiver's appointment if and to the extent
6 that (i) payment is determined by the Receiver to be prudent in order to preserve the value of
7 the property in the Receiver's possession, and (ii) the funds used for this purpose are not
8 subject to any lien or right of setoff in favor of a creditor who has not consented to the
9 payment and whose interest is not otherwise adequately protected;

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19 b. Immediately upon entry of this Order, every person or entity in a
20 position to exercise control over the Assets is hereby prohibited from obstructing, delaying,
21 or interfering with the Receiver in the performance of his duties or from taking any action
22 purporting to transfer, encumber or dispose of the Assets or any portion of the Assets;

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27 c. Immediately upon entry of this Order, every person or entity in a
28 position to exercise control over any of the Assets, is hereby enjoined from destroying any
29 books and records relating to the Assets; and

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33 d. Immediately upon entry of this Order, every person or entity in a
34 position to exercise control over the Assets shall have no further right to exercise such
35 control.

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39 11. **Licenses.** The Receiver is authorized to acquire or renew all governmental
40 licenses, permits or other authorizations, either in the Receiver's name or in the name of
41 Assignor, pertaining to the Assets or any business associated therewith.

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45 12. **Duty of Cooperation.** The Assignor, its attorneys, and all of the existing and
46 former officers, directors, managers, agents, consultants and employees of Assignor, and all
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ORDER APPOINTING GENERAL
RECEIVER - 7

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1 persons with actual or constructive knowledge of this Order and their agents and employees,
2 shall cooperate with the Receiver in connection with the Receiver's management and
3 operation of the Assets. Each of them shall relinquish and deliver possession of the Assets
4 to the Receiver upon demand. Upon request of the Receiver, the Assignor shall instruct all
5 entities now or hereafter in possession of any portion of the Assets to deliver such Assets
6 and to make all payments to Receiver or the Receiver's designee until further Order of this
7 Court. All financial institutions, credit card processors, insurance agents or underwriters,
8 utility providers, vendors, suppliers, tradesmen, materialmen, service providers, franchisors,
9 taxing agencies, and all government agencies and departments are hereby ordered to take
10 direction from the Receiver as it relates to the accounts of the Assignor and to surrender any
11 and all funds held on deposit or apply said funds as directed by the Receiver.
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22 13. Receiver's Compensation. The Receiver is authorized to pay itself
23 compensation at the rate of \$300.00 per hour for each Richard A Hooper and Marcia A Frey
24 and to reimburse its expenses pursuant to the provisions of paragraph 16 below.
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28 14. Professionals/Attorneys. The Receiver may retain attorneys, accountants
29 and other professional services to assist him in carrying out his obligations as Receiver.
30 Bush Strout & Kornfeld, LLP is hereby authorized and appointed to act as general attorneys
31 for the receivership and, subject to the provisions of paragraph 16 below, shall be paid for
32 all services at the regular hourly rates of any attorneys and paralegals of the firm.
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38 15. Surcharging Lien. The approved fees and costs of the Receiver and his
39 attorneys or other professionals employed by him pursuant to the authority granted by this
40 court, together with all other necessary and reasonable expenses incurred by this
41 receivership, shall be a first and paramount surcharging lien against the Assets, subject only
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ORDER APPOINTING GENERAL
RECEIVER - 8

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1 to valid and perfected security interests and liens obtained prior to the Receiver's
2 appointment.
3

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5 16. Payment of Receiver's and Professionals Fees and Costs. The Receiver
6 may seek compensation for its fees and costs, and/or for the fees and costs of its
7 professionals by filing a notice of intent to compensate professionals and serving such
8 notice, together with a reasonably detailed description of the time periods, services and
9 amount requested, on the Assignor and any party requesting notice in this proceeding. If no
10 party in interest objects to such accounting within ten (10) calendar days of its filing, the
11 fees and costs shall be deemed approved as being fully and finally earned without further
12 order or leave of the Court. The approved fees and costs of the Receiver and its
13 professionals shall be paid from the Assets.
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23 17. No Appraisal or Inventory Required. The Receiver is excused from
24 seeking an independent professional appraisal of the Assets or filing an inventory, absent a
25 further order of this Court.
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29 18. Utilities. Any utility company providing services to the Assignor, including
30 gas, electricity, water, sewer, trash collection, telephone, communications or similar
31 services, shall be prohibited from discontinuing service based upon unpaid bills incurred by
32 Assignor. Further, such utilities shall transfer any deposits held by the utility to the
33 exclusive control of such Receiver and be prohibited from demanding that the Receiver
34 deposit additional funds in advance to maintain or secure such services.
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41 19. Mail. Receiver may issue demand that upon the U. S. Postal service grant
42 exclusive possession and control of mail including postal boxes as may have been used by
43 Assignor and may direct that certain mail related to the Property and its business be
44 redirected to Receiver.
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ORDER APPOINTING GENERAL
RECEIVER - 9

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1 20. Service of Pleadings. Any motion by the Receiver for Court approval of any
2 act of the Receiver requiring Court approval shall be served upon the Assignor and upon
3 each other party who has filed and served upon the Receiver a notice of appearance in this
4 proceeding. In addition to service by mail or personal service, service may be made by
5 facsimile. Notice of any motion may be made by mail or personal service five (5) calendar
6 days in advance of any hearing, by confirmed facsimile five (5) calendar days in advance of
7 any hearing, by email service to those parties who elect to receive service in such form five
8 (5) calendar days in advance of any hearing, or as otherwise may be approved by the Court.
9 The Receiver shall be deemed to have provided adequate notice if it complies with this
10 section.
11

12 21. Insurance. The Receiver shall determine upon taking possession of the
13 Property whether in the Receiver's judgment, there is sufficient insurance coverage. With
14 respect to any insurance coverage in existence or obtained, the Receiver shall be named as
15 an additional insured on the policies for the period of the receivership. If sufficient
16 insurance coverage does not exist, the Receiver shall to procure sufficient all-risk and
17 liability insurance on the Property (excluding earthquake and flood insurance) provided,
18 however, that if the Receiver does not have sufficient funds to do so, the Receiver shall seek
19 instructions from the Court with regard to adequately insuring the property. The Receiver
20 shall not be responsible for claims arising from the lack of procurement or inability to obtain
21 insurance.
22

23 22. Termination. The receivership shall not be terminated, and the rights and
24 obligations of the parties subject to this Order shall remain in full force, until this Court
25 approves the Receiver's final report or until the court enters an order terminating the
26 receivership. In the event the Receivership estate is without sufficient liquid cash funds to
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ORDER APPOINTING GENERAL
RECEIVER – 10

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1 defray on a current basis the reasonable fees and costs earned and incurred by the Receiver
2 and his professionals and the expenses of this Receivership or any of the projected future
3 fees, costs, expenses of the Receivership, good cause for termination of the Receivership
4 shall be deemed to exist and, upon application by the Receiver establishing such lack of
5 funding for the Receivership, the appointment of the Receiver and its professionals shall be
6 terminated and the Assets shall be distributed as the Court may then direct.
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12 23. Notice of Receivership. Within thirty (30) days following the entry of this
13 Order, all known holders of liens against the Assets and all creditors on Schedule A of
14 Assignor's Assignment for the Benefit of Creditors will be sent notice of the entry of this
15 Order and such further notices as the Court may order to their last known addresses by first
16 class U.S. mail. The Receiver shall not be required to give notice of the Receivership by
17 publication in any newspaper unless subsequently ordered by the Court.
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23 24. Best Efforts/Further Construction. The Court acknowledges the
24 Receiver's ability to perform his duties under this Order may be limited by various factors,
25 including but not limited to Receiver's limited access to information. The Court therefore
26 requires only Receiver's best efforts to comply with the duties set forth in this Order and the
27 Receiver may at any time apply to this Court for further or other instructions, or for a
28 modification of this order, or for further powers necessary to enable the Receiver properly to
29 perform his duties, or for a termination of the Receiver's appointment.
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38 25. Discharge/Final Report. Upon distribution or disposition of all property of
39 the estate, or the completion of the receiver's duties with respect to estate property, the
40 Receiver shall move the Court to be discharged. The Receiver shall file a final report and
41 accounting setting forth all receipts and disbursements of the estate which shall be annexed
42 to the petition for discharge and filed with the court. Upon approval of the final report, the
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ORDER APPOINTING GENERAL
RECEIVER - 11

32984-0013/LEGAL122889099.2

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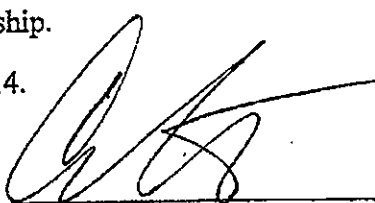
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court shall discharge the Receiver and exonerate the Receiver's bond. The Receiver's discharge releases the Receiver from any further duties and responsibilities as receiver under RCW 7.60 et. seq.

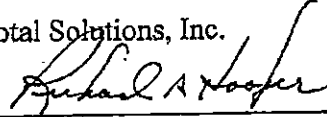
26. **Jurisdiction.** This Court shall retain jurisdiction over any disputes arising from the receivership, or relating to the Receiver, which jurisdiction shall be exclusive and shall survive the termination of the receivership.

DATED this 5 day of August, 2014.

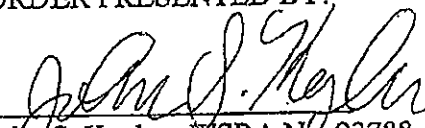


Superior Court Judge/Commissioner

ACCEPTANCE OF APPOINTMENT AS GENERAL RECEIVER:

Pivotal Solutions, Inc.


By: Richard A. Hooper, President

ORDER PRESENTED BY:


John S. Kaplan, WSBA No. 23788
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Tel: 206-359-8000
Fax: 206-359-9000

Attorneys for Old RTSC Corp.

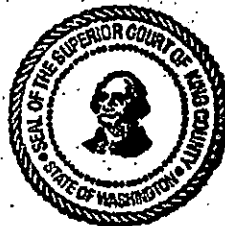
ORDER APPOINTING GENERAL RECEIVER - 12



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BARBARA MINER, Clerk of the Superior Court of the State of Washington
for King County, do hereby certify that this copy is a true and perfect transcript
of said original as it appears on file and of record in my office and of the whole
thereof IN TESTIMONY WHEREOF I have affixed this seal of said Superior
Court at my office at Seattle on this date AUG 05 2014



BARBARA MINER Superior Court Clerk
By S. MATYAS
Deputy Clerk

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

No. 14-2-22618-7 KNT

DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR SAXON
ASSET SECURITIES TRUST 2006-2
MORTGAGE LOAN ASSET BACKED
CERTIFICATES, SERIES 2006-2,

**SECOND AMENDED COMPLAINT
FOR JUDGMENT FOR MONIES DUE,
DEED OF TRUST FORECLOSURE,
DECLARATORY RELIEF, AND
UNJUST ENRICHMENT**

Plaintiffs,

v.

MICHAEL SHIELDS; FIDELITY NATIONAL
TITLE INSURANCE CO.; SAXON
MORTGAGE, INC.; BONNIE SHIELDS; ALL
OCCUPANTS OF THE PREMISES; AND
ALL OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, ESTATE, LIEN, OR INTEREST IN
THE REAL ESTATE DESCRIBED IN THE
COMPLAINT HEREIN

Defendants.

Plaintiff Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities
Trust 2006-2 Mortgage Loan Asset Backed Certificates, Series 2006-2 (hereinafter the
"Plaintiff"), by and through its attorneys Houser & Allison, APC, alleges as follows:

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PARTIES

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2 1. Plaintiff is a mortgage backed security trust. Plaintiff is entitled to maintain this action
3 based upon RCW 23B.15.010(2)(g) and (h).

4 2. Plaintiff has an interest in the real property described below based upon a Deed of Trust
5 dated March 31, 2006, and recorded on April 25, 2006, under King County auditor's number
6 20060425001597. A true and correct copy of the Deed of Trust is attached as Exhibit 1.

7 3. Defendant Michael Shields may claim an interest in the subject real property described
8 below based upon a Statutory Warranty Deed (hereinafter the "Warranty Deed") dated February
9 27, 2003 and recorded on March 3, 2003, under King County auditor's number
10 20030303001505. A true and correct copy of the Warranty Deed is attached as Exhibit 2.

11 4. Defendant Fidelity National Title Insurance Co. may claim an interest in the subject real
12 property described below based upon a Deed of Trust recorded on November 29, 2000, under
13 King County auditor's number 20001129002078 (hereinafter the "Fidelity Deed of Trust"). A
14 true and correct copy of the Fidelity Deed of Trust is attached as Exhibit 3.

15 5. Defendant Saxon Mortgage Inc. ("Saxon") may claim an interest in the subject real
16 property below based upon a Deed of Trust (hereinafter "Saxon Deed of Trust") dated February
17 27, 2003, and recorded on March 3, 2003, under King County auditor's file No.
18 20030303001506. A true and correct copy of the Saxon Deed of Trust is attached as Exhibit 4.

19 6. Defendant Bonnie Sue Shields may claim an interest in the subject property below and
20 upon information and belief, resides in the subject property.

21 7. Defendant Dickson Steinacker LLP ("Dickson") may claim an interest in the subject real
22 property below based upon a judgment filed in Pierce County against Michael Shields, in Pierce
23 County Superior Court Case NO. 08-2-23762-1 SEA and recorded as Judgment No. 08-9-
21977-4 in the amount of \$24,174.60.

8. Occupants of the Premises, and all other persons or parties unknown claiming any right,

1 title, estate, lien, or interest in the real estate described in the complaint herein.

2 9. All defendants are hereby advised that their lien or interest in the subject real property is
3 subordinate to the Plaintiff's Deed of Trust.

4 **JURISDICTION AND VENUE**

5 10. The Superior Court has original jurisdiction over this cause of action pursuant to RCW
6 2.08.010.

7 11. Venue is appropriate in King County, Washington pursuant to RCW 4.12.010(1), as the
8 real property that is the subject of this foreclosure action is located in King County,
9 Washington.

10 **FACTS**

11 **PROMISSORY NOTE AND DEED OF TRUST**

12 12. On March 31, 2006, in consideration for a mortgage refinance loan, Michael Shields (the
13 "Borrower") executed and delivered to Saxon Mortgage Inc., a promissory note in the amount
14 of \$380,000.00. A true and correct copy of the Note is attached as Exhibit 5.

15 13. On or about March 31, 2006, in order to secure repayment of the Note, Borrower
16 executed a deed of trust ("Deed of Trust") encumbering real property located at 2805 Cedar
17 Avenue South, Renton, Washington 98056 (the "Property"). The Deed of Trust was recorded on
18 April 25, 2006 with the King County Auditor's Office as Ins. No. 20060425001597. Exhibit 1.

19 14. The Property is legally described as:

20 LOT 117, VICTORIA HILLS, ACCORDING TO THE PLAT THEREOF RECORDED
21 IN VOLUME 113 OF PLATS, PAGE(S) 79 THROUGH 83, INCLUSIVE, RECORDS
22 OF KING COUNTY, WASHINGTON.

23 SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

15. Plaintiff obtained physical possession of the Note on or about April 12, 2006.

16. Plaintiff is the current owner and holder of the Note.

17. On October 3, 2008, an assignment of the Deed of Trust was recorded in King County as

1 document No. 20081003000851("First Assignment"). A true and correct copy of the
2 Assignment is attached hereto as Exhibit 6.

3 18. On March 19, 2010, an assignment of the Deed of Trust was recorded in King County as
4 document No. 20100319001314 ("Second Assignment"). A true and correct copy of the
5 assignment is attached hereto as Exhibit 7.

6 **DEFAULT**

7 19. Per the terms of the Note and Deed of Trust, the Borrower agreed to repay the principal
8 of \$380,000.00 plus interest.

9 20. Borrower fell into default under the terms of the Note and Deed of Trust by failing to
10 perform monthly payment obligations beginning with the June 2008 installment.

11 21. Accordingly, Borrower's loan is in default. Because of the default, Plaintiff has
12 exercised and hereby exercises the option granted in the Note and Deed of Trust to declare the
13 whole of the balance of both principal and interest thereon due and payable.

14 22. Demand for all sums secured by the Note and Deed of Trust has been made and the
15 Borrower has failed or refused to pay.

16 23. To the best of Plaintiff's knowledge, none of the defendants or other interested parties
17 are active duty military or service members as defined and protected by the Servicemembers
18 Civil Relief Act.

19 24. No other suit or action has been instituted or is pending upon the Note or to foreclose the
20 Deed of Trust.

21 25. The terms of the Note and Deed of Trust entitle Plaintiff to recover the reasonable
22 attorneys' fees and costs incurred to enforce the terms of the Note and Deed of Trust, including
23 such sums advance to protect its security interest. The sum of Seven Thousand, Five Hundred
and No/100 Dollars (\$7,500.00) is a reasonable estimate of anticipated attorneys' fees, costs and
advances. A higher sum may be incurred for reasons including, but not limited to a defendant

1 contesting this action or if a receiver is appointed.

2 **PRIOR LITIGATION REGARDING SHIELDS MORTGAGE LOAN**

3 26. On December 1, 2012, Michael Shields filed a Complaint for Temporary Restraining
4 Order and Preliminary Injunction; Violations of the Consumer Protection Act; Breach of Duties
5 under the Deed of Trust act; Intentional and/or Negligent Misrepresentation ("Prior Complaint")
6 with the King County Superior Court under Cause Number 12-2-41339-8. A true and correct
7 copy of the Complaint is attached as Exhibit 8.

8 27. In the Prior Complaint, Michael Shields alleged that successor trustee of the Deed of
9 Trust was not appointed by the beneficiary of the Deed of Trust and holder of the Note. Prior
10 Michael Shields also claimed that the defendants made numerous misrepresentations regarding
11 their relationships to the Shields Loan, including the identity of the Note holder.

12 28. On September 1, 2015, Judge Teresa B. Doyle entered an Order Granting the Trust's
13 Motion for Summary Judgment. *Shields v. Regional Trustee Services Corporation, et al.*, 12-2-
14 41339-8 [Dkt. # 78]. Pursuant to the Order, all of Shields' claims against the Trust were
15 dismissed with prejudice.

16 **OTHER RECORDED INTERESTS IN THE PROPERTY**

17 **The Fidelity Deed of Trust**

18 29. Upon information and belief, on or about November 29, 2000, Bonnie Shields owned
19 the Property. Bonnie Shields is Michael Shields' sister.

20 30. On November 29, 2000, the Fidelity Deed of Trust was recorded with the King County
21 Auditor's Office as Ins. No. 20001129002078. The Fidelity Deed of Trust identified Bonnie
22 Shields as the Grantor and Associates Financial Services Corporation as the beneficiary.

23 31. On July 1, 2003, Old Republic Title recorded an Assignment of Deed of Trust, with the
King County Auditor's Office as Ins. No. 20030701002125. A true and correct copy of the
Assignment of Deed of Trust is hereto attached as Exhibit 9.

1 document No. 20081003000851("First Assignment"). A true and correct copy of the
2 Assignment is attached hereto as Exhibit 6.

3 18. On March 19, 2010, an assignment of the Deed of Trust was recorded in King County as
4 document No. 20100319001314 ("Second Assignment"). A true and correct copy of the
5 assignment is attached hereto as Exhibit 7.

6 **DEFAULT**

7 19. Per the terms of the Note and Deed of Trust, the Borrower agreed to repay the principal
8 of \$380,000.00 plus interest.

9 20. Borrower fell into default under the terms of the Note and Deed of Trust by failing to
10 perform monthly payment obligations beginning with the June 2008 installment.

11 21. Accordingly, Borrower's loan is in default. Because of the default, Plaintiff has
12 exercised and hereby exercises the option granted in the Note and Deed of Trust to declare the
13 whole of the balance of both principal and interest thereon due and payable.

14 22. Demand for all sums secured by the Note and Deed of Trust has been made and the
15 Borrower has failed or refused to pay.

16 23. To the best of Plaintiff's knowledge, none of the defendants or other interested parties
17 are active duty military or service members as defined and protected by the Servicemembers
18 Civil Relief Act.

19 24. No other suit or action has been instituted or is pending upon the Note or to foreclose the
20 Deed of Trust.

21 25. The terms of the Note and Deed of Trust entitle Plaintiff to recover the reasonable
22 attorneys' fees and costs incurred to enforce the terms of the Note and Deed of Trust, including
23 such sums advance to protect its security interest. The sum of Seven Thousand, Five Hundred
and No/100 Dollars (\$7,500.00) is a reasonable estimate of anticipated attorneys' fees, costs and
advances. A higher sum may be incurred for reasons including, but not limited to a defendant

1 32. Upon information and belief, in 2003, Michael Shields purchased the Property from
2 Bonnie Shields. In order to purchase the Property, Michael Shields obtained a loan from Saxon.

3 33. As a part of the loan origination, Saxon obtained a title policy with Fidelity National
4 Title Insurance Co., in order to insure title to the property and protect Saxon's first position lien
5 interest.

6 34. Saxon is Plaintiff's predecessor in interest. Plaintiff is protected under Saxon's title
7 insurance policy.

8 35. The Fidelity Deed of Trust was supposed to be paid in full and reconveyed when
9 Michael Shields purchased the property, through the proceeds from the sale. A true and correct
10 copy of the HUD-1 associated with the origination of the Shields mortgage loan is attached
11 hereto as Exhibit 10.

12 36. When Saxon learned that the Fidelity Deed had not been paid, Saxon made a title claim
13 to Fidelity National Title Insurance Co. Fidelity National Title Insurance Co. accepted tender of
14 the title claim and purchased the Fidelity Deed of Trust, in order to protect Saxon's first
15 position lien.

16 37. On July 22, 2010, an Assignment of Deed of Trust was recorded under King County
17 Auditor's file No. 20100722000902, that identified Old Republic Title as the holder of the
18 beneficial interest. A true and correct copy of the Assignment of Deed of Trust dated June 29,
19 2010 is hereto attached as Exhibit 11.

20 THE SAXON DEED OF TRUST

21 38. Through the course of the refinance, on or about March 31, 2006, the Saxon loan
22 secured by the Saxon Deed of Trust was paid in full. *See* Exhibit 10.

23 39. A reconveyance of the Saxon Deed of Trust should have been recorded given the full
payment in satisfaction of the Saxon loan obtained through the refinance.

40. No reconveyance of the Saxon Deed of Trust was recorded.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**
3 (Judgment for Monies Due - against Borrower)

4 41. Plaintiff incorporates by reference paragraph 1 through 40 above as though set forth
5 in full herein.

6 42. Demand for all sums secured by the Note and Deed of Trust has been made, and
7 Borrower has failed or refused to pay.

8 43. Plaintiff is entitled to enforce the Note and Deed of Trust as the Plaintiff is the
9 holder of the Note. The Plaintiff is also entitled to enforce the Note pursuant to the provisions of
10 RCW 62A.3-301.

11 44. Because the Loan is in default, Plaintiff is entitled to an order of sale allowing it to
12 sell the Property by means of judicial foreclosure, and for a judgment, if any, against Borrower
13 equal to the difference between the total debt due Plaintiff under the Note and the fair value of
14 the Property as provided for in RCW 61.12 et seq.

15 **SECOND CAUSE OF ACTION**
16 (Judicial Foreclosure of Deed of Trust - against All Defendants)

17 45. Plaintiff realleges and incorporates by reference all of the allegations in paragraphs 1
18 through 43 as though set forth in full herein.

19 46. If a judgment for monies due is filed with this Court and the Borrower fails to
20 immediately tender the sum due and owing, then Plaintiff asserts its right per the terms of the
21 Deed of Trust for the Court to enter a decree of foreclosure.

22 47. The Deed of Trust states that the Property is not used principally for agricultural or
23 farming purposes.

48. Plaintiff intends to pursue a deficiency judgment against the Borrower in the event that
the proceeds from the sale of the property through the sheriff's sale are insufficient to cure all
amounts owed to Plaintiff under the Note and Deed of Trust.

1 **THIRD CAUSE OF ACTION**

2 (Declaratory Relief – Against Fidelity National Title Insurance Co. and Saxon Mortgage Inc.)

3 49. Plaintiff realleges and incorporates by reference all of allegations in paragraphs 1
4 through 47 of this Complaint as thought set forth in full herein.

5 50. An actual controversy has arisen and now exists between Plaintiff, and the Defendant
6 Fidelity National Title Insurance Co. concerning their respective rights in and to the Property.

7 51. Plaintiff contends and seeks a judicial determination that (1) Fidelity National Title
8 acquired the Fidelity Deed of Trust in order to protect Plaintiff's interests, and (2) that the
9 Fidelity Deed of Trust is hereby reconveyed.

10 52. Such a declaration is necessary in that Plaintiff and Defendant Fidelity National Title
11 Insurance Co.'s positions are conflicting as to who has a first position interest in the Property.
12 A judicial determination is necessary and appropriate at this time so that the parties hereto may
13 ascertain their rights against the Property.

14 53. An actual controversy has arisen and now exists between Plaintiff and Saxon Mortgage
15 Inc. concerning their respective rights in and to the Property.

16 54. Plaintiff seeks a judicial determination that the Saxon Deed of Trust was paid in full on
17 or about March 31, 2006 through the origination of the Shields mortgage loan represented by
18 the Note and Deed of Trust.

19 55. Such a declaration is necessary in that Plaintiff and Defendant Saxon Mortgage Inc.'s
20 positions are conflicting as to who has the senior interest in the secured property. A judicial
21 determination is necessary and appropriate at this time so that the parties hereto may ascertain
22 their rights in the Property.

23 **FOURTH CAUSE OF ACTION**
(Unjust Enrichment - against Michael Shields)

56. Plaintiff realleges and incorporates by reference all of the allegations in paragraphs 1
through 55 as though set forth in full herein.

1 57. This cause of action is pled in the alternative to the Plaintiffs' claims for Judgment for
2 Monies Due, and Judicial Foreclosure of Deed of Trust.

3 58. Restatement (Third) of Restitution explains that "[a] person who is unjustly enriched at
4 the expense of another is liable in restitution to the other." *Mazon v. Krafchick*, 158 Wn.2d 440,
5 458, 144 P.3d 1168 (2006) (citations omitted).

6 59. A benefit was conferred upon Michael Shields in the form of a mortgage loan, and
7 Michael Shields appreciated and had knowledge of the benefit. Michael Shields defaulted on the
8 terms of the mortgage loan, and it would be inequitable for Michael Shields to retain the benefit
9 of the mortgage loan without paying its value.

10 60. Should the Court deny the Plaintiff's claim for Judgment for Monies Due, the Trust
11 seeks a Judgment against Michael Shields for the total sum owed under the Note, including
12 accrued interest, attorney's fees, advances, and late charges.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays judgment as follows:

15 **On the First Cause of Action:**

16 1. For an order adjudging that the amounts due Plaintiff include the principal sum of
17 \$380,000.00, together with the interest thereon, as provided for in the Note, to the date of
18 entry of judgment, late charges, foreclosure fees and reasonable attorneys' fees incurred to
19 enforce the Note and the protection of Plaintiff's interests in the Deed of Trust in the sum
20 according to proof and that the judgment accrue interest at the current promissory Note rate
21 of (9.25%) per annum, as allowed by RCW 4.56.110(1). To date this amount totals
22 approximately \$614,796.11

23 2. That Plaintiff may have judgment and execution against Defendant Michael Shields for
any deficiency that may remain, pursuant to the terms of the Note, after applying all of the
proceeds of the sale of the Property properly applicable to the satisfaction of said judgment;

1 **On the Second Cause of Action:**

2 3. That in the event the judgment is not paid immediately upon its entry, Plaintiff has
3 judgment *in rem* against all of the defendants, and Plaintiffs Deed of Trust be foreclosed
4 and the Property be sold at a Sheriff's foreclosure sale;

5 4. For an order of sale that the Deed of Trust be foreclosed, that judgment be made for sale
6 of the Property accordingly to law by a levying officer to be appointed by the Court, that the
7 sales proceeds be applied in payment of any and all sums due to Plaintiff; that Defendants
8 and all persons claiming under them, after execution of Plaintiff's Deed of Trust, whether as
9 tax lien claimants, judgment creditors, claimants under a junior deed of trust, purchasers,
10 encumbrances, or otherwise, be barred and foreclosed from all rights, claims, interests or
11 equity of redemption in the Property and every part of the Property when the time for
12 redemption has elapsed;

13 5. For an order permitting Plaintiff or any party to this action to become a purchaser at the
14 foreclosure sale;

15 6. That the proceeds from the Sheriff's foreclosure sale be applied to the judgment and post
16 judgment attorneys' fees (e.g., attend Confirmation of Sale hearing), costs (e.g. release of lis
17 pendens, ex parte fees), advances (e.g. property preservation fees such as taxes, county
18 liens, property inspections, etc.) and Sheriff's expenses (e.g., Sheriff's fees, publication
19 expense, etc.);

20 **On the Third Cause of Action**

21 7. For a judicial determination that (1) Fidelity National Title Insurance Co. acquired the
22 Fidelity Deed of Trust, in order to protect Plaintiff's interests, (2) the Fidelity Deed of Trust
23 is subordinate to the Deed of Trust, and (3) that the Fidelity Deed of Trust is reconveyed so
that it no longer constitutes an encumbrance on the Property.

8. For a judicial determination that (1) the Saxon loan secured by the Saxon Deed of Trust

1 was paid in full on or about March 31, 2006, when Plaintiff's predecessor in interest
2 originated the subject loan, (2) the Saxon Deed of Trust is subordinate to the Deed of Trust,
3 and (3) that the Saxon Deed of Trust is reconveyed so that it no longer constitutes an
4 encumbrance on the Property.

5 **On the Fourth Cause of Action**

6 9. For Judgment in the amounts of \$380,000.00, together with the interest thereon, as
7 provided for in the Note, to the date of entry of judgment, late charges, foreclosure fees and
8 reasonable attorneys' fees incurred to enforce the Note and the protection of Plaintiff's
9 interests in the Deed of Trust in the sum according to proof and that the judgment accrue
10 interest at the current promissory Note rate of (9.25%) per annum, as allowed by RCW
4.56.110(1). To date this amount totals approximately \$614,796.11

11 **On All Causes of Action:**

12 10. That Plaintiff has judgment against Michael Shields for reasonable attorney's fees
13 incurred to prosecute this action, including fees and costs incurred up through a
14 Confirmation of Sale hearing. Plaintiff anticipates incurring attorneys' fees and costs in the
15 amount of Seven Thousand, Five Hundred and No/100 Dollars (\$7,500.00), if the matter is
uncontested.

16 11. That if any deficiency remains after application of the Sheriff's foreclosure sale
17 proceeds, Plaintiff hereby reserves the right to pursue a deficiency judgment and that a
18 deficiency judgment shall be entered against Michael Shields;

19 12. That the Court establish a twelve month redemption period from the date of the
20 Sheriff's foreclosure sale and the Sheriff be ordered to issue a Sheriff's Deed to the
successful bidder at the termination of the redemption period;

21 13. For an order stating that the purchaser at sale is entitled to immediate possession,
22 unless an exception under RCW 6.23.110 applies to the occupant. If the Property is not
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vacated so that the purchaser can take possession, the Court should forthwith order the Clerk of the Court to issue a writ of assistance ordering the Sheriff to deliver possession of the Property to the purchaser; and

14. Such other and further relief as this Court deems equitable and just.

Dated: October 15, 2015

HOUSER & ALLISON, APC

/s/ Sakae S. Sakai

Sakae S. Sakai, WSBA No. 44802
Robert W. Norman, Jr., WSBA No. 37094
Houser & Allison, APC
1601 5th Ave, Suite 850
Seattle, WA 98101
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Attorneys for Deutsche Bank National Trust Company as
Trustee for Saxon Asset Securities Trust 2006-2 Mortgage
Loan Asset Backed Certificates, Series 2006-2

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REMIC II Regular Interest Distribution Amounts, as such Uncertificated REMIC II Regular Interests Z comprise the Class A-V Certificates.

(f) Notwithstanding the deemed distributions on the Uncertificated REMIC I Regular Interests described in this Section 10.04, distributions of funds from the Certificate Account shall be made only in accordance with Section 4.02.

Section 10.05. Compliance with Withholding Requirements.

Notwithstanding any other provision of this Agreement, the Trustee or any Paying Agent, as applicable, shall comply with all federal withholding requirements respecting payments to Certificateholders, including interest or original issue discount payments or advances thereof that the Trustee or any Paying Agent, as applicable, reasonably believes are applicable under the Code. The consent of Certificateholders shall not be required for such withholding. In the event the Trustee or any Paying Agent, as applicable, does withhold any amount from interest or original issue discount payments or advances thereof to any Certificateholder pursuant to federal withholding requirements, the Trustee or any Paying Agent, as applicable, shall indicate the amount withheld to such Certificateholder pursuant to the terms of such requirements.

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vacated so that the purchaser can take possession, the Court should forthwith order the Clerk of the Court to issue a writ of assistance ordering the Sheriff to deliver possession of the Property to the purchaser; and

14. Such other and further relief as this Court deems equitable and just.

Dated: October 15, 2015

HOUSER & ALLISON, APC

/s/ Sakae S. Sakai

Sakae S. Sakai, WSBA No. 44802
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Trustee for Saxon Asset Securities Trust 2006-2 Mortgage
Loan Asset Backed Certificates, Series 2006-2

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. Amendment. (See Section 11.01 of the Standard Terms)

Section 11.02. Recordation of Agreement; Counterparts. (See Section 11.02 of the Standard Terms)

Section 11.03. Limitation on Rights of Certificateholders. (See Section 11.03 of the Standard Terms)

Section 11.04. Governing Laws. (See Section 11.04 of the Standard Terms)

Section 11.05. Notices. All demands and notices hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail, postage prepaid (except for notices to the Trustee which shall be deemed to have been duly given only when received), to the appropriate address for each recipient listed in the table below or, in each case, such other address as may hereafter be furnished in writing to the Master Servicer, the Trustee and the Company, as applicable:

Recipient	Address
Company	8400 Normandale Lake Boulevard Suite 250, Minneapolis, Minnesota 55437, Attention: President
Master Servicer	2255 N. Ontario Street, Suite 400 Burbank, California 91504-2130, Attention: Managing Director/Master Servicing
Trustee	Corporate Trust Office 1761 East St. Andrew Place Santa Ana, California 92705-4934, Attention: Residential Accredited Loans, Inc. Series 2003-QS9 The Trustee designates its offices located at c/o DTC Transfer Services, 55 Water Street, Jeanette Street Park Entrance, New York, New York 10041, for the purposes of Section 8.12 of the Standard Terms
Moody's Investors Service, Inc.	99 Church Street, 4th Floor New York, New York 10004
Fitch Ratings	One State Street Plaza New York, New York 10004

Any notice required or permitted to be mailed to a Certificateholder shall be given by first class mail, postage prepaid, at the address of such holder as shown in the Certificate Register. Any

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notice so mailed within the time prescribed in this Agreement shall be conclusively presumed to have been duly given, whether or not the Certificateholder receives such notice.

Section 11.06. Required Notices to Rating Agency and Subservicer. (See Section 11.06 of the Standard Terms)

Section 11.07. Severability of Provisions. (See Section 11.07 of the Standard Terms)

Section 11.08. Supplemental Provisions for Resecuritization. (See Section 11.08 of the Standard Terms)

Section 11.09. Allocation of Voting Rights.

97.0% of all of the Voting Rights shall be allocated among Holders of Certificates, other than the Interest Only Certificates and Class R Certificates, in proportion to the outstanding Certificate Principal Balances of their respective Certificates; 1.0% of all Voting Rights shall be allocated among the Holders of the Class A-3 Certificates, in accordance with their respective Percentage Interests; 1.0% of all Voting Rights shall be allocated among the Holders of the Class A-V Certificates, in accordance with their respective Percentage Interests; 0.5% of all Voting Rights shall be allocated among the Holders of the Class R-I Certificates, in accordance with their respective Percentage Interests; and 0.5% of all Voting Rights shall be allocated among the Holders of the Class R-II Certificates, in accordance with their respective Percentage Interests.

Section 11.10. No Petition.

The Depositor, Master Servicer and the Trustee, by entering into this Agreement, and each Certificateholder, by accepting a Certificate, hereby covenant and agree that they will not at any time institute against the Trust Fund, or join in any institution against the Trust Fund of, any bankruptcy proceedings under any United States federal or state bankruptcy or similar law in connection with any obligation with respect to the Certificates or this Agreement.

FILED
KING COUNTY, WASHINGTON

MAR 15 2013

SUPERIOR COURT CLERK
BY Karla Gabrielson
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR SAXON
ASSET SECURITIES TRUST 2006-2
MORTGAGE LOAN ASSET BACKED
CERTIFICATES, SERIES 2006-2,

Plaintiffs,

v.

MICHAEL SHIELDS; FIDELITY
NATIONAL TITLE INSURANCE CO.;
SAXON MORTGAGE, INC.; BONNIE
SHIELDS; ALL OCCUPANTS OF THE
PREMISES; AND ALL OTHER
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE,
ESTATE, LIEN, OR INTEREST IN THE
REAL ESTATE DESCRIBED IN THE
COMPLAINT HEREIN

Defendants.

Case No.: 14-2-22618-7 KNT

JUDGMENT AND DECREE OF
FORECLOSURE

JUDGMENT AND DECREE OF FORECLOSURE
CASE No. 14-2-22618-7 KNT
Page 1

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FAX: (206) 896-7839

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1 Pursuant to RCW 4.64.030, the clerk is directed to enter the following judgment:

2 **JUDGMENT SUMMARY**

3

4 Judgment Creditors:	Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2006-2 Mortgage Loan Asset Backed Certificates, Series 2006-2
5 Judgment Creditor's Attorneys:	Sakae S. Sakai, Houser & Allison, APC Robert W. Norman, Jr., Houser & Allison, APC
6 Judgment Debtor:	Michael Shields
7 Legal Description of Affected Property	LOT 117, VICTORIA HILLS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 113 OF PLATS, PAGE(S) 79 THROUGH 83, INCLUSIVE, RECORDS OF KING COUNTY, WASHINGTON SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON
8 Principal Judgment Amount:	\$443,248.02
9 Attorneys' Fees:	To be determined pursuant to CR 54(d)(2)
10 Costs:	To be determined pursuant to CR 54(d)(1)
11 Prejudgment Interest:	\$212,127.09 through December 31, 2015
12 TOTAL JUDGMENT	\$655,375.11
13 Post Judgment Interest:	12.00 percent per annum simple interest on the amount of \$655,375.11

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22 **JUDGMENT**

23 1. The purpose of this Final Judgment is to clarify that all claims by all parties are
24 resolved.

25 JUDGMENT AND DECREE OF FORECLOSURE
CASE NO. 14-2-22618-7 KNT
Page 2

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FAX: (206) 896-7839

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1 2. Pursuant to the Court's Order Granting Summary Judgment, Plaintiff Deutsche
2 Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2006-2 Mortgage
3 Loan Asset Backed Certificates, Series 2006-2 (the "Trust") was awarded judgment against
4 Defendant Michael Shields in the principal amount of \$443,248.02; plus interest accrued
5 through December 31, 2015 in the amount of \$212,127.09; plus post-judgment interest on the
6 principal amount of \$655,375.11 at the statutory rate of 12.00%; plus the Trust's reasonable
7 attorneys' fees, costs and disbursements incurred in bringing and maintaining this action, to be
8 determined pursuant to CR 54(d), and that writ of execution shall issue therefore.
9

10 3. The Deed of Trust executed by Michael Shields, dated March 31, 2006 and
11 recorded on April 25, 2006 under King County recording No. 20060425001597, is a valid first
12 position lien for the amount of the Trust's judgment set forth above against all real property,
13 situated in King County, Washington, commonly known as 2805 Cedar Avenue South, Renton,
14 Washington, King County Parcel No. 8898701170, and legally described as:
15

16 LOT 117, VICTORIA HILLS, ACCORDING TO THE PLAT
17 THEREOF RECORDED IN VOLUME 113 OF PLATS, PAGE(S)
18 79 THROUGH 83, INCLUSIVE, RECORDS OF KING
19 COUNTY, WASHINGTON

20 SITUATE IN THE COUNTY OF KING, STATE OF
21 WASHINGTON

22 ("Subject Property").

23 4. Pursuant to the Court's Order Granting Motion for Summary Judgment and Entry
24 of Judgment and Decree of Foreclosure and the Agreed Declaratory Judgment and Order
25 Dismissing Saxon Mortgage, Inc., the Trust holds a valid, binding security interest in the

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1 Property, and Fidelity National Title Insurance Company, Saxon Mortgage, Inc., Bonnie Shields,
2 Occupants of the Premises, and Persons or Parties unknown claiming any right, title, estate, lien,
3 or interest in the Property described in the Complaint herein, if they do claim an interest, claim
4 an interest that is junior to the Trust's interest, and all junior interests are foreclosed.

5 5. The Deed of Trust described in paragraph 3 above is hereby foreclosed and all
6 interest that Michael Shields had at any time in the Subject Property shall be sold by the Sheriff
7 of King County, Washington, in the manner provided by law and in accordance with the practice
8 of this Court.

9
10 6. The proceeds of sale shall be applied first toward the cost of sale, then toward the
11 satisfaction of the Trust's judgment awarded herein, and the surplus, if any, to the clerk of the
12 court to be distributed to such party or parties as may establish their right thereto.

13 7. If any deficiency remains after application of the proceeds of such sale thereon,
14 that deficiency judgment be entered against Defendant Michael Shields.

15
16 8. By foreclosure and sale, the rights of each of the defendants and all persons
17 claiming through or under them; as purchasers, encumbrancers, or otherwise, are adjudged
18 inferior and subordinate to the Deed of Trust and forever foreclosed of all interest, lien, or claim
19 in the Subject Property described above and every portion thereof.

20 9. The Trust or any other party to this suit may become the purchaser at the sale of
21 the Subject Property. The purchaser is entitled to exclusive possession of the Subject Property
22 from and after the date of sale and is entitled to such remedies as are available at law to secure
23 possession, including a writ of assistance, if Michael Shields or any other party or person
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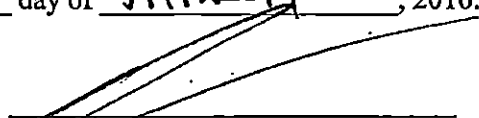
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refuses to surrender possession to the purchaser immediately on the purchaser's demand for possession.

10. The period of redemption shall be twelve (12) months from the date of the Sheriff's Sale in accordance with RCW 6.23.020(1).

11. As a result of the foregoing, there are no claims that remain pending in this matter, and this Final Judgment shall be entered.

DONE IN OPEN COURT this 14 day of MARCH, 2016.



JUDGE LAURA GENE MIDDAGH

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STATUTORY PROVISIONS

RCW 7.60.005

Definitions.

The definitions in this section apply throughout this chapter unless the context requires otherwise.

- (1) "Court" means the superior court of this state in which the receivership is pending.
- (2) "Entity" means a person other than a natural person.
- (3) "Estate" means the entirety of the property with respect to which a receiver's appointment applies, but does not include trust fund taxes or property of an individual person exempt from execution under the laws of this state. Estate property includes any nonexempt interest in property that is partially exempt, including fee title to property subject to a homestead exemption under chapter 6.13 RCW.
- (4) "Executory contract" means a contract where the obligation of both the person over whose property the receiver is appointed and the other party to the contract are so far unperformed that the failure of either party to the contract to complete performance would constitute a material breach of the contract, thereby excusing the other party's performance of the contract.
- (5) "Insolvent" or "insolvency" means a financial condition of a person such that the sum of the person's debts and other obligations is greater than all of that person's property, at a fair valuation, exclusive of (a) property transferred, concealed, or removed with intent to hinder, delay, or defraud any creditors of the person, and (b) any property exempt from execution under any statutes of this state.
- (6) "Lien" means a charge against or interest in property to secure payment of a debt or the performance of an obligation.
- (7) "Notice and a hearing" or any similar phrase means notice and opportunity for a hearing.
- (8) "Person" means an individual, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, governmental entity, or other entity, of any kind or nature.
- (9) "Property" includes all right, title, and interests, both legal and equitable, and including any community property interest, in or with respect to any property of a person with respect to which a receiver is appointed, regardless of the manner by which the property has been or is acquired. "Property" includes any proceeds, products, offspring, rents, or profits of or from property in the estate. "Property" does not include any power that a person may exercise solely for the benefit of another person or trust fund taxes.
- (10) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, or dispose of property of a person.
- (11) "Receivership" means the case in which the receiver is appointed. "General receivership" means a receivership in which a general receiver is appointed. "Custodial receivership" means a receivership in which a custodial receiver is appointed.
- (12) "Security interest" means a lien created by an agreement.
- (13) "State agent" and "state agency" means any office, department, division, bureau, board, commission, or other agency of the state of Washington or of any subdivision thereof, or any individual acting in an official capacity on behalf of any state agent or state agency.
- (14) "Utility" means a person providing any service regulated by the utilities and transportation commission.

[2004 c 165 § 2.]

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RCW 7.60.110

Automatic stay of certain proceedings.

(1) Except as otherwise ordered by the court, the entry of an order appointing a general receiver or a custodial receiver with respect to all of a person's property shall operate as a stay, applicable to all persons, of:

(a) The commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the person over whose property the receiver is appointed that was or could have been commenced before the entry of the order of appointment, or to recover a claim against the person that arose before the entry of the order of appointment;

(b) The enforcement, against the person over whose property the receiver is appointed or any estate property, of a judgment obtained before the order of appointment;

(c) Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property;

(d) Any act to create, perfect, or enforce any lien or claim against estate property except by exercise of a right of setoff, to the extent that the lien secures a claim against the person that arose before the entry of the order of appointment; or

(e) Any act to collect, assess, or recover a claim against the person that arose before the entry of the order of appointment.

(2) The stay shall automatically expire as to the acts specified in subsection (1)(a), (b), and (e) of this section sixty days after the entry of the order of appointment unless before the expiration of the sixty-day period the receiver, for good cause shown, obtains an order of the court extending the stay, after notice and a hearing. A person whose action or proceeding is stayed by motion to the court may seek relief from the stay for good cause shown. Any judgment obtained against the person over whose property the receiver is appointed or estate property following the entry of the order of appointment is not a lien against estate property unless the receivership is terminated prior to a conveyance of the property against which the judgment would otherwise constitute a lien.

(3) The entry of an order appointing a receiver does not operate as a stay of:

(a) The continuation of a judicial action or nonjudicial proceeding of the type described in RCW 7.60.025(1) (b), (ee), or (ff), if the action or proceeding was initiated by the party seeking the receiver's appointment;

(b) The commencement or continuation of a criminal proceeding against the person over whose property the receiver is appointed;

(c) The commencement or continuation of an action or proceeding to establish paternity, or to establish or modify an order for alimony, maintenance, or support, or to collect alimony, maintenance, or support under any order of a court;

(d) Any act to perfect, or to maintain or continue the perfection of, an interest in estate property if the interest perfected would be effective against a creditor of the person over whose property the receiver is appointed holding at the time of the entry of the order of appointment either a perfected nonpurchase money security interest under chapter 62A.9A RCW against the property involved, or a lien by attachment, levy, or the like, whether or not such a creditor exists. If perfection of an interest would require seizure of the property involved or the commencement of an action, the perfection shall instead be accomplished by filing, and by serving upon the

receiver, or receiver's counsel, if any, notice of the interest within the time fixed by law for seizure or commencement;

(e) The commencement or continuation of an action or proceeding by a governmental unit to enforce its police or regulatory power;

(f) The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the person over whose property the receiver is appointed;

(g) The exercise of a right of setoff, including but not limited to (i) any right of a commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to set off a claim for a margin payment or settlement payment arising out of a commodity contract, forward contract, or securities contract against cash, securities, or other property held or due from the commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to margin, guarantee, secure, or settle the commodity contract, forward contract, or securities contract, and (ii) any right of a swap participant to set off a claim for a payment due to the swap participant under or in connection with a swap agreement against any payment due from the swap participant under or in connection with the swap agreement or against cash, securities, or other property of the debtor held by or due from the swap participant to guarantee, secure, or settle the swap agreement; or

(h) The establishment by a governmental unit of any tax liability and any appeal thereof.

[2011 c 34 § 4; 2004 c 165 § 13.]

11 U.S. Code § 362 - Automatic stay

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(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

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