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12 Structured Finance Industry Group, Inc.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 WELLS FARGO NATIONAL  
ASSOCIATION, as Trustee, *et al.*,  
17  
18 Plaintiffs  
19 v.  
20 CITY OF RICHMOND, CALIFORNIA, a  
municipality, and MORTGAGE  
21 RESOLUTION PARTNERS LLC,  
22 Defendants  
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Case No. CV-13-3663-CRB

**MOTION OF STRUCTURED FINANCE  
INDUSTRY GROUP, INC.  
FOR LEAVE TO PARTICIPATE AS  
AMICUS CURIAE, AND TO FILE  
MEMORANDUM, AS AMICUS CURIAE,  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR A PRELIMINARY INJUNCTION;**  
**[PROPOSED] ORDER;**  
**[PROPOSED] MEMORANDUM OF  
STRUCTURED FINANCE INDUSTRY  
GROUP, INC., AS AMICUS CURIAE, IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR A PRELIMINARY INJUNCTION**

Date: September 13, 2013  
Time: 10:00 a.m.  
Judge: Hon. Charles R. Breyer

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Structured Finance Industry Group, Inc. (“SFIG”) respectfully  
3 requests that the Court grant it leave to participate as *amicus curiae* in this action, and to file a  
4 Memorandum in support of Plaintiffs’ motion for a preliminary injunction.

5 **I. STANDARD FOR MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE***

6 As Chief Judge Walker held in the Proposition 8 case, in which the Court granted leave for  
7 the filing of more than 20 separate *amicus* briefs by more than 40 *amici*:

8 The court may welcome *amicus curiae* submissions “concerning legal issues that  
9 have potential ramifications beyond the parties directly involved or if the *amicus* has  
10 unique information or perspective that can help the court beyond the help that the  
lawyers for the parties are able to provide.”

11 *Perry v. Schwarzenegger*, No. 9-cv-2292-JW (N.D. Cal.)(Dkt. 630, Apr. 21, 2010), quoting *NGV*  
12 *Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F.Supp.2d 1061, 1067 (N.D. Cal. 2005). See  
13 also *Sonoma Falls Devs. LLC v. Nev. Gold & Casinos, Inc.*, 272 F.Supp.2d 919, 925 (N.D. Cal.  
14 2003); *Craigslist, Inc. v. 3Taps, Inc.*, No. 12-cv-3816-CRB (N.D. Cal.) (Dkt. 93, June 20, 2013)  
15 (Order granting leave to file *amicus* brief).

16 This is a “modest standard,” easily met in this case. *Perry v. Schwarzenegger*.

17 **II. RESPONSE OF THE PARTIES TO REQUESTS FOR CONSENT**

18 Plaintiffs have consented to SFIG’s participation as *amicus curiae* and filing of a  
19 Memorandum on the motion for a preliminary injunction, provided that the filing does not cause a  
20 delay in the hearing on that motion (which it should not cause). On August 27, 2013, requests were  
21 made, by telephone conference call, to Scott A. Kronland, Esq., counsel for Defendants, to consent  
22 to the filing of *amicus* briefs by the following *amici* represented by the following counsel:

- 23 • Structured Finance Industry Group, Inc. (SFIG), represented by Dentons US LLP;
- 24 • California Bankers Association, American Bankers Association, California Mortgage  
25 Bankers Association, and Mortgage Brokers Association, represented by DLA Piper LLP  
26 (US).
- 27 • Securities Industry and Financial Markets Association (SIFMA) and the United States  
28 Chamber of Commerce, represented by Sidley Austin LLP

1 On August 28, 2013, Defendants’ counsel sent an email declining to consent, stating:

2 Defendants do not consent to the filing of amicus briefs. They would be untimely  
3 and unfair because Defendants already filed their opposition to the preliminary  
injunction motion.

4 In response, DLA Piper suggested by email.

5 Your concern about timing may be resolved by a stipulation, subject to the approval  
6 of the Court, that Defendants may have one week, to September 4 (or Sept. 5, if that  
works for the Court) to reply to the short amicus brief.

7 On August 29, 2013, Defendants’ counsel replied, “Defendants’ position re amicus briefs remains  
8 unchanged.”

9 The accompanying proposed Order includes a provision granting Defendants until  
10 September 5 to reply to SFIG’s *amicus* brief. That schedule will ensure that the date of the hearing  
11 is not affected.

12 **III. STATEMENT OF IDENTITY AND INTEREST OF *AMICUS CURIAE***

13 SFIG is a member-based trade industry advocacy group, with over 120 members from all  
14 sectors of the structured finance and securitization market, including investors, issuers, financial  
15 intermediaries, law firms, accounting firms, technology firms, rating agencies, servicers, and  
16 trustees. SFIG was established in March 2013. A list of SFIG’s corporate members appears as  
17 Appendix A. SFIG’s purposes include: educating members, legislators, regulators, and others about  
18 structured finance, securitization and related capital markets; building the broadest possible  
19 consensus on policy, legal, regulatory and other matters affecting or potentially affecting these  
20 markets; and advocating on behalf of the structured finance and securitization industry.

21 **IV. REASONS WHY THE EXPERTISE OF *AMICUS CURIAE***  
22 **WILL BE BENEFICIAL TO THIS COURT**

23 The City of Richmond’s proposed use of eminent domain to seize mortgage loans from  
24 private securitization trusts—especially performing mortgage loans with borrowers capable of  
25 continuing to pay without hardship—will cause substantial, irreparable harm not only to the Trusts  
26 which have loans targeted for seizure, but also to the nation’s home mortgage system. SFIG  
27 respectfully requests leave to participate as *amicus* from its members’ unique position as industry  
28 participants to highlight the serious conflict between the “Seizure Program,” on one hand, and the

1 very structure, nature, and reasonable investor expectations in Private Label Securitizations (“PLS”),  
2 on the other hand. The consequences of this clash—and specifically, of yanking performing  
3 mortgage loans out of PLS Trusts—are serious and, absent injunctive relief, will cause irreparable  
4 injury not only to investors but to the entire mortgage system and thus to prospective homeowners  
5 across the country.

6 SFIG is in a unique position to address, and intends to address, the following in its *amicus*  
7 brief:

- 8 • The role that PLS Trusts play in the nation’s home mortgage market, and how that role is  
9 expected to increase as the roles of Fannie Mae and Freddie Mac are diminished.
- 10 • The irreparable injury that the Seizure Program will cause at three levels: the nationwide  
11 home mortgage industry; the PLS Trusts directly affected; and the individual loans  
12 seized.
- 13 • The potentially severe adverse tax consequences to investors.
- 14 • The broad range of industry programs already in place which provide relief to  
15 homeowners in need.

16 Each of the three proposed *amicus* briefs is from a different perspective. In addition, to ensure that  
17 the Court is not burdened, counsel representing the separate *amici* have conferred with each other  
18 about the subjects which each will address and will seek to avoid duplication.

19 SFIG is filing its proposed *amicus* brief on August 29, 2013, the same date as Plaintiffs’  
20 reply—just three weeks after the motion for a preliminary injunction was filed, and approximately  
21 two weeks before the hearing on the motion.<sup>1</sup>

22 **V. CONCLUSION**

23 WHEREFORE, SFIG respectfully requests that its motion for leave to participate as *amicus*  
24 *curiae*, and to file the accompanying Memorandum in support of Plaintiffs’ motion for a preliminary  
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26 <sup>1</sup> No counsel for a party authored SFIG’s brief in whole or in part, and no such counsel or party  
27 made a monetary contribution intended to fund the preparation or submission of the brief. No  
28 person other than SFIG and its counsel made a monetary contribution to its preparation or  
submission. Plaintiffs Wells Fargo and Deutsche Bank are members of SFIG and pay general  
membership dues.

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injunction, be granted.

Dated: August 29, 2013

DENTONS US LLP

By /s/Sonia Martin (State Bar No. 191148)  
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APPENDIX A

CORPORATE MEMBERS OF SFIG

1st Financial Bank USA*	Ford Motor Credit Company*
20 Gates Management	Freddie Mac
ADS Alliance Data Systems, Inc.	General Electric Capital Corporation*
Allen & Overy LLP*	Global Securitization Services, LLC
Ally Financial, Inc.*	GM Financial Company, Inc. *
Ally Investment Management, LLC	GMO
Alston & Bird LLP*	Goldman, Sachs & Co.*
American Credit Acceptance, LLC	Goodwin Procter LLP
Amherst Securities Group, LP*	Harley-Davidson Financial Services, Inc.*
Andrew Davidson & Co., Inc.*	Hildene Capital Management*
Andrews Kurth LLP*	Hogan Lovells US LLP*
Ashurst LLP*	HSBC Securities (USA) Inc.*
Assured Guaranty Corp	Hunton & Williams LLP*
Babson Capital Management LLC*	Hyundai Capital America
Baker & McKenzie*	Impac Mortgage Holdings, Inc.
Bank of America*	Intex Solutions, Inc.*
Barclays*	J.P. Morgan Chase Bank
BB&T Capital Markets*	J.P. Morgan Investment Management Inc.
Bingham McCutchen LLP*	J.P. Morgan Securities LLC
Blake, Cassels & Graydon LLP*	John Deere*
Blank Rome LLP	Jones Day*
Bloomberg LP	JPMorgan Chase & Co.*
BlueMountain Capital Management*	K&L Gates LLP*
BMO Capital Markets CORP.*	Kanerai*
BNP Paribas*	Katten Muchin Rosenman LLP*
BNY Mellon*	Kaye Scholer LLP*
Cadwalader, Wickersham & Taft LLP*	Kirkland & Ellis LLP*
Cassels Brock & Blackwell LLP*	KPMG LLP*
Chapman and Cutler LLP*	Kramer Levin Naftalis & Frankel LLP*
Chase Bank USA, N.A.	Kroll Bond Rating Agency, Inc.*
Citi*	Latham & Watkins LLP*
Clayton Holdings LLC*	Lender Processing Services*
Cleary Gottlieb Steen & Hamilton LLP*	Lewtan*
Clifford Chance*	Locke Lord LLP*
CNH Capital*	Lord Capital LLC*
CoreLogic	LordSPV, a TMF Group Company
Credit Agricole*	Lowenstein Sandler LLP*
Credit Suisse*	Maples and Calder*
CREMAC	Mayer Brown LLP*
CrossCheck Compliance LLC*	MBSData, LLC
DBRS*	McCarthy Tetrault LLP*
Dechert LLP*	McDermott Will & Emery*
Deloitte & Touche LLP*	Mercedes-Benz Financial Services USA LLC*
Dentons US LLP*	Mitchell Silberberg & Knupp LLP*
Deutsche Asset Management	Mitsubishi Motors Credit of America, Inc.*
Deutsche Bank*	Mitsubishi UFJ Securities (USA)*
Discover Financial Services*	Moody's Analytics
Emmet, Marvin & Martin, LLP*	Moody's Investors Service*
Ernst & Young*	Morgan Stanley*
Exeter Finance Corp.*	Morningstar Credit Ratings, LLC*
Fitch Ratings*	

- 1 Morrison & Foerster LLP\*
- Nationstar Mortgage LLC
- 2 Natixis\*
- Nelnet, Inc.\*
- 3 NORD/LB\*
- Ocwen Financial Corporation\*
- 4 Opus Capital Markets Consultants, LLC\*
- Orrick, Herrington & Sutcliffe LLP\*
- 5 Osler, Hoskin & Harcourt LLP\*
- Pillsbury Winthrop Shaw Pittman LLP\*
- 6 PNC Capital Markets LLC\*
- PNC real Estate/Midland Loan Services
- 7 PricewaterhouseCoopers\*
- Prudential Fixed Income\*
- 8 R&R Consulting\*
- Rabobank International\*
- 9 RBC Capital Markets
- RBS Securities Inc.\*
- 10 Redwood Trust\*
- Richards, Layton & Finger\*
- 11 Risk Management Group LLC
- RiskSpan, Inc.\*
- 12 Sallie Mae\*
- Santander Consumer USA\*
- 13 Schulte Roth & Zabel LLP\*
- Seward & Kissel LLP\*
- 14 Shearman & Sterling LLP\*
- Shellpoint Partners LLC\*
- 15 Sidley Austin LLP\*
- Skadden, Arps, Slate, Meagher & Flom LLP\*
- 16 Societe Generale\*
- South Street Securities, LLC\*
- 17 Standard & Poor's\*
- Standard & Poor's Financial Services, LLC
- 18 Stikeman Elliott LLP\*
- Stonegate Mortgage Corporation
- 19 Stroock & Stroock & Lavan LLP\*
- Structured Asset Services
- 20 Sullivan & Worcester LLP
- Synterra Capital Management LLC
- 21 TD Bank Group (TD)\*
- The Midway Group\*
- 22 Two Harbors Investment Corp.\*
- U.S. Bank National Association\*
- 23 Vanguard Group
- VantageScore Solutions LLC\*
- 24 Volvo Financial Services\*
- VW Credit, Inc.\*
- 25 Wells Fargo\*
- Willkie Farr & Gallagher LLP
- 26 Wilmington Trust \*
- Winston & Strawn LLP\*

27  
28 \* *Founding Member.*