

1 Leslie Bryan Hart, Esq. (SBN 4932)
 2 John D. Tennert, Esq. (SBN 11728)
 3 FENNEMORE CRAIG, P.C.
 4 300 E. Second St., Suite 1510
 Reno, Nevada 89501
 Tel: 775-788-2228 Fax: 775-788-2229
 lhart@fclaw.com; jtennert@fclaw.com

5 *Attorneys for Proposed Intervenor Federal Housing Finance Agency*

6 **UNITED STATES DISTRICT COURT**
 7 **DISTRICT OF NEVADA**

8 ABSOLUTE BUSINESS SOLUTIONS, INC.,
 9 Plaintiff,

10 vs.

11 MORTGAGE ELECTRONIC
 12 REGISTRATION SYSTEM; BANK OF
 AMERICA, N.A.; IRMA MENDEZ; DOES 1-
 13 25, inclusive; and ROE CORPORATIONS I-
 X, inclusive,

14 Defendants.

CASE NO. 2:15-cv-01325-JCM-CWH

**STIPULATION TO ENTRY OF ORDER
 AND [PROPOSED] ORDER
 PERMITTING FEDERAL HOUSING
 FINANCE AGENCY TO INTERVENE AS
 CONSERVATOR OF THE FEDERAL
 NATIONAL MORTGAGE ASSOCIATION**

15 ALESSI & KOENIG, LLC,

16 Plaintiff in Intervention,

17 vs.

18 JAMES M. McCORD; CROSSBOX;
 FEDERAL NATIONAL MORTGAGE
 ASSOC.; DOE INDIVIDUALS I-X; and ROE
 CORPORATIONS I-X, inclusive,

19 Defendants in Intervention.

20 1. The Federal Housing Finance Agency (“FHFA” or “Conservator”), as
 21 Conservator for Intervenor-Defendant Federal National Mortgage Association (“Fannie Mae”),
 22 seeks to intervene in the above-captioned action pursuant to 12 U.S.C. § 4617(b)(2)(A)(i) and
 23 Fed. R. Civ. P. 24.

24 2. On September 6, 2008, FHFA’s Director appointed the FHFA Conservator of
 25 Fannie Mae and the Federal Home Loan Mortgage Corporation in accordance with the Housing
 26 and Economic Recovery Act of 2008, Pub. L. 110-289, 122 Stat. 2654 (codified at 12 U.S.C.
 27

1 § 4617) (“HERA”), and the Federal Housing Enterprises Financial Safety and Soundness Act of
2 1992 (12 U.S.C. § 4501, et. seq.).

3 3. The FHFA, as Conservator, has succeeded to “all rights, titles, powers, and
4 privileges” of Fannie Mae, including its right to sue and be sued in the federal courts. *See*
5 12 U.S.C. § 4617(b)(2)(A)(i).

6 4. Accordingly, FHFA asserts that it has an unconditional federal statutory right to
7 intervene in this matter, *see* Fed. R. Civ. P. 24(a)(1), and to assert its interests in a manner
8 consistent with the Conservator’s powers and duties.

9 5. Pursuant to Fed. R. Civ. P. 24(c), FHFA attaches as **Exhibit A** its intended
10 Answer.

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

10781975.1

1 **STIPULATION**

2 FHFA, Plaintiff/Counter-defendant Absolute Business, Inc., Defendants Mortgage
3 Electronic Registration System and Bank of America, N.A., Intervenor-Plaintiff Alessi &
4 Koenig, LLC, Intervenor/Defendant/Counterclaimant Federal National Mortgage Association,
5 through their attorneys of record, hereby stipulate and request that the Court make this
6 stipulation an order of the Court:
7

8 The FHFA shall be permitted to intervene in the above-referenced action
9 pursuant to 12 U.S.C. § 4617(b)(2)(A)(i) and Fed. R. Civ. P. 24.

10 DATED this 21st day of September, 2015.

11 **KANG & ASSOCIATES, PLLC**

FENNEMORE CRAIG, P.C.

12
13 By: /s/ Erica D. Loyd
14 Erica D. Loyd, Esq.
15 Patrick W. Kang, Esq.
16 6480 W. Spring Mountain Rd., Suite 1
Las Vegas, NV 89146
Tel: 702-333-4223 Fax: 702-507-1468
eloyd@acelawgroup.com
pkang@acelawgroup.com

By: /s/ Leslie Bryan Hart
Leslie Bryan Hart, Esq. (SBN 4932)
John D. Tennert, Esq. (SBN 11728)
300 E. Second St., Suite 1510
Reno, Nevada 89501
Tel: 775-788-2228 Fax: 775-788-2229
lhart@fclaw.com; jtennert@fclaw.com

17 *Attorneys for Plaintiff/Counterdefendant*
18 *Absolute Business, Inc.*

Attorneys for Proposed Intervenor Federal
Housing Financing Agency

19
20 **AKERMAN LLP**

ALESSI & KOENIG, LLC

21 By: /s/ Darren T. Brenner
22 Darren T. Brenner, Esq. (SBN 8386)
23 Tenesa S. Scaturro, Esq. (SBN 12488)
24 1160 Town Center Drive, Suite 330
Las Vegas, NV 89144
Tel: (702) 634-5000 Fax: (702) 380-8572
darren.brenner@akerman.com
tenesa.scaturro@akerman.com

By: /s/ Steven T. Loizzi
Steven T. Loizzi, Jr., Esq. (SBN 10920)
Huong X Lam, Esq. (SBN 10916)
9500 West Flamingo Road, Suite 205
Las Vegas, Nevada 89147
Tel: 702-222-4033 Fax: 702-222-4043
mike@alessikoenig.com

25 *Attorneys for Defendants MERS; and Bank of*
26 *America, N.A.*

Attorneys for Intervenor Plaintiff Alessi &
Koenig, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

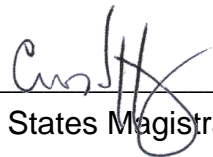
WRIGHT, FINLAY & ZAK, LLP

By: /s/ Dana Jonathon Nitz
Dana Jonathon Nitz, Esq. (SBN 00050)
Chelsea Crowton (SBN 11547)
5532 South Fort Apache Rd., Suite 110
Las Vegas, NV 89148
Tel: 702-475-7964 Fax 702-946-1345
dnitz@wrightlegal.net
ccrowton@wrightlegal.net

*Attorney for Intervenor Defendant/Counter
claimant Federal National Mortgage
Association*

ORDER

IT IS SO ORDERED. The Federal Housing Agency shall file its answer on the record **no later than September 30, 2015.**



United States Magistrate Judge
DATED: September 23, 2015

Exhibit A

Exhibit A

1 Leslie Bryan Hart, Esq. (SBN 4932)
John D. Tennert, Esq. (SBN 11728)
2 FENNEMORE CRAIG, P.C.
300 E. Second St., Suite 1510
3 Reno, Nevada 89501
Tel: 775-788-2228 Fax: 775-788-2229
4 lhart@fclaw.com; jtennert@fclaw.com

5 *Attorneys for Intervenor Federal Housing Finance Agency*

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 ABSOLUTE BUSINESS SOLUTIONS, INC.,

CASE NO. 2:15-cv-01325-JCM-CWH

9 Plaintiff,

10 vs.

[PROPOSED]

11 MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; BANK
OF AMERICA, N.A., as Successor by Merger
12 to BAC Home Loans Servicing LP; IRMA
MENDEZ; DOES 1-25, inclusive; and ROE
13 CORPORATIONS I-X, inclusive,

**ANSWER AND COUNTERCLAIMS BY
INTERVENOR THE FEDERAL
HOUSING FINANCE AGENCY AS
CONSERVATOR FOR THE FEDERAL
NATIONAL MORTGAGE ASSOCIATION**

14 Defendants.

15 and

16 FEDERAL HOUSING FINANCE AGENCY,
as Conservator for the Federal National
17 Mortgage Association,

18 Intervenor.

19
20 ALESSI & KOENIG, LLC,

21 Plaintiff in Intervention,

22 vs.

23 JAMES M. McCORD; CROSSBOX;
FEDERAL NATIONAL MORTGAGE
ASSOC.; DOE INDIVIDUALS I-X; and ROE
24 CORPORATIONS I-X, inclusive,

25 Defendants in Intervention.
26
27
28

1 4. FHFA denies the allegations concerning Fannie Mae within Renumbered
2 Paragraph 4 of the Complaint. FHFA is without knowledge or information sufficient to form a
3 belief as to the truth of the allegations within Renumbered Paragraph 4 of the Complaint that
4 concern defendants other than Fannie Mae.

5 5. FHFA denies the allegations concerning Fannie Mae within Renumbered
6 Paragraph 5 of the Complaint. FHFA is without knowledge or information sufficient to form a
7 belief as to the truth of the allegations within Renumbered Paragraph 5 of the Complaint that
8 concern defendants other than Fannie Mae.

9 6. FHFA denies the allegations concerning Fannie Mae within Renumbered
10 Paragraph 6 of the Complaint. FHFA is without knowledge or information sufficient to form a
11 belief as to the truth of the allegations within Renumbered Paragraph 6 of the Complaint that
12 concern defendants other than Fannie Mae.

13 7. FHFA denies the allegations concerning Fannie Mae within Renumbered
14 Paragraph 7 of the Complaint. FHFA is without knowledge or information sufficient to form a
15 belief as to the truth of the allegations within Renumbered Paragraph 7 of the Complaint that
16 concern defendants other than Fannie Mae.

17 8. FHFA admits that Fannie Mae had, and continues to have, an interest in the
18 Property.

19 9. FHFA denies the allegations within Renumbered Paragraph 9 of the Complaint.

20 10. Renumbered Paragraph 10 of the Complaint states legal conclusions that do not
21 require a response. To the extent a response is required, denied.

22 11. Renumbered Paragraph 11 of the Complaint states legal conclusions that do not
23 require a response. To the extent a response is required, denied.

24 12. Renumbered Paragraph 12 of the Complaint states claims for relief that do not
25 require a response. To the extent a response is required, denied.

26 13. FHFA admits that Fannie Mae had, and continues to have, an interest in the
27 Property.

28 14. FHFA denies the allegations within Renumbered Paragraph 14 of the Complaint.

1 described in the Complaint were caused in whole or were contributed to in part by reason of the
2 acts, omissions, negligence, and/or intentional misconduct of Plaintiff.

3 **FOURTH AFFIRMATIVE DEFENSE**

4 The damages, if any, that were allegedly sustained by Plaintiff as a result of the acts
5 described in the Complaint were caused in whole or were contributed to in part by reason of the
6 acts, omissions, negligence, and/or intentional misconduct of one or more third parties over
7 whom neither FHFA nor Fannie Mae had control.
8

9 **FIFTH AFFIRMATIVE DEFENSE**

10 Plaintiff has an adequate remedy at law and has, through its own acts and/or omissions,
11 failed to mitigate its damages, the existence of which are denied.
12

13 **SIXTH AFFIRMATIVE DEFENSE**

14 Plaintiff failed to join one or more indispensable parties.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 Fannie Mae breached no duty with regard to Plaintiff.
17

18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**

20 **(Declaratory Judgment versus Plaintiff)**

21 1. FHFA incorporates by reference the responses of all previous paragraphs, as if
22 fully set forth herein.

23 2. Pursuant to 28 U.S.C. § 2201, this Court has the power and authority to declare
24 FHFA and Fannie Mae's rights and interests in the Property.

25 3. FHFA is an agency of the federal government of the United States of America and
26 is also the Conservator for Fannie Mae.

27 4. The Conservator has succeeded by law to all of Fannie Mae's "rights, titles,
28 powers, and privileges." 12 U.S.C. § 4617(b)(2)(A)(i).

///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 6. That FHFA be awarded reasonable attorneys' fees and costs; and
- 7. That FHFA receive such other relief as the Court deems just and proper.

DATED this ____ day of September, 2015.

FENNEMORE CRAIG, P.C.

By: _____
Leslie Bryan Hart, Esq. (SBN 4932)
John D. Tennert, Esq. (SBN 11728)
300 E. Second St., Suite 1510
Reno, Nevada 89501
Tel: 775-788-2228 Fax: 775-788-2229
lhart@fclaw.com; jtennert@fclaw.com

*Attorneys for Intervenor Federal Housing
Financing Agency*