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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICTOR WONG,

No. C-15-2311 EMC

Plaintiff,

v.

**ORDER DENYING DEFENDANTS’
MOTION TO DISMISS**

FEDERAL HOME LOAN MORTGAGE
CORPORATION, *et al.*,

(Docket No. 8)

Defendants.

Defendants have moved to dismiss Plaintiff’s complaint on the basis of failure to state a claim for relief. *See* Fed. R. Civ. P. 12(b)(6). The Court held a hearing on Defendants’ motion on August 6, 2015. This order memorializes the rulings made by the Court at the hearing.

Based on the judicially noticeable documents, the Court does not agree with Plaintiff’s contention that Defendants lacked the authority to foreclose. That being said, Defendants’ argument that the statute of frauds bars the bulk of Plaintiff’s claims lacks merit. Taking all reasonable inferences in Plaintiff’s favor, Plaintiffs have sufficiently alleged enough facts to support estoppel. *See generally Vissuet v. Indymac Mortg. Servs.*, No. 09-CV-2321-IEG (CAB), 2010 U.S. Dist. LEXIS 26241 (S.D. Cal. Mar. 19, 2010). As for Plaintiff’s fraud claim, Plaintiff has adequately alleged scienter on the part of Defendants. *See Tenzer v. Superscope, Inc.*, 39 Cal. 3d 18, 30 (1985) (noting that “fraudulent intent has been inferred from such circumstances as defendant’s . . . hasty repudiation of the promise”). Finally, regarding the declaratory relief claim, while it may be

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1 duplicative of Plaintiff's other claims, the Court also sees no real prejudice to Defendants in
2 maintaining the claim given that the other claims are still viable.

3 Accordingly, Defendants' motion to dismiss is hereby **DENIED**.

4 This order disposes of Docket No. 8.

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6 IT IS SO ORDERED.

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8 Dated: August 10, 2015



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EDWARD M. CHEN
United States District Judge