

1 KERRY W. FRANICH (State Bar No. 245857)
kwf@severson.com
2 SEVERSON & WERSON
A Professional Corporation
3 19100 Von Karman Ave., Suite 700
Irvine, CA 92612
4 Telephone: (949) 442-7110
Facsimile: (949) 442-7118

5 MARY KATE SULLIVAN (State Bar No. 180203)
6 mks@severson.com
SEVERSON & WERSON
7 A Professional Corporation
One Embarcadero Center, Suite 2600
8 San Francisco, CA 94111
Telephone: (415) 398-3344
9 Facsimile: (415) 956-0439

10 Attorneys for Defendant
GMAC MORTGAGE, LLC (erroneously
11 sued as GMAC Mortgage Corporation)

12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

-JFM United States of America v. Malinowski et al

16 vs.

17 KENNETH J. MALINOWSKI; PATRICIA I.
18 MALINOWSKI; KENNETH J.
MALINOWSKI and PATRICIA I.
19 MALINOWSKI as trustees of the BOAZ
FOUNDATION; THE POPULAR SOCIETY
20 OF SOVERIGN ECCLESIA aka THE
POPULAR SOCIETY OF THE SOVEREIGN
21 ECCLESIA, KENNETH J. MALINOWSKI as
Patriarch; STAN HOKENSON as trustee of
22 TIERRA LAND TRUST, aka TIERRA
TRUST; GMAC MORTGAGE
23 CORPORATION; STATE OF CALIFORNIA
FRANCHISE TAX BOARD; CITIBANK
24 SOUTH DAKOTA, N.A.; SACRAMENTO
COUNTY,

25 Defendants.
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FILED

FEB 22 2012

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY 
DEPUTY CLERK

Case No.: 2:11-cv-01187 JAM (JFMx)
Hon. John A. Mendez
Ctrm. 6

**STIPULATION FOR LIEN PRIORITY
AND ~~PROPOSED~~ ORDER**


1 Plaintiff United States of America, Defendant GMAC Mortgage, LLC, and Defendant
2 Sacramento County stipulate as follows:

3 1. Plaintiff's lawsuit is an action to reduce tax assessments to judgment and to
4 foreclose tax liens that are recorded against real property. *See* 26 U.S.C. §§ 6502 and 7403.

5 2. It is agreed that Defendant GMAC Mortgage, LLC is servicing a deed of trust
6 recorded on December 6, 1995 in the Sacramento County Recorder's Office as instrument
7 number 199511091009, which encumbers certain real property located at 6037 White Cloud
8 Court, Citrus Heights, CA 95621 ("Property").

9 3. It is agreed that Defendant Sacramento County claims an interest in the Property
10 by virtue of statutory liens for delinquent real property taxes assessed against the Property.

11 4. It is agreed that the statutory liens of Sacramento County referred to in paragraph
12 3 above are prior and paramount to GMAC Mortgage LLC's deed of trust referred to in paragraph
13 2 above, as well as the Internal Revenue Service federal tax liens described in paragraphs 54 and
14 55 of the Complaint.

15 5. It is agreed that Defendant GMAC Mortgage, LLC's deed of trust referred to in
16 paragraph 2 above is prior and paramount to the Internal Revenue Service federal tax liens
17 described in paragraphs 54 and 55 of the Complaint.

18 6. Neither Sacramento County nor GMAC Mortgage, LLC oppose judicial
19 foreclosure of the Property by Plaintiff should it prevail in this action. However, because the
20 Plaintiff's interest in the Property is subordinate to the interests of Sacramento County and
21 GMAC Mortgage, LLC, any proceeds from the sale of the Property, as among these three parties,
22 will be used to first pay off the statutory liens held by Sacramento County and then to pay off the
23 loan secured by the GMAC Mortgage, LLC deed of trust before they are used to satisfy the
24 Internal Revenue Service federal tax liens referred to in paragraphs 54 and 55 of the Complaint.
25 Prior to filing an application for final order of the Court, Plaintiff agrees to provide an accounting
26 to GMAC Mortgage, LLC and Sacramento County setting forth the full disposition of the
27 proceeds from the sale of the Property.

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1 7. GMAC Mortgage, LLC and Sacramento County agree to provide Plaintiff with a
2 payoff quote for the amount owing on each loan secured by the deed of trust referred to in
3 paragraph 2 above upon Plaintiff's request prior to the sale of the Property

4 8. The parties to this stipulation agree to bear their own costs and attorney fees.

5 9. The parties to this stipulation agree that its contents will bind all their assigns and
6 successors in interest.

7 10. Upon the execution of this stipulation by all parties and entry of the proposed
8 order by the Court, neither GMAC Mortgage, LLC nor Sacramento County shall be required to
9 appear at any future hearings in this litigation and shall be treated as non-parties for all purposes
10 including discovery purposes, unless ordered by the Court.

11 IT IS SO STIPULATED.

12 DATED: February 17, 2012

JOHN A. DiCICCO
Principal Acting Assistant Attorney General

13
14 By: /s/Adam R. Smart
ADAM R. SMART
15 Trial Attorney, Tax Division
U.S. Department of Justice

16 Of Counsel:
BENJAMIN B. WAGNER
17 United States Attorney

18 Attorneys for Plaintiff
UNITED STATES OF AMERICA

19 DATED: February 17, 2012

SEVERSON & WERSON, APC

20
21 By: /s/Kerry W. Franich
KERRY W. FRANICH

22 Attorneys for Defendant
23 GMAC MORTGAGE, LLC

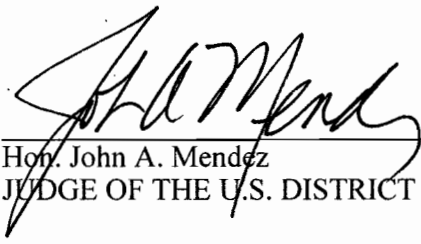
24 DATED: February 17, 2012

ROBERT A. RYAN, Jr., County Counsel
25 Sacramento County, California

26
27 By: /s/ Diane McElhern
DIANE McELHERN
28 Deputy County Counsel

1 **IT IS SO ORDERED.**

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3 DATED: 2-21, 2012



Hon. John A. Mendez
JUDGE OF THE U.S. DISTRICT COURT

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Diane McElhern
Scott Fera
County of Sacramento
700 H Street, Suite 2650
Sacramento, CA 95814
Attorney for Sacramento County

Jill Bowers
Attorney General Of California
1300 I Street, Suite 125
PO Box 944255
Sacramento, CA 94244
Attorney for State of California Franchise Tax Board

Kerry William Franich
Severson & Werson
19100 Von Karman Avenue
Suite 700
Irvine, CA 92612
Attorney for GMAC Mortgage LLC

and that service was made on this date by causing a copy of the foregoing to be sent via postage paid United States first class mail to the following:

Kenneth John Malinowski
General Post Office 6630 Fountain Square Lane
Citrus Heights, CA 95621
Pro Se

Kenneth John Malinowski
Post Office Box 483
Citrus Heights, CA 95611
Pro Se

Patricia I. Malinowski
General Post Office 6630 Fountain Square Lane
Citrus Heights, Ca 95621
Pro Se

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Patricia I. Malinowski
Post Office Box 483
Citrus Heights, CA 95611
Pro Se

Tierra Land Trust, aka Tierra Trust
c/o Stan Hokenson
5431 Auburn Blvd #135
Sacramento CA 95842

Boaz Foundation
c/o Kenneth John Malinowski
6034 White Cloud Ct.
Citrus Heights, CA 95621

Popular Society of Sovereign Ecclesia,
aka the Popular Society of the Sovereign Ecclesia
c/o Kenneth John Malinowski
6034 White Cloud Ct.
Citrus Heights, CA 95621

Citibank South Dakota, N.A.
701 E. 60th Street N., MC 1251
Sioux Falls, SD 57117

/s/ Adam R. Smart
ADAM R. SMART
Trial Attorney, Tax Division