

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

United States Of America,
ex rel. Lynn E. Szymoniak,

Plaintiffs,

vs.

American Home Mortgage Servicing, Inc.;
Saxon Mortgage Services, Inc.; Lender
Processing Services, Inc.; DocX, LLC;
CitiMortgage, Inc., f/k/a Citi Residential
Lending, Inc., AMC Mortgage Services, Inc.;
Wells Fargo Home Mortgage d/b/a
America's Servicing Company, Bank of
America Corporation, as successor-in-interest
to LaSalle Bank; Bank Of New York Mellon
Corporation; Citibank National Association;
Deutsche Bank National Trust Company;
Deutsche Bank Trust Company Americas;
HSBC USA National Association;
J.P. Morgan Chase Bank National Association;
U.S. Bank National Association; and Wells
Fargo Bank National Association,

Defendants.

C/A No. 0:10-cv-01465-JFA

ORDER

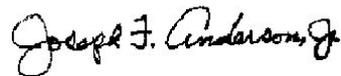
In this *qui tam* action, brought under the False Claims Act ("FCA"), 31 U.S.C. § 3729 *et seq.*, the relator has filed two notices of voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. ECF Nos. 362–63. In one notice, the relator seeks to dismiss voluntarily all claims against Bank of America Corp., as successor-in-interest to LaSalle Bank; CitiMortgage, Inc.; Citibank, N.A.; Wells Fargo Bank, N.A.; Wells Fargo Home Mortgage, d/b/a America's Servicing Company; and JP Morgan Chase Bank, N.A. ECF No. 362. In another notice, the relator seeks to dismiss voluntarily all "claims relating to the Government's acquisition and holding of mortgage-backed securities." ECF No. 363.

The FCA provides that a *qui tam* action “may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” 31 U.S.C. § 3730(b)(1). The Fourth Circuit Court of Appeals has construed this provision to mean that such “written consent” is applicable to matters voluntarily dismissed. *See United States ex rel. O’Malley v. Xerox Corp.*, 846 F.2d 75 (4th Cir. 1988) (per curiam) (“Section 3730(b)(1) is intended to reach voluntary dismissals and not dismissals based on substantive grounds.”); *see also United States ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 91 (2d Cir. 2008) (quoting *Minotti v. Lensink*, 895 F.2d 100, 103 (2d Cir. 1990) (“[W]e have previously construed this provision to apply . . . ‘where a plaintiff seeks voluntary dismissal of a claim or action brought under the False Claims Act. . . .’”).

Accordingly, the court asks that the United States provide a written response by May 23, 2014.

IT IS SO ORDERED.

May 21, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge