# SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

| In the Matter of                        | X<br>:       | Index No. 401265/2012              | OCT 07 2013     |
|---|--------------|------------------------------------|-----------------|
| the Rehabilitation of                   | •<br>• • • • | Motion Seq. No. 021                | GARY T. HOLTZER |
| FINANCIAL GUARANTY INSURANCE<br>COMPANY | :<br>:       | I.A.S. Part 36<br>(Ling-Cohan, J.) |                 |
|   | :<br>X       | NOTICE OF APPEAL                   | L               |

PLEASE TAKE NOTICE that Federal Home Loan Mortgage Corporation ("Freddie Mac") appeals to the Appellate Division of the New York Supreme Court in and for the First Department from the following order of the Honorable Doris Ling-Cohan in the above-captioned special proceeding and entered in the above-captioned special proceeding in the Office of the Clerk of New York County and from each and every part thereof:

1. Order dated August 19, 2013, and entered on August 26, 2013, with respect to Motion Sequence No. 021 in the above-captioned special proceeding.

(Remainder of Page Intentionally Left Blank)

Dated: October 4, 2013

New York, New York

Respectfully submitted,

MCKOOL SMITH, P.C.

By: V Peter S. Goodman

Michael R. Carney

One Bryant Park, 47<sup>th</sup> Floor New York, New York 10036

Telephone: 212-867-4488 Facsimile: 212-983-5276

Counsel for Federal Home Loan Mortgage

Corporation

TO:

Clerk of the Supreme Court New York County Courthouse 60 Centre Street, New York, New York 10007

Gary T. Holtzer WEIL GOTSCHAL & MANGES, LLP 767 Fifth Avenue New York, New York 10153

Counsel for the Rehabilitator of Financial Guaranty Insurance Company

# SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

| In the Matter of                        | X :    | Index No. 401265/2012              |
|---|--------|------------------------------------|
| the Rehabilitation of                   | :      | Motion Seq. No. 021                |
| FINANCIAL GUARANTY INSURANCE<br>COMPANY | :<br>: | I.A.S. Part 36<br>(Ling-Cohan, J.) |
|   | :<br>X | PRE-ARGUMENT STATEMENT             |

- 1. The title of the proceeding at issue is as set forth in the caption above.
- 2. The full name of the appellant is Federal Home Loan Mortgage Corporation ("Freddie Mac"). The full name of the appellee is Benjamin M. Lawsky, Superintendant of Financial Services of the State of New York, as court-appointed Rehabilitator (the "Rehabilitator") of Financial Guaranty Insurance Company ("FGIC").
- 3. The name, address, and telephone number of counsel for Freddie Mac, as appellant, is as follows:

McKool Smith, P.C. Peter S. Goodman Michael R. Carney One Bryant Park, 47<sup>th</sup> Floor New York, New York 10036 Telephone: 212-867-4488

4. The name, address, and telephone number of counsel for the Rehabilitator is as follows:

Weil, Gotschal & Manges LLP Gary T. Holtzer 767 Fifth Avenue New York, New York 10153 Telephone: 212-310-8000

5. The appeals are taken from the Supreme Court, New York County (the "Court").

- 6. The order appealed from is as follows:
  - a. Order of the Court dated August 19, 2013, and entered on August 26, 2013, with respect to Motion Sequence No. 021 in the above-captioned special proceeding (the "Order Denying Freddie Mac's Motion for Leave to Take Expedited Discovery"). Through the Order Denying Freddie Mac's Motion for Leave to Take Expedited Discovery, the Court below denied Freddie Mac's motion for leave to take limited, expedited discovery in this special proceeding in Motion Sequence No. 021.
- 7. Freddie Mac seeks reversal of the Order Denying Freddie Mac's Motion for Leave to Take Expedited Discovery on the ground that the Court erred in denying Freddie Mac's motion to for leave to take limited, expedited discovery in this special proceeding sought through Motion Sequence No. 021.

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Dated: October 4, 2013

New York, New York

Respectfully submitted,

MCKOOL SMITH, P.C

By:

Peter S. Goodman

Michael R. Carney

One Bryant Park, 47<sup>th</sup> Floor New York, New York 10036

Telephone: 212-867-4488 Facsimile: 212-983-5276

Counsel for Federal Home Loan Mortgage

Corporation

TO:

Clerk of the Supreme Court New York County Courthouse 60 Centre Street, New York, New York 10007

Gary T. Holtzer WEIL GOTSCHAL & MANGES, LLP 767 Fifth Avenue New York, New York 10153

Counsel for the Rehabilitator

| SUPREME COURT | OF THE | STATE | OF | <b>NEW</b> | YORK |
|---------------|--------|-------|----|------------|------|
| COUNTY OF NEW | YORK   |       |    |            |      |

In the Matter of the Rehabilitation of Doris Ling-Cohan, J.

FINANCIAL GUARANTY INSURANCE

COMPANY. Motion Sequence No. 21

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the attached is a true and correct copy of an Order of the Honorable Doris Ling-Cohan in the above-captioned action, dated August 19, 2013, denying the motion by Federal Home Loan Mortgage Corporation ("Freddie Mac") for leave to conduct limited and expedited discovery, which Order was entered in the office of the County Clerk for the County of New York on August 26, 2013.

Dated: September 5, 2013 New York, New York

Weil, Gotshal & Manges LLP

By:

Joseph T Verdesca Gary T. Holtzer WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153 (212) 310-8000

Attorneys for the Superintendent of Financial Services of the State of New York, as Rehabilitator of Financial Guaranty Insurance Company

TO: Peter S. Goodman, Esq.
MCKOOL SMITH P.C.
One Bryant Park, 47th Floor
New York, NY 10036

And

David B. Gelfarb, Esq. MOSS & KALISH, PLLC 122 East 42nd Street, Suite 2100 New York, NY 10168

Attorneys for Freddie Mac

### SCHWED SHIMING

## SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

| Index Number: 401285/2012 LAWSKY, BENJAMIN M.  **  FINANCIAL GUARANTY  Secuence Number: 021  COMPEL DISCLOSURE  The following papers, numbered 1 to, were read on this motion to/for  Notice of Motion/Order to Show Cause — Affidavits — Exhibits  INO(8)   |             | PRESENT:           | DORIS LING-COH                  | AN   | PART 36                       |
|--|-------------|--------------------|---------------------------------|--|-------------------------------|
| LAWSKY, BENJAMIN M.  PRINANCIAL GUARANTY Sequence Number: 021 COMPEL DISCLOSURE  The following papers, numbered 1 to, were read on this motion toffor  |             |                    |                                 | Justice  | FARI _ <u>06</u>              |
| FINANCIAL GUARANTY Sequence Number: 021 COMPEL DISCOSURE  The following papers, numbered 1 to, were read on this motion to/for  Notice of Motion/Order to Show Cause — Affidavits — Exhibits   |             |                    |                                 | <del>e e</del>   | INDEX NO                      |
| Sequence Number: 021 COMPEL DISCLOSURE  The following papers, numbered 1 to, were read on this motion tolfor  Notice of Motion/Order to Show Cause — Affidavits — Exhibits   |             |                    |                                 |  |                               |
| The following papers, numbered 1 to, were read on this motion toffor   |             |                    |                                 | <b>:</b>   |                               |
| Notice of MotionOrder to Show Cause — Affidavits — Exhibits  Answering Affidavits — Exhibits  Replying Affidavits — Exhibits  Replying Affidavits — Exhibits  Replying Affidavits — Ino(s) 44  No(s) 45  No(s) 47  No(s) |             | •                  |                                 | ·  | MOTION SEQ. NO.               |
| Notice of MotionOrder to Show Cause — Affidavits — Exhibits  Answering Affidavits — Exhibits  Replying Affidavits — Exhibits  Replying Affidavits — Exhibits  Replying Affidavits — Ino(s) 44  No(s) 45  No(s) 47  No(s) |             | The following pa   | pers, numbered 1 to, we         | re read on this motion to/for  |                               |
| Answering Affidavits — Exhibits  Replying Affidavits — Don't foregoing papers, it is ordered that this motion, by Federal Home Lover Moregage  Corporation, for lower to conduct limited and expedited discovery within this special proceedings is deemed most as this court has issued an order decision, dated August 16, 2013, and this special proceeding was marked disposed.  FILED  AUG 26 2013  COUNTY CLERK'S OFFICE  Doris Ling-CCHAN  I. CHECK ONE:  CASE DISPOSED  OCHECK AS APPROPRIATE:  MOTION IS:  GRANTED  DORIS LING-CCHAN  NON-FINAL DISPOSITION  SETTLE ORDER  GRANTED  DEDUCTOR  SUBMIT ORDER  | 1 1         |                    |                                 |  |                               |
| Detect Dated:    No(s)   |             | Answering Affida   | vits — Exhibits                 |  | INO(a) #4                     |
| Upon the foregoing papers, it is ordered that this motion is by Federal Home Loss Mortgage Compartion, for leave to conduct limited and expedited discovery within this special proceeding, is deemed most as this court has issued an order I decision, dated August 16, 2013, and this special proceeding mas marked disposed.  FILED  AUG 26 2013 COUNTY CLERK'S OFFICE  Dated:  Da |             | Replying Affidav   | its                             | 4  | No(s). \$5,6                  |
| Special proceeding, is deemed most as this court has issued an order decision, dated August 16, 2013, and this special proceeding unst marked disposed.  FILED  AUG 26 2013  COUNTY CLERK'S OFFICE  Dated:   |             | Upon the forego    | oing papers, it is ordered that | this motion.   | 37                            |
| Dated: Spread.    CHECK ONE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER   CHECK IF APPROPRIATE: South of the state of the special proceeding on state of the special proceeding of the special proceeding on state of the special proceeding of the special proc |             | 10141104           | , for leave to condu            | cat live and a live live live live live live live live   |                               |
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| Dated: J.S.C.  Doris Ling-Cohan  1. CHECK ONE: CHECK IF APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER  3. CHECK IF APPROPRIATE: SETTLE ORDER  DONALD AGE 2013  COUNTY CLERK'S OFFICE  J.S.C.  DORIS LING-COHAN  NON-FINAL DISPOSITION  GRANTED IN PART OTHER  SETTLE ORDER  DISPOSED SUBMIT ORDER   |             | order/de           | . 1 10                          | Took 45 Aus cour   | t has issued an               |
| FILED  AUG 26 2013  COUNTY CLERK'S OFFICE  Dated: JULY STATE OF ST | 빙           | ا ا                | ision, dated Aug.               | ust 16, 2013, and.   | this special process          |
| Dated:   | JSTI        | marked d           | isposed.                        |  | proceeding car                |
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| J.S.C.  DORIS LING-COHAN  1. CHECK ONE:  | FOR         | <u> </u>           | 10/10                           |  |                               |
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#### **AFFIDAVIT OF SERVICE**

| STATE OF NEW YORK  |        |
|--------------------|--------|
|                    | ) ss.: |
| COUNTY OF NEW YORK |        |

MICHAEL ROBERT CARNEY, being duly sworn, deposes and says:

Deponent is not a party to this special proceeding, is over 18 years of age, and resides in Brooklyn, New York.

On October 4<sup>th</sup>, 2013, deponent served a copy of the within:

### NOTICE OF APPEAL and PRE-ARGUMENT STATEMENT

TO: Gary T. Holtzer WEIL GOTSCHAL & MANGES, LLP 767 Fifth Avenue New York, New York 10153

BY REGULAR MAIL, by depositing a true copy thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of U.S. Postal Service within New York State, addressed to the person at the last known address as set forth above.

Sworn to before me this 3<sup>rd</sup> day of October, 2013

KEVIN CAPONIGRO
Notary Public, State of New York
NO. 01CA6232413
Qualified in Queens County

Commission Expires December 13, 2014