



referred to as the Consumer Credit Reporting Reform Act of 1996, which expanded the FCRA by imposing legal duties on persons and entities that furnish information about consumers to CRAs (“furnishers”, “furnisher”) in order protect consumers, such as Plaintiff, from the willful and/or negligent conduct, actions, and inactions of such furnishers.<sup>1</sup>

4. Pursuant to 15 U.S.C. § 1681s-2(a), the FCRA imposes obligations on furnishers consumer information to CRAs, including the duty to provide accurate information without actual knowledge or reasonable cause to believe that the information is inaccurate such that a reasonable person would doubt the accuracy of the information.<sup>2</sup>

5. Plaintiff suffered harm due to Defendant’s systemic pattern and practice of repeatedly furnishing inaccurate consumer information (*hereinafter* “Inaccuracies”) to various CRAs.

6. Specifically, Plaintiff suffered harm due to Defendant’s willful and/or negligent noncompliance with the FCRA by furnishing Inaccuracies about Plaintiff to no less than two independent CRAs, including Trans Union, LLC (*hereinafter* “Trans Union”) and Equifax Information Services, LLC (*hereinafter* “Equifax”), each month for five consecutive months, thereby amassing ten violations of the FCRA as shown in **Exhibit 1** attached hereto.<sup>3</sup>

7. Pursuant to 15 U.S.C. § 1681n of the FCRA, the Defendant willfully failed to comply with the requirements imposed by the FCRA with respect to the Plaintiff and Defendant is now liable for actual damages, costs, and attorney’s fees.

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<sup>1</sup> Consumer Credit Reporting Reform Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009.

<sup>2</sup> 15 U.S.C. § 1681s-2(a)(1)(a); 15 U.S.C. § 1681s-2(a)(1)(D).

<sup>3</sup> Consumer reports or “Reports” showing the inaccurate information or “Inaccuracies” relating to Plaintiff furnished by Defendant to no less than three independent CRAs each month for twenty-two months, beginning in January 2017 and continuing until May 2017, thereby constituting ten violations of the FCRA. The Plaintiff’s Reports were redacted to show only the Defendant’s Inaccuracies and were further redacted pursuant to Fed. R. Civ. P. 5.2. Plaintiff’s undersigned counsel did not attach the Plaintiff’s full credit report showing other furnishers as they are irrelevant to this cause of action.

8. Pursuant to 15 U.S.C. § 1681o of the FCRA, the Defendant negligently failed to comply with the requirements imposed by the FCRA with respect to the Plaintiff and is now liable for actual damages, costs, and attorney's fees.

9. Plaintiff alleges a class action claim against Defendant pursuant to the FCRA 15 U.S.C § 1681s-2 *et seq.*, which requires furnishers of credit reports to provide accurate information about consumers to CRAs.<sup>4</sup>

## II. PARTIES, JURISDICTION AND VENUE

10. Plaintiff re-alleges and reincorporates Paragraphs 1 through 9 as fully set forth herein below.

11. The Plaintiff, Silvia Leones ("Plaintiff"), is a natural person over eighteen (18) years of age, is otherwise *sui juris*, and is, was, and at all times material to this action, a resident of Broward County, Florida.

12. The Plaintiff is, was, and at all times material to this action, a "consumer" as defined by 15 U.S.C. § 1681a(c) of the FCRA.

13. Defendant RUSHMORE LOAN MANAGEMENT SERVICES LLC (hereinafter "Defendant", "RUSHMORE") is, was, and at all times material to this action a national banking company with its principal place of business at 15840 Laguna Canyon Road, Suite 100, Irvine, CA 92618. Defendant regularly conducts business in Broward County, Florida and can be served with process through its registered agent, Corporation Service Company, located at 1201 Hays Street Tallahassee, FL 32301-2525.

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<sup>4</sup> The Fair Credit Reporting Act, 15 U.S.C §§ 1681s-2(a); 1681s-2(a)(1)(A).



14. Defendant is, was, and at all times material to this action, a “person” as defined by 15 U.S.C. § 1681a(b) of the FCRA to include “...any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.”

15. Defendant regularly and in the ordinary course of business provides information to third party consumer reporting agencies about its accounts with consumers.

16. Defendant is a “furnisher” according to 15 U.S.C. § 1681s-2.

17. The United States District Court for the Southern District of Florida has federal question jurisdiction over Plaintiff’s claims against the Defendant pursuant to § 1681(p) of the FCRA and 28 U.S.C. § 1331.

18. Additionally, Venue properly lies in this Court pursuant to 28 U.S.C. § 1391(b) as the harmful practices are alleged to have been committed in this District and Division, in which Defendant regularly conducts business and where the named Plaintiff resides.

### III. PLAINTIFF’S STATEMENT OF FACTS

19. Plaintiff re-alleges and reincorporates Paragraphs 1 through 18 as fully set forth herein below.

20. In January 2010, Wells Fargo Bank, National Association (*hereinafter* “Wells Fargo”), acting as trustee for the original party to the loan agreement with Plaintiff, WaMu Mtg., executed an assignment of mortgage in favor of JPMorgan Chase Bank, National Association (*hereinafter* “JPMorgan”), as shown in **Exhibit 2** attached hereto.<sup>5</sup> The Assignment of Mortgage was recorded in the Official Records Book 46972, Page 591 in the Public Records of Broward County, Florida in March 2010. Thus, JPMorgan became the servicer of the loan.

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<sup>5</sup> The Assignment of Mortgage executed by Wells Fargo Bank, National Association, or “Wells Fargo”, in favor of JPMorgan Chase Bank, National Association, in January 2010.



21. Thereafter, and effective October 17, 2016, JPMorgan assigned its rights as the servicer of Plaintiff's Mortgage and loan to Defendant, as shown in the Notice of Assignment, Sale or Transfer of Servicing attached hereto as **Exhibit 3**.<sup>6</sup>

22. In February 2016, Wells Fargo Bank, National Association (*hereinafter* "Wells Fargo"), acting as trustee for the original party to the loan agreement with Plaintiff, WaMu Mtg., filed a verified complaint to foreclose mortgage (*hereinafter* "VCFM") as shown in **Exhibit 4** attached hereto,<sup>7</sup> against Plaintiff pursuant to a promissory note or "Uniform Secured Note" (*hereinafter* "Note") as shown in **Exhibit 5** attached hereto<sup>8</sup> and purchase money mortgage or "Security Instrument" (*hereinafter* "Mortgage") shown in **Exhibit 6** attached hereto,<sup>9</sup> which were both executed and delivered by Plaintiff to WaMu Mtg. in January 2005 and properly recorded by Defendant in the Official Records Book 39058, Page 612, of the Public Records of Broward County, Florida.

23. The VCFM stated that Plaintiff had been in default on the loan payments since March 1, 2011.

24. Additionally, the VCFM stated that Wells Fargo, acting as trustee for the original party to the loan agreement with Plaintiff, WaMu Mtg., "has and hereby declares the full amount payable under the Note and Mortgage to be due and payable", thereby accelerating the mortgage and maturing all future monthly payments into one lump sum plus interest immediately due.

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<sup>6</sup> Defendant's Notice of Assignment, Sale or Transfer of Servicing showing JPMorgan assigned its rights as the servicer of the loan to Defendant effective October 17, 2016.

<sup>7</sup> Wells Fargo's Verified Complaint To Foreclose Mortgage or "VCFM" showing that Wells Fargo accelerated the Mortgage by stating that it "has and hereby declares the full amount payable under the Note and Mortgage to be due and payable", thereby maturing all future monthly payments into one lump sum plus interest immediately due.

<sup>8</sup> The promissory note executed by Plaintiff and delivered to WaMu Mtg. or the "Note".

<sup>9</sup> The mortgage, "Security Instrument", or "Mortgage" executed by Plaintiff and delivered to WaMu Mtg.

25. Thus, the filing of the VCFM on February 27, 2016, constitutes the date of acceleration, after which Plaintiff no longer had the ability and/or obligation to make monthly payments to Wells Fargo or any subsequent holder in interest and/or servicer of the loan, including Defendant, Rushmore.

**26. Pursuant to the Note, the only right and/or remedy of Plaintiff is reinstatement, not to make monthly payments, as shown in Exhibit 5.**

**27. The Note does not provide a mechanism to make monthly payments after acceleration has occurred.**

28. For five consecutive months beginning in January 2017 (the same month Plaintiff's Note was accelerated) and continuing until May 2017, Defendant continued to furnish Inaccuracies about Plaintiff in relation to the Note and Mortgage to various CRAs, including Trans Union and Equifax, which were then included in Plaintiff's consumer credit reports (*hereinafter* "Reports") as shown in **Exhibit 1**.

29. These Reports show that Defendant engaged in the harmful practice of furnishing Inaccuracies falsely asserting that Plaintiff had missed installment payments pursuant to the original Note and Mortgage to no less than two (2) CRAs in violation of the FCRA and despite Wells Fargo's acceleration in the VCFM, making monthly payments no longer an option or a requirement applicable to Plaintiff.

30. The Inaccuracies include, but are not limited to, false information showing that Plaintiff was late on a monthly mortgage payment after the date of acceleration.

31. As demonstrated by the Reports, on or about June 14, 2017, Plaintiff discovered these Inaccuracies, which continue to appear as derogatory marks against Plaintiff, within the statutory limits prescribed by 15 U.S.C. § 1681p despite Wells Fargo's election to accelerate the Note and

Mortgage.

**32. Therefore, the Inaccuracies relating to Plaintiff, furnished by Defendant to no less than two (2) CRAs for five (5) consecutive months following acceleration of the Mortgage and thereafter included in the Reports, constitute a minimum of ten (10) instances in which Defendant willfully and/or negligently violated the FCRA, thereby destroying Plaintiff's credit resulting in the harm giving rise to this action.**

**33. Defendant has maintained this pattern and practice of willfully and/or negligently harming consumers by repeatedly and continuously furnishing Inaccuracies about consumers to various CRAs, after the acceleration of thousands of mortgages, deeds of trust, and/or security deeds (depending on the jurisdiction) (*hereinafter* "Loan", "Loans"), which Defendant was and/or is servicing, in violation of the FCRA.**

**34. As a result of Defendant's conduct, actions and inactions in violation of the FCRA, numerous consumers, including Plaintiff, have suffered severe harm.**

#### **IV. CLASS ACTION ALLEGATIONS**

35. Plaintiff re-alleges and reincorporates Paragraphs 1 through 34 as fully set forth herein below.

36. Plaintiff asserts the claims in Count One and Count Two, individually, and on behalf of a putative class of ordinary persons defined as follows:

**Proposed Class (*hereinafter* "Class"):** All persons residing within the United States, including all United States territories and political divisions of the United States, constituting consumers under 15 U.S.C. § 1681a(c) of the FCRA, who had a Loan and/or mortgage, which was "accelerated", thereby maturing all future repayment installments into one lump sum consisting of the full amount payable under the note and mortgage, plus



interest, and was subsequently harmed, within the statutory limits prescribed by 15 U.S.C. § 1681p, due to Defendant's harmful practice of continuing to furnish Inaccuracies about consumers to one or more CRAs after acceleration in violation of 15 U.S.C. § 1681s-2a(1)(A).

**Excluded from the Class definition: i. any and all employees, officers, directors, agents, servants, associates, investigators, attorneys, representatives, and shareholders of Defendant; ii. any and all attorneys appearing in this case; and iii. any and all judges assigned to hear this action.**

**37. Numerosity. Fed. R. Civ. P. 23(a)(1):** Plaintiff brings this Class Complaint (*hereinafter* "Complaint") on behalf of all persons similarly situated constituting members of the Class. The number of Class members is impossible to estimate but is believed to be so numerous that joinder of all Class members is impracticable. Based on available information, Defendant has accelerated and/or serviced after acceleration, the mortgages of countless consumers meeting the definition of the Class. Members of the class can be objectively ascertained through the records kept by Defendant.

**38. Commonality. Fed. R. Civ. P. 23(a)(2).** Plaintiff's Complaint, brought on behalf of the Class, contains questions of law and/or fact common to the Class. These questions of law and/or fact common to Class members predominate over any questions affecting the individual members of the Class and include the following:

- i. Whether Defendant violated the FCRA by willfully furnishing Inaccuracies about Plaintiff and Class members to any and all CRA(s) in violation of 15 U.S.C. § 1681s-2(a);*

*ii. Whether Defendant violated the FCRA by negligently furnishing Inaccuracies about Plaintiff and Class members to any and all CRA(s) in violation of 15 U.S.C. § 1681s-2(a);*

**39. Typicality. Fed. R. Civ. P. 23(a)(3).** Plaintiff's Complaint, brought on behalf of the Class, contains claims and/or defenses that are typical of the claims and/or defenses of the Class, such that, Plaintiff and Class members have suffered damages as a result of Defendant's willful and/or negligent conduct, actions, and inactions.

**40. Adequacy. Fed. R. Civ. P. 23(a)(4).** Plaintiff will fairly and adequately represent the interests of the Class as Plaintiff's interests align and are not in conflict with members of the Class. Additionally, Plaintiff has retained competent counsel and is determined to litigate this action zealously on behalf of the Class. Thus, Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the Class.

**41. Superiority. Fed. R. Civ. P. 23(b)(3):** These questions of law and/or fact common to Class members predominate over any questions affecting the individual members of the Class, such that proceeding as a class action is superior to alternate methods available and is necessary to fairly and efficiently adjudicate the controversy. Additionally, litigation by individual Class members would prove burdensome and costly due to the complex nature of the proceedings such that the claims of individual Class members unable to afford the high costs would go without redress and any individual Class members financially able to proceed would render the Courts needlessly overburdened. Furthermore, individually litigating the claims of Class members would result in inconsistent and conflicting rulings requiring additional expenses and proceedings, thereby compounding an already unnecessarily overburdened court and an already outpriced Class. In the

interest of all parties, proceeding as a class action provides the most efficient method of resolving the numerous claims of the Class members against Defendant.

**V. COUNT ONE: WILLFUL NONCOMPLIANCE**  
**[DEFENDANT RUSHMORE: Pursuant to 15 U.S.C. § 1681n]**  
**Class Claim**

42. Plaintiff re-alleges and reincorporates Paragraphs 1 through 41 as fully set forth herein below.

43. Defendant liable under 15 U.S.C. § 1681n by violating 15 U.S.C. § 1681s-2(a)(1)(A) by:

- i. Willfully and maliciously failing to comply with Defendant's duty as a furnisher of information to provide accurate information when reporting consumer-related information to any and all CRA(s).
- ii. Willfully and repeatedly furnishing Inaccuracies to Plaintiff to various CRAs despite having actual knowledge and/or reasonable cause to believe that the information is inaccurate.
- iii. Maintaining and engaging in a systemic pattern and practice of willful noncompliance with Defendant's duties as prescribed by 15 U.S.C. 1681s-2(a) of the FCRA.

44. As a result of Defendant's willful noncompliance with the FCRA in violation of Defendant's duty, Plaintiff and members of the Class suffered severe damage to their personal and consumer reputations, thereby causing Plaintiff and members of the Class to suffer severe harm. Defendant's conduct was willful, rendering Defendant liable for actual damages, costs, and attorney's fees under 15 U.S.C. § 1681n of the FCRA.



**VI. COUNT TWO: NEGLIGENT NONCOMPLIANCE**  
**[DEFENDANT RUSHMORE: Pursuant to 15 U.S.C. § 1681o]**  
**Class Claim**

45. Plaintiff re-alleges and reincorporates Paragraphs 1 through 41 as fully set forth herein below.

46. Defendant liable under 15 U.S.C. § 1681o by violating 15 U.S.C. § 1681s-2(a)(1)(A) by:

- i. Negligently breaching Defendant's duty as a furnisher of information to provide accurate information when reporting consumer-related information to any and all CRA(s).
- ii. Repeatedly and negligently furnishing Inaccuracies relating to Plaintiff to various CRAs despite having actual knowledge and/or reasonable cause to believe that the information is inaccurate.
- iii. Maintaining and engaging in a systemic pattern and practice of negligent noncompliance with Defendant's duties as prescribed by 15 U.S.C. 1681s-2(a) of the FCRA.

47. As a result of Defendant's negligent noncompliance with the FCRA and breach Defendant's duty, Plaintiff and members of the Class suffered severe damage to their personal and consumer reputations, thereby causing Plaintiff and members of the Class to suffer severe harm.

48. Defendant's conduct was negligent, rendering Defendant liable for actual damages, costs, and attorney's fees pursuant to 15 U.S.C. § 1681o of the FCRA.

**VII. PLAINTIFF'S PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, SILVIA LEONES, individually, and on behalf of the Class, moves for class certification as set forth herein, designation of Plaintiff as the Class Representative, the undersigned attorney as Class Counsel, and respectfully asks this Honorable Court to grant

Plaintiff relief for her claims and prays for judgment against DEFENDANT, RUSHMORE LOAN MANAGEMENT SERVICES LLC, for:

- i. declaratory relief stating that Defendant's conduct, actions and inactions violate the FCRA;
- ii. declaratory and injunctive relief preventing Defendant from violating the FCRA in the future;
- iii. statutory damages;
- iv. actual damages;
- v. attorney's fees and costs;
- vi. pre-judgment and post-judgment interest;
- vii. any other relief this Honorable Court deems just and proper.

**VIII. CLASSWIDE PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF, SILVIA LEONES, on behalf of herself and the putative Class members, moves for class certification and respectfully asks this Honorable Court to grant her relief for her class claims and prays for judgment against DEFENDANT, RUSHMORE LOAN MANAGEMENT SERVICES LLC:

- i. directing Defendant to cease its violations of the FCRA;
- ii. awarding Plaintiff and the Class statutory damages as requested above;
- iii. awarding Plaintiff and the Class actual damages as requested above;
- iv. awarding Plaintiff and the Class attorney's fees, costs, and expenses incurred in this action;
- v. pre-judgment and post-judgment interest;
- vi. any other relief this Honorable Court deems just and proper.

**IX. DEMAND FOR JURY TRIAL**

Plaintiff, on behalf of herself and the putative class members, demands a trial by jury of all issues triable by jury as a matter of right.

DATED this 27th day of June, 2017.

Respectfully submitted,



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**JONATHAN KLINE, ESQ.**

Fla. Bar No.: 6092

Service E-mail: [emailservice@jklawfl.com](mailto:emailservice@jklawfl.com)

JONATHAN KLINE, P.A.

2761 Executive Park Dr.

Weston, FL 33331

Telephone: (954) 888-4646

Facsimile: (954) 888-4647

*Attorney for Plaintiff*



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-Filed Cases Below.

I. (a) PLAINTIFFS SILVIA LEONES, on behalf of herself and all others similarly situated

DEFENDANTS RUSHMORE LOAN MANAGEMENT SERVICES LLC

(b) County of Residence of First Listed Plaintiff Broward (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Jonathan Kline, P.A., 2761 Executive Park Dr., Weston, FL 33331

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF DEF
Citizen of Another State
Citizen or Subject of a Foreign Country Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment & Medicare Act, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excl. Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Med. Malpractice
TORTS: 363 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: 370 Other Fraud, 371 Truth in Lending, 380 Other Personal Property Damage, 385 Property Damage Product Liability
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence; Other: 530 General, 535 Death Penalty, 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
LABOR: 710 Fair Labor Standards Act, 720 Labor/Mgmt. Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Empl. Ret. Inc. Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729 (a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION 15 U.S.C. § 1681 et seq. Inaccurate furnishing of consumer information.
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ To Be Determined. CHECK YES only if demanded in complaint: JURY DEMAND: YES NO

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE June 27, 2017 SIGNATURE OF ATTORNEY OF RECORD

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VIII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**Date and Attorney Signature.** Date and sign the civil cover sheet.





# Exhibit 1

Consumer reports or “Reports” showing the inaccurate information or “Inaccuracies” relating to Plaintiff furnished by Defendant to no less than three independent CRAs each month for twenty-two months, beginning in January 2017 and continuing until May 2017, thereby constituting ten violations of the FCRA.



563

As of June 14, 2017

PERSONAL INFORMATION



SILVIA I LEONES

Date of Birth:

03/09/1965

Also Known As:

CIENTUEGOS,SILVIA I  
SILVIA CIENFUEGOS

Current Address:

1746 SYCAMORE  
TE  
WESTON, FL 33327

Employment History:

CIEN CORP  
12/2008

Address History:

151 LAKEVIEW DR  
#106  
WESTON, FL 33326

WESTPARK REALTY  
2/2005

235 LAKEVIEW DR  
#102  
WESTON, FL 33326

ALL ACCOUNTS (4)



RUSHMORE LMS

Act. # 1027 [REDACTED]



Past Due: \$65,000  
Opened: 01/26/2005  
Reported: 06/07/2017

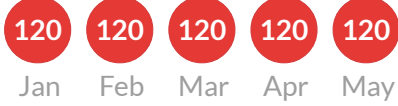
Limit: \$0  
Balance: \$521,828  
Payment: \$2,975

Condition: Derogatory  
Individual Account

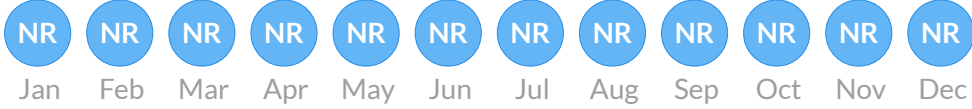
Credit Type: Primary or secondary mortgage

Remarks: Foreclosure initiated

2017



2016



2015



**Creditor Contact:**  
POB 52708  
IRVINE , CA 92619

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

**DELINQUENT ACCOUNTS (1)**



**RUSHMORE LMS**

Act. # 1027 [Redacted]



**Past Due: \$65,000**

Opened: 01/26/2005

Reported: 06/07/2017

Condition: Derogatory

Individual Account

Limit: \$0

Balance: \$521,828

Payment: \$2,975

Credit Type: Primary or secondary mortgage

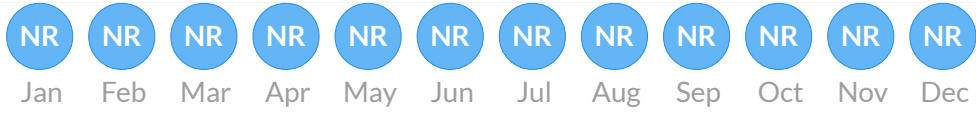
Remarks: Foreclosure initiated

**2017**



Jan Feb Mar Apr May

**2016**



**2015**



**Creditor Contact:**  
POB 52708  
IRVINE, CA 92619

[REDACTED]

[REDACTED]

**EQUIFAX** 563

As of June 14, 2017

**PERSONAL INFORMATION**



SILVIA I LEONES

**Date of Birth:**

03/09/1965

**Also Known As:**

**Current Address:**

1746 SYCAMORE  
TER  
FORT  
LAUDERDALE, FL  
33327

**Employment History:**

SUBUSY

**Address History:**

235 LAKEVIEW DR  
APT 102  
FORT  
LAUDERDALE, FL  
33326

2761 EXECUTIVE  
PARK DR  
FORT  
LAUDERDALE, FL  
33331

**ALL ACCOUNTS (4)**



RUSHMORE  
Act. # 10276004\*\*\*\*

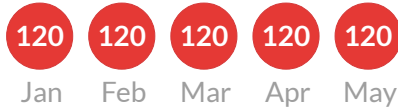


Past Due: \$221,830  
Opened: 01/01/2005  
Reported: 06/01/2017  
Condition: Derogatory  
Individual Account

Limit: \$0  
Balance: \$521,828  
Payment: \$2,975  
Credit Type: Primary or secondary mortgage

Remarks: Foreclosure process started  
Real Estate Mortgage

2017



2016



2015



**CAP ONE**  
Act. # 01-11036\*\*\*\*

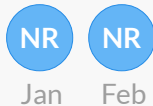


Opened: 06/01/2006  
**Closed:**  
Reported: 03/01/2010  
Condition: Paid  
Individual Account

Limit: \$0  
Balance: \$0  
Payment: \$0  
Credit Type: Revolving Account

Remarks: Account closed at consumer's request  
Closed or paid account/zero balance

2010



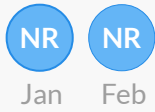
2009



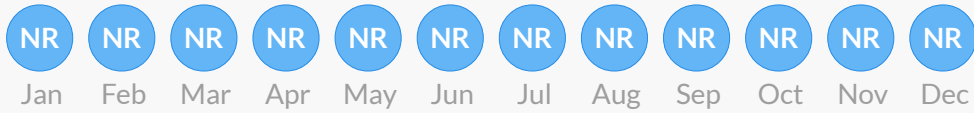
Remarks: Closed or paid account/zero balance

Accounts closed by credit grantor

2011



2010



2009



PUBLIC RECORDS (1)



Federal Government  
Ref: 1335414-DSP-02/16  
10/01/2013  
Chapter 13 Bankruptcy - Dismissed

COLLECTION ACCOUNTS (0)

You have no collection account items on your credit report.

DELINQUENT ACCOUNTS (1)



RUSHMORE  
Act. # 10276004\*\*\*\*

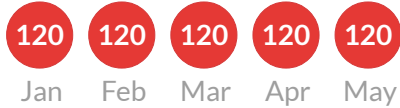


Past Due: \$221,830  
Opened: 01/01/2005  
Reported: 06/01/2017  
Condition: Derogatory  
Individual Account

Limit: \$0  
Balance: \$521,828  
Payment: \$2,975  
Credit Type: Primary or secondary mortgage

Remarks: Foreclosure process started  
Real Estate Mortgage

2017



2016



2015



**INQUIRIES (0)**

You have no inquiries on your credit report.

# **Exhibit 2**

The Assignment of Mortgage executed by Wells Fargo Bank, National Association, or “Wells Fargo”, in favor of JPMorgan Chase Bank, National Association, in January 2010.

CFN # 109235598, OR BK 46972 Page 591, Page 1 of 1, Recorded 03/26/2010 at 10:56 AM, Broward County Commission, Deputy Clerk 3075

Return to: Christopher T. Galluzzo  
Prepared by: Lee Weiner  
Ben-Ezra & Katz, P.A.  
2901 Stirling Road, Suite 300  
Fort Lauderdale, Florida 33312

**ASSIGNMENT OF MORTGAGE**

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, AS PURCHASER OF THE LOANS AND OTHER ASSETS OF WASHINGTON MUTUAL BANK, FORMERLY KNOWN AS WASHINGTON MUTUAL BANK, FA, "Assignor" whose address is 400 EAST MAIN STREET, STOCKTON, CA 95290, in consideration for the sum of Ten Dollars and 00/100 cents, and other valuable considerations received from or on behalf of:

WELLS FARGO BANK, NA AS TRUSTEE FOR WAMU MORTGAGE PASS THROUGH CERTIFICATES SERIES 2005-PR2 TRUST, "Assignee" whose address is 7255 BAYMEADOWS WAY, JACKSONVILLE, FL 32256, at or before the ensembling and delivery of these presents the receipt whereof is hereby acknowledged, did grant, bargain, sell, assign, transfer and set over unto the Assignee a certain mortgage bearing the date of January 26, 2005 by ARTURO CIENFUEGOS AND SILVIA LEONES in favor of JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, AS PURCHASER OF THE LOANS AND OTHER ASSETS OF WASHINGTON MUTUAL BANK, FORMERLY KNOWN AS WASHINGTON MUTUAL BANK, FA and recorded in Official Record Book 39058; Page 612 of the Public Records of BROWARD County, Florida upon the following land in said county:

LOT 103 IN BLOCK 2 OF SECTORS 2 - PARCELS 21B, 22, 23 & 24, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 168, PAGE 7, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

Together with the note or obligation described in said mortgage and the moneys due and to become due thereon, with interest.

TO HAVE AND TO HOLD the same unto the Assignee, heirs, legal representatives, successors and assigns forever.

IN WITNESS WHEREOF the assignor has caused signed (and sealed, as applicable) this Assignment of Mortgage, which assignment was effective on or before October 28, 2009.

Witnesses: Assignor(s)

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, AS PURCHASER OF THE LOANS AND OTHER ASSETS OF WASHINGTON MUTUAL BANK, FORMERLY KNOWN AS WASHINGTON MUTUAL BANK, FA  
400 EAST MAIN STREET, STOCKTON, CA 95290

[Signature]  
witness signature  
Rachel Lindgren  
printed name

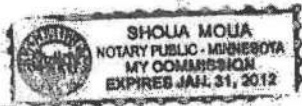
by: [Signature]  
printed name: Bethany Hood  
Its: Attorney in Fact

[Signature]  
witness signature  
Bee King  
printed name

Corporate Seal:

STATE OF MN  
COUNTY OF Dakota

The foregoing instrument was acknowledged before me this 11 day of Jan, 2010 by Bethany Hood as Attorney in Fact of JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, AS PURCHASER OF THE LOANS AND OTHER ASSETS OF WASHINGTON MUTUAL BANK, FORMERLY KNOWN AS WASHINGTON MUTUAL BANK, FA on behalf of the assignor. S/he is personally known to me or has produced personal as identification. knowledge



[Signature]  
Notary Public



# **Exhibit 3**

Defendant's Notice of Assignment, Sale or Transfer of Servicing showing JPMorgan assigned its rights as the servicer of the Note and Mortgage loan to Defendant effective October 17, 2016.



P.O. Box 55004  
Irvine, CA 92619-2708  
888.699.5600 toll free  
949.341.0777 local  
949.341.2200 fax  
www.rushmorelm.com

October 28, 2016

+ 0680122 000000142 09RUL2 0926643

SILVIA LEONES  
C/O JONATHAN KLINE, ESQ.  
2761 EXECUTIVE PARK DR  
WESTON FL 33331-3600



Your New Loan Number: [REDACTED] 6480  
Property Address: 1746 SYCAMORE TER  
WESTON, FL 33327

**NOTICE OF ASSIGNMENT, SALE OR TRANSFER OF SERVICING**

Dear Mortgagor(s):

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, has been assigned, sold or transferred from Chase to Rushmore Loan Management Services LLC (Rushmore), effective 10/17/2016. The transfer of the servicing of your mortgage does not affect any term or condition of the mortgage instruments, other than terms directly related to the servicing of your loan.

Except in limited circumstances, the law requires that your previous servicer send you this notice at least 15 days before the effective date of transfer. As your new servicer, we must also send you this notice no later than 15 days after this effective date or at closing.

Your previous servicer was Chase. The prior servicer's address is as follows: P.O. Box 24696 Columbus, OH 43224-0696. If you have any questions regarding the transfer of servicing from your previous servicer, call Chase Customer Service at 1-800-848-9136 between Monday-Friday 8 a.m. to midnight ET, Saturday 8 a.m. to 8 p.m. ET. This is a toll free number.

**Rushmore will be your new servicer. The business addresses for your new servicer are as follows:**

**Correspondence Address**

**Rushmore Loan Management Services LLC  
15480 Laguna Canyon Rd., Suite 100  
Irvine, CA 92618**

**Payment Address**

**Rushmore Loan Management Services LLC  
P.O. Box 514707  
Los Angeles, CA 90051-4707**

If you have any questions related to the transfer of servicing to Rushmore, call our Customer Service Department at **888-504-6700** between **Monday through Thursday, 6 a.m. to 7 p.m., Friday 6 a.m. to 6 p.m. Pacific**. Please have your new loan number shown above available when calling.

Rushmore offers several convenient ways to make your monthly payment. You can make your payment by phone at **888-504-6700** or through our website at [www.rushmorelm.com](http://www.rushmorelm.com). Click on the upper banner called **ACCOUNT LOGIN** and you can make a Payment or sign-up for **Auto Draft Payments**. Rushmore highly recommends this option, as it helps prevent you being late on any of your very important mortgage payments. For a small fee you can also utilize Western Union Quick Collect (**Code City: Rushmore Code State: CA**).

The date that your present servicer Chase will stop accepting your payments is 10/16/2016. The date that Rushmore will begin accepting payments from you is 10/17/2016. Send all payments due on or after that due date to your new servicer. A billing statement from Rushmore will be mailed to you within 15 to 30 days.



X10438-00B

If you are currently making your mortgage payment through a third-party entity (e.g., government allotment, biweekly, or bill service), please take the necessary steps to advise them of your new loan number shown above and change the payee to your new servicer. In the event of a payment change, it is your responsibility to notify the third-party of the new payment amount and new address to send the payments.

**Important note:** If you entered into an approved loss mitigation plan with your prior loan servicer, or if you had a loss mitigation application in process with your prior servicer, please call Rushmore immediately, toll-free, at 888-504-7300, to confirm that the loss mitigation plan information, or application and documentation, were properly transferred to Rushmore.

You should also be aware of the following information, which is referred to in more detail in Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 USC §2605).

During the 60-day period following the effective date of transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new servicer as late, and a late charge fee may not be assessed.

**Important note about insurance:** If you have mortgage life or disability insurance or any other type of optional insurance, the transfer of servicing rights may affect your insurance in the following way:

Rushmore does not collect and remit any type of optional insurance to your insurance company. Any premiums for any such optional policy that was being collected and remitted by your prior servicer will be discontinued by Rushmore as of the effective date of the transfer of servicing. If you wish to retain such optional insurance, you should contact your optional product service provider about your ability to continue such insurance and how to make premium payments.

#### **Notice of Error Resolution & Information Request Procedures**

The following outlines the Error Resolution and Information Request Procedures for your mortgage account at Rushmore Loan Management Services LLC. (RLMS). Please keep this document for your records.

If you think an error has occurred on your mortgage account or if you need specific information about the servicing of your loan, please write us at:

**Rushmore Loan Management Services LLC**  
P.O. Box 52262  
Irvine, California 92619-2262

All written requests for information or notices of error should contain the following information:

1. Your name
2. Account number
3. Property Address
4. Description of the error and explanation as to why you believe it is an error or a request for specific information regarding the servicing of your loan
5. Current contact information so we may follow up with you

All written requests for specific information will be handled within 30 days of receipt. We will determine whether an error occurred within 30 days after receiving your notice of error and will correct any error promptly (Notices of error on payoff statements will be handled within 7 days). If additional time is needed to investigate your complaint or request, we may take up to 45 days but we will notify you of the extension within the original 30 days. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

**Please keep this document for your records.**

A Business Day is a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that Section. You should seek legal advice if you believe your rights have been violated.

Should you have any questions, please contact our Customer Service Department at toll-free **888-504-6700, Monday through Thursday, 6 a.m. to 7 p.m., Friday 6 a.m. to 6 p.m. Pacific.**

Sincerely,

Rushmore Loan Management Services LLC

**ADDITIONAL NOTICE**

Rushmore Loan Management Services LLC is a Debt Collector, who is attempting to collect a debt. Any information obtained will be used for that purpose. However, if you are in Bankruptcy or received a Bankruptcy Discharge of this debt, this letter is being sent for informational purposes only, is not an attempt to collect a debt and does not constitute a notice of personal liability with respect to the debt.



X10438-00B



# Exhibit 4

Wells Fargo's Verified Complaint To Foreclose Mortgage or "VCFM" showing that Wells Fargo accelerated the Mortgage by stating that it "has and hereby declares the full amount payable under the Note and Mortgage to be due and payable", thereby maturing all future monthly payments into one lump sum plus interest immediately due.

IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BROWARD COUNTY,  
FLORIDA  
CIVIL DIVISION  
CASE NO.: CACE16003787

WELLS FARGO BANK, NA AS TRUSTEE FOR  
WAMU MORTGAGE PASS THROUGH  
CERTIFICATES SERIES 2005-PR2 TRUST  
Plaintiff,

vs.

SILVIA LEONES A/K/A SILVIA LENONES;  
ARTURO CIENFUEGOS; AMERICAN  
EXPRESS CENTURION BANK; MIDLAND  
FUNDING LLC, AS SUCCESSOR IN INTEREST  
TO CHASE BANK USA, N.A.; SAVANNA  
MAINTENANCE ASSOCIATION, INC.; THE  
HAMMOCKS AT SAVANNA MAINTENANCE  
ASSOCIATION, INC.; THE TOWN  
FOUNDATION, INC.; ANY AND ALL  
UNKNOWN PARTIES CLAIMING BY,  
THROUGH, UNDER, OR AGAINST THE  
HEREIN NAMED INDIVIDUAL  
DEFENDANT(S) WHO ARE NOT KNOWN TO  
BE DEAD OR ALIVE, WHETHER SAID  
UNKNOWN PARTIES MAY CLAIM AN  
INTEREST AS SPOUSES, HEIRS, DEVISEES,  
GRANTEES, OR OTHER CLAIMANTS;  
UNKNOWN TENANT(S) whose name is fictitious  
to account for parties in possession  
Defendants. /

**VERIFIED COMPLAINT TO FORECLOSE MORTGAGE**

Plaintiff, WELLS FARGO BANK, NA AS TRUSTEE FOR WAMU MORTGAGE  
PASS THROUGH CERTIFICATES SERIES 2005-PR2 TRUST, sues Defendant(s), SILVIA  
LEONES A/K/A SILVIA LENONES; ARTURO CIENFUEGOS; AMERICAN EXPRESS  
CENTURION BANK; MIDLAND FUNDING LLC, AS SUCCESSOR IN INTEREST TO  
CHASE BANK USA, N.A.; SAVANNA MAINTENANCE ASSOCIATION, INC.; THE

PH # 60684

Page 1

**PHELAN HALLINAN DIAMOND & JONES, PLLC**  
2727 West Cypress Creek Road, Ft. Lauderdale, FL 33309  
Tel: 954-462-7000, Fax: 954-462-7001

HAMMOCKS AT SAVANNA MAINTENANCE ASSOCIATION, INC.; THE TOWN FOUNDATION, INC.; ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER, OR AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR OTHER CLAIMANTS; UNKNOWN TENANT(S) whose name is fictitious to account for parties in possession, and states:

1. This is an action to foreclose a Mortgage on real property located in BROWARD County, Florida and by reason thereof the venue for this matter is in BROWARD County, Florida.
2. Defendant SILVIA LEONES A/K/A SILVIA LENONES executed and delivered a Promissory Note ("Note") dated January 26, 2005 and SILVIA LEONES A/K/A SILVIA LENONES and ARTURO CIENFUEGOS executed and delivered a Mortgage ("Mortgage") dated January 26, 2005 securing payment of the Note. The Mortgage was recorded on February 14, 2005, in Official Records Book 39058, at Page 612, of the Public Records of BROWARD County, Florida and mortgaged the real property ("Property") described therein. References made herein to "Borrower" refers to the individual(s) executing the Note; "Mortgagor" refers to those executing the Mortgage. True and correct copies of said Note and Mortgage, are attached hereto as Exhibit "A" and Exhibit "B" respectively.
3. Said Mortgage was subsequently assigned by virtue of an Assignment of Mortgage, recorded on March 26, 2010 in Official Records Book 46972, Page 591 in the Public Records of BROWARD County, Florida. A copy of said Assignment of Mortgage is attached hereto, marked Plaintiff's Exhibit "C".
4. Plaintiff is in physical possession of the Note endorsed in blank, which is the subject of this action and therefore, is the holder of that Note. JPMORGAN CHASE BANK,

PH # 60684

Page 2

**PHELAN HALLINAN DIAMOND & JONES, PLLC**  
2727 West Cypress Creek Road, Ft. Lauderdale, FL 33309  
Tel: 954-462-7000, Fax: 954-462-7001

NATIONAL ASSOCIATION ("Chase") is the Servicer of the loan described in the Note and Mortgage. Chase has the authority to initiate the instant foreclosure on behalf of the Plaintiff pursuant to the power of attorney or servicing agreement.

5. The Mortgage is superior in dignity to any prior or subsequent right, title, claim, lien or interest of the Defendants named herein or any person claiming by, through or under said Defendants since the institution of this suit.
6. Defendants SILVIA LEONES A/K/A SILVIA LENONES and ARTURO CIENFUEGOS are the current owners of the real property which is the subject of the Mortgage.
7. There has been a default in the payment of the amounts due under the Note and Mortgage in that the payment due for March 1, 2011 and all subsequent payments have not been made.
8. Plaintiff has and hereby declares the full amount payable under the Note and Mortgage to be due and payable.
9. All conditions precedent to the filing of this action have been performed or have occurred.
10. Borrowers, as makers of the Note, may be held personally liable for a deficiency, if any, unless Borrowers have discharged the subject debt in bankruptcy, in which event no deficiency is or will be sought.
11. There is now due and owing the principal sum of \$349,582.01, together with all sums that may be due for interest, taxes, insurance, escrow advances and/or fees for inspections, property preservations or other expenses incurred to protect the property, and expenses and costs of suit including but not limited to filing fees, recording fees, title search and examination fees, fees due for service of process and such other costs as may be allowed by this Court.
12. Plaintiff has and will incur reasonable attorneys' fees and therefore, seeks to be awarded

PH # 60684

Page 3

**PHELAN HALLINAN DIAMOND & JONES, PLLC**  
2727 West Cypress Creek Road, Ft. Lauderdale, FL 33309  
Tel: 954-462-7000, Fax: 954-462-7001



these fees.

13. The Defendant, UNKNOWN TENANT(S), the name being fictitious to account for any party in possession, may have or claim some right, title or interest in and to the property herein sought to be foreclosed by virtue of an unrecorded lease or purchase option or by virtue of being in actual possession of same. The actual name of the Defendant is presently unknown to Plaintiff and its undersigned Attorney. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.
14. Defendant, SAVANNA MAINTENANCE ASSOCIATION, INC., may have or claim some right, title or interest in or lien upon the property, herein sought to be foreclosed, arising or resulting from unpaid association assessments and/or other charges due it. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.
15. Defendant, THE HAMMOCKS AT SAVANNA MAINTENANCE ASSOCIATION, INC., may have or claim some right, title or interest in or lien upon the property, herein sought to be foreclosed, arising or resulting from unpaid association assessments and/or other charges due it. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.
16. Defendant, THE TOWN FOUNDATION, INC., may have or claim some right, title or interest in or lien upon the property, herein sought to be foreclosed, arising or resulting

PH # 60684

Page 4

**PHELAN HALLINAN DIAMOND & JONES, PLLC**  
2727 West Cypress Creek Road, Ft. Lauderdale, FL 33309  
Tel: 954-462-7000, Fax: 954-462-7001



from unpaid association assessments and/or other charges due it. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.

17. Defendant, AMERICAN EXPRESS CENTURION BANK, may have or claim some right or interest in or lien upon the property sought to be foreclosed by virtue of that certain FINAL JUDGMENT recorded May 11, 2011 in Official Records Book 47912, Page 175 and re-recorded on August 2, 2011 in Official Records Book 48082, Page 1234, of the Public Records of BROWARD County, Florida. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.

18. Defendant, MIDLAND FUNDING LLC, AS SUCCESSOR IN INTEREST TO CHASE BANK USA, N.A., may have or claim some right or interest in or lien upon the property sought to be foreclosed by virtue of that certain DEFAULT FINAL JUDGMENT recorded on August 10, 2012 in Official Records Book 48987, Page 1998, of the Public Records of BROWARD County, Florida. However, any right, title, interest or claim of said Defendant(s) in and to said property is subordinate in time and inferior in right to the rights, powers and privileges of the Plaintiff herein, and Plaintiff's Mortgage is superior in time and right to any and all rights, title and interest claimed by said Defendant.


**WHEREFORE**, Plaintiff respectfully requests that this Court enter judgment foreclosing the Mortgage and enter an order, (a) enumerating all amounts this Court determines due to Plaintiff pursuant to said Note and Mortgage and award attorneys' fees, costs, outstanding principal, interest, advances; (b) ordering the Clerk of the Court to sell the subject property to satisfy the amount due Plaintiff, in whole or in part; (c) adjudging that the right, title and interest of any party claiming by, through, under or against any Defendant named herein be deemed inferior and subordinate to the Plaintiff's Mortgage lien and forever be barred and foreclosed; (d) retaining jurisdiction of this Court in this action to make any and all further orders and judgments as may be necessary and proper, including issuance of writ of possession and the entry of a deficiency judgment if the proceeds of the sale are insufficient to pay Plaintiff's claim (no deficiency judgment shall be sought against those parties who have discharged the debt in bankruptcy pursuant to the provisions of the Bankruptcy Code 11 U.S.C. Section 101, et seq. or where a bankruptcy court only granted Plaintiff or its predecessors-in-interest in rem relief from the bankruptcy automatic stay); and (e) for such other and further relief as this Court may deem just and proper.

Phelan Hallinan Diamond & Jones, PLLC  
Attorneys for Plaintiff  
2727 West Cypress Creek Road  
Ft. Lauderdale, FL 33309  
Tel: 954-462-7000  
Fax: 954-462-7001  
Service by email: FL.Service@PhelanHallinan.com

By: \_\_\_\_\_  
**Phelan Hallinan Diamond & Jones, PLLC**  
Ali I. Gilson, Esq., Florida Bar No. 90471  
Emilio R. Lenzi, Esq., Florida Bar No. 0668273


**VERIFICATION**

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief, and that I am authorized to make this Verification of Complaint by JP Morgan Chase Bank, N.A.

Signature:   
Name: Karla Baxter  
Title: Vice President  
Date: FEB 10 2016

**\*Pursuant to Fla. R. Jud. Admin. 2.516(b)(1)(A), Plaintiff's counsel hereby designates its primary email address for the purposes of email service as: FL.Service@PhelanHallinan.com**

Phelan Hallinan Diamond & Jones, PLLC  
Attorneys for Plaintiff  
2727 West Cypress Creek Road  
Ft. Lauderdale, FL 33309  
Tel: 954-462-7000  
Fax: 954-462-7001  
Service by email: FL.Service@PhelanHallinan.com

By:   
**Phelan Hallinan Diamond & Jones, PLLC**  
Ali I. Gilson, Esq., Florida Bar No. 90471  
Emilio R. Lenzi, Esq., Florida Bar No. 0668273

Pursuant to the Fair Debt Collections Practices Act, you are advised that this office may be deemed a debt collector and any information obtained may be used for that purpose.



**VALUE OF REAL PROPERTY OR MORTGAGE FORECLOSURE CLAIM/CROSS-CLAIM/COUNTERCLAIM/COUNTERPETITION/THIRD-PARTY COMPLAINT**

The form below has been designed to assist with the calculation requirements of s. 28.241 (1) (a) 2.a., F.S., effective for all new actions filed on or after June 1, 2009 and for all cross-claims, counterclaims, counterpetitions or third party complaints filed on or after June 1, 2009 in any action, regarding real property or Mortgage foreclosure. S. 28.241 (1) (a) 2.a., F.S. requires the filing of a statement estimating the value of the claim and requires the payment of a graduated filing fee based on the estimated value of the claim and includes the required fees for mediation, education and additional defendants. (See chart below)

Date: \_\_\_\_\_ Case Number: \_\_\_\_\_

Plaintiff: WELLS FARGO BANK, NA AS TRUSTEE FOR WAMU MORTGAGE PASS THROUGH CERTIFICATES SERIES 2005-PR2 TRUST

Defendant: SILVIA LEONES A/K/A SILVIA LENONES, et al

- 1. \$349,582.01 Principal due on the Note
- 2. \$47,922.97 Interest owed on the Note
- 3. \$94,565.03 Total advances owed on the Note including

- \$ \_\_\_\_\_ Property Taxes
- \$ \_\_\_\_\_ Insurance
- \$94,565.03 Other Advances

(The total of these three categories provides the amount of line 3.)

- 4. \$ \_\_\_\_\_ Value of Tax Certificates relating to Mortgage
- 5. \$492,070.01 TOTAL ESTIMATED VALUE OF CLAIM  
(Add lines 1-4 to get the total for line 5)

Submitter: Karol A. Gutierrez, Legal Assistant; Phelan Hallinan Diamond & Jones, PLLC

**GRADUATED FILING FEES BASED ON THE VALUE OF THE CLAIM**

\$401.00	Value less than or equal to \$50,000 with 5 defendants or less
\$906.00	Value greater than \$50,000 but less than \$250,000 with 5 defendants or less
\$1906.00	Value \$250,000 or greater with 5 defendants or less
\$2.50	Additional fee for each defendant



# **Exhibit 5**

The promissory note executed by Plaintiff and delivered to WaMu Mtg. or the “Note”.



**(C) Payment Changes**

My monthly payment will be recomputed, according to Sections 4(E)(F)(G)(H) and (I) of this Note, to reflect changes in the Principal balance and interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

**4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

The interest rate I will pay may further change on the 1st day of March, 2005, and on that day every month thereafter. Each such day is called a "Change Date".

**(B) The Index**

On each Change Date, my interest rate will be based on an Index. The "Index" is the Twelve-Month Average, determined as set forth below, of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve-Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12.

The most recent Index figure available as of 15 days before each interest rate Change Date is called the "Current Index". If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two & Six-Tenths percentage points 2.600 % ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-thousandth of one percentage point (0.001%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date. In the event a new Index is selected, pursuant to paragraph 4(B), a new Margin will be determined. The new Margin will be the difference between the average of the old Index for the most recent three year period which ends on the last date the Index was available plus the Margin on the last date the old Index was available and the average of the new Index for the most recent three year period which ends on that date (or if not available for such three year period, for such time as it is available). This difference will be rounded to the next higher 1/8 of 1%.

**(D) Interest Rate Limit**

My interest rate will never be greater than Ten & Fifteen-Hundredths percentage points 10.150 % ("Cap"), except that following any sale or transfer of the property which secures repayment of this Note after the first interest rate Change Date, the maximum interest rate will be the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of such sale or transfer.

**(E) Payment Change Dates**

Effective every year commencing March 1, 2005, and on the same date each twelfth month thereafter ("Payment Change Date"), the Note Holder will determine the amount of the monthly payment that would be sufficient to repay the projected principal balance I am expected to owe as of the Payment Change Date in full on the Maturity Date at the interest rate in effect 45 days prior to the Payment Change Date in substantially equal payments. The result of this calculation is the new amount of my monthly payment, subject to Section 4(F) below, and I will make payments in the new amount until the next Payment Change Date unless my payments are changed earlier under Section 4(H) of this Note.

**(F) Monthly Payment Limitations**

Unless Section 4(H) and 4(I) below apply, the amount of my new monthly payment, beginning with a Payment Change Date, will be limited to 7 1/2% more or less than the amount I have been paying. This payment cap applies only to the principal payment and does not apply to any escrow payments Lender may require under the Security Instrument.



**(G) Changes in My Unpaid Principal Due to Negative Amortization or Accelerated Amortization**

Since my payment amount changes less frequently than the interest rate and since the monthly payment is subject to the payment limitations described in Section 4(F), my monthly payment could be less or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the maturity date in substantially equal payments. For each month that the monthly payment is less than the interest portion, the Note Holder will subtract the monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the current interest rate. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the excess towards a principal reduction of the Note.

**(H) Limit on My Unpaid Principal; Increased Monthly Payment**

My unpaid principal can never exceed a maximum amount equal to 125% of the principal amount original borrowed. In the event my unpaid Principal would otherwise exceed that 125% limitation, I will begin paying a new monthly payment until the next Payment Change Date notwithstanding the 7 1/2% annual payment increase limitation. The new monthly payment will be an amount which would be sufficient to repay my then unpaid Principal in full on the maturity date at my interest rate in effect the month prior to the payment due date in substantially equal payments.

**(I) Required Full Monthly Payment**

On the FIFTH anniversary of the due date of the first monthly payment, and on that same day every FIFTH year thereafter, the monthly payment will be adjusted without regard to the payment cap limitation in Section 4(F).

**(J) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

**(K) Failure to Make Adjustments**

If for any reason Note Holder fails to make an adjustment to the interest rate or payment amount as described in this Note, regardless of any notice requirement, I agree that Note Holder may, upon discovery of such failure, then make the adjustment as if they had been made on time. I also agree not to hold Note Holder responsible for any damages to me which may result from Note Holder's failure to make the adjustment and to let the Note Holder, at its option, apply any excess monies which I may have paid to partial Prepayment of unpaid Principal.

**5. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment". When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will apply all of my prepayments to reduce the amount of principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the principal amount of the Note. If I make a partial prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial prepayment may have the effect of reducing the amount of my monthly payments, but only after the first Payment Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then; (a) any such loan charge shall be reduced by the amount



[REDACTED]

necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**Miscellaneous Fees:** I understand that the Note Holder will also charge a return item charge in the event a payment that I make in connection with repayment of this loan is not honored by the financial institution on which it is drawn. The current fee is \$ 15.00. Lender reserves the right to change the fee from time to time without notice except as may be required by law.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED**

**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of Principal and interest. I will pay this late charge promptly but only once of each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 10 days after the date on which the notice is delivered or mailed to me (or, if the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation buys all or part of Lender's rights under the Security Instrument, in which case the notice will specify a date, not less than 30 days from the date the notice is given the Borrower).

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

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, whether or not a lawsuit is brought, to the extent not prohibited by Applicable Law. Those expenses include, for example, reasonable attorneys' fees.

**8. GIVING OF NOTICES**

Unless Applicable Law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety, or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety, or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.



**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.**

If all or any part of the Property or any Interest in the Property is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) the request to assume is made after one year following recordation of the Deed of Trust, (b) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (c) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument or other obligations related to the Note or other loan document is acceptable to Lender, (d) Assuming party executes Assumption Agreement acceptable to Lender at its sole choice and discretion, which Agreement may include an increase to Cap as set forth below and (e) payment of Assumption Fee if requested by Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption and Lender may increase the maximum rate limit to the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of the transfer. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender has entered into a written Assumption Agreement with transferee and formally releases Borrower.

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

**12. MISCELLANEOUS PROVISIONS**

In the event the Note Holder at any time discovers that this Note or the Security Instrument or any other document related to this loan, called collectively the "Loan Documents," contains an error which was caused by a clerical or ministerial mistake, calculation error, computer error, printing error or similar error (collectively "Errors"), I agree, upon notice from the Note Holder, to reexecute any Loan Documents that are necessary to correct any such Errors and I also agree that I will not hold the Note Holder responsible for any damage to me which may result from any such Errors.

If any of the Loan Documents are lost, stolen, mutilated or destroyed and the Note Holder delivers to me an indemnification in my favor, signed by the Note Holder, then I will sign and deliver



to the Note Holder a Loan Document identical in form and content which will have the effect of the original for all purposes.

**13. DOCUMENTARY TAX**

The state documentary tax due on this Note has been paid on the mortgage securing this indebtedness.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

x *Silvia Leones*  
SILVIA LEONES

Pay to the order of  
Without Recourse  
WASHINGTON MUTUAL BANK, FA  
By *Michele Mullholand*  
MICHELE MULLHOLAND  
VICE PRESIDENT



# **Exhibit 6**

The mortgage, “Security Instrument”, or “Mortgage” executed by Plaintiff and delivered to WaMu Mtg.

**AFTER RECORDING RETURN TO:**

Washington Mutual Bank, FA  
2210 Enterprise Dr.  
Florence, SC 29501  
Attn: Doc Ops mailstop FSCE 440

**PREPARED BY:**

ALICE COCHRANE  
200 B. PINE ISLAND ROAD #101  
PLANTATION, FL 33324

[Space Above This Line For Recording Data]

CONSOLIDATED TITLE CO. [REDACTED]

**MORTGAGE**



**DEFINITIONS**

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

(A) "Security Instrument" means this document, which is dated January 26, 2005, together with all Riders to this document.

(B) "Borrower" is ARTURO CIENFUEGOS AND SILVIA LEONES, HUSBAND AND WIFE

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is Washington Mutual Bank, FA a federal association.  
Lender is a Bank organized and existing under the laws of United States of America. Lender's address is:  
400 East Main Street Stockton, CA 95220

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated January 26, 2005.

The Note states that Borrower owes Lender Three Hundred Thirty-Six Thousand & 00/100

Dollars (U.S. \$ 336,000.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than February 3, 2035.

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

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

[REDACTED]



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

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

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

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

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

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

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

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

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

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

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

**TRANSFER OF RIGHTS IN THE PROPERTY**

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note; and (iii) the performance of all agreements of Borrower to pay fees and charges arising out of the Loan whether or not herein set forth. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power



of sale, the following described property located in Broward County, Florida:

LOT 103 IN BLOCK 2 OF SECTORS 2 - PARCELS 21B, 22, 23 & 24, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 168, PAGE 7, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

which currently has the address of 1746 SYCAMORE TR [Street], WESTON, Florida 33327 ("Property Address"): [City] [Zip Code]

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic

Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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



the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

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

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

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

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

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

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

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Lender may purchase such insurance from or through any company acceptable to Lender including, without limitation, an affiliate of Lender, and Borrower acknowledges and agrees that Lender's affiliate may receive consideration for such purchase. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

Borrower hereby absolutely and irrevocably assigns to Lender all of Borrower's right, title and interest in and to all proceeds from any insurance policy (whether or not the insurance policy was required by Lender) that are due, paid or payable with respect to any damage to such property, regardless of whether the insurance policy is established before, on or after the date of this Security Instrument. By absolutely and irrevocably assigning to Lender all of Borrower's rights to receive any and all proceeds from any insurance policy, Borrower hereby waives, to the full extent allowed by law, all of Borrower's rights to receive any and all of such insurance proceeds.

Borrower hereby absolutely and irrevocably assigns to Lender all of Borrower's right, title and interest in and to (a) any and all claims, present and future, known or unknown, absolute or contingent, (b) any and all causes of action, (c) any and all judgments and settlements (whether through litigation, mediation, arbitration or otherwise), (d) any and all funds sought against or from any party or parties whatsoever, and (e) any and all funds received or receivable in connection with any damage to such property, resulting from any cause or causes whatsoever,

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including but not limited to, land subsidence, landslide, windstorm, earthquake, fire, flood or any other cause.

Borrower agrees to execute, acknowledge if requested, and deliver to Lender, and/or upon notice from Lender shall request any insurance agency or company that has issued any insurance policy to execute and deliver to Lender, any additional instruments or documents requested by Lender from time to time to evidence Borrower's absolute and irrevocable assignments set forth in this paragraph.

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

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

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

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, or remove or demolish any building thereon, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in good condition and repair in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property in good and workmanlike manner if damaged to avoid further

deterioration or damage. Lender shall, unless otherwise agreed in writing between Lender and Borrower, have the right to hold insurance or condemnation proceeds. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause. Lender does not make any warranty or representation regarding, and assumes no responsibility for, the work done on the Property, and Borrower shall not have any right to rely in any way on any inspection(s) by or for Lender or its agent. Borrower shall be solely responsible for determining that the work is done in a good, thorough, efficient and workmanlike manner in accordance with all applicable laws.

Borrower shall (a) appear in and defend any action or proceeding purporting to affect the security hereof, the Property or the rights or powers of Lender or Trustee; (b) at Lender's option, assign to Lender, to the extent of Lender's interest, any claims, demands, or causes of action of any kind, and any award, court judgment, or proceeds of settlement of any such claim, demand or cause of action of any kind which Borrower now has or may hereafter acquire arising out of or relating to any interest in the acquisition or ownership of the Property. Lender and Trustee shall not have any duty to prosecute any such claim, demand or cause of action. Without limiting the foregoing, any such claim, demand or cause of action arising out of or relating to any interest in the acquisition or ownership of the Property may include (i) any such injury or damage to the Property including without limit injury or damage to any structure or improvement situated thereon, (ii) or any claim or cause of action in favor of Borrower which arises out of the transaction financed in whole or in part by the making of the loan secured hereby, (iii) any claim or cause of action in favor of Borrower (except for bodily injury) which arises as a result of any negligent or improper construction, installation or repair of the Property including without limit, any surface or subsurface thereof, or of any building or structure thereon or (iv) any proceeds of insurance, whether or not required by Lender, payable as a result of any damage to or otherwise relating to the Property or any interest therein. Lender may apply, use or release such monies so received by it in the same manner as provided in Paragraph 5 for the proceeds of insurance.

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

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting



and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

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

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage

insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

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

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

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

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

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

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

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

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is



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

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

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

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

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** This Security Instrument cannot be changed or modified except as otherwise provided herein or by agreement in writing signed by Borrower, or any Successor in Interest of Borrower and Lender. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successor in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy. No waiver by Lender of any right under this Security Instrument shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Security Instrument or of any provision of this Security Instrument as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence.

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

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by

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

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

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

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

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



conflicting provision.

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

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

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

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

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

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

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument,

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and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

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

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

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

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



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

22. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence. If Borrower or any Successor in Interest of Borrower files (or has filed against Borrower or any Successor in Interest of Borrower) a bankruptcy petition under Title 11 or any successor title of the United States Code which provides for the curing of prepetition default due on the Note, interest at a rate determined by the court shall be paid to Lender on post-petition arrears.

23. **Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is not prohibited by Applicable Law.

24. **Attorneys' Fees.** As used in this Security Instrument and the Note, "attorneys' fees" shall include any attorneys' fees awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

25. **Jury Trial Waiver.** The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

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



**PLANNED UNIT DEVELOPMENT RIDER**

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 26th day of January, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to Washington Mutual Bank, FA (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

1746 SYCAMORE TER, WESTON, FL 33327  
(Property Address)

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Instruments Recorded

(the "Declaration"). The Property is a part of a planned unit development known as BLOCK 2 SECTOR 2 (the "PUD").  
(Name of Planned Unit Development)

The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the: (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

[REDACTED]

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts, for the periods, and against loss by fire, hazards included within the term "extended coverage", and any other hazard, including, but not limited to, earthquakes and floods, for which Lender requires insurance,

- (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and
- (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

- (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
- (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender;






- (iii) termination of professional management and assumption of self-management of the Owners Association; or
- (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

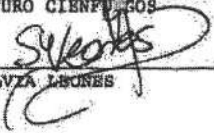
**F. Remedies.** If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.





BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Planned Unit Development Rider.

X   
ARTURO CIENFUEGOS

X   
SILVIA LAINES



01-28-06 11:00am From-WAMU

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T-030 P.001/005 F-484

**ADJUSTABLE RATE RIDER  
(12-MTA Index - Payment and Rate Caps)**



THIS ADJUSTABLE RATE RIDER is made this 26th day of January, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to Washington Mutual Bank, FA (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

1746 SYCAMORE TER, DEERON, FL 33227  
(Property Address)

THIS RIDER CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. MY MONTHLY PAYMENT INCREASES WILL HAVE LIMITS WHICH COULD RESULT IN THE PRINCIPAL AMOUNT I MUST REPAY BEING LARGER THAN THE AMOUNT I ORIGINALLY BORROWED, BUT NOT MORE THAN 125% OF THE ORIGINAL AMOUNT (OR \$ 420,000.00). MY INTEREST RATE CAN NEVER EXCEED THE LIMIT STATED IN THE NOTE AND RIDER. A BALLOON PAYMENT MAY BE DUE AT MATURITY.

**ADDITIONAL COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. Up until the first day of the calendar month that immediately precedes the first payment due date set forth in Section 3 of the Note, I will pay interest at a yearly rate of 4.195%. Thereafter, until the first Change Date (as defined in Section 4 of the Note) I will pay interest at a yearly rate of 3.250%. The interest rate I will pay will thereafter change in accordance with Section 4 of the Note.

Section 4 of the Note provides for changes in the interest rate and monthly payment as follows:



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**4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

The interest rate I will pay may change on the 1st day of March, 2008, and on that day every month thereafter. Each such day is called a "Change Date".

**(B) The Index**

On each Change Date, my interest rate will be based on an index. The "index" is the Twelve-Month Average, determined as set forth below, of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve-Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12.

The most recent index figure available as of the date 15 days before each Change Date is called the "Current Index".

If the index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

**(C) Interest Rate Change**

Before each Change Date, the Note Holder will calculate my new interest rate by adding two & six-tenths percentage points 2.600 % ("Margin") to Current Index. The Note Holder will then round the result of this addition to the nearest one thousandth of one percentage point (0.001%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date. In the event a new index is selected, pursuant to paragraph 4(B), a new Margin will be determined. The new Margin will be the difference between the average of the old index for the most recent three year period which ends on the last date the index was available plus the Margin on the last date the old index was available and the average of the new index for the most recent three year period which ends on that date (or if not available for such three year period, for such time as it is available). The difference will be rounded to the next higher 1/8 of 1%.

**(D) Interest Rate Limit**

My interest rate will never be greater than 10.150 % ("Cap"), except that following any sale or transfer of the property which secures repayment of this Note after the first interest rate Change Date, the maximum interest rate will be the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of such sale or transfer.

**(E) Payment Change Dates**

Effective every year commencing March 1, 2008, and on the same date each twelfth month thereafter ("Payment Change Date"), the Note Holder will determine the





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amount of the monthly payment that would be sufficient to repay the projected Principal balance I am expected to owe as of the Payment Change Date in full on the maturity date at the interest rate in effect 45 days prior to the Payment Change Date in substantially equal payments. The result of this calculation is the new amount of my monthly payment, subject to Section 4(F) below, and I will make payments in the new amount until the next Payment Change Date unless my payments are changed earlier under Section 4(H) of the Note.

**(F) Monthly Payment Limitations**

Unless Section 4(H) and 4(I) below apply, the amount of my new monthly payment, beginning with a Payment Change Date, will be limited to 7 1/2% more or less than the amount I have been paying. This payment cap applies only to the Principal Payment and does not apply to any escrow payments Lender may require under the Security Instrument.

**(G) Changes in My Unpaid Principal Due to Negative Amortization or Accelerated Amortization**

Since my payment amount changes less frequently than the interest rate and since the monthly payment is subject to the payment limitations described in Section 4(F), my monthly payment could be less or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the maturity date in substantially equal payments. For each month that the monthly payment is less than the interest portion, the Note Holder will subtract the monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the current interest rate. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the excess towards a Principal reduction of the Note.

**(H) Limit on My Unpaid Principal; Increased Monthly Payment**

My unpaid Principal can never exceed a maximum amount equal to 125% of the principal amount originally borrowed. In the event my unpaid Principal would otherwise exceed that 125% limitation, I will begin paying a new monthly payment until the next Payment Change Date notwithstanding the 7 1/2% annual payment increase limitation. The new monthly payment will be an amount which would be sufficient to repay my then unpaid principal in full on the maturity date at my interest rate in effect the month prior to the payment due date in substantially equal payments.

**(I) Required Full Monthly Payment**

On the FIFTH anniversary of the due date of the first monthly payment, and on that same day every FIFTH year thereafter, the monthly payment will be adjusted without regard to the payment cap limitation in Section 4(F).

**(J) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in the amount of my



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monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any questions I may have regarding the notice.

(K) Failure to Make Adjustments

If for any reason Note Holder fails to make an adjustment to the interest rate or payment amount as described in this Note, regardless of any notice requirement, I agree that Note Holder may, upon discovery of such failure, then make the adjustment as if they had been made on time. I also agree not to hold Note Holder responsible for any damages to me which may result from Note Holder's failure to make the adjustment and to let the Note Holder, at its option, apply any excess monies which I may have paid to partial prepayment of unpaid "Principal."

**D. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER**

Section 18 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser. If all or any part of the Property or any interest in the Property is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower ceases to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Agreement or other obligations related to the Note or other loan document is acceptable to Lender; (c) Assuming party executes Assumption Agreement acceptable to Lender at its sole choice and discretion, which Agreement may include an increase to Cap as set forth below and (d) payment of Assumption Fee if requested by Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption, and Lender may increase the maximum interest rate limit to the higher of the Cap or 5 percentage points greater than the interest rate in effect at the time of the transfer. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Rushmore Loan Management Services Sued Over at Least 10 'Inaccuracies'](#)

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