Executives

Name	Title	Email Address
Jose Eduardo Almedia	DIRECTOR:	
Keith Thomas Banks	CEO:	

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BANK OF AMERICA CORPORATION; Dun and Bradstreet Corporate Family Tree, Part 1 of 5

June 11, 2024

BANK OF AMERICA CORPORATION

Additional Information

- (P) <u>BANK OF AMERICA CORPORATION (DUNS: 05-516-9452)</u>, CHARLOTTE, NORTH CAROLINA, USA
 - (1) <u>BANK OF AMERICA CORPORATION (DUNS: 01-930-1615)</u>, CHULA VISTA, CALIFORNIA, USA
 - (1) ELT LTD. (DUNS: 82-757-3937), CHARLOTTE, NORTH CAROLINA, USA
 - (1) <u>BA CREDIT CARD TRUST (DUNS: 18-539-0957)</u>, WILMINGTON, DELAWARE, USA
 - (1) BA OVERSEAS HOLDINGS (DUNS: 82-520-6498), CHARLOTTE, NORTH CAROLINA, USA
 - (1) <u>BANK OF AMERICA CORPORATION (DUNS: 10-543-3707)</u>, SAN JOSE, CALIFORNIA, USA
 - (1) THE PRINCETON RETIREMENT GROUP INC (DUNS: 60-680-6607), ATLANTA, GEORGIA, USA
 - (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1027)</u>, WALDORF, MARYLAND, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1038), ORLAND PARK, ILLINOIS, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1030), HUNTINGTON, WEST VIRGINIA, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1036), GLENDALE, CALIFORNIA, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1035), GLEN CARBON, ILLINOIS, USA
 - (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1759)</u>, HYANNIS, MASSACHUSETTS, USA
 - (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1028)</u>, RANCHO MIRAGE, CALIFORNIA, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1756), SHORT HILLS, NEW JERSEY, USA
 - (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1045)</u>, DALLAS, TEXAS, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1029), HALFMOON, NEW YORK, USA
 - (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1043), AUSTIN, TEXAS, USA

- (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1024)</u>, EUSTIS, FLORIDA, USA
- (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1023)</u>, PONTE VEDRA, FLORIDA, USA
- (2) <u>THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1033)</u>, KINGSPORT, TENNESSEE, USA
- (2) THE PRINCETON RETIREMENT GROUP INC (DUNS: 07-862-1754), BEDMINSTER, NEW JERSEY, USA
- (1) MERRILL LYNCH HOLDINGS (MAURITIUS) (DUNS: 55-829-2464), PORT LOUIS, MAURITIUS
- (1) NB CAPITAL TRUST II (DUNS: 80-009-1956), CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANKBOSTON CAPITAL TRUST I (DUNS: 14-959-8273)</u>, BOSTON, MASSACHUSETTS, USA
- (1) <u>WATERVILLE FUNDING LLC (DUNS: 07-873-8987)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 12-264-6856)</u>, TACOMA, WASHINGTON, USA
- (1) PT. ALAMI TEKNOLOGI INDONESIA (DUNS: 72-780-5884), DKI JAKARTA, DKI JAKARTA, INDONESIA
- (1) <u>CAROLINA MOUNTAIN HOLDING COMPANY (DUNS: 78-412-6237)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>CROWN POINT INVESTMENTS LP (DUNS: 78-598-2864)</u>, LAS VEGAS, NEVADA, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 10-762-9734), BAYSIDE, NEW YORK, USA
- (1) MERRILL LYNCH INTERNATIONAL BANK LTD (DUNS: 53-458-7196), MANAMA, BAHRAIN
- (1) MERRILL LYNCH CANADA HOLDINGS COMPANY (DUNS: 20-361-4821), TORONTO, ONTARIO, CANADA
- (1) AUGUSTA TRADING LLC (DUNS: 07-846-6131), WILMINGTON, DELAWARE, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 08-735-4230)</u>, BROOKLYN, NEW YORK, USA
- CRABBE-HUSON GROUP INC (DUNS: 18-852-1165), PORTLAND, OREGON, USA
- (1) <u>SHAWMUT INVESTMENT ADVISERS INC (DUNS: 86-762-3837)</u>, BOSTON, MASSACHUSETTS, USA
- (1) BANK OF AMERICA (DUNS: 55-775-7270), RIYADH, RIYADH, SAUDI ARABIA
- (1) <u>BAL GLOBAL FINANCE CANADA CORPORATION (DUNS: 25-096-2792)</u>, TORONTO, ONTARIO, CANADA
- (1) <u>BANC OF AMERICA MORTGAGE CAPITAL CORPORATION (DUNS: 86-816-8246)</u>, CHARLOTTE, NORTH CAROLINA, USA
- BANK OF AMERICA CORPORATION (DUNS: 03-210-9270), CYPRESS, TEXAS, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 04-234-1416), PORTLAND, OREGON, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 06-659-1770)</u>, BROOKLYN, NEW YORK, USA
- (1) ICHOR HOLDINGS LTD (DUNS: 21-827-0773), HAMILTON, LANARKSHIRE, SCOTLAND

- (2) ICHOR SYSTEMS LTD (DUNS: 73-406-5043), GLASGOW, LANARKSHIRE, SCOTLAND
- (1) FLEET CAPITAL TRUST V (DUNS: 80-894-4073), BOSTON, MASSACHUSETTS, USA
- (1) <u>FLEET GROWTH RESOURCES, INC. (DUNS: 82-706-6650)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 07-324-7462)</u>, NEW YORK, NEW YORK, USA
 - (2) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 19-747-7776)</u>, BOSTON, MASSACHUSETTS, USA
 - (2) <u>US_TRUST_COMPANY_OF_CONNECTICUT_(DUNS: 80-729-4913)</u>, STAMFORD, CONNECTICUT, USA
 - (3) <u>US TRUST COMPANY OF CONNECTICUT (DUNS: 88-350-0548)</u>, STAMFORD, CONNECTICUT, USA
 - (2) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 03-142-9000)</u>, SAINT PETERSBURG, FLORIDA, USA
 - (2) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 03-805-4024)</u>, MINNEAPOLIS, MINNESOTA, USA
 - (2) US TRUST COMPANY, NA (DUNS: 11-311-4565), LOS ANGELES, CALIFORNIA, USA
 - (2) <u>U S TRUST COMPANY OF FLORIDA SAVINGS BANK (DUNS: 12-607-2412)</u>, PALM BEACH, FLORIDA, USA
 - (2) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 09-029-2978)</u>, MANCHESTER, NEW HAMPSHIRE, USA
 - (2) <u>UST FINANCIAL SERVICES CORP (DUNS: 93-906-5140)</u>, NEW YORK, NEW YORK, USA
 - (2) <u>BANK OF AMERICA PVT WEALTH MANAGEMENT (DUNS: 01-111-5053)</u>, MIDLAND, TEXAS, USA
- (1) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-892-0951), NEW YORK, NEW YORK, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-135-5334), WICHITA, KANSAS, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9040), COLUMBUS, OHIO, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-250-4951), RED BANK, NEW JERSEY, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-250-6296), REDDING, CALIFORNIA, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-491-3711), FRESNO, CALIFORNIA, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-673-6790), SANTA FE, NEW MEXICO, USA
 - (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-593-5000), VACAVILLE, CALIFORNIA, USA
 - (2) <u>DENVER ENERGY ADVISORS LLC (DUNS: 61-469-4813)</u>, DENVER, COLORADO, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-028-4073), CAPE GIRARDEAU, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-7541), HENDERSON, NEVADA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-703-9071), BIRMINGHAM, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-651-0996), VIRGINIA BEACH, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 93-373-2208), DENVER, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-038-5748), ALBANY, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-2742), KNOXVILLE, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-345-9083), DOYLESTOWN, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 87-808-8434), SAINT LOUIS, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-142-5475), BOCA RATON, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8381), LYNCHBURG, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-8986), DELAND, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 14-912-6356), EL SEGUNDO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-8366), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-875-9829), PITTSBURGH, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-998-0391), SAN ANTONIO, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-809-7488), EVANSVILLE, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-6076), BEDMINSTER, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-690-4564), BATAVIA, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-434-5784), OMAHA, NEBRASKA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 60-899-4026), DULUTH, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-052-9071), SEWICKLEY, PENNSYLVANIA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-827-2200), BEAUMONT, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-766-9529), LAFAYETTE, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-377-7990), FRISCO, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 85-978-1874), HUNTINGTON, WEST VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 86-864-4501), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-973-7357), LEWISTON, MAINE, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-802-5195)</u>, STATESVILLE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-142-4854), PALO ALTO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2771), POWELL, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2803), CONSHOHOCKEN, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-755-3759), CANTON, OHIO, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-993-2536)</u>, HUNT VALLEY, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8376), TOLEDO, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-977-9632), AUSTIN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-511-0531), ROME, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-067-6963), PARAMUS, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-9994), ST GEORGE, UTAH, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8364), HONOLULU, HAWAII, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-8358), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-438-5455), POUGHKEEPSIE, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9073), ALEXANDRIA, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 14-359-3791), GILBERT, ARIZONA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-951-0160), DALLAS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 79-536-0395), BALTIMORE, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-674-1844), INDIANA, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-564-2987), MARIETTA, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3665), BALA CYNWYD, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-343-7980), ERIE, PENNSYLVANIA, USA
- (2) MERRILL LYNCH PIERCE FENNER & SMITH INC (DUNS: 78-639-0336), PRINCETON, NEW JERSEY, USA
- (2) MERRILL LYNCH PIERCE FENNER & SMITH INC (DUNS: 80-595-8295), PRINCETON, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-974-0549), MONTEREY, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-484-1259), GAINESVILLE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-262-1943), CASPER, WYOMING, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3608), FLAGSTAFF, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9021), INCLINE VILLAGE, NEVADA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-588-6034), STATEN ISLAND, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-692-6913), ROANOKE, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-866-1096), DALLAS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-900-8918), SWANSEA, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 92-778-3589), LAKESIDE PARK, KENTUCKY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-661-7140), CHESTER, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-024-8943), RLLNG HLS EST, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-618-1551), MELBOURNE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-915-2511), KAILUA KONA, HAWAII, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-568-5786), OAK BROOK, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4289), MIDDLETOWN, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-729-1365), STUART, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-128-9499), FAIRFIELD, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-924-9334), GEORGETOWN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-823-9105), GRAND JUNCTION, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-558-8026), SOUTHLAKE, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3616), EVERETT, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-333-9864), READING, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 88-423-6902), PEORIA, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-393-5213), RIDGEFIELD, CONNECTICUT, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-232-2045)</u>, WAYNE, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-987-0458), ROCKVILLE, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-112-3828), LATHAM, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-141-1721), KANSAS CITY, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-459-0373), BARRINGTON, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-494-2275), NEW HAVEN, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-553-3676), FARMINGTON HILLS, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 62-444-6170), RIDGELAND, MISSISSIPPI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-804-6321), CHARLOTTE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-079-8734), JUNEAU, ALASKA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-095-3025), GRAND RAPIDS, MICHIGAN, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-949-7515), SALT LAKE CITY, UTAH, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4275)</u>, REHOBOTH BEACH, DELAWARE, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4292)</u>, BRENTWOOD, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-615-4619), ALLENTOWN, PENNSYLVANIA, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 16-836-5765)</u>, GREENSBURG, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-990-7570), FRANKLIN, TENNESSEE, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-563-8504)</u>, WESTBOROUGH, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-567-4168), HENDERSONVILLE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-926-7542), SANTA MONICA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-468-1735), SMITHTOWN, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9001), CHICAGO, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-410-6993), PONTE VEDRA BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-312-0286), WYANDOTTE, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-6072), PHILADELPHIA, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-823-8388), BILOXI, MISSISSIPPI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-952-3275), ATLANTA, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-875-9955), SUGAR LAND, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-503-6200), MILL VALLEY, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-570-7394), NAPLES, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9540), JERSEY CITY, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2786), HARTFORD, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-480-5776), KINGWOOD, TEXAS, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-313-3236), STATESBORO, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0057), KINGSTON, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3620), MUSKEGON, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-298-9333), MIAMI, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-577-3829), ORLANDO, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0059), CHAGRIN FALLS, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-162-3489), SIOUX FALLS, SOUTH DAKOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-725-5064), OXNARD, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-804-6495), GRAND BLANC, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-581-0755), CLINTON TOWNSHIP, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-854-4590), ASPEN, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-304-9863), PEACHTREE CITY, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 79-090-1540), ABILENE, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-678-2369), WEST HARTFORD, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-906-2160), BEL AIR, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-048-6067), EGG HARBOR TOWNSHIP, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-280-9640), MILWAUKEE, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4278), LAKEWOOD RANCH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-341-0441), BRIDGEPORT, WEST VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-134-6356), PANAMA CITY, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 87-271-0769), MCALLEN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-804-8751), BRISTOL, TENNESSEE, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-111-4135), DAYTONA BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-845-4298), LAGUNA NIGUEL, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-423-9001), TOMS RIVER, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-907-2576), TUPELO, MISSISSIPPI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-802-2009), HANOVER, NEW HAMPSHIRE, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-014-8187)</u>, MEMPHIS, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3645), CHARLOTTE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-038-5961), FORT WALTON BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-304-6722), COLLEGE STATION, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-625-9330), TEMECULA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 14-585-0181), PRINCETON, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-900-8884), CINCINNATI, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 92-699-0664), CRYSTAL LAKE, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-461-8122), BALTIMORE, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-8473), SPARTA, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-519-8687), BRADENTON, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-871-7902), PORTLAND, OREGON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-829-2680), TACOMA, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-789-2570), NORTHBROOK, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-260-9140), SAINT PAUL, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-641-9423), ALBUQUERQUE, NEW MEXICO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-878-6357), MEQUON, WISCONSIN, USA

- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-503-4191)</u>, WORCESTER, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-741-2112), JOHNSON CITY, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-360-8828), SCHAUMBURG, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-055-4350), LEESBURG, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-007-8320), TERRE HAUTE, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8367), HOT SPRINGS, ARKANSAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-395-7037), OKLAHOMA CITY, OKLAHOMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-327-6337), SANTA ROSA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-757-2371), CLEARWATER, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 93-851-3637), RENO, NEVADA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-356-9147), SAGINAW, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-178-7456), BATON ROUGE, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-985-3138), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3637), PROVO, UTAH, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-002-7507), WINTER PARK, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 86-130-2370), STAMFORD, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-932-0998), BELLEVUE, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-447-4438), TUCSON, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-690-1507), BEVERLY HILLS, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-510-5208), YARDLEY, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 88-496-3430), WESTPORT, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-704-0051), SAN ANTONIO, TEXAS, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-523-9611), CHATTANOOGA, TENNESSEE, USA
- (2) BROADCORT CAPITAL CORP (DUNS: 14-464-8524), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-661-6959), CHARLOTTESVILLE, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-363-1142), ANN ARBOR, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-006-5256), EL PASO, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-801-3935), BREA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-897-7067), FORT LAUDERDALE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 60-746-6380), OGDEN, UTAH, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 93-101-5135), METAIRIE, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-815-5625), WHITEFISH, MONTANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-702-0855), SANTA BARBARA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-475-7139), RIVERHEAD, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-648-1285), HILTON HEAD ISLAND, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-075-9579), HUNTSVILLE, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-762-3148), HALFMOON, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-743-7812), FORT WORTH, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-330-4100), SHREVEPORT, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-900-8736), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-6088), SAINT PETERSBURG, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-697-0358), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-205-8695), FARGO, NORTH DAKOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-940-6366), DENVER, COLORADO, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-248-0804), BAYSIDE, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-038-7249), BLOOMINGTON, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-840-3581), MIAMI, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0094), SEATTLE, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-028-3356), FREDERICKSBURG, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-8991), SAINT AUGUSTINE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-616-4381), CORPUS CHRISTI, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-987-1722), BUFFALO, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 16-841-9674), MURRAY, UTAH, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 60-355-0088), FORT SMITH, ARKANSAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-014-6741), FLORHAM PARK, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-814-1273), PEORIA, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-905-5736), ROSEVILLE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 85-940-7389), MYRTLE BEACH, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-639-9903), PRINCETON, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-703-2563), BEVERLY, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-281-2511), HINGHAM, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-062-2409), WILMINGTON, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-039-7768), VENICE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-053-1291), SALEM, OREGON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-534-2477), FAIRHOPE, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-679-6905), SYRACUSE, NEW YORK, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-714-0434), WEST DES MOINES, IOWA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-989-8628), BEAUFORT, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-497-4901), TROY, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-477-3224), WELLESLEY, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-530-9762), MCKINNEY, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-382-6967), OCEAN CITY, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-364-8881), WACO, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3660), JUPITER, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 16-939-0937), MEDIA, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 87-935-9532), GAINESVILLE, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-559-7850), MORRISTOWN, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-308-0589), PROVIDENCE, RHODE ISLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3646), RANCHO SANTA FE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-313-4093), STILLWATER, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-687-2123), ANCHORAGE, ALASKA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 55-605-7792), PITTSBURGH, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-639-7688), AMARILLO, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-865-0383), WESTFIELD, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-485-4488), SOUTHBURY, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-136-4722), BOWLING GREEN, KENTUCKY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-726-3853), QUINCY, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-532-5126), LEXINGTON, KENTUCKY, USA

- (2) MERRILL LYNCH PRINCETON INCORPORATED (DUNS: 78-621-0807), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-298-7185), NEWPORT NEWS, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 88-457-2819), COLUMBUS, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-769-6734), ROGERS, ARKANSAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-221-4225), PITTSFORD, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4286), WESTFIELD, NEW JERSEY, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4282)</u>, CAMBRIDGE, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-8992), ORLANDO, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-230-6970), JAMESTOWN, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-400-5334), BLOOMFIELD HILLS, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-705-8252), MELVILLE, NEW YORK, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4290)</u>, PITTSBURGH, PENNSYLVANIA, USA
- (2) WAVE SECURITIES, L.L.C. (DUNS: 13-309-1467), CHICAGO, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 16-823-8264), DULUTH, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-075-8894), MINNEAPOLIS, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-232-3254), PRESCOTT, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-495-4390), SCOTTSDALE, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-976-1555), JONESBORO, ARKANSAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4291), GUAYNABO, PUERTO RICO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-385-7425), SAN FRANCISCO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-580-2084), MERRILLVILLE, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-377-3218), BOULDER, COLORADO, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-459-4347), RIVERSIDE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-133-4394), WINSTON SALEM, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-264-6925), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2798), WEST PALM BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-840-3184), AUSTIN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0028), WILMINGTON, DELAWARE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-579-0421), FLEMINGTON, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-151-0090), INDIANAPOLIS, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-840-3573), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-843-5102), SPRINGFIELD, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-753-2018), CHARLOTTE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-432-7925), FORT WAYNE, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-630-1048), WEST ISLIP, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2756), BROOKLYN, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 83-303-5632), BAINBRIDGE ISLAND, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-888-5097), WAUKESHA, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-055-8757), HUDSON, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-569-3925), LAKE JACKSON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4274), MYSTIC, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-374-1200), COLUMBIA, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-804-6388), SOUTHAMPTON, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 87-429-6189), SPARTANBURG, SOUTH CAROLINA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-573-2504), VALENCIA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-809-8685), FORT WORTH, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-360-8005), EAST LANSING, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-901-2279), RALEIGH, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-367-8725), SAN MATEO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-938-0865), BOSTON, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 60-359-4458), TRAVERSE CITY, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8373), UTICA, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-375-7468), ATLANTA, GEORGIA, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2764)</u>, PITTSBURGH, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-116-5356), PLEASANTON, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-114-8636), PASADENA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-967-9003), RESTON, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 16-542-0266), WALNUT CREEK, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-131-8157), LANCASTER, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-707-3186), PORTLAND, MAINE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-591-0298), ROCHESTER, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-089-9177), WASHINGTON, DISTRICT OF COLUMBIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-131-8330), WILLIAMSPORT, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-900-9767), MIDLAND, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-248-3599), AKRON, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4288), MELVILLE, NEW YORK, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-840-3159), LYNBROOK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-8648), OKLAHOMA CITY, OKLAHOMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-702-0716), AIKEN, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-875-7996), WOODLAND HILLS, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-054-5287), VIENNA, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-625-5670), BETHESDA, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-148-0418), SAN DIEGO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-426-9290), JENKINTOWN, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9543), CHICAGO, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-727-0853), JERICHO, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-043-3874), MODESTO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-709-1288), ASHEVILLE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-147-4393), FREDERICK, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-809-3323), LINCOLN, NEBRASKA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-3013), EXTON, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-576-7802), HUNTERSVILLE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-920-4487), GREENWICH, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-661-7215), MANASQUAN, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3603), BATON ROUGE, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8375), SCRANTON, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-982-8390), PHOENIX, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-859-9252), SEAL BEACH, CALIFORNIA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-550-8877), COEUR D ALENE, IDAHO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-057-5659), WHITE PLAINS, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-827-4563), SUMMIT, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-726-1014), GREENVILLE, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-360-6793), KEY WEST, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-399-5319), LOS ANGELES, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-102-8659), LAFAYETTE, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4281), HIGHLAND PARK, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-522-8739), HIGH POINT, NORTH CAROLINA, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 14-975-5977)</u>, TAMPA, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 79-546-6119), PORTAGE, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2781), HINSDALE, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-414-2936), WAYNE, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-305-2242), CARLSBAD, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 93-100-9096), SPRINGFIELD, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4294), THE WOODLANDS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-760-2746), BAKERSFIELD, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-379-0308), WILKES BARRE, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-392-7896), STATE COLLEGE, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9039), COLUMBUS, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-979-5603), WESTON, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-845-4299), FORT MILL, SOUTH CAROLINA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2799), GUILFORD, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-524-7575), BILLINGS, MONTANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-613-5548), DARIEN, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-501-0796), WEST NYACK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-998-6509), CAMDEN, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 14-359-5093), ANDOVER, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-284-8437), THE VILLAGES, FLORIDA, USA
- (2) MERRILL LYNCH PIERCE FENNER & SMITH INC (DUNS: 80-446-7553), NEW YORK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-881-5643), MONROE, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 93-101-9137), EASTON, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-775-1342), NEW ORLEANS, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-306-6016), ATHENS, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-764-0595), SAN LUIS OBISPO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-793-8791), CEDAR RAPIDS, IOWA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-704-6392), FLOWER MOUND, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-661-7207), CHARLOTTE AMALIE, VIRGIN ISLANDS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-412-0919), MOUNT LAUREL, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-357-7122), BOZEMAN, MONTANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-053-0509), BEND, OREGON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-075-0701), EAU CLAIRE, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-302-1692), BURLINGTON, VERMONT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-722-1620), SANTA BARBARA, CALIFORNIA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 83-649-2686), NASHVILLE, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-410-0566), ZANESVILLE, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-520-5099), CINCINNATI, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-691-9141), PONTE VEDRA BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-585-9183), MADISON, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0068), MANSFIELD, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-661-7132), BURLINGTON, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-654-6872), TUSCALOOSA, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3595), OAKLAND, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-804-6370), BLOOMINGTON, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-648-2329), PENSACOLA, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-204-7514), GARDEN CITY, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-273-1257), SOUTH BEND, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-312-0278), LAKE FOREST, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-552-6861), LA JOLLA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-158-9165), WILSON, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-108-6060), INDIAN WELLS, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-633-7284), DENVER, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-6073), PITTSFORD, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0040), JASPER, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-483-5461), YORK, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-603-8069), OCALA, FLORIDA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-607-6908), LITTLE ROCK, ARKANSAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-979-0075), IRVINE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-313-4010), BLUE BELL, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-029-7141), MANCHESTER CENTER, VERMONT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-793-0967), CHARLESTON, WEST VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-666-0162), JACKSONVILLE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3587), BRIDGEWATER, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-719-5485), DURHAM, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-934-4783), FORT MYERS, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-418-4675), MISSOULA, MONTANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-282-8099), WEEKI WACHEE, FLORIDA, USA
- (2) MERRILL LYNCH PIERCE FENNER & SMITH INC (DUNS: 80-595-1456), PRINCETON, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-055-4541), PUNTA GORDA, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-500-7599), KENNEWICK, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-1975), HILO, HAWAII, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-992-5535), ANNISTON, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-811-1360), PALM BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-526-2682), THE WOODLANDS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8370), CHAMBERSBURG, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 83-228-9706), ROSWELL, NEW MEXICO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-951-4106), PALM BEACH GARDENS, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-381-6807), NEW YORK, NEW YORK, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-199-3367), LAKE MARY, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-905-4515), LAS VEGAS, NEVADA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-852-2278), TALLAHASSEE, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 86-735-4636), GREENWOOD VILLAGE, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-028-8603), WILLIAMSBURG, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-057-1321), FARMINGTON, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-938-3859), AUSTIN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-665-8183), LOUISVILLE, KENTUCKY, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-025-2520)</u>, BELLINGHAM, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-082-2625), PINEHURST, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-070-7861), LUBBOCK, TEXAS, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-852-2096)</u>, MONTGOMERY, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-9432), ISELIN, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2779), CONCORD, NEW HAMPSHIRE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-600-8658), WESTLAKE, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-982-9503), SLIDELL, LOUISIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8360), DOTHAN, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-356-9345), DEARBORN, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-900-8728), DAVENPORT, IOWA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-052-8487), FORT COLLINS, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-992-7167), RICHMOND, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-929-3609), OVERLAND PARK, KANSAS, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-525-7565), BURLINGTON, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-393-4205), COLUMBIA, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 85-978-2559), LUFKIN, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8369), WAYZATA, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-919-1036), KINGSPORT, TENNESSEE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-714-0343), HICKORY, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-269-5465), SAN JOSE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-523-4372), CORAL GABLES, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-211-7636), SARATOGA SPRINGS, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-007-4158), CLEARWATER, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-704-5805), BINGHAMTON, NEW YORK, USA
- (2) <u>MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-288-2478)</u>, FLORENCE, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 61-297-6147), NEWTON, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-029-7703), LAKE OSWEGO, OREGON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8368), GROSSE POINTE, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-598-3880), EUGENE, OREGON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-388-4139), FAYETTEVILLE, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-808-2794), INDIANAPOLIS, INDIANA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-8974), NEW CANAAN, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-415-6589), GREENSBORO, NORTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-313-5157), OLYMPIA, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 95-601-2975), MONTVALE, NEW JERSEY, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-714-0104), EDINA, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-523-4695), MIAMI, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 86-844-9505), COLUMBIA, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-804-9853), MANCHESTER, NEW HAMPSHIRE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-527-3839), GREAT NECK, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4283), LISLE, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-899-8259), LOS ANGELES, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 10-577-0148), ORLAND PARK, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3644), RANCHO SANTA FE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-420-4256), CHESTERFIELD, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-192-3020), FREEHOLD, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-469-2739), WESTLAKE VILLAGE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 00-425-4947), BIRMINGHAM, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-528-7387), NEWPORT BEACH, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-359-2501), DELRAY BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-467-8788), SPRINGFIELD, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-113-3712), TYLER, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-852-2138), NORFOLK, VIRGINIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-055-4210), NAPA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-8380), MOUNT PLEASANT, SOUTH CAROLINA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 08-033-7587), BUFFALO, NEW YORK, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0051), CHARLOTTE, NORTH CAROLINA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-505-5031), GREEN BAY, WISCONSIN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-539-1035), SAN JOSE, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 02-953-9416), HOUSTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-028-7951), PORTSMOUTH, NEW HAMPSHIRE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 01-984-1688), SAVANNAH, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-786-4838), LAKELAND, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-852-1833), BOISE, IDAHO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-204-6938), AUBURN HILLS, MICHIGAN, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-611-3235), CAMP HILL, PENNSYLVANIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-684-6995), SAN DIEGO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-561-0538), MIAMI, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-042-1504), SAINT SIMONS ISLAND, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-479-8578), SPOKANE, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-136-9168), CLEVELAND, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-038-7405), SCOTTSDALE, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-992-1030), MARBLE FALLS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-426-3807), TULSA, OKLAHOMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-974-5593), PLANTATION, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4273), SACRAMENTO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-627-4516), SAINT LOUIS, MISSOURI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-328-9233), HYANNIS, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-957-3035), JACKSONVILLE, FLORIDA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 82-804-6396), DALLAS, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-014-6745), ALPHARETTA, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-787-3548), COLUMBUS, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-774-8362), GADSDEN, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4287), EAST BRUNSWICK, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-598-7578), SUN CITY, ARIZONA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-739-5909), AUGUSTA, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 94-742-7670), ANNAPOLIS, MARYLAND, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-835-0170), MOBILE, ALABAMA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-739-6012), COLORADO SPRINGS, COLORADO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-197-5595), ORLANDO, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 09-324-6093), ONTARIO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3651), ROCKFORD, ILLINOIS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-286-4679), STOCKTON, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 78-088-7907), SAN DIEGO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 03-310-1423), CANFIELD, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-470-3141), MIAMISBURG, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-840-3131), BELLEVUE, WASHINGTON, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-750-0858), IDAHO FALLS, IDAHO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 18-490-4258), LAS CRUCES, NEW MEXICO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 05-539-9082), MINNEAPOLIS, MINNESOTA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 04-826-4233), ENCINO, CALIFORNIA, USA

- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 12-836-0195), VERO BEACH, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-884-9092), VISALIA, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-265-0128), FORT LEE, NEW JERSEY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 80-892-7201), DESTIN, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 84-906-3300), GALVESTON, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 07-829-9164), CAMBRIDGE, MASSACHUSETTS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 17-136-2049), MERIDIAN, MISSISSIPPI, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 19-786-4788), SARASOTA, FLORIDA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0043), LEXINGTON, KENTUCKY, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 96-080-8889), FINDLAY, OHIO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 15-685-4437), CONROE, TEXAS, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 85-976-9861), HOBBS, NEW MEXICO, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-687-3629), CHICO, CALIFORNIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-6075), MACON, GEORGIA, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 13-406-3841), WICHITA FALLS, TEXAS, USA
- (2) <u>FDS FINANCIAL DATA SERVICES LIMITED (DUNS: 89-694-2054)</u>, DUBLIN 18, IRELAND
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 06-544-4093), DOVER, DELAWARE, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-745-4276), GLASTONBURY, CONNECTICUT, USA
- (2) MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (DUNS: 11-925-0044), LAKE CHARLES, LOUISIANA, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 03-849-9236), FOLSOM, CALIFORNIA, USA
- (1) <u>BANQUE DE AMERIQUE SINGAPOUR LIMITED (DUNS: 22-125-7522)</u>, LONDON, LONDON, ENGLAND
- (1) <u>BANK OF AMERICA YATIRIM BANK ANONIM SIRKETI (DUNS: 64-394-8888)</u>, ISTANBUL (EUROPE), SISLI, TURKIYE

- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 03-527-8420)</u>, FULLERTON, CALIFORNIA, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 08-822-5231)</u>, MARLBOROUGH, MASSACHUSETTS, USA
- (1) CAPACITOR AND COMPONENTS, LLC (DUNS: 14-278-2387), SUNRISE, FLORIDA, USA
- (1) S.B. LYRIC, INC (DUNS: 80-003-2286), BOSTON, MASSACHUSETTS, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 92-717-9817)</u>, PALM SPRINGS, CALIFORNIA, USA
- (1) MNC CREDIT CORP (DUNS: 86-956-3932), CHARLOTTE, NORTH CAROLINA, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 06-818-4945), HOUSTON, TEXAS, USA
- (1) TERRIGAL LLC (DUNS: 78-935-6388), DALLAS, TEXAS, USA
- (1) <u>COLUMBIA MANAGEMENT ADVISORS</u>, <u>LLC (DUNS: 03-078-1488)</u>, PORTLAND, OREGON, USA
- (1) <u>NB HOLDINGS CORPORATION (DUNS: 36-155-2313)</u>, CHARLOTTE, NORTH CAROLINA, USA
 - (2) BOFA SECURITIES EUROPE SA (DUNS: 27-157-7601), PARIS, PARIS, FRANCE
 - (2) EDB CUSTODIAL SERVICES LIMITED (DUNS: 89-662-0387), DUBLIN 2, IRELAND
 - (2) <u>BOFA SECURITIES JAPAN CO., LTD. (DUNS: 69-173-0089)</u>, CHUO-KU, TOKYO, JAPAN
 - (3) MERRILL LYNCH JAPAN INCORPORATED (DUNS: 86-438-2940), GEORGE TOWN, GRAND CAYMAN, CAYMAN ISLANDS
 - (3) <u>BOFA SECURITIES JAPAN CO., LTD. (DUNS: 71-561-9412)</u>, OSAKA, OSAKA, JAPAN
 - (2) <u>BANK OF AMERICA GSS NOMINEES LIMITED (DUNS: 77-906-5650)</u>, LONDON, LONDON, ENGLAND
 - (2) <u>BAC STRATEGIC INVESTMENTS B.V. (DUNS: 48-912-2352)</u>, AMSTERDAM, NOORD-HOLLAND, NETHERLANDS
 - (2) MERRILL LYNCH UK HOLDINGS LIMITED (DUNS: 21-132-0272), LONDON, LONDON, ENGLAND
 - (2) <u>BOFAML JERSEY HOLDINGS LIMITED (DUNS: 22-265-2913)</u>, JERSEY, CHANNEL ISLANDS, ENGLAND
 - (3) <u>BOFAML EMEA HOLDINGS 2 LIMITED (DUNS: 22-265-5357)</u>, JERSEY, CHANNEL ISLANDS, ENGLAND
 - (4) <u>BOFAML INVESTMENTS (DUNS: 21-199-1435)</u>, LONDON, LONDON, ENGLAND
 - (5) <u>BOFAML INVESTMENTS (DUNS: 21-440-9893)</u>, LEEDS, WEST YORKSHIRE, ENGLAND
 - (5) <u>BOFAML INVESTMENTS (DUNS: 21-372-7006)</u>, NEWCASTLE-UPON-TYNE, TYNE AND WEAR, ENGLAND
 - (5) <u>BOFAML INVESTMENTS (DUNS: 23-215-2462)</u>, LONDON, LONDON, ENGLAND
 - (4) ML UK CAPITAL HOLDINGS LIMITED (DUNS: 73-712-5984), LONDON, LONDON, ENGLAND

- (5) MERRILL LYNCH INTERNATIONAL (DUNS: 75-602-8465), SYDNEY, NEW SOUTH WALES, AUSTRALIA
- (5) MERRILL LYNCH INTERNATIONAL (DUNS: 50-046-2064), LONDON, LONDON, ENGLAND
 - (6) MERRILL LYNCH INTERNATIONAL (DUNS: 21-646-3385), ISLE OF MAN, ISLE OF MAN, ENGLAND
 - (6) <u>N.Y. NOMINEES LIMITED (DUNS: 29-378-3858)</u>, LONDON, LONDON, ENGLAND
 - (6) MERRILL LYNCH, PIERCE, FENNER & SMITH LIMITED (DUNS: 22-726-0288), LONDON, LONDON, ENGLAND
 - (6) <u>CITYGATE NOMINEES LIMITED (DUNS: 39-749-1697)</u>, LONDON, LONDON, ENGLAND
 - (6) <u>CELTIC ROADS GROUP (WATERFORD) DESIGNATED ACTIVITY COMPANY (DUNS: 89-647-9818)</u>, WATERFORD, CO WATERFORD, IRELAND
 - (6) <u>BANK OF AMERICA UK RETIREMENT PLAN TRUSTEES LIMITED</u> (<u>DUNS: 89-673-5420</u>), LONDON, LONDON, ENGLAND
 - (6) LUMYNA FUNDS (DUNS: 40-075-4025), LUXEMBOURG, LUXEMBOURG
 - (6) MERRILL LYNCH NOMINEES LIMITED (DUNS: 29-532-7860), LONDON, LONDON, ENGLAND
 - (6) S. N. C. NOMINEES LIMITED (DUNS: 29-929-5295), LONDON, LONDON, ENGLAND
 - (6) <u>CHETWYND NOMINEES LIMITED (DUNS: 29-929-5220)</u>, LONDON, LONDON, ENGLAND
- (4) BANK OF AMERICA MERRILL LYNCH BANCO MULTIPLO S/A (DUNS: 89-994-1348), SAO PAULO, SAO PAULO, BRAZIL
 - (5) MERRILL LYNCH SA CORRETORA DE TITULOS E VALORES MOBILIARIOS (DUNS: 91-054-8267), SAO PAULO, SAO PAULO, BRAZIL
 - (5) <u>BANK OF AMERICA MERRILL LYNCH BANCO MULTIPLO S/A (DUNS: 90-305-9995)</u>, BARUERI, SAO PAULO, BRAZIL
 - (5) <u>BANK OF AMERICA MERRILL LYNCH BANCO MULTIPLO S/A (DUNS: 62-811-9282)</u>, SAO PAULO, SAO PAULO, BRAZIL
- (3) MLEIH FUNDING (DUNS: 21-100-9652), LONDON, LONDON, ENGLAND
 - (4) MERRILL LYNCH (UK) HEALTHCARE TRUSTEE LIMITED (DUNS: 34-946-0563), LONDON, LONDON, ENGLAND
 - (4) MERRILL LYNCH GILTS (NOMINEES) LIMITED (DUNS: 29-195-1879), LONDON, LONDON, ENGLAND
 - (4) <u>SNC FARRINGDON INTERNATIONAL (HOLDINGS) B.V. (DUNS: 41-276-1116)</u>, AMSTERDAM, NOORD-HOLLAND, NETHERLANDS
 - (4) MERRILL LYNCH (SINGAPORE) PTE. LTD. (DUNS: 59-528-3136), SINGAPORE, SINGAPORE
 - (4) GEM 21 SRL (DUNS: 43-180-0658), MILANO, MILANO, ITALY
 - (4) MERRILL LYNCH CORPORATE SERVICES LIMITED (DUNS: 73-669-7181), LONDON, LONDON, ENGLAND

- (3) MORTGAGES PLC (DUNS: 89-669-6259), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 7 LIMITED (DUNS: 73-414-8955), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 1 LIMITED (DUNS: 45-835-9130), SCARBOROUGH, NORTH YORKSHIRE, ENGLAND
 - (4) <u>WAVE LENDING LIMITED (DUNS: 37-894-2254)</u>, WILMSLOW, CHESHIRE, ENGLAND
 - (4) MORTGAGES 2 LIMITED (DUNS: 23-589-9759), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 4 LIMITED (DUNS: 23-117-4421), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 6 LIMITED (DUNS: 51-994-8405), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 5 LIMITED (DUNS: 51-994-8397), LONDON, LONDON, ENGLAND
 - (4) MORTGAGES 3 LIMITED (DUNS: 23-591-4707), LONDON, LONDON, ENGLAND
- (3) MERRILL LYNCH EQUITY S.A R.L. (DUNS: 37-020-4388), LUXEMBOURG, LUXEMBOURG
- (1) <u>CFC INTERNATIONAL MAURITIUS LIMITED (DUNS: 85-046-1165)</u>, PORT LOUIS, MAURITIUS
- (1) WESTBOROUGH, INC (DUNS: 80-003-2146), BOSTON, MASSACHUSETTS, USA
- (1) <u>EM COBRANZA, S. DE R.L. DE C.V. (DUNS: 81-664-1104)</u>, MEXICO, CIUDAD DE MEXICO, MEXICO
- (1) BANK OF AMERICA CORPORATION (DUNS: 07-854-9447), MIAMI, FLORIDA, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 10-246-8627), NEW YORK, NEW YORK, USA
- (1) BANC OF AMERICA CO-INVEST FUND 2001, L.P. (DUNS: 61-468-7320), CHICAGO, ILLINOIS, USA
- (1) <u>BANK OF AMERICA CAPITAL MANAGEMENT INC (DUNS: 01-475-9448)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) BALBOA INSURANCE SERVICES, INC. (DUNS: 10-387-6850), IRVINE, CALIFORNIA, USA
 - (2) <u>BALBOA INSURANCE SERVICES, INC (DUNS: 07-919-3305)</u>, ATLANTA, GEORGIA, USA
- (1) <u>BANC OF AMERICA BRIDGE LLC (DUNS: 79-011-0881)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA CALIFORNIA, NATIONAL ASSOCIATION (DUNS: 78-556-8846)</u>, SAN FRANCISCO, CALIFORNIA, USA
- (1) <u>BA 1998 PARTNERS MASTER FUND I, L.P. (DUNS: 78-556-4043)</u>, CHICAGO, ILLINOIS, USA
- (1) RAINIER MORTGAGE COMPANY (DUNS: 84-792-8504), SEATTLE, WASHINGTON, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 07-469-4784)</u>, LONE TREE, COLORADO, USA

- (1) BANK OF AMERICA CORPORATION (DUNS: 07-688-1928), FISHERS, INDIANA, USA
- (1) <u>BAL INVESTMENT & ADVISORY, INC. (DUNS: 11-846-0571)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 93-371-0456)</u>, BROOMALL, PENNSYLVANIA, USA
- (1) MERRILL LYNCH MEXICO, S.A. DE C.V. (DUNS: 81-629-3898), MEXICO, CIUDAD DE MEXICO, MEXICO
- (1) <u>SECURITY PACIFIC CAPITAL LEASING CORPORATION (DUNS: 07-998-2193)</u>, SAN FRANCISCO, CALIFORNIA, USA
- (1) MERRILL LYNCH PROFESSIONAL CLEARING CORP. (DUNS: 13-136-5116), JERSEY CITY, NEW JERSEY, USA
- (1) <u>BAC LB CAPITAL FUNDING LLC II (DUNS: 11-927-5588)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 11-932-4943)</u>, ROCHESTER, NEW YORK, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 06-999-1910)</u>, WESLEY CHAPEL, FLORIDA, USA
- (1) <u>FINANCIAL DATA SERVICES, INC. (DUNS: 78-680-0776)</u>, JACKSONVILLE, FLORIDA, USA
- (1) <u>BA CREDIT CARD FUNDING, LLC (DUNS: 01-407-5276)</u>, ONALASKA, WASHINGTON, USA
- (1) KMR MANAGEMENT INC (DUNS: 93-349-9899), NORRISTOWN, PENNSYLVANIA, USA
- (1) MERRILL LYNCH CANADA INC. (DUNS: 20-731-5169), TORONTO, ONTARIO, CANADA
 - (2) MERRILL LYNCH CANADA INC. (DUNS: 24-438-5634), ELLIOT LAKE, ONTARIO, CANADA
 - (2) MERRILL LYNCH CANADA INC. (DUNS: 25-315-8489), MONTREAL, QUEBEC, CANADA
 - (2) <u>MERRILL LYNCH CANADA INC. (DUNS: 25-188-6649)</u>, INVERMERE, BRITISH COLUMBIA, CANADA
 - (2) MERRILL LYNCH CANADA INC. (DUNS: 20-966-6747), CALGARY, ALBERTA, CANADA
 - (2) <u>MERRILL LYNCH CANADA INC. (DUNS: 25-181-8923)</u>, WINNIPEG, MANITOBA, CANADA
 - (2) MERRILL LYNCH CAPITAL SERVICES INC (DUNS: 95-328-6394), SANTIAGO, SANTIAGO, CHILE
 - (2) MERRILL LYNCH LATIN AMERICA PORTFOLIO FUND CHILE LIMITADA (DUNS: 95-401-2419), SANTIAGO, SANTIAGO, CHILE
 - (2) MERRILL LYNCH CANADA INC. (DUNS: 25-315-8729), ST CATHARINES, ONTARIO, CANADA
 - (2) MERRILL LYNCH CANADA INC. (DUNS: 24-438-5642), CHICOUTIMI, QUEBEC, CANADA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 08-479-5294)</u>, BOSTON, MASSACHUSETTS, USA

- (1) BANK OF AMERICA CORPORATION (DUNS: 09-336-7458), TUSTIN, CALIFORNIA, USA
- (1) S.B. HOLDINGS, L.L.C. (DUNS: 13-871-1077), ANDERSON, SOUTH CAROLINA, USA
- (1) RELAY FUNDING, LLC (DUNS: 19-105-4456), LAS VEGAS, NEVADA, USA
- (1) <u>COUNTRYWIDE WAREHOUSE LENDING (DUNS: 62-053-6131)</u>, CALABASAS, CALIFORNIA, USA
- (1) <u>PT. JARINGAN NAWALA INDONESIA (DUNS: 72-642-0693)</u>, KOTA ADMINISTRASI JAKARTA SELATAN, DKI JAKARTA, INDONESIA
- (1) REGENT STREET II, INC. (DUNS: 78-665-7085), CHARLOTTE, NORTH CAROLINA, USA
- (1) CFC CARRIERS PRIVATE LIMITED (DUNS: 85-828-5313), DELHI, DELHI, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-407-0723)</u>, GHAZIABAD, UTTAR PRADESH, INDIA
 - (2) CFC CARRIERS PRIVATE LIMITED (DUNS: 91-542-1507), NEW DELHI, DELHI, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-404-7520)</u>, GURUGRAM, HARYANA, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 93-015-8368)</u>, AMBALA, HARYANA, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-406-9472)</u>, CHANDIGARH, CHANDIGARH, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 86-436-8731)</u>, VADODARA, GUJARAT, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-402-5501)</u>, SAHARANPUR, UTTAR PRADESH, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-403-8757)</u>, BENGALURU, KARNATAKA, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 67-772-5738)</u>, NEW DELHI, DELHI, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 87-717-9848)</u>, CHENNAI, TAMIL NADU, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 87-718-0183)</u>, VADODARA, GUJARAT, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 86-943-2961)</u>, CHENNAI, TAMIL NADU, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 87-275-6344)</u>, JALNA, MAHARASHTRA, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 87-256-5423)</u>, MUMBAI, MAHARASHTRA, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 93-015-8181)</u>, HARIDWAR, UTTARAKHAND, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 93-020-2789)</u>, KANPUR, UTTAR PRADESH, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 93-015-8385)</u>, NEW DELHI, DELHI, INDIA
 - (2) <u>CFC CARRIERS PRIVATE LIMITED (DUNS: 85-417-0352)</u>, NAGPUR, MAHARASHTRA, INDIA
- (1) BANK OF AMERICA CORPORATION (DUNS: 00-274-1168), MACON, GEORGIA, USA

- (1) RIVERFRONT PARTNERS, LLC (DUNS: 61-864-1141), YANKTON, SOUTH DAKOTA, USA
- (1) <u>FLEET EQUITY PARTNERS VII LP (DUNS: 36-453-1918)</u>, PROVIDENCE, RHODE ISLAND, USA
- (1) MERRILL LYNCH LIFE AGENCY INC. (DUNS: 61-425-2369), PENNINGTON, NEW JERSEY, USA
 - (2) THE MCCONNELL GROUP (DUNS: 08-003-4588), BOSTON, MASSACHUSETTS, USA
- (1) BANK OF AMERICA EUROPE DESIGNATED ACTIVITY COMPANY INCORPORATED IN USA (DUNS: 64-005-6602), JOHANNESBURG, GAUTENG, SOUTH AFRICA
- (1) MERRILL LYNCH REINSURANCE SOLUTIONS LTD. (DUNS: 87-567-6421), HAMILTON, PEMBROKE, BERMUDA
- (1) JAWBRIDGE FINANCE INC (DUNS: 08-662-2532), DALLAS, TEXAS, USA
- (1) SCEPTRE MANAGEMENT SERVICES LLC (DUNS: 19-840-0603), DALLAS, TEXAS, USA
- (1) <u>BACK BAY CAPITAL FUNDING LLC (DUNS: 55-696-7391)</u>, BOSTON, MASSACHUSETTS, USA
- (1) <u>COLONIAL MANAGEMENT GROUP, LLC (DUNS: 15-779-2284)</u>, BOSTON, MASSACHUSETTS, USA
- (1) <u>BANC OF AMERICA CONSUMER CARD SERVICES</u>, <u>LLC (DUNS: 78-671-4399)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) TCF AM/F-2, LLC (DUNS: 07-829-6562), CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANC OF AMERICA COMMERCIAL MORTGAGE TRUST 2006-5 (DUNS: 80-029-9971)</u>, CHARLOTTE, NORTH CAROLINA, USA
- (1) <u>BANK OF AMERICA CORPORATION (DUNS: 04-420-5260)</u>, THOUSAND OAKS, CALIFORNIA, USA
- (1) JJC SPECIALIST CORP (DUNS: 19-570-8847), NEW YORK, NEW YORK, USA
- (1) BANK OF AMERICA MEXICO, S.A. (DUNS: 81-644-7494), MEXICO, CIUDAD DE MEXICO, MEXICO
- (1) M METROPO CORP (DUNS: 87-282-6417), CHARLOTTE, NORTH CAROLINA, USA
- (1) BANK OF AMERICA CORPORATION (DUNS: 10-762-9733), CORONA, NEW YORK, USA
- (1) U.S. TRUST COMPANY OF TEXAS N.A. (DUNS: 05-524-7431), DALLAS, TEXAS, USA
- (1) BABER INVESTMENT GROUP, INC. (DUNS: 00-422-5090), DRAPER, UTAH, USA
- MBNA CAPITAL E (DUNS: 18-539-1666), WILMINGTON, DELAWARE, USA
- BAYBANKS CREDIT CORP (DUNS: 80-181-0045), WESTWOOD, MASSACHUSETTS, USA
- (1) LIBERTY FUNDS GROUP, LLC (DUNS: 05-971-7066), BOSTON, MASSACHUSETTS, USA
- (1) MORTGAGE CORPORATION OF THE SOUTH (DUNS: 61-715-1147), BOSTON, MASSACHUSETTS, USA
- (1) <u>PROGRESS FINANCIAL CORPORATION (DUNS: 00-251-3752)</u>, BLUE BELL, PENNSYLVANIA, USA
- (1) RECONTRUST COMPANY, INC. (DUNS: 82-984-6836), THOUSAND OAKS, CALIFORNIA, USA
- (1) <u>FLEET REAL ESTATE CAPITAL INC (DUNS: 82-573-3785)</u>, BOSTON, MASSACHUSETTS, USA

- (1) <u>BANK OF AMERICA, NATIONAL ASSOCIATION (DUNS: 75-489-1927)</u>, SYDNEY, NEW SOUTH WALES, AUSTRALIA
- (1) NATWEST FINANCIAL MARKETS GROUP, F INC (DUNS: 80-762-3269), JERSEY CITY, NEW JERSEY, USA

Classification

Company:?NATIONAL COMMERCIAL BANK SAL; BANK OF AMERICA CORP; NATIONAL COMMERCIAL BANK OF ST VINCENT; NATIONAL COMMERCIAL BANK OF ALBANIA; NATIONAL COMMERCIAL BANK OF GRENADA LTD; NATIONAL COMMERCIAL BANK OF TRINIDAD & TOBAGO LTD; NATIONAL COMMERCIAL BANK OF ST LUCIA

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End of Document

Additional Company Reports

Additional Company Reports

Worldbase

D&B Financial Analysis Reports

At A GlanceBusiness Description57BanksD&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-ID(#FC002984#)Copyright 2024 Dun & Bradstreet LimitedOctober (Annual)138USDUSDASSETSDate 04. 2024 Corporate **FinancialsAssets** Accounts31/12/202231/12/202131/12/2020USDUSDUSDTangible Assets11.510.000.00010.833.000.00020.243.000.000Intangible Assets69,022,000,00069,022,000,00068,951,000,000Total Fixed Assets80.532,000,00079.855,000,00089,194,000,000Stocks---Debtors2,789,750,000,0002,489,652,000,0002,150,546,000,000Cash30,334,000,000348,221,000,00038 0,463,000,000Miscellaneous Current Assets150,759,000,000251,767,000,000199,424,000,000Other Assets181,093,000,000599,988,000,000579,887,000,000Total Current Assets2,970,843,000,0003,089,640,000,0002,730,433,000,000Fixed Assets11.510.000.00010.833.000.00011.000.000.000Intermediate Assets--9.243.000.000Due From Non Current---Due Group, Current---TOTAL ASSETS3,051,375,000,0003,169,495,000,0002,819,627,000,000D&B **Financial Analysis** Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00Copyright 2024 Dun & Bradstreet LimitedOctober 04. 2024 At A GlanceNet Income416NET INCOME27528000000USDUSD WorldbaseD&Bdmincd42324267XN-WB83-CGX8-010J-00000-00DOC-ID(#210020947#)Copyright 2024 Dun & Bradstreet, IncSeptember 13, 2024Net Sales414REVENUES117852000000USDUSDD&B Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-Financial Analysis ID(#FC002984#)Copyright 2024 Dun & Bradstreet LimitedOctober 04, 2024Total Assets412Total Assets3051375000000USDUSDD&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-ID(#FC002984#)Copyright 2024 Dun & Bradstreet LimitedOctober 04, Liabilities413Liabilities277817800000USDUSDD&B 2024Total Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-ID(#FC002984#)Copyright 2024 Dun Bradstreet LimitedOctober 04. 2024 Corporate **FinancialsLiabilities** (Annual)139USDUSDLIABILITIESDate Accounts31/12/202231/12/202131/12/2020USDUSDUSDUSDCreditors2,278,123,000,0002,418,893,000,000 2,101,970,000,000Bank Overdraft---Miscellaneous Current Liabilities224,073,000,000200,419,000,000181,799,000,000Bank Loans - Current Portion---Other Short Finance---Due To Group, Current---Due Directors. Current---Other Current Liabilities224,073,000,000200,419,000,000181,799,000,000Short Loans---Long Term Term Loans275,982,000,000280,117,000,000262,934,000,000Long Term Bank Loan275,982,000,000280,117,000,000262,934,000,000Other Long Term Finance---Due To Group, Non Current---Due Tο Directors. Non Current---Other Liabilities---Total Long Term Current Liabilities2,502,196,000,0002,619,312,000,0002,283,769,000,000Total Term Long Liabilities275,982,000,000280,117,000,000262,934,000,000TOTAL LIABILITIES2,778,178,000,0002,899,429,000,0002,546,703,000,000Called Up Share Capital and Reserves66,194,000,00082,002,000,000108,836,000,000Profit Sundry & Account Loss

Reserve207.003.000.000188.064.000.000164.088.000.000Revaluation Reserve---Shareholder Funds273,197,000,000270,066,000,000272,924,000,000Called Up Share Capital28,397,000,00087,106,000,00024,510,000,000Sundry Reserves (Including Grants)37.797.000.000-510400000084.326.000.000Contingent Liabilities---NET ASSETS549.179.000.000550.183.000.000535.858.000.000D&B **Financial** Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00Copyright 2024 Dun & Bradstreet LimitedOctober 04, 2024 Corporate FinancialsIncome Statement (Annual)140PROFIT AND LOSS **ACCOUNTDate** Accounts31/12/202231/12/202131/12/2020USDUSDUSDTotal of Sales117.852.000,00095.662.000.00094,491,000,000Cost of Sales000Gross Profit117,852,000,00095,662,000,00094,491,000,000Operating Profit30,969,000,00033,976,000,00018,995,000,000Export---Nontrading Income000Interest Payable---Pretax Profit30,969,000,00033,976,000,00018,995,000,000Taxation3,441,000,0001,998,000,0001,101,000,000 **Profit** Tax27,528,000,00031,978,000,00017,894,000,000Dividends After Payable 8.559,000,0007,996,000,0007,710,000,000 Retained Profits18,969,000,00023,982,000,00010,184,000,000Value Added30,969,000,00070,116,000,00018,995,000,000Capital Employed549,179,000,000550,183,000,000535,858,000,000Net Worth204.175.000.000201.044.000.000203.973.000.000Working Capital468,647,000,000470,328,000,000446,664,000,000Emp. Renumeration-36,140,000,000-Dir. Renumeration000Audit Fees---Non-audit Fees---Depreciation---Number of Employees171,057--D&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00Copyright 2024 Dun Bradstreet LimitedOctober 04, 2024 Corporate FinancialsCash Flow141Date Accounts31/12/202231/12/202131/12/2020USDUSDUSDNet Cashflow From Operating Activities-6327000000-719300000037,993,000,000Net Cashflow From Return On Investment And Servicing Of Finance-8576000000-8055000000-7727000000Net Cashflow **Before** Financing-17432000000-328539000000-147399000000Net From Financing-100586000000296,297.000.000366.302.000.000Increase In Cash-118018000000-32242000000218,903,000,000D&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00Copyright 2024 2024 Dun & Bradstreet LimitedOctober 04, At GlanceAuditors223PricewaterhouseCoopers LLPD&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-ID(#FC002984#)Copyright 2024 Dun & Bradstreet LimitedOctober 04, 2024 Corporate FinancialsRatio Analysis142Date of Accounts1/12/202231/12/202131/12/2020Pretax Profit / Capital Employed (%)5.646.183.54Pretax Profit / Assets (%)1.011.070.67Pretax Profit / Shareholders Funds (%)11.3412.586.96Pretax Profit / Sales (%)26.2835.5220.1Sales / Total Assets (%)3.863.023.35Sales / Fixed Assets (%)10.248.838.59Export / Sales (%)---Working Capital / Sales (%)397.66491.66472.71Sales / Stocks---Credit Period In Days Sales 3658,640.159,499.318,307.13Current (Trade Debtors Х Assets Current Liabilities1.191.181.2Quick Assets / Current Liabilities1.191.181.2Total Debt / Net (%)135.17139.33128.91Shareholders Funds / Total Assets0.090.090.1Long Term Debt / Net Worth (%)135.17139.33128.91Interest / Pre Interest Profit (%)---Current Liabilities / Stocks---Employee Remuneration / Number Of Employees (GBP)---Employee Remuneration / Sales (%)-37.78-Pretax Profit / Number Of Employees (GBP)181,044.9--Sales / Number Of Employees (GBP)688,963.3--Capital Employed / Number Of Employees3,210,503--Fixed Assets / Number Of Employees (GBP)67,287.51--Assets / Number Of Employees (GBP)17,838,352--Pretax Profit / Value (%)10048.46100Value Added / Sales (%)26.2873.320.1Value Added / Number Of Employees (GBP)181,044.9--Value Added / Employee Remuneration-1.94-Sales / Audit Fees---Total Assets / Audit Fees---Creditors / Debtors 0.820.970.98Total Debt / Working Capital 0.590.60.59Total Debt / Total Assets0.090.090.09D&B Financial Analysis Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00Copyright 2024 Dun & Bradstreet LimitedOctober 04, 2024 At A GlanceBoard of Directors21Mr. Thomas BanksKeithBanksPresident, Global Wealth & Investment BaMonica Cecilia LozanoMonicaLozanoPublisher & CeoMr. Bruce Lee HammondsBruceHammondsPresident, Global Card ServicesMs. Denise L. RamosDeniseRamosNoneBrian **Thomas** MovnihanBrianMovnihanBank

OfficerPierre De WeckPierreDe WeckNoneRobert David YostRobertYostNoneMr. Keith Thomas

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Additional Company Reports

BanksKeithBanksPresident, Global Wealth & Investment BaArnold Wayne DonaldArnoldDonaldPrincipal, Awdplc,llcDoctor Maria ZuberMariaZuberPROFESSORJose Eduardo AlmediaJoseAlmediaNoneMr. Michael D. WhiteMichaelWhiteSenior Operations ConsultantThomas Dunne WoodThomasWoodNoneMonica LozanoMonicaLozanoPublisher CeoLinda Cecilia & Parker HudsonLindaHudsonNoneMr. Bruce HammondsBruceHammondsPresident. Lee Global Card ServicesSharon Lee AllenSharonAllenNoneArnold Wayne DonaldArnoldDonaldPrincipal, Awdplc,llcMr. Michael WhiteMichaelWhiteSenior **Operations** D. ConsultantMs. Denise RamosDeniseRamosNonePierre De WeckPierreDe WeckNoneRobert David YostRobertYostNoneDoctor ZuberMariaZuberPROFESSORJose Eduardo AlmediaJoseAlmediaNoneThomas WoodThomasWoodNoneLinda Parker HudsonLindaHudsonNoneSharon Lee AllenSharonAllenNoneD&B Reportscompnyicclco15411359FK-SMW1-DXSN-N3SB-00000-00DOC-Financial Analysis ID(#FC002984#)Copyright 2024 Dun & Bradstreet LimitedOctober 04, 2024



Results for: Latest 8-K Filings (Form 8-K)# (10)

Company and Financial

1. BANK OF AMERICA NATIONAL ASSOCIATIONUSA

Sep 11, 1996

... Form **8-K**...

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BANK OF AMERICA NATIONAL ASSOCIATION USA; Form 8-K	2



BANK OF AMERICA NATIONAL ASSOCIATION USA; Form 8-K

September 11, 1996

Company Information

Address: PHOENIX, AR, 85034

CIK: 1012664, 1013109

SIC Code: 6189 - Asset-backed Securities

Filing Data

Report Period: July 19, 1996

SEC File Number: 333-04152, 333-04152-01

Accession Number: 0001013109-96-000001

Contents

Signatures

Exhibit Index

EX-1.1: STANDARD TERMS UNDERWRITING AGREEMENT

EX-4.1: POOLING AND SERVICING AGREEMENT

EX-4.2: SERIES 1996-1 SUPPLEMENT

Text

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

July 19, 1996

(Date of earliest event reported) BANK OF AMERICA NATIONAL ASSOCIATION

(Exact name of registrant as specified in its charter) 333-4152

. ______

(State or Other Jurisdiction (Commission

(I.R.S. Employer

of Incorporation)

File Number)

Identification Number)

1825 East Buckeye Road

Phoenix, Arizona

85034

(Address of Principal Executive Offices) (Zip Code)

(602) 497-3738

(Registrant's telephone number, including area code)

N/A

(Former Name or Former Address, if Changed Since Last Report) INFORMATION TO BE INCLUDED IN THE REPORT

Items 1-4. Not Applicable

On July 19, 1996 the BA Master Credit Card Trust issued its Class A Item 5. Series 1996-A Floating Rate Asset Backed Certificates and its Class B Series 1996-A Floating Rate Asset Backed Certificates.

Item 6. Not Applicable.

Item 7. Exhibits.

> The following are filed as Exhibits to this Report under Exhibits 1.1, 4.1 and 4.2.

Exhibit 1.1 Standard Terms Underwriting Agreement, dated as of July 12, 1996.

Exhibit 4.1 Pooling and Servicing Agreement, dated as of July 19, 1996.

Exhibit 4.2 Series 1996-A Supplement to the Pooling and Servicing Agreement dated as of July 19, 1996.

Return to Contents

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BANK OF AMERICA NATIONAL ASSOCIATION

Date: July 19, 1996

By: /s/ MARGARET A. SPRUDE

Name: Margaret A. Sprude Title: Senior Vice President

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INDEX TO EXHIBITS

Exhibit	
Number	Exhibit Description
1.1	Standard Terms Underwriting Agreement, dated as of July 12, 1996.
4.1	Pooling and Servicing Agreement, dated as of July 19, 1996.
4.2	Series 1996-A Supplement, dated as of July 19, 1996.

SEC EDGAR Filings, Combined

Full Document: Latest 8-K Filings (Form 8-K)# (10)

Company and Financial

BA Merchant Svcs(BankAmerica), Bank of America National Trust, Financial Acquiror

Apr 30, 2024

- ... Bank of America National Trust 555 California St San Francisco 94104 United States California National commercial banks ACQUIRER PARENT: Bank of America Corp ACQUIRER PARENT NATION CODE: US ACQUIRER PARENT SIC CODE: 6021 ACQUIRER PARENT BUSINESS...
- ...: National commercial banks NAME: **Bank of America National** Trust PUBLIC STATUS: Subsidiary ADDRESS: 555 California St, San Francisco, California, 94104, United States BUSINESS: National commercial banks SIC CODE: 6021 ULTIMATE PARENT: Bank of America Corp...
- ...: Completed TRANSACTION VALUE (mil): 339.4 RANK VALUE (mil): 339.4 MANAGEMENT PARTICIPATION: No EMPLOYEE PARTICIPATION: No EMPLOYEE STOCK OWNERSHIP: No INVESTOR GROUP: No INVESTOR NET CASH: (26.4) TRANSACTION SYNOPSIS: **Bank of America National** Trust & Savings...
- BA Merchant Svcs(BankAmerica), Bank of America National Trust

Apr 30, 2024

- ... **Bank of America National** Trust BA Merchant Svcs(BankAmerica) October 22, 1998 April 29, 1999 804596020 * * * * * * * * * ADVISORS/FEES * * * * * * * * * TOTAL FEES PAYABLE (mil): 3.0 US TOTAL FEES AS A % OF TRANS. VAL.: 0.9 FEES & EXPENSES: BA...
- 3. BA Merchant Svcs(BankAmerica), Bank of America National Trust

Apr 30, 2024

... **Bank of America National** Trust BUYER FINANCIALS: (mil., except as noted): DATE OF FINANCIALS: 10/22/1998 BA Merchant Svcs(BankAmerica) USD 0.82 USD 354,300,000 USD 180,700,000 USD 39,700,000 TARGET FINANCIALS (All values are in U.S. Dollar; exchange...

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BA Merchant Svcs(BankAmerica); Securities Data Company Worldwide Mergers &	
Acquisitions - Comprehensive Transaction Report2	



BA Merchant Svcs(BankAmerica); Securities Data Company Worldwide **Mergers & Acquisitions - Comprehensive Transaction Report**

Target: BA Merchant Svcs(BankAmerica) Buyer: Bank of America National Trust

Last Update: April 30, 2024

Announce Date: October 22, 1998 Effective Date: April 29, 1999

Deal Number: 804596020

Transaction Summary

(All values are in U.S. Dollar; exchange rate per US dollar: 1.000000)

ACQUISITION TECHNIQUE: Financial Acquiror

ATTITUDE: Friendly

DEFENSIVE TACTICS: Not Applicable FORM: Acq. Rem. Int. STATUS: Completed TRANSACTION VALUE (mil): 339.4 RANK VALUE (mil): 339.4 MANAGEMENT PARTICIPATION: No **EMPLOYEE PARTICIPATION:** No **EMPLOYEE STOCK OWNERSHIP:**

INVESTOR GROUP: No **INVESTOR NET CASH:** (26.4)

TRANSACTION SYNOPSIS: Bank of America National Trust & Savings Association (BA),

No

a unit of BankAmerica, acquired the remaining 32.8% interest, or 16267042 Class A common shares, which it did not already own, in BA Merchant Services Inc (BAM) for an amended \$20.50 mil in cash per share, or a total value of \$339.426 mil. Originally, BAC planned to acquire BAM for

\$15.50 per share.

ENTERPRISE VALUE (mil): 913.653 20.50 SHARE PRICE: ENT. VALUE BASED ON EFFECTIVE DATE (mil): 913.653 ENT. VALUE/TOTAL CASH FLOW: 12.103 ENT. VALUE /TOTAL OPERATING INCOME: 15.333 ENT. VALUE /NET INCOME: 23.043 ENT. VALUE /TOTAL NET SALES: 5.056

ENT. VALUE /NET ASSETS: 2.850

Full Document: Mergers# (10)

Target Details

TARGET PARENT: Bank of America Corp

TARGET PARENT NATION CODE: US

TARGET PARENT BUSINESS: National commercial banks

TARGET PARENT SIC CODE: 6021

NAME: BA Merchant Svcs(BankAmerica)

TICKER: BPI PUBLIC STATUS: Public

ADDRESS: One South Van Ness Ave, San Fransisco, California, 94103,

United States

BUSINESS: Data processing services

SIC CODE: 7374

ULTIMATE PARENT: Bank of America Corp

ULTIMATE PARENT NATION CODE: US

ULTIMATE PARENT BUSINESS: National commercial banks

ULTIMATE PARENT SIC CODE: 6021

Buyer Details

ACQUIRER PARENT: Bank of America Corp

ACQUIRER PARENT NATION CODE: US
ACQUIRER PARENT SIC CODE: 6021

ACQUIRER PARENT BUSINESS: National commercial banks

NAME: Bank of America National Trust

PUBLIC STATUS: Subsidiary

ADDRESS: 555 California St, San Francisco, California, 94104, United

States

BUSINESS: National commercial banks

SIC CODE: 6021

ULTIMATE PARENT: Bank of America Corp

ULTIMATE PARENT NATION CODE: US

ULTIMATE PARENT BUSINESS: National commercial banks

ULTIMATE PARENT SIC CODE: 6021

Securities Data Company Worldwide Mergers & Acquisitions - Comprehensive Transaction Report

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BA Merchant Svcs(BankAmerica); Securities Data Company Worldwide Mergers &
Acquisitions - Comprehensive Advisors/Fees and Legal Counsel Report2



BA Merchant Svcs(BankAmerica); Securities Data Company Worldwide Mergers & Acquisitions - Comprehensive Advisors/Fees and Legal Counsel Report

Target: BA Merchant Svcs(BankAmerica) **Buyer:** Bank of America National Trust

Last Update: April 30, 2024

Announce Date: October 22, 1998 Effective Date: April 29, 1999

Deal Number: 804596020

Transaction Summary

* * * * * * * * * * ADVISORS/FEES * * * * * * * * *

TOTAL FEES PAYABLE (mil): 3.0 US
TOTAL FEES AS A % OF TRANS. VAL.: 0.9

FEES & EXPENSES:

BA Merchant Services paid Credit Suisse First Boston a

retainer fee of \$150000 and a fairness opinion fee equal to 0.8% of the aggregate consideration paid for the class A

common shares not owned.

TARGET

TOTAL FEES AS % OF TRANS. VAL.: 0.873
TOTAL FEES PAID ON COMPLETION (mil): 3.0

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BA Merchant Svcs(BankAmerica); Securities Data Company Worldwide Mergers & Acquisitions - Complete Financials/Multiples Report

Target: BA Merchant Svcs(BankAmerica) **Buyer:** Bank of America National Trust

Last Update: April 30, 2024

Announce Date: October 22, 1998 Effective Date: April 29, 1999

Deal Number: 804596020

Target Details

TARGET FINANCIALS

(All values are in U.S. Dollar; exchange rate per US dollar: 1.000000)

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|---|--|---|--|--|--|--|--|--|
| Latest 12 | Fiscal YTD 3 | Prior Fiscal YTD | | | | | | |
| Months. | Quarters | 3 Quarters | | | | | | |
| 09/30/1998 | 09/30/1998 | 09/30/1997 | | | | | | |
| 180.7 | 135.8 | 116.0 | | | | | | |
| 59.6 | 40.0 | 43.9 | | | | | | |
| 67.0 | 49.3 | 45.8 | | | | | | |
| 39.7 | 29.1 | 26.9 | | | | | | |
| 0.82 | 0.6 | 0.55 | | | | | | |
| 75.5 | 56.6 | 48.2 | | | | | | |
| 8.2 | 8.2 | - | | | | | | |
| 354.3 | 354.3 | - | | | | | | |
| 320.6 | - | - | | | | | | |
| 320.6 | - | 320.6 | | | | | | |
| 11.19 | 8.2 | - | | | | | | |
| 12.369 | 9.1 | - | | | | | | |
| 21.6 | - | - | | | | | | |
| 10.4 | - | - | | | | | | |
| 6.6 | - | - | | | | | | |
| | Latest 12 Months. 09/30/1998 180.7 59.6 67.0 39.7 0.82 75.5 8.2 354.3 320.6 320.6 11.19 12.369 21.6 10.4 | Latest 12 Fiscal YTD 3 Months. Quarters 09/30/1998 09/30/1998 180.7 135.8 59.6 40.0 67.0 49.3 39.7 29.1 0.82 0.6 75.5 56.6 8.2 8.2 354.3 354.3 320.6 - 11.19 8.2 12.369 9.1 21.6 - 10.4 - | | | | | | |

Latest 5 Fiscal Year

| Period ending:(mil., | 12/31/1997 | 12/31/1996 | 12/31/1995 | 12/31/1994 | 12/31/1993 |
|----------------------|------------|------------|------------|------------|------------|
| except as noted) | | | | | |
| NET SALES: | 161.0 | 126.2 | - | - | - |
| OPERATING INCOME: | 55.7 | 44.9 | - | - | - |
| PRE-TAX INCOME: | 63.4 | 42.0 | - | - | - |
| NET INCOME: | 37.4 | 24.7 | - | - | - |

Full Document : Mergers# (10)

| EARNINGS PER
SHARE: | 0.77 | - | - | - | - |
|-------------------------|-------|-------|------|------|------|
| CASH FLOW
(EBITDA): | 67.1 | 54.6 | - | - | - |
| INTANGIBLE ASSETS: | 17.7 | - | - | - | - |
| TOTAL ASSETS: | 332.1 | 286.7 | - | - | - |
| SHAREHOLDERS
EQUITY: | 291.3 | 252.1 | - | - | - |
| NET ASSETS: | 291.3 | 252.1 | - | - | - |
| RETURN ON ASSETS (%): | 11.27 | 8.60 | - | - | - |
| RETURN ON EQUITY (%): | 12.85 | 9.78 | - | - | - |
| SHARE PRICE HIGH: | 21.6 | 21.8 | 21.8 | 21.8 | 21.8 |
| SHARE PRICE LOW: | 10.4 | 10.4 | 10.4 | 10.4 | 10.4 |

5 Year An. Gwt. (%)

3 Year An. Gwt. (%)

Period ending(mil., except as

12/31/1997

12/31/1997

noted):

TARGET FINANCIAL CALCULATIONS AND RATIOS

(mil., except as noted):

OFFER PRICE PER SHARE: 20.50 OFFER PRICE/BOOK VALUE: 3.1 OFFER PRICE/EPS: 25.0 STOCK PRICE (4 Weeks Prior): 14.43 STOCK PRICE/EPS (4 Weeks Prior): 17.598 **EQUITY VALUE:** 1,003.626 **EQUITY VALUE/COMMON EQUITY:** 3.131 **EQUITY VALUE/NET INCOME:** 25.312 SHAREHOLDER EQUITY/TOTAL ASSETS: 90.48 TOTAL LIABILITY/TOTAL ASSETS: 0.1 **ENTERPRISE VALUE:** 913.653 ENT. VALUE BASED ON EFFECTIVE DATE: 913.653 ENT. VALUE/TOTAL CASH FLOW: 12.103 ENT. VALUE/TOTAL OPERATING INCOME: 15.333 ENT. VALUE/NET INCOME: 23.043 ENT. VALUE/TOTAL NET SALES: 5.056 ENT. VALUE/NET ASSETS: 2.850

Buyer Details

BUYER FINANCIALS:

(mil., except as noted):

DATE OF FINANCIALS: 10/22/1998

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Results for: Legal - Recent United States Cases# (10)

Cases

1. Lee v. U.S. Bank N.A., 2024 U.S. LEXIS 3908

Supreme Court of the United States | Oct 07, 2024 | 2024 U.S. LEXIS 3908

... Yuri Imuta, Petitioner v. U.S. Bank National Association , Successor Trustee to **Bank of America** , **National Association**, Successor in Interest to Lasalle Bank National Association . Lee v. U.S. Bank N.A....

2. Carte v. Bank of Am., N.A., 2024-Ohio-4736

Court of Appeals of Ohio, Ninth Appellate District, Lorain County | Sep 30, 2024 | 2024-Ohio-4736

- ... HEATHER CARTE, Appellant v. **BANK OF AMERICA, NATIONAL ASSOCIATION**, Appellee Carte v. Bank of Am., N.A....
- ... initiated in March 2009. That same month, the note and mortgage were assigned to **Bank of America**, **National** Association . Thereafter, Bank of America moved to dismiss the foreclosure case without prejudice. Carte has remained in possession of the property...

3. A Kyoungmi Oh v. Bank of Am., N.A., 2024 N.Y. App. Div. LEXIS 4733

Supreme Court of New York, Appellate Division, Second Department | Sep 25, 2024 | 2024 N.Y. App. Div. LEXIS 4733

- ... Kyoungmi Oh, appellant, v **Bank of America, National Association**, etc., respondent, et al., defendant. Kyoungmi Oh v. Bank of Am., N.A....
- ... record the consolidated mortgage and for related declaratory relief. The defendant **Bank of America**, **National** Association (hereinafter the defendant), moved pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against it, contending, inter...

4. Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19, 2024 U.S. Dist. LEXIS 171615

United States District Court for the Eastern District of Texas, Sherman Division | Sep 23, 2024 | 2024 U.S. Dist. LEXIS 171615

... SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO **BANK OF AMERICA NATIONAL ASSOCIATION**, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE, et al., Defendants. Rodriguez v. Lehman XS Trust...

5. A In re Bank of Am. Cal. Unemployment Bens. Litig., 2024 U.S. Dist. LEXIS 167637

United States District Court for the Southern District of California | Sep 17, 2024 | 2024 U.S. Dist. LEXIS 167637

6. Woo Yong Kong v. Am. Express Co., 2024 U.S. Dist. LEXIS 166505

United States District Court for the Central District of California | Sep 16, 2024 | 2024 U.S. Dist. LEXIS 166505

... WOO YONG KONG, Plaintiff, v. AMERICAN EXPRESS COMPANY; **BANK OF AMERICA, NATIONAL ASSOCIATION**; JPMORGAN CHASE BANK, NATIONAL ASSOCIATION; TD BANK, NATIONAL ASSOCIATION; WELLS FARGO BANK, NATIONAL ASSOCIATION; EXPERIAN INFORMATION...

7. U.S. Bank N.A. v. Rodney, 2024 N.Y. Misc. LEXIS 6660

Supreme Court of New York, Kings County | Sep 06, 2024 | 2024 N.Y. Misc. LEXIS 6660

... U.S. BANK NATIONAL ASSOCIATION , AS TRUSTEE SUCCESSOR IN INTEREST TO **BANK OF AMERICA NATIONAL ASSOCIATION** , AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE NATIONAL ASSOCIATION , AS TRUSTEE FOR LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES...

..., plaintiff U.S. Bank National Association, as Trustee Successor in Interest to **Bank of America**National Association, as Trustee, Successor by merger to Lasalle National Association, as Trustee for Lehman XS Trust Mortgage Pass-Through Certificates...

8. Vanesyan v. Aperian, 2024 Cal. App. Unpub. LEXIS 5606

Court of Appeal of California, Second Appellate District, Division Five | Sep 06, 2024 | 2024 Cal. App. Unpub. LEXIS 5606

... will not be granted except upon a showing of good cause for the delay"]; Russi v. **Bank of America National** Trust & Savings Assn. (1945) 69 Cal.App.2d 100, 102, 158 P.2d 252 ["Even where the matter sought to be added is proper, or the proposed correction...

Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19, 2024 U.S. Dist. LEXIS 172846

United States District Court for the Eastern District of Texas, Sherman Division | Sep 04, 2024 | 2024 U.S. Dist. LEXIS 172846

... SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO **BANK OF AMERICA NATIONAL ASSOCIATION**, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE, et al., Defendants. Rodriguez v. Lehman XS Trust...

... Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to **Bank of America National** Association, as Trustee, Successor by Merger to LaSalle Bank National Association, as Trustee (" U.S. Bank ") and Nationstar Mortgage, LLC d/b/...

10. Breyer v. Bank of Am., N.A., 2024 U.S. Dist. LEXIS 149703

United States District Court for the Southern District of Florida | Aug 21, 2024 | 2024 U.S. Dist. LEXIS 149703

... JAY BREYER, et al., Plaintiffs, v. **BANK OF AMERICA, NATIONAL ASSOCIATION**, Defendant. Breyer v. Bank of Am., N.A....

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| Lee v. U.S. Bank N.A. | 2 |
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Lee v. U.S. Bank N.A.

Supreme Court of the United States
October 7, 2024, Decided
No. 23-7589.

Reporter

2024 U.S. LEXIS 3908 *

Yuri I. Lee, aka Yuri Imuta, Petitioner v. U.S. Bank National Association, Successor Trustee to Bank of America, National Association, Successor in Interest to Lasalle Bank National Association.

Judges: [*1] Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, Barrett, Jackson.

Opinion

Petition for writ of certiorari to the Appellate Division, Superior Court of California, County of Los Angeles denied.

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| Carte v. Bank of Am., I | N.A | |
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Carte v. Bank of Am., N.A.

Court of Appeals of Ohio, Ninth Appellate District, Lorain County
September 30, 2024, Decided
C.A. No. 23CA012050

Reporter

2024-Ohio-4736 *; 2024 Ohio App. LEXIS 3506 **

HEATHER CARTE, Appellant v. BANK OF AMERICA, NATIONAL ASSOCIATION, Appellee

Prior History: [1]** APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF LORAIN, OHIO. CASE No. 22CV206692.

Disposition: Judgment affirmed.

Core Terms

mortgage, trial court, summary judgment motion, maturity date, summary judgment, ejectment action, assigned error, foreclosure, expired, foreclosure action, quiet title action, canceled, pursuing, statute of limitations, time-barred, forfeited, argues, notice

LexisNexis® Headnotes

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Appropriateness

Civil Procedure > ... > Summary Judgment > Appellate Review > Standards of Review

Civil Procedure > Judgments > Summary Judgment > Entitlement as Matter of Law

Civil Procedure > Judgments > Summary Judgment > Burdens of Proof

Civil Procedure > Appeals > Standards of Review > De Novo Review

HN1[♣] Entitlement as Matter of Law, Appropriateness

The appellate court reviews an award of summary judgment de novo and applies the same standard as the trial court, viewing the facts in the case in the light most favorable to the non-moving party and resolving any doubt in favor of the non-moving party.

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Appropriateness

Civil Procedure > Judgments > Summary Judgment > Entitlement as Matter of Law

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Genuine Disputes

Civil Procedure > Judgments > Summary Judgment > Burdens of Proof

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Legal Entitlement

HN2[1] Entitlement as Matter of Law, Appropriateness

Pursuant to Civ.R. 56(C), summary judgment is proper if: (1) No genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party.

Civil Procedure > ... > Summary Judgment > Opposing Materials > Accompanying Documentation

Civil Procedure > Judgments > Summary Judgment > Burdens of Proof

Civil Procedure > ... > Summary Judgment > Burdens of Proof > Movant Persuasion & Proof

Civil Procedure > ... > Summary Judgment > Burdens of Proof > Nonmovant Persuasion & Proof

Civil Procedure > ... > Summary Judgment > Entitlement as Matter of Law > Genuine Disputes

HN3[♣] Opposing Materials, Accompanying Documentation

The party moving for summary judgment bears the initial burden of informing the trial court of the basis for the motion and pointing to parts of the record that show the absence of a genuine issue of material fact. Specifically, the moving party must support the motion by pointing to some evidence in the record of the type listed in Civ.R. 56(C). Once a moving party satisfies its burden of supporting its motion for summary judgment with acceptable evidence pursuant to Civ.R. 56(C), Civ.R. 56(E) provides that the non-moving party may not rest upon the mere allegations or denials of the moving party's pleadings. Rather, the non-moving party has a reciprocal burden of responding by setting forth specific facts, demonstrating that a genuine triable issue exists to be litigated at trial.

Governments > Legislation > Statute of Limitations > Time Limitations

Real Property Law > Priorities & Recording > Elements > Bona Fide Purchasers

Real Property Law > Financing > Mortgages & Other Security Instruments > Mortgagee's Interests

Real Property Law > Financing > Mortgages & Other Security Instruments > Definitions & Interpretation

HN4[♣] Statute of Limitations, Time Limitations

In the context of a case concerning a refiled mortgage, R.C. 5301.30 does not concern a statute of limitations, but rather the expiration of a mortgage lien and what constitutes notice to a mortgage of an extension or renewal of that mortgage by the mortgage creditor. It also deals with the priority of the mortgage creditor as to subsequent bona fide purchasers and mortgagees if the lien is not timely extended or renewed.

Civil Procedure > Appeals > Standards of Review > Reversible Errors

Evidence > Burdens of Proof > Allocation

HN5[♣] Standards of Review, Reversible Errors

In order to demonstrate reversible error on appeal, an appellant has the burden to demonstrate error as well as prejudice resulting from that error.

Counsel: MARC E. DANN and ANDREW M. ENGEL, Attorneys at Law, for Appellant.

NATHAN H. BLASKE and CYNTHIA M. FISCHER, Attorneys at Law, for Appellee.

Judges: CARR, Judge. SUTTON, P. J., FLAGG LANZINGER, J. CONCUR.

Opinion by: DONNA J. CARR

Opinion

DECISION AND JOURNAL ENTRY

CARR, Judge.

[*P1] Appellant, Heather Carte, appeals the judgment of the Lorain County Court of Common Pleas. This Court affirms.

I.

[*P2] In 2004, Carte purchased a residential property located on West 30th Street in Lorain, Ohio. The property was secured by a note and mortgage that Carte executed in favor of the original lender, SouthStar Funding, LLC. The maturity date listed in the note was February 1, 2036. Carte ultimately defaulted on the note and foreclosure proceedings were initiated in March 2009. That same month, the note and mortgage were assigned to Bank of America, National Association. Thereafter, Bank of America moved to dismiss the foreclosure case without prejudice. Carte has remained in possession of the property in the years that followed.

[*P3] On August 10, 2022, Carte filed a quiet title action against Bank of America seeking to clarify [**2] the Bank's interest in the property. Specifically, Carte sought a declaration that any interest of Bank of America in the property was extinguished, forfeited, and void. Bank of America filed an answer generally denying the allegations in the complaint and setting forth a number of affirmative defenses.

[*P4] Carte filed a motion for summary judgment. Bank of America filed its own motion for summary judgment. The trial court allowed the parties to fully brief the competing motions. On September 20,

2023, the trial court issued a journal entry granting Bank of America's motion for summary judgment and denying Carte's motion for summary judgment. In entering judgment in favor of Bank of America, the trial court stated that the mortgage remained valid and that there was no legal basis from which to declare the mortgage extinguished, forfeited, and void.

[*P5] On appeal, Carte raises two assignments of error.

ASSIGNMENT OF ERROR I

THE TRIAL COURT ERRED IN DENYING SUMMARY JUDGMENT IN FAVOR OF APPELLANT.

ASSIGNMENT OF ERROR II

THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT IN FAVOR OF APPELLEE.

[*P6] Carte raises two assignments of error wherein she argues that the trial court erred both in denying her [**3] motion for summary judgment and granting the Bank's motion for summary judgment. This Court disagrees with both propositions.

[*P7] HN1[*] This Court reviews an award of summary judgment de novo. <u>Grafton v. Ohio Edison Co.</u>, 77 Ohio St.3d 102, 105, 1996- Ohio 336, 671 N.E.2d 241 (1996). This Court applies the same standard as the trial court, viewing the facts in the case in the light most favorable to the non-moving party and resolving any doubt in favor of the non-moving party. <u>Viock v. Stowe-Woodward Co.</u>, 13 Ohio App.3d 7, 12, 13 Ohio B. 8, 467 N.E.2d 1378 (6th Dist.1983).

[*P8] HN2[1] Pursuant to Civ.R. 56(C), summary judgment is proper if:

(1) No genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party.

Temple v. Wean United, Inc., 50 Ohio St.2d 317, 327, 364 N.E.2d 267 (1977).

[*P9] HN3 The party moving for summary judgment bears the initial burden of informing the trial court of the basis for the motion and pointing to parts of the record that show the absence of a genuine issue of material fact. <u>Dresher v. Burt, 75 Ohio St.3d 280, 292-293, 1996- Ohio 107, 662 N.E.2d 264 (1996)</u>. Specifically, the moving party must support the motion by pointing to some evidence in the record of the type listed in Civ.R. 56(C). *Id.* Once a moving party satisfies its burden of [**4] supporting its motion for summary judgment with acceptable evidence pursuant to Civ.R. 56(C), Civ.R. 56(E) provides that the non-moving party may not rest upon the mere allegations or denials of the moving party's pleadings. <u>Id. at 293</u>. Rather, the non-moving party has a reciprocal burden of responding by setting forth specific facts, demonstrating that a "genuine triable issue" exists to be litigated at trial. <u>State ex rel.</u> <u>Zimmerman v. Tompkins, 75 Ohio St.3d 447, 449, 1996- Ohio 211, 663 N.E.2d 639 (1996)</u>.

Background

[*P10] The material facts in this matter are not in dispute. On December 29, 2005, Carte executed a note and mortgage in favor of SouthStar that was secured by the subject West 30th Street property in Lorain. The note had an original balance of \$80,000 and a maturity date of February 1, 2036. Shortly thereafter, a loan modification agreement went into effect but the maturity date of the loan went unchanged. The last payment that Carte made on the loan was on October 29, 2008. In light of Carte's default, Bank of America initiated foreclosure proceedings on March 6, 2009. The mortgage was assigned to Bank of America on March 10, 2009. The foreclosure proceedings were dismissed on Bank of America's motion on July 9, 2009. Bank of America did not pursue a subsequent foreclosure action and Carte has remained [**5] in possession of the property. Carte filed the instant quiet title action, arguing Bank of America's failure to release the mortgage clouded title on the property.

[*P11] In her motion for summary judgment, Carte argued that Bank of America was barred from enforcing its rights under the note and mortgage because of the amount of time that had elapsed since Carte's default. In addition to arguing that Bank of America was time-barred from pursuing either a personal judgment on the note or an action in foreclosure, Carte also argued that Bank of America was precluded from pursuing an ejectment action because it failed to assert an ejectment claim in responding to the complaint in this case.

[*P12] Bank of America filed its own motion for summary judgment. In addition to asserting that a quiet title action could not be used to defeat a consensual mortgage, Bank of America argued that the mortgage remained valid because a mortgage exists as a lien on real property for 21 years after its maturity date under R.C. 5301.30.

[*P13] In its September 20, 2023 order ruling on the competing motions for summary judgment, the trial court cited extensively to this Court's decision in <u>Hardesty v. Waugh Real Estate Holdings, LLC</u>, 9th <u>Dist. Summit No. 30184, 2022-Ohio-4270</u>. In <u>Hardesty</u>, this Court affirmed the dismissal [**6] of a declaratory judgment action pursuant to Civ.R. 12(B)(6) on the basis that a mortgage holder did not forfeit its interest in the subject property where the plaintiff had not alleged that the terms of the mortgage had been satisfied and the maturity date on the mortgage had not yet come to pass. <u>Id.</u> at ¶ 13.1

[*P14] In denying Carte's motion for summary judgment, the trial court stressed that Carte had not satisfied the terms of the mortgage in this case and that the maturity date on the mortgage was not until 2036. The trial court concluded that "[a]s no mortgage cancelling event has occurred, the mortgage on the subject property remains valid." The trial court further cited *Hardesty* for the proposition that "the running of a statute of limitations does not discharge a debt but instead limits the remedies available." *Id.* at ¶ 14. In regard to this case, the trial court determined that "[r]egardless of whether a statute of limitations has expired[], the underlying mortgage is still valid, although the available remedies may be reduced."

[*P15] In granting Bank of America's motion for summary judgment, the trial court observed that, similar to the circumstances in *Hardesty*, this matter involved a consensual mortgage and that, [**7] absent satisfaction of the terms of the mortgage, Carte could not cancel a valid mortgage prior to the maturity date. Specifically, the trial court concluded that Carte had enjoyed the benefits gained from the note and mortgage and that she could not use a quiet title action to eliminate the lien that she voluntarily imposed on the property. The trial court further found Bank of America's argument pertaining to R.C. 5301.30 to

¹ Notably, given that *Hardesty* involved the dismissal of a declaratory judgment action pursuant to **Civ.R. 12(B)(6)**, this Court's affirmance of the trial court's judgment was predicated on the conclusion that "the trial court did not err in dismissing the complaint given that there was not a justiciable controversy before the court." *Hardesty* at ¶ 13.

be well taken and concluded that a mortgage remains a lien on the property for a period of 21 years after maturity. Finally, the trial court stated that while Bank of America may or may not have an avenue to enforce its rights by way of an ejectment action prior to the maturity date of the mortgage in 2036, it was premature to address the viability of such a claim because Bank of America had not yet pursued an ejectment action.

Discussion

[*P16] Carte raises two assignments of error wherein she challenges the trial court's denial of her motion for summary judgment as well as the trial court's granting of Bank of America's motion for summary judgment. Carte attempts to frame the instant appeal in the context of an ongoing public policy dilemma where residential properties are left [**8] "in limbo" when mortgage holders, upon default, fail to assert their rights prior to the expiration of the relevant statutes of limitation. Carte raises four separate legal arguments in support of her position that the trial court's judgment should be reversed. This Court will address these arguments in the order that they are presented in Carte's merit brief.

[*P17] First, Carte argues that the trial court erred in relying on this Court's decision in *Hardesty* because, although the underlying facts in *Hardesty* are similar, the plaintiff in that case argued that the mortgage holder had forfeited its interest and did not raise an argument pursuant to the statute of limitations. Carte instead points to the Supreme Court's decision in *Hopkins v. Clyde*, 71 Ohio St. 141, 72 N.E. 846, 2 Ohio L. Rep. 342 (1904), and *Eastwood v. Capel*, 164 Ohio St. 506, 132 N.E.2d 202 (1956), in support of the proposition that a mortgagor may utilize a quiet title action to extinguish a mortgage holder's interest in an unreleased, time-barred mortgage.

[*P18] Carte's arguments with respect to our decision in *Hardesty* are not well taken. Although the trial court acknowledged certain procedural differences in *Hardesty*, it relied on *Hardesty* for the general proposition that a mortgage could not be deemed canceled in a quiet title action when no mortgage [**9] canceling event has occurred. As such, the trial court did not err in likening the facts of this case to Hardesty to the extent that "[p]laintiff has not alleged that she satisfied the payments required under the mortgage or that the maturity date of the mortgage expired."

[*P19] Furthermore, Carte's reliance on Hopkins and Eastwood is misplaced. The issue before the high court in Hopkins was whether a party who had acquired his interest in the subject property from an heir of the original mortgagor/promisor could assert a statute of limitations defense in a foreclosure action and file a cross-petition on the same basis in order to quiet title on the property. Hopkins, 71 Ohio St. at 145-146. In Eastwood, the high court addressed the applicability of various statutes of limitation in the context of an ejectment action that was filed 26 years after the maturity date of the note and nearly 21 years after the last credit payment on the note was made. Eastwood, 164 Ohio St. at 507-508. Accordingly, neither Hopkins nor Eastwood is analogous to the instant case, where Carte sought a declaration canceling Bank of America's interest in the subject property where the maturity date on the note had not yet elapsed and the terms of the note had not been satisfied.

[*P20] Carte's second argument is that the trial court [**10] erred in concluding that the mortgage remained a lien on the property pursuant to R.C. 5301.30. Specifically, Carte argues that "R.C. 5301.30 does not purport to give life to an otherwise dead mortgage."

[***P21**] R.C. 5301.30 states, in part, as follows:

The record of any mortgage which remains unsatisfied or unreleased of record for more than twenty-one years after the date of the mortgage or twenty-one years after the stated maturity date of the

principal sum, if a stated date of maturity is provided in the mortgage, whichever is later, secured as shown in the record of such mortgage, does not give notice to or put on inquiry any person dealing with the land described in such mortgage that such mortgage debt remains unpaid or has been extended or renewed. As to subsequent bona fide purchasers, mortgagees, and other persons dealing with such land for value, the lien of such mortgage has expired.

[*P22] Contrary to Carte's assertion on appeal, the trial court did not conclude that R.C. 5301.30 revived an otherwise canceled mortgage. Instead, the trial court recognized that the mortgage at issue in this case, which was unsatisfied and unreleased at the time Carte filed her complaint, still existed as a lien on the property. The trial court stated [**11] that R.C. 5301.30 served to "plac[e] others on notice as to the existence of outstanding obligations in regard to the property." HN4[1] In the context of a case concerning a refiled mortgage, the Seventh District has observed that "R.C. 5301.30 does not concern a statute of limitations, but rather the expiration of a mortgage lien and what constitutes notice to a mortgagee of an extension or renewal of that mortgage by the mortgage creditor. It also deals with the priority of the mortgage creditor as to subsequent bona fide purchasers and mortgagees if the lien is not timely extended or renewed." Rutana v. Koulianos, 7th Dist. Mahoning Nos. 19 MA 0087, 19 MA 0120, 2020-Ohio-6848, ¶ 46, 164 N.E.3d 1108. Here, the trial court did not err in concluding that R.C. 5301.30 retained its intended purpose of placing others on notice of the existence of a lien on the property.

[*P23] Carte's third argument is that the trial court erred in concluding that Bank of America could pursue a foreclosure action. Carte argues that Bank of America is time-barred from pursuing a foreclosure claim under the rule set forth in Kerr v. Lydecker, 51 Ohio St. 240, 37 N.E. 267 (1894). In the alternative, Carte argues that, even if Kerr is no longer good law, Bank of America is still time-barred from pursuing a foreclosure claim under R.C. 2305.06.

[*P24] Carte's argument fails to account for the reasoning set forth by the trial court in [**12] its judgment entry. In her complaint, Carte sought a declaration that Bank of America's interest in the mortgage was extinguished, forfeited, and void. The trial court denied Carte the requested relief and instead declared that the mortgage remained valid. In reaching this determination, the trial court quoted our decision in *Hardesty*, where this Court stated that "the running of a statute of limitations does not discharge a debt but instead limits the remedies available." Hardesty, 2022-Ohio-4270, at ¶ 14. The trial court observed that, "[r]egardless of whether a statute of limitations has expired or not expired[], the underlying mortgage is still valid, although available remedies may be reduced." It follows that the trial court's judgment was not predicated on a determination that Bank of America could pursue a foreclosure action. Instead, the trial court concluded that whether Bank of America could pursue a foreclosure action was not determinative of whether the mortgage remained valid. HN5 [7] "In order to demonstrate reversible error on appeal, an appellant has the burden to demonstrate error as well as prejudice resulting from that error." In re Estate of House, 9th Dist. Wayne No. 22AP0009, 2023-Ohio-4348, ¶ 13. Because the trial court's ruling was not predicated on a determination of [**13] whether Bank of America was time-barred from pursuing a foreclosure action, Carte has not demonstrated prejudicial error in this regard.

[*P25] Carte's final argument is that the trial court erred by suggesting that Bank of America could pursue an ejectment action. Carte asserts that an ejectment claim is a compulsory counterclaim that should have been asserted in this action.

[*P26] Carte's argument is without merit. The trial court's ruling regarding the validity of the mortgage was not predicated on whether Bank of America could pursue a claim for ejectment. The trial court noted that the parties had offered contrasting arguments in their summary judgment filings regarding whether an ejectment action was a potential avenue for Bank of America to enforce its rights. Ultimately, however,

the trial court determined that it would be "premature and speculative" to resolve that issue "unless and until such a claim is actually brought by [Bank of America] in this matter or a subsequent filing." Accordingly, the trial court did not make a determination regarding the viability of an ejectment action and Carte has not demonstrated error in this regard.

[*P27] Carte's first and second assignments of error are [**14] overruled.

III.

[*P28] Carte's first and second assignments of error are overruled. The judgment of the Lorain County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Lorain, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. <u>App.R. 22(C)</u>. The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to <u>App.R. 30</u>.

Costs taxed to Appellant.

DONNA J. CARR

FOR THE COURT

SUTTON, P. J.

FLAGG LANZINGER, J.

CONCUR.

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Kyoungmi Oh v. Bank of Am., N.A.



As of: October 13, 2024 11:11 AM Z

Kyoungmi Oh v. Bank of Am., N.A.

Supreme Court of New York, Appellate Division, Second Department September 25, 2024, Decided 2022-06457, (Index No. 726660/21)

Reporter

2024 N.Y. App. Div. LEXIS 4733 *; 2024 NY Slip Op 04549 **

[**1] Kyoungmi Oh, appellant, v Bank of America, National Association, etc., respondent, et al., defendant.

Notice: THE PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION.

THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

Prior History: In an action pursuant to <u>RPAPL 1501(4)</u> to cancel and discharge of record a mortgage and for related declaratory relief, the plaintiff appeals from an order of the Supreme Court, Queens County (Robert J. McDonald, J.), entered July 8, 2022. The order granted the motion of the defendant Bank of America, National Association, pursuant to <u>CPLR 3211(a)</u> [*1] to dismiss the complaint insofar as asserted against it.

Kyuongmi Oh v. Bank of Am., N.A., 2022 N.Y. Misc. LEXIS 20477 (N.Y. Sup. Ct., July 1, 2022)

Core Terms

foreclosure judgment, foreclosure action, doctrine of res judicata, defense motion, consolidated, intervene, mortgage

Counsel: The David R. Smith Law Group PLLC, New York, NY, for appellant.

Hinshaw & Culbertson LLP, New York, NY (Karena J. Straub and Charles W. Miller III of counsel), for respondent.

Judges: BETSY BARROS, J.P., ROBERT J. MILLER, BARRY E. WARHIT, JANICE A. TAYLOR, JJ. BARROS, J.P., MILLER, WARHIT and TAYLOR, JJ., concur.

Opinion

DECISION & ORDER

ORDERED that the order is affirmed, with costs.

In July 2009, the defendant commenced an action to foreclose a consolidated mortgage on certain real property located in Little Neck (hereinafter the foreclosure action). The plaintiff acquired title to the property in May 2015, at which time the defendant had filed a notice of pendency against the property. In 2018, the plaintiff moved for leave to intervene in the foreclosure action, and the Supreme Court denied the motion. An order and judgment of [*2] foreclosure and sale was subsequently entered in the foreclosure action in September 2018. The plaintiff appealed, and this Court affirmed the order and judgment of foreclosure and sale, concluding that the Supreme Court properly determined that the plaintiff's motion for leave to intervene was untimely (see <u>Bank of Am., N.A. v New York City Envtl. Control Bd., 199 AD3d 874, 154 N.Y.S.3d 469</u>).

Thereafter, the plaintiff commenced this action pursuant to RPAPL 1501(4) to cancel and discharge of record the consolidated mortgage and for related declaratory relief. The defendant Bank of America, National Association (hereinafter the defendant), moved pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against it, contending, inter alia, that the action was barred by the doctrine of res judicata. The Supreme Court granted the defendant's motion, and the plaintiff appeals.

"Under the doctrine of res judicata, a final adjudication of a claim on the merits precludes relitigation of that claim and all claims arising out of the same transaction or series of transactions by a party or those in privity with a party" (*Ciraldo v JP Morgan Chase Bank, N.A.*, 140 AD3d 912, 913, 34 N.Y.S.3d 113; see *Djoganopoulos v Polkes*, 67 AD3d 726, 727, 889 N.Y.S.2d 213). "A judgment of foreclosure and sale entered against a defendant is final as to all questions at issue between the parties, and concludes [**2] all matters of defense which [*3] were or might have been raised in the foreclosure action" (*Jones v Flushing Bank*, 212 AD3d 791, 793, 183 N.Y.S.3d 458; see *Dupps v Betancourt*, 121 AD3d 746, 747, 994 N.Y.S.2d 633). Here, the issues raised by the plaintiff in this action are barred by the order and judgment of foreclosure and sale (see *PNC Bank, N.A. v Ramdass*, 187 AD3d 1230, 131 N.Y.S.3d 570; *Dupps v Betancourt*, 121 AD3d at 748).

The parties' remaining contentions either are without merit or need not be reached in light of our determination.

Accordingly, the Supreme Court properly granted the defendant's motion pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against it.

BARROS, J.P., MILLER, WARHIT and TAYLOR, JJ., concur.

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Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19......2



As of: October 13, 2024 11:11 AM Z

Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19

United States District Court for the Eastern District of Texas, Sherman Division September 23, 2024, Decided; September 23, 2024, Filed CIVIL ACTION NO. 4:22-CV-00506-ALM-AGD

Reporter

2024 U.S. Dist. LEXIS 171615 *

ANTONIA RODRIGUEZ, et al., Plaintiffs, v. LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-19, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE, et al., Defendants.

Core Terms

Recommendation, dismissal with prejudice, fourteen days, grant leave, filing fee

Counsel: [*1] Antonia Rodriguez, Plaintiff, Pro se.

Danny Rodriguez, Plaintiff, Pro se.

For U.S. Bank National Association, as Trustee, Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-19, U.S. Bank National Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America National Association, as Trustee ..., Defendant: Robert Davis Forster, II, Barrett Daffin Frappier Turner & Engel, LLP - Addison, Addison, TX; Shelley Luan Hopkins, Hopkins Law PLLC - Austin, Austin, TX.

For Nationstar Mortgage LLC, doing business as, Mr. Cooper, Defendant: Shelley Luan Hopkins, LEAD ATTORNEY, Hopkins Law PLLC - Austin, Austin, TX; Robert Davis Forster, II.

For U.S. Bank National Association, as Trustee, Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-19, U.S. Bank National Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America National Association, as Trustee ..., Counter Claimant: Robert Davis Forster, II, Barrett Daffin Frappier Turner & Engel, LLP - Addison, Addison, TX; Shelley Luan Hopkins, Hopkins Law PLLC - Austin, Austin, TX.

Judges: AMOS L. MAZZANT, UNITED [*2] STATES DISTRICT JUDGE.

Opinion by: AMOS L. MAZZANT

Opinion

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the Report and Recommendation of the United States Magistrate Judge ("Report"), this matter having been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On September 4, 2024, the Report of the Magistrate Judge, (Dkt. #54), was entered containing proposed findings of fact and recommendation that Defendants' Motion for Summary Judgment (Dkt. #25) be granted; that Plaintiffs' case be dismissed with prejudice; that Defendants be granted leave to file a fee affidavit and Bill of Costs within fourteen days of the Court's adoption of the Report; and that Defendants' Motion to Strike (Dkt. #46) be granted.

The Court has conducted a de novo review of Plaintiffs' timely objections (Dkt. #55) and the portions of the Report to which Plaintiffs specifically object. Having done so, the Court concludes that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit as to the ultimate recommendation of the Magistrate Judge. The Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and [*3] conclusions of the Court.

It is therefore **ORDERED** that Defendants' Motion for Summary Judgment (Dkt. #25) is **GRANTED**; that Plaintiffs' case is **DISMISSED WITH PREJUDICE**; that Defendants are **GRANTED** leave to file a fee affidavit and Bill of Costs within fourteen days of entry of this Memorandum Adopting Report and Recommendation of Magistrate Judge; and that Defendants' Motion to Strike (Dkt. #46) is **GRANTED**.

IT IS SO ORDERED.

SIGNED this 23rd day of September, 2024.

/s/ Amos L. Mazzant

AMOS L. MAZZANT

UNITED STATES DISTRICT JUDGE

FINAL JUDGMENT

Pursuant to the Court's Memorandum Adopting Report and Recommendation of United States Magistrate Judge, which recommends that that Defendants' Motion for Summary Judgment (Dkt. #25) be granted; that Plaintiffs' case be dismissed with prejudice; that Defendants be granted leave to file a fee affidavit and Bill of Costs within fourteen days of the Court's adoption of the Report; and that Defendants' Motion to Strike (Dkt. #46) be granted, the Court hereby issues its Final Judgment, effective upon entry.

It is therefore **ORDERED** that Defendants' Motion for Summary Judgment (Dkt. #25) is **GRANTED**; that Plaintiffs' case is **DISMISSED WITH PREJUDICE**; that Defendants **[*4]** are **GRANTED** leave to file a fee affidavit and Bill of Costs within fourteen days of the Court's adoption of the Report; and that Defendants' Motion to Strike (Dkt. #46) is **GRANTED**.

IT IS SO ORDERED.

SIGNED this 23rd day of September, 2024.

/s/ Amos L. Mazzant

AMOS L. MAZZANT

UNITED STATES DISTRICT JUDGE

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As of: October 13, 2024 11:11 AM Z

In re Bank of Am. Cal. Unemployment Bens. Litig.

United States District Court for the Southern District of California September 17, 2024, Decided; September 17, 2024, Filed Case No.: 21MD2992-GPC(MSB)

Reporter

2024 U.S. Dist. LEXIS 167637 *; 2024 WL 4219987

IN RE: BANK OF AMERICA CALIFORNIA UNEMPLOYMENT BENEFITS LITIGATION.

Prior History: Edwards v. Bank of Am., N.A. (In re Bank of Am. Cal. Unemployment Bens. Litig.), 2024 U.S. Dist. LEXIS 69416 (S.D. Cal., Apr. 16, 2024)

Core Terms

discovery, individual plaintiff, Plaintiffs', depositions, proceedings, cases, class certification, class action, Interim, parties, consolidated, hardship, Co-Lead, case management, preemption, benefits, summary judgment motion, judicial economy, scheduling order, district court, motion to stay, resources, lifted, multidistrict litigation, unemployment, deadline, pandemic, orderly, notice

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Judges: Hon. Gonzalo P. Curiel, United States District Judge.

Opinion by: Gonzalo P. Curiel

Opinion

ORDER GRANTING IN PART INDIVIDUAL PLAINTIFFS' EXPEDITED [*13] MOTION TO STAY THEIR PROCEEDINGS

[Dkt. No. 311.]

Before the Court is Individual Plaintiffs' expedited motion to stay their cases pending resolution of the common issues of law and fact in this multidistrict litigation case. (Dkt. No. 311.) The Class Plaintiffs filed a notice of joinder.¹ (Dkt. No. 320.) An opposition was filed by Defendant Bank of America, N.A. on August 23, 2024, and a reply was filed by Individual Plaintiffs on August 30, 2024. (Dkt. Nos. 321, 325.) A hearing was held on September 9, 2024. (Dkt. No. 331.) Based on the reasoning below, the Court GRANTS in part Individual Plaintiffs' expedited motion to stay proceedings until a ruling on the motion for class certification.

¹ BANA objects to the notice of joinder filed by Class Plaintiffs as untimely, procedurally improper, and also without merit. (Dkt. No. 321 at 21-22.) The Court agrees with BANA that the arguments raised by Class Plaintiffs are duplicative of the ones raised by Individual Plaintiffs. Therefore, the Court need not consider Class Plaintiffs' notice of joinder and whether it is untimely and procedurally improper.

Background

This multidistrict litigation ("MDL") arises from several class actions ("Class Plaintiffs") and a large number of individual actions ("Individual Plaintiffs") brought against Defendant Bank of America, N.A. ("BANA") over its administration of the electronic benefits payment system for California's Employment Development Department ("EDD") during the COVID-19 pandemic. (See Dkt. No. 304, Second Amended Master Consolidated Complaint ("SAMCC").) EDD, the administrator of unemployment benefits [*14] in California, entered into an exclusive contract with BANA, to distribute those benefits through Bank-issued and Bank-administered prepaid debit cards which are linked to individual Bank depository accounts. (Id. ¶¶ 1, 2, 39.) The relevant contract at issue was in effect from August 1, 2016 through July 31, 2021. (Id. ¶ 42.)

Class and Individual Plaintiffs, like other millions of Californians, lost their jobs during the COVID-19 pandemic and were found eligible by EDD for unemployment and other public benefits. (*Id.* ¶ 1.) The state's unemployment rate skyrocketed from 3.9% in January 2020 to 16.4% in April 2020 following Governor Gavin Newsom's closure orders. (*Id.* ¶ 74.) Since the start of the COVID-19 pandemic in March 2020, EDD received at least 18.5 million claims for various unemployment benefits. (*Id.* ¶ 75.) For example, in the first week of December 2000, EDD received 341,813 claims which was a 600% increase from December 2019. (*Id.*) Per the exclusive contract between EDD and BANA, the BANA issued benefit payments to individuals found eligible for unemployment benefits through more than 9 million Bankissued and Bank-administered prepaid debit cards. (*Id.* ¶ 2.) These pre-paid [*15] debit cards were subject to rampant third-party fraud during the COVID-19 pandemic and tens of millions of dollars have been stolen from these bank accounts. (*Id.* ¶¶ 76-78.) All Plaintiffs similarly claim that BANA "failed to safeguard and properly manage benefits during the pandemic and unlawfully froze or denied access to funds in recipients' debit card accounts." (Dkt. No. 1.)

On January 14, 2021, Class Plaintiff Jennifer Yick commenced a purported class action titled *Yick v. Bank of America*, *N.A.*, No. 3:21-cv-376, in the United States District Court for the Northern District of California. (*Id.* ¶ 106.) Eight² additional class actions were subsequently filed and consolidated with *Yick* on March 29, 2021. (*Id.*) Since the filing of *Yick*, other class action plaintiffs and hundreds of individual plaintiffs have filed actions against BANA for injuries stemming from the same alleged conduct.

On June 4, 2021, the Judicial Panel on Multidistrict Litigation transferred the *Yick* class action and individually filed actions to this Court for consolidated pretrial proceedings and assigned it to District Judge Larry A. Burns.³ (Dkt. No. 1.) On July 19, 2021, the Court held a preliminary case management [*16] conference to address case management of the pleadings, an organizational structure for Plaintiffs' counsel and parameters on discovery involving, at that time, the *Yick* consolidated putative class action, three putative class actions and eleven individual actions. (Dkt. Nos. 48, 55.)

In the order following the preliminary case management conference ("July 2021 Order"), the Court appointed Cotchett, Pitre, & McCarthy LLP and Altshuler Berzon LLP as Interim Co-Lead Counsel for Class Plaintiffs and appointed Casey Gerry Schenk Fancavilla Blatt & Penfield LLP as Interim Liaison Counsel for Class Plaintiffs. (Dkt. No. 48 at 2-3.4) Daniel G. Shay, and shortly thereafter, Joshua Swigert, (Dkt. No. 56), were appointed Interim Co-Liaison Counsel for Individual Plaintiffs. (Dkt. No. 48 at 3.) In

² It appears that seven additional class actions were filed in the Northern District of California after Yick. (Dkt. No. 1 at 4.)

³ The MDL and related member cases were transferred to the undersigned judge on April 8, 2024. (Dkt. No. 261.)

⁴ Page numbers are based on the CM/ECF pagination.

line with the parties' positions to proceed with the Class and Individual Plaintiffs' cases together, (Dkt. No. 55), the Court directed Interim Co-Lead Counsel to file a single master consolidated complaint ("MCC") to include all claims on behalf of the putative class and individual plaintiffs' claims. (*Id.* at 2.) Any individual plaintiff's claims not included in the consolidated complaint were stayed. [*17] (*Id.*) As such, any new cases filed or tag along cases transferred after the filing of the MCC have been stayed until resolution of the MDL. (See Dkt. No. 85 ("the Court intends to stay new and related actions until the multidistrict litigation is resolved. On a party's motion after such a stay is lifted, the Court will consider applying its MDL rulings to the non-consolidated cases via nonmutual collateral estoppel or any other applicable theory"); see also Case No. 21cv1659, Dkt. No. 8 ("Court orders all deadlines in this matter STAYED pending resolution of the related multidistrict litigation"); Case No. 21cv1660, Dkt. No. 8 (same).)

As to discovery, the Court ordered that "[n]o plaintiff may make any request for or respond to discovery, initiate or file any other pretrial or trial proceedings (except that individual plaintiffs not already involved in a member case may file new complaints), or file or respond to any dispositive motion except through Interim Co-Lead Counsel." (*Id.* at 3.)

On May 25, 2023, almost two years later, the discovery stay was lifted when the Court ruled on Defendant's motion to dismiss the MCC. (Dkt. No. 126 at 75.) On June 2, 2023, Class Plaintiffs submitted [*18] a joint discovery plan in advance of the case management conference where discovery was contemplated to be conducted by both Class and Individual Plaintiffs. (Dkt. No. 131 at 2 n. 2 ("Liaison Counsel for the non-class plaintiffs to meet and confer regarding the timing of discovery as to the non-class plaintiffs."). A scheduling order was issued on June 16, 2023 where deadlines were set for discovery and did not distinguish between Individual Plaintiffs and Class Plaintiffs. (Dkt. No. 139.) An amended scheduling order was filed on June 27, 2024 setting a deadline for fact discovery for both Individual and Class Plaintiffs on December 12, 2024. (Dkt. No. 302 at 2.)

After additional motions were filed to settle the pleadings, on July 16, 2024, the Second Amended Master Consolidated Complaint ("SAMCC") was filed and includes 21 Class Plaintiffs and 133 Individual Plaintiffs. (Dkt. No. 304.) An answer was filed on August 15, 2024. (Dkt. No. 316.) At this time, there are an additional 257 individual plaintiffs that have filed actions whose claims are not included in the SAMCC and are currently stayed. (Dkt. No. 311-1 at 4 n. 1, 7-8.)

Since the lifting of the discovery stay in May 2023, Class **[*19]** Plaintiffs and BANA have been actively engaged in discovery. Individual Plaintiffs have also been engaged in discovery concerning their individual cases but have not been fully privy to all discovery produced by BANA. (See Dkt. No. 311-2, Swigert Decl. ¶ 14; Dkt. No. 321-1, Brys Decl. ¶¶ 25-38.)

Pursuant to a ruling from Magistrate Judge Berg on February 12, 2024, BANA was allowed to take the depositions of ten Individual Plaintiffs prior to the filing of the motion for class certification. (Dkt. No. 321-1, Brys Decl. ¶ 40.) Therefore, from March 7, 2024, to May 7, 2024, BANA took the depositions of five Individual Plaintiffs with their counsel's attendance and participation. (Id. ¶¶ 41-45.) On July 11, 2024, BANA served a Notice of Deposition to the remaining 128 Individual Plaintiffs with depositions to commence on September 16, 2024 and continuing through September 27, 2024. (*Id.* ¶ 56.) In response to concerns expressed by Individual Plaintiffs, on August 9, 2024, BANA served an Amended Notice of Deposition to the remaining 128 Individual Plaintiffs and offered that each deposition take place at a central location within the federal judicial district where each Individual Plaintiff [*20] lives. (*Id.* ¶ 60.) In order to take the depositions of 128 individuals, the amended notice of deposition generally schedules four depositions per day between September 16, 2024 through November 7, 2024. (Dkt. No. 331-3, Swigert Decl., Ex. A.)

In response, on August 13, 2024, Individual Plaintiffs filed the instant motion to stay their proceedings pending resolution of common issues of law and fact⁵ in the Class Action which will streamline the litigation, including discovery, because the individual and class claims substantially overlap. (Dkt. No. 311-1.) BANA filed a response and Individual Plaintiffs replied. (Dkt. Nos. 321, 325.)

Discussion

A. Landis Stay

A federal district court possesses the inherent power to "control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." <u>Landis v. N. American Co.</u>, 299 U.S. 248, 254, 57 S. Ct. 163, 81 L. Ed. 153 (1936).

Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are [1] the possible damage which may result from the granting of a stay, [2] the hardship or inequity which a party may suffer in being required to go [*21] forward, and [3] the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

Lockyer v. Mirant, 398 F.3d 1098, 1110 (9th Cir. 2005) (quoting CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962)). "A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case. This rule . . . does not require that the issues in such proceedings are necessarily controlling of the action before the court." Leyva v. Certified Grocers of California, Ltd., 593 F.2d 857, 863 (9th Cir. 1979) (citing Kerotest Mfg. Co. v. C-O-Two Fire Equip. Co., 342 U.S. 180, 72 S. Ct. 219, 96 L. Ed. 200, 1952 Dec. Comm'r Pat. 407 (1952)). The related proceeding need only narrow factual or legal issues for the court and the stay is generally for a limited duration. See Landis, 299 U.S. at 255-56 (recognizing that the related case "may not settle every question of fact and law" in the stayed federal action and a district court abuses its discretion by entering a "stay of indefinite duration in the absence of a pressing need"); Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066-67 (9th Cir. 2007) (reversing district court for imposing Landis stay of indefinite nature). A district court has discretion whether to grant or deny a Landis stay. See Dependable Highway Express, Inc., 498 F.3d at 1066.

1. Hardship if Stay is Granted

Individual Plaintiffs argue there is no prejudice to BANA if a brief stay is granted because it [*22] would not have to expend extra resources deposing 133 Individual Plaintiffs and can focus its resources on opposing the class certification motion. (Dkt. No. 311-1 at 12-13.) BANA responds that it would suffer

⁵ Individual Plaintiffs seek to stay proceedings "pending resolution of related class action certification", (Dkt. No. 311-1 (caption)); "pending resolution of common issues of law and fact", (Dkt. No. 311-1 at 18 (conclusion)); and "allowing the depositions to take place after class certification and dispositive motions are resolved," (Dkt. No. 325 at 5). The length of the requested stay by Individual Plaintiffs is not clear. Reviewing the Individual Plaintiffs' briefing, the Court relies on the reply statement that seeks a stay pending resolution of the motion for class certification and motion for summary judgment since it provides a more specific time frame for the stay. (See Dkt. No. 325 at 5.)

undue prejudice if the Individual Plaintiffs' cases are stayed because discovery is nearly complete and it has already spent nearly \$8 million in discovery costs alone and produced over 277,000 documents, 3,700 of which relate to the Individual Plaintiffs' claims. (Dkt. No. 321 at 11.)

On this factor, "[i]f there is even a fair possibility that the stay . . . will work damage to someone else," the party seeking the stay "must make out a clear case of hardship or inequity." <u>Landis</u>, <u>299 U.S. at 255</u> (internal quotation marks omitted); see also <u>Clinton v. Jones</u>, <u>520 U.S. 681</u>, <u>708</u>, <u>117 S. Ct. 1636</u>, <u>137 L. Ed. 2d 945 (1997)</u> ("The moving party has the burden of proving such a stay is justified."). Courts "are generally unwilling to presume delay is harmful without specific supporting evidence." <u>Aliphcom v. Fitbit</u>, <u>Inc.</u>, <u>154 F. Supp. 3d 933</u>, <u>938 (N.D. Cal. Dec. 30, 2015)</u>. A general claim of harm due to a delay in litigation is not sufficient. See *id*.

Here, BANA has not identified or provided any evidence of any harm it will suffer if a stay were granted. BANA alleges harm solely because the motion was raised late in the case where it has already incurred significant [*23] resources in completing discovery and relies on Seufert v. Merck Sharp & Dohme Corp., Case No.: 13cv2169 AJB (MDD), 2016 U.S. Dist. LEXIS 204202, 2016 WL 9503735, at *1 (S.D. Cal. Mar. 9, 2016). (Dkt. No. 321 at 11.) In Seufert, the district court denied a motion to stay consideration of a summary judgment motion on preemption while the related MDL case was on appeal from a judgment granted in favor of the MDL defendants based on the same issue of preemption. Seufert, 2016 U.S. Dist. LEXIS 204202, 2016 WL 9503735, at *1. Even though the MDL appeal addressed the same issue in the pending summary judgment motion, the court questioned why the parties had not previously anticipated a stay prior to the start of preemption discovery noting that the plaintiff sought a stay after the parties had completed extensive discovery on preemption and after the defendant had already filed the summary judgment motion on preemption. 2016 U.S. Dist. LEXIS 204202, [WL] at *2-3. Therefore, based on the state of the case, the Court determined that to delay ruling on the preemption motion was not efficient for the parties or the court. Id. ("Plaintiffs' proposition that no prejudice will result from a stay because discovery is now complete disregards the significant resources exhausted in undertaking and completing discovery, all of which was premised on Defendants' eventual filing of a preemption summary judgment motion. Delaying resolution of Defendants' [*24] preemption-based motion, after nearly two years of discovery is not efficient for the parties or the Court.").

Here, unlike *Seufert*, BANA has not articulated any reason why the Individual Plaintiffs' depositions need to be completed now and whether this discovery is relevant to resolving any pending motions before the Court. Further, significant resources on discovery have been expended but primarily with regards to the Class Plaintiffs case, not necessarily with the Individual Plaintiffs.⁶ Further, BANA claims Individual Plaintiffs' motion to stay was brought late in the proceedings. However, the case is still in its early stages. The pleadings were only recently settled in July 2024 with an answer filed on August 15, 2024. (Dkt. Nos. 304, 315.) The motion for class certification was recently filed on August 28, 2024. (Dkt. No. 324.) Further, discovery for the individual plaintiffs in the 257 other cases that have been stayed have not even begun and may need to be reopened or addressed at a later date once the class action proceedings have concluded. The Court sees no harm to BANA by delaying discovery of the Individual Plaintiffs and the *Seufert* case is inapposite.⁷

⁶ While discovery with the Individual Plaintiffs will substantially overlap with Class Plaintiffs, Individual Plaintiffs assert they will need to propound their own written discovery and notice and take required depositions. (Dkt. No. 311-2, Swigart Decl. ¶ 18.) Moreover, BANA states that it has already produced over 277,000 documents and only about 3,700 documents totaling 14,000 pages were related to the Individual Plaintiffs. (Dkt. No. 321-1, Brys Decl. ¶¶ 13, 16.)

⁷ Some of the cases relied upon by BANA are not applicable as they did not concern a <u>Landis</u> stay. See <u>Omnitracs, LLC v. Platform Sci., Inc.</u>, Case No.: 20-cv-0958-JLS-MDD, 2021 U.S. Dist. LEXIS 43055, 2021 WL 857005, at *3 (S.D. Cal. Mar. 8,

Additionally, **[*25]** BANA's concerns about delaying discovery due to the risk of witnesses' memories fading, witnesses relocating or becoming unavailable, and evidence becoming stale or dissipating are speculative and no evidence has been provided that such risks exist. See <u>Fahmy v. Live Nation Ent.</u>, <u>Inc.</u>, No. 2-15-CV-01158-CAS, 2015 U.S. Dist. LEXIS 75347, 2015 WL 3617040, at *13 (C.D. Cal. June 8, 2015) ("plaintiff's concerns about losing witnesses [due to death or leaving the area] during its pendency are entirely speculative."). Thus, BANA's alleged hardships do not support a stay.

2. Hardship if Stay Not Granted

On the other hand, Individual Plaintiffs claim they would suffer extreme hardship and inequity by having to defend 128 depositions without having had access to all of their records and without the Court's ruling on common issues of law and fact. (Dkt. No. 311-1 at 13.) Due to the restrictions imposed by the July 2021 Order, Individual Plaintiffs claim they have been excluded from actively participating in discovery. (*Id.*) They assert they had "extremely" limited access to the discovery produced by BANA in response to Interim Class Counsel's discovery requests and were only invited to "observe" the deposition of BANA's Rule 30(b)(6) witnesses and could not participate by asking questions. (*Id.* at 13-14.) Finally, they claim they have been [*26] limited to requesting only their individual files, responding to written discovery served by BANA and sitting for their depositions. (*Id.*) Without a stay, Individual Plaintiffs argue they will be severely prejudiced in their attempt to play "catch up" by propounding and responding to discovery in 133 cases, reviewing hundreds of thousands of documents, and seeking motions to compel, if necessary, in a short amount of time. (*Id.* at 15.)

In contrast, BANA argues the Individual Plaintiffs have been actively engaged in discovery since June 5, 2023 and have sought their individual files as well other discovery relating to them. (Dkt. No. 321 at 15.) Moreover, Individual Plaintiffs' counsel has participated in at least 22 status and discovery conferences, attended the five Rule 30(b)(6) depositions of BANA witnesses and served 150 third-party subpoenas to their telephone service providers. (*Id.* n. 7.)

In reply, Individual Plaintiffs explain that it was their understanding after the July 2021 Order that, except for discovery related to any unique defenses to any of the Individual Plaintiffs, their cases would be paused until the MDL is completed or at least until summary judgment. (Dkt. No. 325 at 3-4.) [*27] They also argue they raised the stay issue only after BANA "changed its position and sent notice for approximately 122 individual depositions" and the June 2024 Amended Scheduling Order suddenly, for the first time, opened discovery for both Class Plaintiffs and Individual Plaintiffs. (*Id.* at 3-5.) They claim that the June 2023 Scheduling order limited the discovery deadline to just Class Counsel and defense counsel. (*Id.* at 4.)

Individual Plaintiffs' understanding that their cases had been on hold until the summary judgment stage or until the MDL is over is belied by the record. The Court has reviewed the transcript of the preliminary case management conference, reviewed the parties' status conference statements, and the preliminary case management order. (Dkt. Nos. 31, 32, 55, 48.) The individual plaintiffs, initially, did not seek a stay of their cases pending the class action; instead, they sought to litigate the case. (Dkt. No. 55.) At that time, Interim Co-Lead Counsel in *Yick*, who was appointed Interim Co-Lead Counsel in the MDL, and

2021) (factor to consider in staying of action pending inter partes review include "whether discovery is complete and whether a trial has been set."); In Joshco Tech., LLC v. MJJ&L Holdings, LLC, No. 2:20-cv-00428-APG-NJK, 2020 U.S. Dist. LEXIS 249077, 2020 WL 8254262, at *1-2 (D. Nev. Sept. 2, 2020) (relying on Rule 1 to secure a "just, speedy and inexpensive determination of cases" and court's discretionary power to control discovery to determine whether a stay was warranted); and Ross-Nash v. Almond, No. 2:19-cv-00957-APG, NJK, 2020 U.S. Dist. LEXIS 27461, 2020 WL 11036016, at *1 (D. Nev. Feb. 18, 2020) (same).

certain individual plaintiffs' counsel agreed, in their status conference statement, that "plaintiffs in the individual actions will be bound by [*28] the Court's legal determinations regarding causes of action that are asserted in the consolidated class action. Counsel further agree that, with the exception of discovery relating to the specific records of the individual plaintiffs at Bank of America, all discovery requests and depositions will be made by and through interim co-lead counsel for the Class Action Plaintiffs in coordination with counsel for the individual plaintiffs." (Dkt. No. 31 at 10.) The Court's order adopted their position that "[n]o plaintiff may make any request for or response to discovery, initiate or file any other pretrial or trial proceedings . . . or file or respond to any dispositive motion except through Interim Co-Lead Counsel." (Dkt. No. 48 at 3.)

Ultimately, the Court's order did not stay discovery of the Individual Plaintiffs cases but only directed that the Individual Plaintiffs conduct discovery through Interim Co-Lead Counsel. (*Id.*) The record provided by BANA's counsel shows that Individual Plaintiffs have been actively engaged in discovery but not to the fullest extent due to the procedural limitations of the Court's July 2021 Order. (Dkt. No. 321-2, Brys Decl. ¶¶ 21-54.)

Further, if Individual [*29] Plaintiffs believed their cases would be paused until the "MDL is over", it does not explain why Individual Plaintiffs have been engaged in discovery. In addition, Individual Plaintiffs have not explained how BANA "changed its position" and have not explained how the June 2024 Amended Scheduling Order opened discovery for the first time to both Class Plaintiffs and Individual Plaintiffs. The June 2023 Scheduling Order applied to all parties too. (See Dkt. Nos. 137, 139.) Moreover, having participated in the case management conference of June 26, 2024, Individual Plaintiffs did not object to the fact discovery deadline set for December 12, 2024. (Dkt. Nos. 301, 302.) Individual Plaintiffs only recently raised the issue of the stay on July 25, 2024 and they have not sufficiently explained why it was not raised sooner in light of their argument that they seek a stay because all new cases filed since the MCC have been stayed. (Dkt. No. 321-1, Brys Decl. ¶¶ 57, 58.)

Finally, to the extent Individual Plaintiffs were barred or "hamstrung" from conducting any discovery, they do not explain, with specifics, how they have been excluded from the discovery process or who has barred them from the **[*30]** discovery process. To the extent they were barred or limited, they should have sought relief from the Magistrate Judge. To the extent the limitation in seeking discovery was self-imposed and/or based on a misunderstanding of the July 2021 Order, Individual Plaintiffs have not shown that BANA was at fault.⁸ Thus, Individual Plaintiffs' purported hardships do not support a stay.

3. Judicial Economy and the Orderly Course of Justice

Individual Plaintiffs contend that a stay of proceedings pending resolution of the class action proceedings will promote judicial economy and efficiency as well as party economy. (Dkt. No. 311-1 at 15-17.) They argue the Court's ruling on class certification and summary judgment will reduce the number of issues to be determined for the Individual Plaintiffs' cases either because some will dismiss and join the class and others, who opt out of the Class, will be streamlined because the individual and class claims substantially overlap. (*Id.* at 16-17.) In response, BANA maintains that it would be *more* efficient to simply complete the depositions now rather than pause discovery and restart it likely in 2026. (Dkt. No. 321 at 19.)

⁸ Individual Plaintiffs argue that BANA is only seeking to take the depositions of the 128 plaintiffs in order to use them for purposes of its opposition to class certification. Whether taking the depositions of the Individual Plaintiffs are in violation of any case management order or the parameters of the parties' class certification discovery is not before this Court. Any such issues should have been raised with the Magistrate Judge and the Court declines to comment on it.

On the final factor, the Court considers **[*31]** "the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Landis*, 299 U.S. at 255; see *CMAX*, 300 F.2d at 268. A stay promotes the orderly cause of justice where the underlying proceedings are likely to decide or contribute to the issues before the court. See *McGraw v. W. Serv. Contract Corp*, No. 13-CV-05129-JST, 2014 U.S. Dist. LEXIS 195692, 2014 WL 12573519, at *2 (N.D. Cal. Apr. 14, 2014) (granting a preliminary injunction and staying discovery where "the resolution of the underlying litigation necessarily bears on the indemnification rights at issue in this action."); see also *Fahmy v. Live Nation Ent.*, Inc., No. 2-15-CV-01158-CAS, 2015 U.S. Dist. LEXIS 75347, 2015 WL 3617040, at *13 (C.D. Cal. June 8, 2015) ("Although the outcome of the [underlying case] will not necessarily be dispositive of this case, that outcome will certainly inform this case.").

The Court concludes that judicial economy and the orderly course of justice support a stay until a ruling on the motion for class certification but not until a ruling on any summary judgment motions. A ruling on class certification will likely narrow the number of Individual Plaintiffs' cases. The parties do not dispute that the Class Plaintiffs and Individual Plaintiffs' claims substantially overlap and if the Court certifies a Class, certain Individual Plaintiffs may dismiss their individual suits and join the Class. If the [*32] Court does not certify any Class, then the short, limited stay will be lifted. While BANA complains of the exorbitant amount it has already expended on discovery, a stay, at this time, will protect it from any unnecessary and wasteful discovery. See <u>Finder v. Leprino Foods Co.</u>, CASE NO. 1:13-CV-02059-AWI-BAM, 2017 U.S. Dist. LEXIS 8343, 2017 WL 1355104, at *4 (E.D. Cal. Jan. 20, 2017) (citation omitted) (conducting "substantial, unrecoverable, and wasteful" discovery that could be mooted after pending proceedings are resolved justifies a stay). Efficiency and judicial economy support conducting the individual actions after resolution of the class certification motion.

As to staying the case until a ruling on summary judgment, Individual Plaintiffs have not provided any information as to whether summary judgment motions will be filed, and if filed, by which party or parties, and what issues would promote efficiency and judicial economy. Therefore, the Court, at this time, declines to stay the case until a ruling on summary judgment.

BANA also argues that the length of the stay Individual Plaintiffs are seeking is nebulous and may likely be indefinite in nature due to the potential appeals of the order on the motion for class certification. (Dkt. No. 321 at 12-13.) The hearing on the motion for class certification is set [*33] on January 17, 2025 with an order intended to be issued shortly after that date. (Dkt. No. 302 at 3.) Therefore, the stay sought by Individual Plaintiffs is short and finite. To the extent that BANA contends that the stay may be extended due to a potential appeal is speculation. In the event an appeal is filed on the class certification order, the Court will reassess whether a stay of the Individual Plaintiffs' cases should remain or be lifted at that time. At this time, the Court concludes that the stay sought is of limited duration.

After carefully considering the parties' competing interests under the <u>Landis</u> factors, which do not support a stay, the Court ultimately finds the efficient administration of justice and potential waste of judicial and party resources support a limited stay. See <u>Babaria v. Blinken</u>, <u>Case No. 22-cv-05521-SI, 2023 U.S. Dist. LEXIS 6797, 2023 WL 187497, at *2-3 (N.D. Cal. Jan. 13, 2023)</u> (granting stay where the balance of hardships was neutral but judicial economy weighed heavily in favor of granting a stay, given the overlap in issues presented). Thus, the Court GRANTS Individual Plaintiffs' motion to stay their proceedings until resolution of the motion for class certification and DENIES without prejudice a stay beyond the ruling on the class certification order.

Conclusion

Based on [*34] the reasoning above, the Court GRANTS in part Individual Plaintiffs' expedited motion to stay their proceedings until a ruling on the class certification motion. Within 10 day of the filing of the Court's order on the class certification motion, the parties must file a joint or ex parte motion to lift the stay, or a joint or ex parte motion to continue the stay.

IT IS SO ORDERED.

Dated: September 17, 2024

/s/ Gonzalo P. Curiel

Hon. Gonzalo P. Curiel

United States District Judge

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Woo Yong Kong v. Am. Express Co.

United States District Court for the Central District of California September 16, 2024, Decided; September 16, 2024, Filed Case No. 2:24-cv-02192-AB (KESx)

Reporter

2024 U.S. Dist. LEXIS 166505 *

WOO YONG KONG, Plaintiff, v. AMERICAN EXPRESS COMPANY; BANK OF AMERICA, NATIONAL ASSOCIATION; JPMORGAN CHASE BANK, NATIONAL ASSOCIATION; TD BANK, NATIONAL ASSOCIATION; WELLS FARGO BANK, NATIONAL ASSOCIATION; EXPERIAN INFORMATION SOLUTIONS, INC.; AND TRANS UNION, LLC, Defendants.

Counsel: [*1] For Woo Yong Kong, Plaintiff: Matthew Michael Loker, LEAD ATTORNEY, Loker Law APC, Arroyo Grande, CA; Charles Brier Cummins, Loker Law, APC, Arroyo Grande, CA.

For American Express Company, Erroneously Sued As, American Express National Bank, Defendant: Brian C Frontino, Morgan, Lewis and Bockius LLP, Miami, FL; Gurinder Singh Grewal, Morgan Lewis and Bockius LLP, San Francisco, CA.

For Bank of America, National Association, Defendant: Adam F Summerfield, LEAD ATTORNEY, McGuirewoods LLP, Los Angeles, CA.

For JPMorgan Chase Bank, National Association, Defendant: Arjun P Rao, Kay Fitz-Patrick, Marcos Daniel Sasso, Morgan Lewis and Bockius LLP, Los Angeles, CA.

For TD Bank, National Association, Erroneously Sued As, TD Bank USA NA, Defendant: Christopher Todd Norris, LEAD ATTORNEY, Terrance James Evans, Duane Morris LLP, Spear Tower, San Francisco, CA.

For Wells Fargo Bank, National Association, Defendant: Peter Yould, Troutman Pepper Hamilton Sanders LLP, Irvine, CA.

For Experian Information Solutions, Inc., Defendant: Hillary J Green, Jones Day, Irvine, CA.

For Trans Union, LLC, Defendant: Jennifer M Wade, Quilling, Selander, Lownds, Winslett and Moser, P.C., Plano, TX.

Judges: ANDRÉ BIROTTE JR., UNITED [*2] STATES DISTRICT JUDGE.

Opinion by: ANDRÉ BIROTTE JR.

Opinion

ORDER DISMISSING CIVIL ACTION

The Court has been advised that this action has been settled as to Plaintiff Woo Yong Kong ("Plaintiff") and Defendant Experian Information Solutions, Inc. ("Defendant Experian").

The Court therefore <u>ORDERS</u> that the dispute between Plaintiff and Defendant Experian is hereby <u>DISMISSED</u> with prejudice, upon good cause shown within **60 days**. However, the parties may re-open the action if settlement is not consummated. This Court retains full jurisdiction over this action and this Order shall not prejudice any party to this action.

Dated: September 16, 2024

/s/ André Birotte Jr.

ANDRÉ BIROTTE JR.

UNITED STATES DISTRICT JUDGE

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U.S. Bank N.A. v. Rodney

Supreme Court of New York, Kings County
September 6, 2024, Decided; September 6, 2024, Entered
Index No. 522466/2019

Reporter

2024 N.Y. Misc. LEXIS 6660 *; 2024 NY Slip Op 33143(U) **

[**1] U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE NATIONAL ASSOCIATION, AS TRUSTEE FOR LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-11, Plaintiff(s), -against- LOXLEY RODNEY A/K/A LOXLEY O. RODNEY A/K/A RODNEY LOXLEY, 13 BREVOORT PLACE LLC, FLORIAN SENFTER, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") ACTING SOLELY AS NOMINEE FOR LANCASTER MORTGAGE BANKERS, ITS SUCCESSORS AND ASSIGNS, ERIN SERVICES CO LLC, NYC BUREAU OF HIGHWAY OPERATIONS, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, "JOHN DOE #1" through "JOHN DOE #12," the last twelve names being fictitious and unknown to plaintiff, the persons or parties intended being the tenants, occupants, persons or corporations, if any, having or claiming an interest in or lien upon the Subject Property described in the Complaint, Defendant(s).

Notice: THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

Core Terms

Intervenors, proposed pleading, subject premises, intervene, modification agreement, leave to intervene, mortgage, moving papers

Judges: [*1] PRESENT: HON. CENCERIA P. EDWARDS, C.P.A., JSC.

Opinion by: CENCERIA P. EDWARDS

Opinion

ORDER

This is an action to foreclose a mortgage encumbering the three-family residential property at 13 Brevoort Place in Brooklyn (Block 2017, Lot 61) ("the subject premises"). Upon [**2] the foregoing papers, non-parties Brevoort Place Corp. and BVT13 LLC (collectively, "the Proposed Intervenors")

move for an order: (1) granting them leave to intervene in this action, pursuant to <u>CPLR 1012 (a) (3)</u> and/or <u>1013</u>; (2) dismissing this action; and (3) vacating "the [October 1, 2016] Loan Modification Agreement entered into by [defendant Loxley Rodney a/k/a Loxley O. Rodney a/k/a Rodney Loxley (Rodney)] a party who did not own [the] premises at said time . . . " (NYSCEF Doc # 24).

Background

On October 14, 2019, plaintiff U.S. Bank National Association, as Trustee Successor in Interest to Bank of America National Association, as Trustee, Successor by merger to Lasalle National Association, as Trustee for Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-11 ("Plaintiff" or "US Bank") commenced this action to foreclose an April 12, 2006 mortgage in the principal amount of \$450,000.00 encumbering the subject premises by filing a summons, an unverified [*2] complaint, and a notice of pendency (see NYSCEF Doc #s 1-2). The complaint alleges that Rodney executed an April 12, 2006 note in favor of Lancaster Mortgage Bankers, the original lender, which was secured by a mortgage encumbering the subject premises then owned by Rodney (see NYSCEF Doc No. 1 at ¶¶ 7 and 9-10). The complaint further alleges that the mortgage and note were transferred to US Bank, after which the loan was modified to increase the principal balance to \$894,553.43 by an October 1, 2016 modification agreement ("the 2016 Modification Agreement") (see id. at ¶¶ 11-12). Rodney allegedly defaulted in making the monthly installment payments under the modified loan as of September 1, 2017 (see id. at ¶ 15). None of the named defendants answered or otherwise responded to the complaint, including Rodney, and their time within which to do so has expired.

On March 23, 2021, nearly one and a half years after this action was commenced, the Proposed Intervenors, non-parties Brevoort Place Corp. and BVT13 LLC, move for an order granting them leave to intervene, pursuant to <u>CPLR 1012 (a) (3)</u> and <u>1013</u>, dismissing this action and vacating the 2016 Modification Agreement (see NYSCEF Doc # 24). Importantly, [*3] the Proposed Intervenors' motion for leave to intervene, pursuant to <u>CPLR 1012</u> and/or <u>1013</u>, does not include a proposed pleading, as required by <u>CPLR 1014</u>.

Essentially, the Proposed Intervenors argue that they are necessary parties who should be granted leave to intervene in this foreclosure action because they acquired the subject premises [**3] from Rodney before this action was commenced and before Rodney entered into the 2016 Modification Agreement under which he later defaulted. According to their moving papers, Rodney transferred the subject premises to named defendant 13 Brevoort Place LLC by deed dated December 22, 2007, and recorded in the Office of the City Register of Kings County on April 7, 2008 under CRFN 2008000150317. The Proposed Intervenors allege that Brevoort Place Corp. purchased the subject premises from defendant 13 Brevoort Place LLC for \$1.5 million, as memorialized by a deed dated July 26, 2019 and recorded in the Office of the City Register of Kings County on August 19, 2019 under CRFN 201900026432. Importantly, each of these conveyances occurred before the instant action was commenced on October 14, 2019.

The Proposed Intervenors further allege that on February 2, 2021, during the pendency [*4] of this action, Brevoort Place Corp. sold the subject premises to BVT13 LLC for the sum of \$525,000.00, which constituted a significant loss. Hence, in addition to intervention, Brevoort Place Corp. and BVT13 LLC seek dismissal based on US Bank's alleged lack of standing, as well as an order vacating the 2016 Modification Agreement on the ground that Rodney no longer owned the subject premises in 2016 and, thus, it could not serve as security for the increased principal he borrowed pursuant to the agreement.

Discussion

Plaintiff argues, *inter alia*, that the instant motion should be denied because the Proposed Intervenors failed to include a proposed answer with their moving papers. <u>CPLR 1014</u> provides that "[a] motion to intervene shall be accompanied by a proposed pleading setting forth the claim or defense for which intervention is sought." The Second Department has held that it is reversible error for to grant a motion for leave to intervene where the proposed intervenor failed to submit a proposed pleading, as required by <u>CPLR 1014</u> (see <u>MTGLQ Investors, L.P. v Noftell, 204 AD3d 786, 786, 164 N.Y.S.3d 521 [2d Dept 2022]</u> [holding that "(a) motion seeking leave to intervene, whether pursuant to <u>CPLR 1012</u> or <u>1013</u>, shall be accompanied by the proposed intervenor's proposed pleading . . . "]; <u>Beneficial Homeowner Serv. Corp. v Chambers</u>, 145 AD3d 750, 752, 44 N.Y.S.3d 87 [2d Dept 2016] [holding [*5] that motion for leave to intervene should have been denied because proposed intervenor failed to submit a proposed pleading]).

In response to Plaintiff's argument, the Proposed Intervenors contend that they did not need to submit a proposed answer because CPLR 3211 permits defendants to make a pre-answer [**4] motion to dismiss, the primary relief sought on this motion is dismissal of the complaint, and the defenses they seek to raise are clearly set forth in their moving papers. However, it is axiomatic that a non-party cannot obtain affirmative relief, such as dismissal, unless it has been joined or permitted to intervene in the subject action. Moreover, a court has no power to grant leave to intervene where the prospective intervenor fails to submit a proposed pleading as required by CPLR 1014 (see Landa v Poloncarz, 215 AD3d 739, 741, 187 N.Y.S.3d 283 [2d Dept 2023]; New Hope Missionary Baptist Church, Inc. v 466 Lafayette Ltd., 169 AD3d 811, 812, 94 N.Y.S.3d 379 [2d Dept 2019]). Therefore, this motion must be denied (see Matter of Merestead, 188 AD3d 690, 691-692, 133 N.Y.S.3d 607 [2d Dept 2020] [motion for leave to intervene in proceeding and, thereupon, to dismiss petition pursuant to CPLR 3211(a), denied where the moving papers did not include a proposed pleading]).

It is undisputed that the Proposed Intervenors failed to submit a proposed pleading with their moving papers-in-chief, as required by <u>CPLR 1014</u>; nor did they attempt to cure the defect by submitting a proposed [*6] answer with their reply papers. Hence, the instant motion for leave to intervene in this foreclosure action is denied. However, since the Proposed Intervenors made a threshold showing that they potentially have "a real and substantial interest in the outcome of the proceedings" and, therefore, "likely would have been entitled to relief pursuant to <u>CPLR 1012 (a)</u> and <u>1013,</u>" they may renew the motion upon proper papers (see <u>Landa v Poloncarz</u>, 215 AD3d at 741-742; <u>New Hope Missionary Baptist Church, Inc.</u>, 169 AD3d at 812-813).

Accordingly, the above-referenced motion for, *inter alia*, leave to intervene in this action is **DENIED with leave to renew** upon moving papers in compliance with <u>CPLR 1014</u>.

The foregoing constitutes the Decision and Order of this Court.

ENTER,

Dated: September 6, 2024

/s/ Cenceria P. Edwards

Hon. Cenceria P. Edwards, JSC, CPA

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Vanesyan v. Aperian

Court of Appeal of California, Second Appellate District, Division Five September 6, 2024, Opinion Filed B331463

Reporter

2024 Cal. App. Unpub. LEXIS 5606 *

LARISA VANESYAN, Plaintiff and Respondent, v. MAXIM APERIAN, Defendant and Appellant.

Notice: NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 8.1115(a), PROHIBITS COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 8.1115(b). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 8.1115.

Prior History: [*1] APPEAL from an order of the Superior Court of Los Angeles County, No. BD541888, Jeffrey W. Korn, Judge Pro Tempore.

Disposition: Affirmed.

Core Terms

restraining order, trial court, injunction, terminate, permanent, modify

Counsel: Law Offices of Cynthia A. de Petris and Cynthia A. de Petris for Defendant and Appellant. Larisa Vanesyan, self-represented litigant, for Plaintiff and Respondent.

Judges: KIM, J.; BAKER, Acting P. J., DAVIS, J.* concurred.

Opinion by: KIM, J.

Opinion

I. INTRODUCTION

Maxim Aperian (Maxim) appeals from an order denying his request for order (RFO)¹ to modify or terminate a permanent restraining order against him. We affirm.

^{*} Judge of the Los Angeles County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

II. BACKGROUND

A. Permanent Restraining Order

Maxim and petitioner Larisa Vanesyan (Larisa) were married until their divorce in 2013. On May 19, 2011, Larisa filed a petition for a domestic violence restraining order protecting her from Maxim; and, on August 9, 2011, the trial court granted the order, which was set to expire in two years. Larisa subsequently requested that the restraining order be made permanent. (Fam. Code², § 6345, subd. (a).) On June 27, 2013, the trial court renewed the restraining order against Maxim and ordered it be permanent. (See *In re Marriage of L.A. & M.A.* (B289451, Apr. 15, 2020) [nonpub. opn.].) Among other things, the restraining order required that Maxim stay at least 100 yards [*2] away from Larisa's home, vehicle, job or workplace, and their children's school.

B. RFOs to Modify or Terminate Restraining Order

On September 30, 2021, Maxim filed an RFO to modify or terminate the restraining order. On January 26, 2022, the trial court denied the RFO. Maxim did not appeal from that order.

On March 14, 2023, Maxim filed another RFO to terminate or modify the permanent restraining order. In his RFO, Maxim claimed that he had never "intentionally or maliciously violated the restraining order" but also admitted that he was found in violation of the protective order in 2015, and pleaded guilty to a misdemeanor. Maxim also claimed that he was "ordered to complete all terms of probation, take 52 weeks of anger management classes, [and] take parenting classes . . ." Notwithstanding his admission of having been ordered to complete these requirements, Maxim also claimed that he completed the terms of probation "voluntarily."

In his attached declaration, Maxim claimed that he was pulled over and harassed by the police "all because of my Restraining Order." Maxim attached a copy of his Driver's License information in support of his assertion. That report, however, does not make [*3] reference to the existence of a restraining order. Maxim also claimed that the existence of the restraining order prevented him from attending his brother's funeral, explaining that when he arrived at the airport to fly to Armenia, "some type of alert" was triggered, which caused him to be placed in a "suspended terrorist line." Because "there were 22 people ahead of [him,]" he missed his flight.

Maxim also described his feelings about his divorce and Larisa. He claimed that he could not "function properly at [his] work, due to the pressure and stress, given the process of divorce" and was therefore laid off and ultimately became homeless. He claimed that all of his "financial institutions were seized and given to [Larisa]." He explained that he had a new girlfriend and believed that "LARISA is . . . purposely trying to make [his] life miserable, because [he] moved on." He stated that when Larisa advised the court that she had a "terminal illness," Maxim sent her a photograph of himself lighting a candle for her at a church, along with a message that stated he did not "wish [her] a death" and instead wished that she "would be happy and healthy." She responded, "Thank you so much! I'm [*4] so happy that you finally feel happy! Picture was not necessary." He also declared that he had sent Larisa Mother's Day greetings but that she did not respond and "simply ignored [him]."

¹ "In family law proceedings under the Family Code, the term 'request for order' (RFO) 'has the same meaning as the terms "motion" or "notice of motion" when used in the Code of Civil Procedure.' (Cal. Rules of Court, rule 5.92(a)(1)(A).)" (In re Marriage of DeWolfe (2023) 93 Cal.App.5th 906, 908, fn. 3, 310 Cal. Rptr. 3d 781.)

² Further statutory references are to the Family Code unless otherwise stated.

Finally, Maxim submitted a letter from Dr. Richard Ciasca, dated February 27, 2023, who wrote that he had treated Maxim since 2015 and "[Maxim] does not pose a threat to anyone including the mother of his children."

Larisa responded to the RFO, asserting among other things that there was no material change of circumstances. She submitted a declaration in support, which stated that in July 2014, the superior court issued two criminal restraining orders against Maxim, protecting Larisa and the oldest child. And, in 2016, Maxim had been placed on a psychiatric hold after reporting to his doctor that he intended to kill Larisa. Larisa also reported that during court-ordered visits between Maxim and his youngest child in 2019, Maxim was aggressive and hostile towards Larisa, the child, and the monitor. Larisa submitted visitation reports prepared by the visit monitors, including one dated April 16, 2019, in which Maxim told the monitor, "[t]hat bitch made all of this, she is the one that doesn't want me to [*5] have a relationship with [our daughter]." When the monitor requested that Maxim not speak about mother, Maxim responded, "I don't care, you could write everything down, I don't care. I will run her to the ground financially, I don't care if the fuck-en [sic] court knows it. She made the soup now she has to stir it and eat it." Larisa also declared that Maxim constantly followed her and knew when she and the children were far from home. He falsely reported to the police that she was neglecting the children, which resulted in investigations by the Department of Protective Services, which determined that the claims were unfounded. As a result, the police no longer responded to Maxim's reports. Finally, Larisa declared that on several occasions, Maxim appeared near Larisa's work. On those occasions, Larisa did not contact the police because she did not wish to have her clients involved in her personal matters. Instead, she had her friends stay with her in order to ensure her safety.

Maxim replied to Larisa's response, arguing that he never intentionally or maliciously violated the restraining order in the past 12 years and that he was no longer a "reasonable threat of future harm toward [*6] [Larisa]."

On May 11, 2023, the trial court conducted a hearing on the RFO. Both Larisa and Maxim testified. The record does not include a reporter's transcript of those proceedings, or a suitable substitute, such as an agreed or settlement statement, of the hearing. (Cal. Rules of Court, rule 8.120(b).)³ The court denied the RFO.

On July 5, 2023, the trial court issued a statement of decision. The court stated that the conduct that initially gave rise to the protective order was "severe and extended over time and included surveillance of [Larisa]. The abuse in this case was a course of conduct, not a single bad incident." The court further found that Larisa's testimony about her fear of abuse was credible and not objectively unreasonable. Maxim timely appealed.

III. DISCUSSION

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³ In his notice designating the record on appeal, Maxim elected to proceed without a record of the oral proceedings. Contrary to Maxim's assertion, the court's statement of decision is not a suitable substitute for a reporter's transcript. (See <u>Foust v. San Jose Construction Co., Inc. (2011) 198 Cal.App.4th 181, 186, 129 Cal. Rptr. 3d 421.</u>) Further, we reject Maxim's request to stay proceedings so that he can secure a settled statement. (See Ct. App., Second Dist., Local Rules, rule 2(b) ["Appellant should file requests for augmentation in one motion within 40 days of the filing of the record or the appointment of counsel. . . . Thereafter, motions to augment will not be granted except upon a showing of good cause for the delay"]; <u>Russi v. Bank of America National Trust & Savings Assn. (1945) 69 Cal.App.2d 100, 102, 158 P.2d 252</u> ["Even where the matter sought to be added is proper, or the proposed correction is warranted, neither augmentation nor correction is a matter of right; they both may be denied for inexcusable neglect in preparing the record, for delay in presenting the application, or for other reasons'"].)

A. Standard of Review and Applicable Law

"A domestic violence restraining order is a type of injunction, as it is an 'order requiring a person to refrain from a particular act.' (Code Civ. Proc., § 525 [defining an 'injunction'].) . . . Code of Civil Procedure section 533 sets forth the standards for a trial court to apply when considering whether to dissolve an injunction. 'In any action, the court may on notice modify or dissolve an injunction or temporary restraining order upon a showing that there has [*7] been a material change in the facts upon which the injunction or temporary restraining order was granted, that the law upon which the injunction or temporary restraining order was granted, that the ends of justice would be served by the modification or dissolution of the injunction or temporary restraining order.' (Code. Civ. Proc., § 533; see also Luckett v. Panos (2008) 161 Cal.App.4th 77, 85, 73 Cal. Rptr. 3d 745 [Code Civ. Proc., § 533 'articulates three independent bases on which a modification [or termination] of an injunction may be predicated—(1) change in the facts, (2) change in the law, or (3) ends of justice[]'].)" (Loeffler v. Medina (2009) 174 Cal.App.4th 1495, 1503-1504, 95 Cal. Rptr. 3d 343 (Loeffler).)

"[W]here the party protected by a restraining order has *already* made the required showing to obtain a renewal of the order, and the restrained party later seeks to terminate the restraining order, the burden is on the restrained party to show by a preponderance of the evidence that one of the circumstances set forth in <u>Code of Civil Procedure section 533</u> is present and justifies a termination of the restraining order." (<u>Loeffler, supra, 174 Cal.App.4th at p. 1504</u>.) "As in any review of an order denying a motion to dissolve an injunction, we apply an abuse of discretion standard of review." (<u>Id. at p. 1505</u>.)

B. Analysis

Maxim contends that the trial court's finding that Larisa reasonably feared future abuse by Maxim is not supported by the evidence, [*8] and was based entirely on her testimony that she was still "'afraid'" of Maxim. He also contends that the trial court was required to grant the RFO based on a change of circumstances because (1) Maxim was not represented by counsel at the hearing in 2013, when the permanent restraining order was issued, whereas he was represented by counsel for his RFO; (2) he did not further violate the protective order; and (3) his psychiatrist opined that Maxim did not pose a threat to Larisa. Finally, in Maxim's view, the trial court was required to grant the RFO because there was no reasonable risk that acts of domestic violence were likely to recur in the future.

Maxim cannot prevail on any of his arguments because he has failed to provide an adequate record on appeal. "[T]he absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant's ability to have his or her claims of trial court error resolved on the merits by an appellate court. This is so because it is a fundamental principle of appellate procedure that a trial court judgment is ordinarily presumed to be correct and the burden is on an appellant [*9] to demonstrate, on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment. [Citations.] 'This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' [Citations.] 'In the absence of a contrary showing in the record, all presumptions in favor of the trial court's action will be made by the appellate court. "[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented." [Citation.] "A necessary corollary to this rule is that if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed." [Citation.] 'Consequently, [the appellant] has the burden of providing an adequate record. [Citation.] Failure to provide an adequate record on an issue requires that the issue be resolved against [the appellant].' [Citation.]" (Jameson v. Desta (2018) 5 Cal.5th 594, 608-609, 234 Cal. Rptr. 3d 831, 420 P.3d 746, fn. omitted.)

Here, we do not have a record of Maxim or Larisa's testimony. The trial court, however, found Larisa's testimony about her ongoing fear **[*10]** of Maxim to be both credible and reasonable. We do not disturb this finding on appeal. (*In re Marriage of Balcof* (2006) 141 Cal.App.4th 1509, 1531, 47 Cal. Rptr. 3d 183.)

Moreover, we have no record of what, if any, other evidence was admitted. Accordingly, although Maxim contends that his psychiatrist's letter required the granting of the RFO, we have no record of whether the letter was admitted into evidence, excluded as hearsay, or, if admitted, whether it was deemed either probative or credible by the trial court. We therefore reject each of Maxim's arguments.

IV. DISPOSITION

The order denying the RFO to modify or terminate the permanent restraining order is affirmed. Larisa is awarded costs on appeal.

KIM, J.

We concur:

BAKER, Acting P. J.

DAVIS, J.*

End of Document

^{*}Judge of the Los Angeles County Superior Court, assigned by the Chief Justice pursuant to <u>article VI, section 6 of the California Constitution</u>.

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Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19......2



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Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19

United States District Court for the Eastern District of Texas, Sherman Division September 4, 2024, Decided; September 4, 2024, Filed CIVIL ACTION NO. 4:22-CV-00506-ALM-AGD

Reporter

2024 U.S. Dist. LEXIS 172846 *

ANTONIA RODRIGUEZ, et al., Plaintiffs, v. LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-19, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE, et al., Defendants.

Subsequent History: Adopted by, Objection overruled by, Summary judgment granted by, Dismissed by, Request granted, Motion granted by, Judgment entered by Rodriguez v. Lehman XS Trust Mortg. Pass-Through Certificates Series 2006-19, 2024 U.S. Dist. LEXIS 171615 (E.D. Tex., Sept. 23, 2024)

Core Terms

res judicata, Lawsuit, counterclaim, summary judgment, summary judgment motion, notice, state court, breach of contract, attorney's fees, recommends, Lender, nonjudicial foreclosure, security instrument, default, Mortgage, parties, costs, cause of action, movant, court of competent jurisdiction, magistrate judge, foreclosure, Accelerate, Borrower, genuine, report and recommendation, grant summary judgment, judicial foreclosure, foreclosure sale, void ab initio

Counsel: [*1] Antonia Rodriguez, Plaintiff, Pro se.

Danny Rodriguez, Plaintiff, Pro se.

For U.S. Bank National Association, as Trustee, Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-19, U.S. Bank National Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America National Association, as Trustee ..., Defendant: Robert Davis Forster, II, Barrett Daffin Frappier Turner & Engel, LLP - Addison, Addison, TX; Shelley Luan Hopkins, Hopkins Law PLLC - Austin, Austin, TX.

For Nationstar Mortgage LLC, doing business as, Mr. Cooper, Defendant: Shelley Luan Hopkins, LEAD ATTORNEY, Hopkins Law PLLC - Austin, Austin, TX; Robert Davis Forster, II.

For U.S. Bank National Association, as Trustee, Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-19, U.S. Bank National Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America National Association, as Trustee ..., Counter Claimant: Robert Davis Forster, II, Barrett Daffin Frappier Turner & Engel, LLP - Addison, Addison, TX; Shelley Luan Hopkins, Hopkins Law PLLC - Austin, Austin, TX.

Judges: AILEEN GOLDMAN DURRETT, [*2] UNITED STATES MAGISTRATE JUDGE.

Opinion by: AILEEN GOLDMAN DURRETT

Opinion

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

The above-referenced case was referred to the undersigned United States Magistrate Judge for pre-trial purposes in accordance with 28 U.S.C. § 636. Pending before the court is Defendants Lehman XS Trust Mortgage Pass-Through Certificates Series 2006-19, U.S. Bank National Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America National Association, as Trustee, Successor by Merger to LaSalle Bank National Association, as Trustee ("U.S. Bank") and Nationstar Mortgage, LLC d/b/a Mr. Cooper's ("Mr. Cooper") (collectively "Defendants") Motion for Summary Judgment (Dkt. #25). Having reviewed Defendants' Motion for Summary Judgment (Dkt. #25), Plaintiffs' Response in opposition (Dkt. #40), Defendants' Reply in support (Dkt. #44), and all other relevant pleadings, the court finds that Defendants' Motion for Summary Judgment, (Dkt. #25), should be granted as set forth herein.

BACKGROUND

In September 2006, Plaintiffs executed a Texas Home Equity Adjustable Rate Note ("Note") and Texas Home Equity Security Instrument (First Lien) [*3] ("Deed of Trust") (collectively, the "Home Loan") (Dkt. #8, Exhibit 1, 2). The Home Loan was for Plaintiffs' homestead located in Plano, Texas (Dkt. #10 at p. 2). The Deed of Trust secured repayment of the Note by placing a lien on the property in favor of the original lien holder, Mortgage Electronic Registration Systems, Inc. ("MERS") (Dkt. #8, Exhibit 2 at p. 3). Under this Deed of Trust, Plaintiffs were to repay the full amount of the Note "in regular Periodic Payments and to pay the debt in full not later than October 1, 2036" (Dkt. #8, Exhibit 2 at p. 3). Plaintiffs were to begin making payments on the Note beginning November 1, 2006, and then on the first of each month thereafter until paid in full (Dkt. #8, Exhibit 1 at p. 3).

On February 2, 2011, MERS, as nominee for Meridas Capital, Inc., its successors and assigns, assigned the Deed of Trust to Aurora Loan Services, LLC (Dkt. #8, Exhibit 3 at p. 2). Then, on June 29, 2012, Aurora Loan Services, LLC assigned the Deed of Trust to Nationstar Mortgage, LLC (Dkt. #8, Exhibit 3 at p. 4). Subsequently, on December 16, 2014, Nationstar Mortgage, LLC assigned the Deed of Trust to Defendant U.S. Bank (Dkt. #8, Exhibit 1 at p. 8). It [*4] is under this assignment that Defendant U.S. Bank is the current holder of the Deed of Trust, a fact that Plaintiffs admit (Dkt. #10 at p. 3).

Plaintiffs' delinquency under the Home Loan began when Plaintiffs failed to make a payment prompting a default notice in January 2009 from Defendants' predecessor, Aurora Loan Services. *Rodriguez v. Nationstar Mortgage, LLC*, No. 05-16-01399-CV, 2018 WL 2926808, at *1 (Tex. App.—Dallas June 7, 2018). Because the Home Loan is a Texas Home Equity Loan, Defendants must obtain a court order to proceed with foreclosure. <u>TEX. CONST. art XVI, § 50(a)(6)(D)</u>. As such, Defendants obtained a court order through an expedited Rule 736 proceeding in Cause No. 429-00150-2015, and Plaintiffs' home was

posted for the June 2, 2015, foreclosure sale (Dkt. #8 at p. 4; Dkt. #25 at pp. 4-5). On June 1, 2015, the day before the scheduled foreclosure sale, Plaintiffs filed a lawsuit in the 429th Judicial District of Collin County, Texas, Cause No. 429-02140-2015 ("State Court Lawsuit") (Dkt. #25 at p. 5). The State Court Lawsuit alleged violations of the Texas Debt Collection Act, negligent misrepresentation and accounting, and declaratory judgment that the lien was barred by limitations (Dkt. #25 at p. 5). The Collin County District Court granted summary judgment in favor of Defendants on all Plaintiffs' claims on August [*5] 29, 2016, and dismissed Plaintiffs' case with prejudice (Dkt. #25 at p. 5). This decision was affirmed by the Court of Appeals of Texas, Dallas, on June 7, 2018 (Dkt. #25 at p. 5). Rodriguez, 2018 WL 2926808.

On July 3, 2019, counsel for Defendant Mr. Cooper sent Plaintiffs and Plaintiffs' counsel a Notice of Default and Intent to Accelerate (Dkt. #25, Exhibit 1 at p. 52-61). This Notice again offered Plaintiffs an opportunity to cure the default, but Plaintiffs again failed to do so (Dkt. #25 at pp. 25-26). After Plaintiffs failed to cure the default, Defendant Mr. Cooper's counsel sent a Notice of Acceleration to Plaintiffs and Plaintiffs' counsel on October 7, 2019 (Dkt. #25, Exhibit 1 at pp. 63-72). On January 6, 2020, Defendant U.S. Bank obtained another order for foreclosure of Plaintiffs' property and the foreclosure sale date was set for June 7, 2022 (Dkt. #25 at p. 6). However, on June 1, 2022, Plaintiffs again filed a lawsuit in state court, staying the foreclosure of Plaintiffs' property (Dkt. #2). Defendants removed the present lawsuit to federal court [*8] on June 17, 2022, based on diversity jurisdiction under 28 U.S.C. § 1332 (Dkt. #1).

¹ Plaintiffs have a protracted history with the Home Loan as found by the Court of Appeals of Texas, Dallas, in the State Court Lawsuit:

Following a default [on the Home Loan], the Rodriguezes entered into a repayment agreement with Aurora on January 29, 2009

On September 30, 2009, Aurora sent the Rodriguezes a letter which stated "[i]f you do not bring your loan current within thirty (30) days of the date of this letter, Aurora Loan Services will demand the entire balance outstanding under the terms of your Mortgage/Deed of Trust." In October 2009, however, Aurora placed the Rodriguezes on a "trial period plan" under the Home Affordable Modification Program. Aurora later canceled this trial plan because the Rodriguezes failed to make the required payments but Aurora continued to work with them regarding their loan. Aurora and the Rodriguezes then entered into a workout agreement on June 18, 2010, which allowed them to pay some of the arrearage due under the loan. The workout agreement contained the following introductory provision:

WHEREAS, as a result of Customer's default, Lender (i) has the right to accelerate and to require Customer [*6] to make the immediate payment in full, all of the sums owed under the Note and secured by the Security Instrument, (ii) has so accelerated and declared due in full all such sums, and (iii) may have already commenced foreclosure proceedings to sell the Property.

Aurora canceled the workout agreement on September 23, 2010, when the Rodriguezes failed to make the required September payment. By letter dated September 24, 2010, Aurora sent the Rodriguezes a notice of default and provided them the opportunity to cure the default. Aurora reset the workout agreement when the Rodriguezes paid the missed September 2010 payment. However, Aurora re-cancelled the agreement on October 25, 2010, when the Rodriguezes missed another payment. On November 2, 2010, Aurora sent the Rodriguezes another notice of default and provided them the opportunity to cure the default. In both the September 24th and November 2nd default letters, Aurora advised that it would accelerate the loan if the Rodriguezes failed to cure their default as requested.

On July 1, 2012, the note and deed of trust were assigned from Aurora to Nationstar Mortgage, LLC (Nationstar). In May 2013, Nationstar sent a notice of acceleration. [*7] Nationstar also filed a foreclosure action and received an order authorizing it to foreclose its lien in October 2013. Prior to the foreclosure sale, however, the Rodriguezes filed for Chapter 13 bankruptcy and the lien was not foreclosed. On May 23, 2014, the bankruptcy case was dismissed by the chapter 13 bankruptcy trustee.

Rodriguez, 2018 WL 2926808, at *1-*2.

In the present lawsuit, Plaintiffs have sued the same Defendants over the same Home Loan as in the State Court Lawsuit (Dkt. #25 at pp. 9-11). Plaintiffs now allege violations of Article XVI, § 50(a) of the Texas Constitution, and Plaintiffs' causes of action include quiet title, declaratory judgment, and a permanent injunction, each predicated on the alleged Texas Constitution violations (Dkt. #10 at pp. 3-5). On July 17, 2022, Defendants filed a Counterclaim against Plaintiffs, bringing suit for breach of contract, nonjudicial foreclosure, judicial foreclosure, and equitable subrogation (Dkt. #8). After sufficient time for discovery, Defendants moved for summary judgment on Plaintiffs' claims based on a theory of res judicata, and for summary judgment in favor of Defendants for breach of contract and nonjudicial foreclosure, judicial foreclosure, and equitable subrogation (Dkt. #25).

LEGAL STANDARD

The purpose of summary judgment is to isolate and dispose of factually unsupported claims or defenses to help "secure the just, speedy and inexpensive determination of every action." Nat'l Cas. Co. v. Kiva Const. & Eng'g, Inc., 496 Fed. App'x 446, 449 (5th Cir. 2012) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 327, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)). Summary judgment is proper if the pleadings, the discovery and disclosure [*9] materials on file, and any affidavits "[show] that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a). "A genuine dispute of material fact exists 'if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Certain Underwriters at Lloyd's London v. Axon Pressure Prods. Inc., 951 F.3d 248, 255 (5th Cir. 2020) (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986)). All inferences must be construed in the light most favorable to the nonmoving party. See id.; Osprey Ship Mgmt. Inc. v. Foster, 387 Fed. App'x 425, 429 (5th Cir. 2010). "[T]he substantive law will identify which facts are material. This means [o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Gibson v. Collier, 920 F.3d 212, 219 (5th Cir.), cert. denied, 140 S. Ct. 653, 205 L. Ed. 2d 384 (2019) (citing Parrish v. Premier Directional Drilling, L.P., 917 F.3d 369, 378 (5th Cir. 2019)) (internal quotations omitted).

The party moving for summary judgment has the burden of showing that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Cotroneo v. Shaw Env't & Infrastructure, Inc., 639 F.3d 186, 191 (5th Cir. 2011). "[W]here the movant bears the burden of proof at trial, the movant 'must establish beyond peradventure all of the essential elements of the claim or defense to warrant judgment in his favor." Lyons v. Katy Indep. Sch. Dist., 964 F.3d 298, 302 (5th Cir. 2020) (citation omitted). However, if the movant does not bear the burden of proof at trial, the movant is entitled to summary judgment if "the [*10] nonmoving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof." Gonzales v. ConocoPhillips Co., 806 Fed. App'x 289, 291 (5th Cir. 2020) (citing Celotex, 477 U.S. at 323). Once the movant has carried its burden, the nonmovant "must go beyond the pleadings and identify specific evidence in the record showing that there is a genuine issue for trial." Powers v. Northside Indep. Sch. Dist., 951 F.3d 298, 307 (5th Cir. 2020). "If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted." Malbrough v. Stelly, 814 Fed. App'x 798, 802 (5th Cir. 2020) (citing Anderson, 477 U.S. at 249-50).

ANALYSIS

Defendants have moved for summary judgment on Plaintiffs' Amended Complaint as well as their own Counterclaims (Dkt. #25). Because the burden of proof shifts regarding Defendants' Motion for Summary Judgment, the court takes up the claims in Plaintiffs' Amended Complaint first.

A. Defendants' Motion for Summary Judgment on Plaintiffs' Amended Complaint

1. Plaintiffs' Claims Are Barred by Res Judicata.

Defendant moves for summary judgment on the claims in Plaintiffs' Amended Complaint based on a theory of res judicata (Dkt. #25 at pp. 9-11). The crux of the doctrine of res judicata is that "'a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised [*11] in that action." Oreck Direct, LLC v. Dyson, Inc., 560 F.3d 398, 401 (5th Cir. 2009) (citing Allen v. McCurry, 449 U.S. 90, 94, 101 S. Ct. 411, 66 L. Ed. 2d 308 (1980)). Res judicata "relieve[s] parties of the cost and vexation of multiple lawsuits, conserve[s] judicial resources, and, by preventing inconsistent decisions, encourage[s] reliance on adjudication." Allen, 449 U.S. at 94 (citing Montana v. United States, 440 U.S. 147, 153-54, 99 S. Ct. 970, 59 L. Ed. 2d 210 (1979)). To establish res judicata, a party must satisfy four elements: "(1) the parties must be identical in the two actions; (2) the prior judgment must have been rendered by a court of competent jurisdiction; (3) there must be a final judgment on the merits; and (4) the same claim or cause of action must be involved in both cases." Oreck Direct, 560 F.3d at 401 (citing In re Ark—La—Tex Timber Co., 482 F.3d 319, 330 (5th Cir. 2007)).

Defendants argue that each of the four elements are met in the present case based upon the adjudication of the State Court Lawsuit (Dkt. #25 at pp. 9-11). The first three elements are not in dispute as Plaintiffs failed to address them entirely in their Response to Defendants' motion for Summary Judgment (Dkt. #40). First, Defendants state that "[t]he Parties in this cause are identical to the parties in the [State Court Lawsuit]." (Dkt. #25 at p. 10). Second, Defendants state that "[t]he 429th Judicial District Court of Collin County, Texas rendered judgment in the [State Court Lawsuit,] and the judgment was affirmed [*12] by the Fifth Court of Appeals," each of which "are courts of competent jurisdiction, thus satisfying the second element of res judicata." (Dkt. #25 at p. 10). Third, Defendants state that they were granted summary judgment, and Plaintiffs' claims were dismissed with prejudice in the State Court Lawsuit, which was affirmed upon appeal (Dkt. #25 at pp. 5, 10). See <u>Oreck Direct</u>, 560 F.3d at 401 (quoting <u>Fernandez-Montes v. Allied Pilots Ass'n</u>, 987 F.2d 278, 284 n.8 (5th Cir. 1993)) ("A dismissal which is designated 'with prejudice' is 'normally an adjudication on the merits for purposes of res judicata."). Having presented no rebuttal evidence, the court cannot find that Plaintiffs went "beyond the pleadings [to] identify specific evidence in the record showing that there is a genuine issue for trial" regarding the first three factors. <u>Powers</u>, 951 F.3d at 307.

The only issue that remains is whether the same claim or cause of action is involved in both cases. Oreck Direct, 560 F.3d at 401. Defendants must satisfy the "transactional test" to establish the fourth element of res judicata, which "requires that the two actions be based on the same nucleus of operative fact." Id. at 401-02 (citing In re Ark-La-Tex Timber Co., 482 F.3d 319, 330 (5th Cir. 2007)). "[A] prior judgment's preclusive effect extends to all rights of the plaintiff with respect to all or any part of the transaction, or series of connected transactions, [*13] out of which the [original] transaction arose." Id. at 402 (internal citations and quotation marks omitted). Defendants argue that "[t]he foundation of Plaintiffs' [State Court Lawsuit] is the same as herein—the property and the loan agreement secured by that property. As the subject matter of [] both lawsuits is clearly and without question the Property and the

mortgage loan, Plaintiffs' claims are barred by res judicata." (Dkt. #25 at p. 11). (Emphasis in original). The court agrees.

The entirety of Plaintiffs' argument against the fourth element of res judicata is a heading: "A. The same claim or cause of action was not involved in both actions." (Dkt. #40 at p. 5). (Emphasis in original). To accept this conclusory assertion as sufficient to defeat a motion for summary judgment would contrary to the summary judgment standard. Based upon the evidence and argument presented by Defendants and the complete absence of the same by Plaintiffs, the court can only recommend that Defendant is entitled to summary judgment as a matter of law. Accordingly, Defendants' Motion for Summary Judgment (Dkt. #25) should be granted regarding Plaintiffs' Amended Complaint (Dkt. #10). Plaintiffs' claims are barred [*14] by res judicata, and Plaintiffs' Amended Complaint (Dkt. #10) should be dismissed with prejudice.

2. Plaintiffs' Allegations of Defendants' Violations of the Texas Constitution Are Meritless.

Even if Plaintiffs' Amended Complaint were not barred by res judicata, Plaintiffs' claims still fail as a matter of law. Plaintiffs' Amended Complaint rests on the assertion that the Home Loan is void *ab initio* because Defendants failed to follow the requirements of the Texas Constitution in executing the loan documents (Dkt. #10 at p. 3). Plaintiffs allege the following violations:

- a) Plaintiffs did not get a copy of all finalized and signed loan documents at closing. <u>TEX. CONST.</u> art. XVI, $\S 50(a)(6)(Q)(v)$.
- b) The loan must not have closed before 12 days after the borrower received notice that the loan was governed by <u>Texas Constitution article XVI, § 50(a)(6)</u>. <u>TEX. CONST. art. XVI, § 50(a)(6)(M)(i)</u>. Plaintiffs never received timely notice that the loan was governed by the <u>Texas Constitution article XVI, § 50(a)(6)</u> as required by <u>TEX. CONST. art. XVI, § 50(a)(7)(g)</u>.
- c) The Lender did not sign the acknowledgement of Fair Market Value. <u>TEX. CONST. art. XVI, § 50(a)(6)(Q)(ix)</u>.

(Dkt. #10 at p. 3).

Defendants' Motion for Summary Judgment establishes compliance with the requirements of Article XVI, § 50(a) in place at the time of execution of the Home Loan (Dkt. #25 at pp. 11-12). Attached to Defendants' Motion for Summary Judgment are copies of the Texas [*15] Home Equity Receipt of Copies, one signed by each Plaintiff (Dkt. #25, Exhibit 1 at pp. 45-46). This document directly contradicts Plaintiffs' allegation that they did not receive a copy of all finalized and signed loan documents, and Plaintiffs provided no direct evidence in their Response to Defendant's Motion for Summary Judgment to support the allegations in their Amended Complaint.

Next, Defendants provided evidence establishing the fact that Plaintiffs had the requisite 12-day notice required by the Texas Constitution. Indeed, Plaintiffs signed the Notice Concerning Extensions of Credit Defined by Section 50(a)(6), ARTICLE XVI, TEXAS CONSTITUTION on August 24, 2006 (Dkt. #25 at p. 12; Dkt. #25, Exhibit 1 at p. 50). The Home Loan closed on September 25, 2006, over a month later (Dkt. #25, Exhibit 1). Plaintiffs offer no evidence or argument to dispute Defendants' evidence that Plaintiffs received adequate notice (Dkt. #40).

Finally, Plaintiffs allege the Lender did not sign the Acknowledgment of Fair Market Value document. Defendants state that "[t]hough Plaintiffs may argue that this copy was not signed by the lender, the

version of section 50(a)(6)(Q)(v) in effect when the loan closed required only that the lender 'provide the owner of the homestead [*16] a copy of all documents *signed by the owner* related to the extension of credit." (Dkt. #25 at p. 12) (first citing <u>TEX. CONST. art. XVI, § 50(a)(6)(Q)(v)</u> (amended Nov. 6, 2007) (emphasis added); and then citing *Rodriguez v. Deutsche Bank*, 2018 WL 5930570 (5th Cir. Nov. 13, 2018)). Defendants' evidence establishes that Plaintiffs received copies of all documents signed by Plaintiffs, thus satisfying § 50(a)(6)(Q)(v) of the Texas Constitution in effect when Plaintiffs closed the Home Loan.

Defendants' Motion for Summary Judgment is supported by competent summary judgment evidence. Plaintiffs' Response, however, is completely devoid of competent summary judgment evidence and, instead, relies on an affidavit premised on the "information and belief" of Plaintiff Danny Rodriguez. Without more, the court cannot conclude that Plaintiffs' Home Loan is void *ab initio*. See <u>Bolen v. Dengel</u>, 340 F.3d 300, 313 (5th Cir. 2003) ("As an initial matter, Dengel's affidavit is inappropriate summary judgment evidence. Thus, we do not consider it here. Rule 56(e) [of the Federal Rules of Civil Procedure] requires statements in affidavits to be based on personal knowledge and not based on information and belief.") (citing <u>Richardson v. Oldham</u>, 12 F.3d 1373, 1378 (5th Cir.1994)). Thus, the court recommends that Defendants be granted summary judgment on Plaintiffs' Amended Complaint (Dkt. #10).

B. Defendants' Counterclaims

After removing the case to federal court, Defendants filed an Answer (Dkt. #7) and a [*17] Counterclaim (Dkt. #8) on June 27, 2023. Defendants' Counterclaim seeks recovery in three alternative ways: (1) breach of contract and non-judicial foreclosure; (2) judicial foreclosure; and (3) equitable subrogation (Dkt. #8 at pp. 4-7). Additionally, Defendants seek damages and attorney fees (Dkt. #8 at pp. 7-8).

As Defendants point out, and the court has found, *supra*, Plaintiffs' claims are barred by res judicata. Again, res judicata, also called claim preclusion, "prevents parties from raising issues that could have been raised and decided in a prior action—even if they were not actually litigated." *Lucky Brand Dungarees, Inc. v. Marcel Fashions Grp., Inc.*, 590 U.S. 405, 406, 140 S. Ct. 1589, 206 L. Ed. 2d 893 (2020). This bar applies equally to Plaintiffs as it does Defendants. Thus, the court must determine whether Defendants' causes of action in its Counterclaim are also barred by res judicata.

Defendants admit that res judicata bars all claims and defenses that could have been brought in a previous litigation (Dkt. #25 at p. 9). As the Parties agree, the elements of res judicata are that "(1) the parties are identical or in privity; (2) the judgment in the prior action was rendered by a court of competent jurisdiction; (3) the prior action was concluded by a final judgment on the merits; and [*18] (4) the same claim or cause of action was involved in both actions." Test Masters Educ. Servs., Inc. v. Singh, 428 F.3d 559, 571 (5th Cir. 2005); see also (Dkt. #25 at p. 9; Dkt #40 at p. 5). Further, Defendants state: "When those elements are satisfied, res judicata 'prohibits either party from raising any claim or defense in the later action that was or could have been raised in support of or in opposition to the cause of action asserted in the prior action." (Dkt. #25 at p. 9) (first emphasis added) (quoting United States v. Shanbaum, 10 F.3d 305, 310 (5th Cir. 1994)). Defendants explicitly state that Plaintiff's two lawsuits are based on the same nucleus of operative facts. Defendants state: "The foundation of Plaintiffs' [State

² Defendants filed a Motion to Strike Plaintiff Danny Rodriguez's Declaration in Support of Response to Motion for Summary Judgment (Dkt. #46). Based on the foregoing, the Motion (Dkt. #46) should be granted.

³ As an aside, Plaintiffs brought causes of action for (1) Quiet Title; (2) Declaratory Judgment; and (3) a Permanent Injunction (Dkt. #10). Because the court finds that Defendants did not violate the Texas Constitution in connection with the execution of the Home Loan, each of Plaintiffs' causes of action necessarily fails and should therefore be dismissed with prejudice.

Court Lawsuit] is the same as herein—the property and the loan agreement secured by that property. As the *subject matter* of [] both lawsuits is clearly and without question the Property and the mortgage loan, Plaintiffs' claims are barred by res judicata." (Dkt. #25 at p. 11). (Emphasis in original).

Additionally, as the issue before the court has been decided by a court of competent jurisdiction and affirmed by a court of competent jurisdiction, the court recognizes the State Court Lawsuit's preclusive effect regarding the present lawsuit. However, the court must now decide whether the [*19] State Court Lawsuit's preclusive effect extends to Defendants' asserted counterclaims.

1. Defendants' Counterclaims are not Barred by Res Judicata.

While Defendants' counterclaims arise from the same nucleus of operative facts, the claims are not barred by res judicata. In Texas, "when a borrower files an action challenging the validity of a secured debt, the state's compulsory counterclaim rule, TEX. R. CIV. P. 97(a), does not require the secured party to counterclaim to collect on the debt if the creditor has a contractual right to pursue a nonjudicial foreclosure." <u>Douglas v. NCNB Tex. Nat'l Bank, 979 F.2d 1128, 1130 (5th Cir. 1992)</u> (citing <u>Kaspar v. Keller, 466 S.W.2d 326, 329 (Tex. App.—Waco 1971, writ ref'd n.r.e.)</u>). "The purpose of this rule is to prevent a borrower from depriving its lender of a choice of remedies." *Id.* Thus, Defendants were not required to bring the present counterclaims against Plaintiffs in the State Court Lawsuit.

Additionally, Defendants obtained a Home Equity Foreclosure order in state court, which has no preclusive effect in the instant lawsuit. An order in an expedited proceeding under Texas Rule of Civil Procedure 736 "is without prejudice and has no res judicata, collateral estoppel, estoppel by judgment, or other effect in any other judicial proceeding." Tex. R. Civ. P. 736.9. When a party obtains a Rule 736 order, the "order is not a substitute for a judgment for judicial [*20] foreclosure." Tex. R. Civ. P. 735.5. Further, upon Plaintiffs' filing of the instant lawsuit, Defendants' Rule 736 order was automatically stayed. Tex. R. Civ. P 736.11(c) ("A proceeding or order under this rule is automatically stayed if a respondent files a separate, original proceeding in a court of competent jurisdiction that puts in issue any matter related to the origination, servicing, or enforcement of the loan agreement, contract, or lien sought to be foreclosed."). Based on the foregoing, the court finds that Defendants' counterclaims are not barred by res judicata.

2. Defendants Breach of Contract for Non-Judicial Foreclosure Claim

Defendant's Counterclaim seeks relief in alternative forms: (1) breach of contract and order allowing nonjudicial foreclosure; (2) judicial foreclosure; or (3) equitable subrogation (Dkt. #25 pp. 14-21). Plaintiffs do not respond to Defendants' counterclaims in their Response to Defendants' Motion for Summary Judgment (Dkt. #40). Regardless, the court notes that "[a] motion for summary judgment cannot be granted simply because there is no opposition. However, a court may grant an unopposed summary judgment motion if the undisputed facts show that the movant is entitled to judgment as a matter of law." [*21] Day v. Wells Fargo Bank N.A., 768 F.3d 435 (5th Cir. 2014) (quoting Hibernia Nat'l Bank v. Administracion Cent. Sociedad Anonima, 776 F.2d 1277, 1279 (5th Cir. 1985)). Accordingly, the court now considers Defendants' claim for breach of contract and nonjudicial foreclosure.

a. Defendants Are Entitled to Summary Judgment for Breach of Contract.

To succeed on a breach of contract claim, Defendants must establish that "(1) a valid contract exists, (2) [Defendants] performed or tendered performance, (3) Plaintiff[s] breached the contract, and (4) [Defendants] sustained damages as a result of the breach." *Cross v. Bank of N.Y. Mellon*, No. H-20-1322, 2021 U.S. Dist. LEXIS 117033, 2021 WL 2581584, at *12 (S.D. Tex. June 23, 2021), *aff'd*, No. 21-20384, 2022 U.S. App. LEXIS 9550, 2022 WL 1056093 (5th Cir. 2022).

Plaintiffs have not challenged Defendants' counterclaim for breach of contract (Dkt. #40). However, Plaintiffs have argued that the Home Loan is void *ab initio*. While not alleged in response to Defendants' Motion for Summary Judgment on their counterclaim for breach of contract, the court acknowledges that such assertion fails. Defendants have established each element for breach of contract.

First, as discussed at length, *supra*, the Home Loan is a valid contract, not void *ab initio*, and therefore satisfies the first element for breach of contract (Dkt. #25, Exhibit 1 at pp. 4-32). Second, Defendants tendered their performance under the contract (Dkt. #25, Exhibit 1 at p. 3 at ¶ 6; Dkt. #25, Exhibit 1 at p. 42-50). Third, Defendants [*22] have established that Plaintiffs breached the contract by failing to make the required payments under the Home Loan (Dkt. #25, Exhibit 1 at pp. 1-3). And, fourth, Defendants have sustained damages due to Plaintiffs breach as they have not received any of the required payments since February 1, 2010 (Dkt. #25, Exhibit 1 at p.3 at ¶ 7). Additionally, Defendants have engaged in numerous legal battles over the Home Loan with Plaintiffs as demonstrated by the protracted history of this dispute.

Having established each element for breach of contract, the court recommends granting summary judgment in favor of Defendants. See <u>Cross, 2021 WL 2581584, at *12</u> ("There is no dispute over the parties' relevant conduct. [Defendant] is entitled to summary judgment on its counterclaim for breach of contract.") (citing <u>Grohman v. Kahlig, 318 S.W.3d 882, 887 (Tex. 2010)</u>).

b. Defendants Are Entitled to Nonjudicial Foreclosure.

Having determined that Plaintiffs are in breach of the Home Loan, the court must now consider whether Defendants are entitled to nonjudicial foreclosure. "To foreclose under a security instrument in Texas with a power of sale, the lender must demonstrate that: (1) a debt exists; (2) the debt is secured by a lien created under Art. 16, § 50(a)(6) of the Texas Constitution; (3) plaintiffs are in default under [*23] the note and security instrument; and (4) plaintiffs received notice of default and acceleration." Huston v. U.S. Bank Nat'l Ass'n, 988 F. Supp. 2d 732, 740 (S.D. Tex. 2013), aff'd, 583 F. App'x 306 (5th Cir. 2014) (citing Tex. Prop. Code § 51.002).

The court has already addressed the first and third elements. A debt exists under the Home Loan, and Plaintiffs have been in default since February 1, 2010. Additionally, the court has already addressed, *supra*, that the Home Loan was created under Article 16, § 50(a)(6) of the Texas Constitution, thus satisfying the second element for nonjudicial foreclosure. All that remains is the fourth element: that is, whether Plaintiffs received notice of the default and acceleration. And, again, the court has already addressed this element, *supra*. On July 3, 2019, Defendants sent a Notice of Default and Intent to Accelerate to Plaintiffs (Dkt. #25, Exhibit 1 at pp. 51-61), and on October 7, 2019, Defendants sent a Notice of Acceleration to Plaintiffs (Dkt. #25, Exhibit 1 at pp. 62-72).

Again, Plaintiffs have not disputed Defendants' counterclaim and, thus, have offered no evidence to the contrary. The only cognizable argument Plaintiffs may have attempted to raise against nonjudicial foreclosure is that the Home Loan is void *ab initio*—an argument which the court has already rejected. Accordingly, as there is no genuine dispute [*24] of material fact with regard to the four elements

Defendant must establish to obtain a nonjudicial foreclosure order, the court recommends that Defendants be granted summary judgment on their counterclaim for nonjudicial foreclosure.⁴

3. Defendants Are Entitled to Attorneys' Fees and Costs.

Defendants assert they are entitled to attorneys' fees, interest, and all other fees and costs based on the terms on the Home Loan as well as under Texas law for Plaintiffs' breach of contract (Dkt. #25 at p. 21). On this point, too, Plaintiffs have not responded. As such, Defendants' request for attorneys' fees and other costs is unopposed.

Generally, under Texas law, "a party may recover attorneys' fees when such recovery is provided by statute or by contract." *Huston*, 988 F. Supp. 2d at 741 (citing *In re Velazquez*, 660 F.3d 893, 895-95 (5th Cir. 2011)). "However, home equity loans executed pursuant to Article 16, § 50(a)(6) of the Texas Constitution are non-recourse by definition and preclude contractual mortgagor liability." *Id.* (citing *In re Mullin*, 433 B.R. 1, 17 (S.D. Tex. 2010)). "But while the mortgagor is not personally liable for attorneys' fees, the mortgagee may recover its attorneys' fees, if permitted under the relevant contract, against the mortgaged property after a foreclosure sale." *Id.* (citing *In re Mullin*, 433 B.R. at 17).

Here, the Home Loan provides for the recovery of attorneys' [*25] fees and costs. For example, the Note states:

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law including Section 50(a)(6), Article XVI of the Texas Constitution. Those expenses include, for example, reasonable attorneys' fees. I understand that these expenses are not contemplated as fees to be incurred in connection with maintaining or servicing this Extension of Credit.

(Dkt. #25, Exhibit 1 at pp. 7-8 at ¶ 7(E)).

Additionally, the Deed of Trust states:

If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, [or] (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument . . . , 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 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 [*26] attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument. . . . 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.

(Dkt. #25, Exhibit 1 at p. 20 at ¶ 9).

The language in the Note and Deed of Trust both make clear that Plaintiffs may be held liable for Defendants' attorneys' fees, costs, and interest should legal action be required to protect Defendants'

⁴ Because the court finds sufficient evidence in the record to grant summary judgment on Defendants' counterclaim for breach of contract and nonjudicial foreclosure, the court need not address Defendants' alternative request for relief in the form of a judicial foreclosure or equitable subrogation.

interest in Plaintiffs' property. While Texas generally regards home equity loans as non-recourse loans, "that rule does not bar recovery of attorneys' fees and other expenses as provided for in this security instrument, as part of the balance owed under the note. These fees may be recovered against the property upon any foreclosure sale." <u>Huston</u>, 988 F. Supp. 2d at 742.

Based on the foregoing, the court recommends that Defendants be awarded reasonable and necessary attorneys' fees, costs, interest, and other fees permitted under the Home Loan. Defendants have not submitted [*27] any material to the court to establish what amounts should be awarded. Thus, such amounts should be determined at a later date. The court further recommends that Defendants be granted leave to file a fee affidavit and Bill of Costs within fourteen days of the District Court's adoption of this Report and Recommendation.

CONCLUSION AND RECOMMENDATION

For the foregoing reasons, the court recommends that Defendants' Motion for Summary Judgment (Dkt. #25) be **GRANTED** and that Plaintiffs' case be **DISMISSED WITH PREJUDICE**. The court also recommends that Defendants be granted leave to file a fee affidavit and Bill of Costs within fourteen days of the District Court's adoption of this Report and Recommendation. The court further recommends that Defendants' Motion to Strike (Dkt. #46) should be **GRANTED**. Any request for relief not addressed by this report and recommendation should be denied as **MOOT**.

Within fourteen (14) days after service of the magistrate judge's report, any party must serve and file specific written objections to the findings and recommendations of the magistrate judge. <u>28 U.S.C.</u> § <u>636(b)(1)(C)</u>. In order to be specific, an objection must identify the specific finding or recommendation to which objection [*28] is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific.

Failure to file specific, written objections will bar the party from appealing the unobjected-to factual findings and legal conclusions of the magistrate judge that are accepted by the district court, except upon grounds of plain error, provided that the party has been served with notice that such consequences will result from a failure to object. See <u>Douglass v. United Servs. Auto. Ass'n</u>, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc), superseded by statute on other grounds, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

SIGNED this 4th day of September, 2024.

/s/ Aileen Goldman Durrett

AILEEN GOLDMAN DURRETT

UNITED STATES MAGISTRATE JUDGE

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Breyer v. Bank of Am., N.A.



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Breyer v. Bank of Am., N.A.

United States District Court for the Southern District of Florida August 21, 2024, Decided; August 21, 2024, Entered on Docket CASE NO. 24-CV-80778-ROSENBERG

Reporter

2024 U.S. Dist. LEXIS 149703 *

JAY BREYER, et al., Plaintiffs, v. BANK OF AMERICA, NATIONAL ASSOCIATION, Defendant.

Core Terms

parties, appropriate pleading

Counsel: [*1] For Bank of America National Association, Defendant: Marc Thomas Parrino, LEAD ATTORNEY, Liebler Gonzalez & Portuondo P.A., Miami, FL.

For Jay Breyer, Michele Pirri, Plaintiffs: Maxwell William Bowen, Michael D. Robl, Robl Law Group LLC, Tucker, GA; Jason Paul Zielinski, LEAD ATTORNEY, Zielinski & Associates, Ft. Lauderdale, FL.

Judges: ROBIN L. ROSENBERG, UNITED STATES DISTRICT JUDGE.

Opinion by: ROBIN L. ROSENBERG

Opinion

ORDER STAYING CASE AND DIRECTING THE CLERK OF THE COURT TO CLOSE THIS CASE FOR STATISTICAL PURPOSES

This cause is before the Court *sua sponte*. The Court has been informed that the parties have reached a settlement agreement. Having been informed that the parties have resolved all disputes, it is hereby **ORDERED AND ADJUDGED**:

- 1. This case is **STAYED**.
- 2. All pending deadlines are **TERMINATED**.
- 3. The parties are instructed to file any appropriate pleadings related to the dismissal of this action within thirty (30) days of the date of rendition of this Order.
- 4. Any party may move for the stay imposed by this Order to be lifted or for an extension of time to file appropriate pleadings related to the dismissal of this action.
- 5. All pending motions are **DENIED AS MOOT**.

6. The Clerk of the Court is directed to **[*2] CLOSE THIS CASE FOR STATISTICAL PURPOSES**; this closure shall not affect the merits of any party's claim.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this 21st day of August, 2024.

/s/ Robin L. Rosenberg

ROBIN L. ROSENBERG

UNITED STATES DISTRICT JUDGE

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