

# EXPLANATION SHEET

TO BE ATTACHED TO EVERY COMMERCIAL INSTRUMENT OR FILING  
TO BE ATTACHED TO EVERY COMMERCIAL INSTRUMENT  
CONTAINING THE PHRASE "A SECURITY - 15 USC"

This "EXPLANATION SHEET" is to be attached to all Commercial Affidavits, including Affidavits of Obligation (Commercial Liens), which are non-judicial consensual processes which arise out of breach of special performance, e.g. for public officials' breach of oath of office, a violation of the Constitution for the United States of America (1787).

The Notice is included for the purposes of Full Disclosure (UCC), and as a warning for Commercial grace. The reference to Title 15 on a Commercial Affidavit is to indicate that the Affidavit could become a U.S.S.E.C. Federal Security with tracking number.

A SECURITY - 15 USC

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THIS IS A U.S.S.E.C. TRACER FLAG,  
NOT A POINT OF LAW\*

\*One definition of "A SECURITY" is "any evidence of debt".

The Lien Claimant does NOT rely on Title 15 USC as a basis for the "Commercial Lien." All commercial processes by using or relying on notes or paper in Commerce (e.g. Federal Reserve Notes), must bear some sort of Federal tracking, a County Recorder's number, or a serial number, which process must be accessible for inspection at the nearest relevant County Recorder's Office or be widely advertised. When a Lien matures in three (3) months by default of the Lien Debtor through the Lien Debtor's failure to rebut the affidavit of obligation point-for-point categorically, it becomes an accounts receivable in the ordinary sense of a collectible debt upon which assignments, collateralization, and other Commercial transactions can be based, hence it becomes a Security subject to observation, tracking, and regulation by the United States Securities and Exchange Commission (hereinafter U.S.S.E.C.).

The notation "A Security - 15 USC" is a flag in Commerce telling the U.S.S.E.C. that a speculation account is being established to enforce the lien. The U.S.S.E.C. can then monitor the process. As long as the process is truthful, open, and above board (full disclosure), the U.S.S.E.C. has no jurisdiction over it, for even the U.S.S.E.C. has no jurisdiction over the truth of testimony, depositions, affidavits, and affidavits of obligation (Commercial Liens), and an un rebutted affidavit stands as the truth in Commerce.

Legal Authority: Universal moral/existential truths/principles, expressed in Judaic (Mosaic) Orthodox Hebrew/Jewish Commercial Code, corollary to Exodus (chiefly Exodus 20:15,16). This is the best known Commercial process in America. Its prime user is the Internal Revenue Service. The IRS uses all three tracking codes. The federal code is the taxpayer's IRS document file number. The next stronger code is the County Recorder's number. The strongest, most important, most universal code is the taxpayer's identification number (TIN), also known as the Social Security Number (SSN).

The IRS collection process is legitimate. The IRS assessment process, however, is a Commercial fraud. IRS collection is not supported by any Commercial Affidavits, Commercial Liens, or by any contracts, agreements, or True Bill in Commerce establishing the basis on which any debt can be collected.

An affidavit is someone's solemn expression of truth. The foundation of the law, Commerce, and the whole legal system consists of telling the truth ("I swear to tell the truth, the whole truth, and nothing but the truth. . .") either by testimony, deposition, and/or by affidavit.

Handwritten notes and signatures in the top right corner, including the word "Notice" and a circled number "7".

Every honorable judge requires those who appear before him to be sworn to tell the truth, and is compelled by the high principles of his profession to protect truth and do nothing to tamper with that truth, either directly or indirectly, in person or by proxy, or by subordination of an affiant or other party.

A judge cannot interfere with, tamper with, or in any way modify testimony without disintegrating the truth-seeking process in his sacred profession and destroying the fabric of his own occupation. To do so abrogates the 1st Amendment, which was established to protect truth. Doing so is committing professional suicide, as well as inviting countless civil and criminal repercussions.

Any judge who tampers with testimony, deposition, or affidavit, is a threat to the Commercial Peace and Dignity of the County, State, and United States of America, thereby violating the laws of all those political subdivisions and acting in the nature of a foreign, enemy Agent (a Mixed War), justifiably subject to penalties of treason.

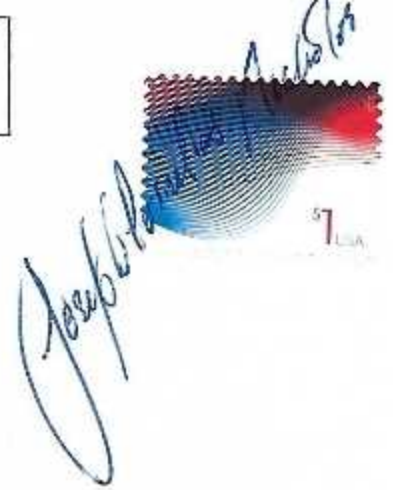
Whoever acts against Commercial Affidavits without executing the necessary Commercial Paperwork under affidavit is subject to being charged criminally. Said charges include fraud, which is gaining at the expense of the loss of another using trickery or deception, and expand to include all violations that issue from said fraud.

Commercial processes are fundamentally non-judicial and pre-judicial. No judge, court, law, or government can invalidate these Commercial processes, i.e. an affidavit or a lien or complaint based thereon, because no third party can invalidate someone's affidavit of truth. To act against such an affidavit is to create a situation and/or enhance the condition of a Mixed War. No one can rebut an affiant except a party (e.g. a lien debtor) who alone, by his own affidavit, must speak for himself or herself if challenged. Only someone himself or herself knows his or her truth and has the right and responsibility to assert it.

A Mixed War condition exists where "authorities" have violated their oaths of office, violated the fundamental law they swore to uphold and protect, violated the codes, statutes, and regulations that govern them and in so doing disregard the peace and safety of the community by their acts, operating as Agents for undisclosed Foreign Principals or Governments against those whom they swore to protect. Such acts of Treason constitute a secret war against the people.

When an Affidavit is flagged in Commerce it becomes a Federal Document because it could become translated into a Security (for example by being attached in support of a Commercial Lien), and not accepting and/or filing a Commercial Affidavit becomes a Federal offense.

**Return after filing to**  
Joseph Cornelius Nicholas  
Executor Office  
General Post Office Box 8202  
Pelham Campus New York  
Near: [10803-9998]  
(914)433-8629



**Affidavit of Obligation**  
**International Commercial Lien**

(This is a verified plain statement of fact)

Date: 03/30/2017.

Account No: 0016306813

**Maxims:**

1. All men and women know that the foundation of law and commerce exists in the telling of the truth, the Whole truth, and nothing but the truth.
2. Truth as a valid statement of reality is sovereign in commerce.
3. An un rebutted affidavit stands as truth in commerce.
4. An un rebutted affidavit is acted upon as the judgment in commerce.
5. Guaranteed—All men shall have a remedy by the due course of law. If a remedy does not exist, or if the existing remedy has been subverted, then one may create a remedy for themselves and endow it with credibility by expressing it in their affidavit. (Ignorance of the law might be an excuse, but it is not a valid reason for the commission of a crime when the law is easily and readily available to anyone making a reasonable effort to study the law.)
6. All corporate government is based upon Commercial Affidavits, Commercial Contracts, Commercial Liens and Commercial Distresses, hence, governments cannot exercise the power to expunge commercial processes.
7. The Legitimate Political Power of a corporate entity is absolutely dependent upon its possession of Commercial Bonds against Public Hazard, because not having a Bond means no responsibility, means no power of Official signature, means no real corporate political power, means no privilege to operate statutes as the corporate vehicle.

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8. The Corporate Legal Power is secondary to Commercial Guarantors. Case law is not a responsible substitute for a Bond.
9. Municipal corporations which include cities, counties, states and national governments have no commercial reality without bonding of the entity, its vehicle (statutes), and its effects (the execution of its rulings).
10. Except for a Jury, it is also a fatal offense for any person, even a Judge, to impair or to expunge, without a Counter-Affidavit, any Affidavit or any commercial process based upon an Affidavit.
11. Judicial non-jury commercial judgments and orders originate from a limited liability entity called a municipal corporation, hence must be reinforced by a Commercial Affidavit and a Commercial Liability Bond.
12. A foreclosure by a summary judgment (non-jury) without a commercial bond is a violation of commercial law.
13. Governments cannot make unbonded rulings or statutes which control commerce, free enterprise citizens, or sole proprietorships without suspending commerce by a general declaration of martial law.
14. It is tax fraud to use Courts to settle a dispute/controversy which could be settled peacefully outside of or without the Court.
15. An official (officer of the court, policeman, etc.) must demonstrate that he/she is individually bonded in order to use a summary process.
16. An official who impairs, debauches, voids or abridges an obligation of contract or the effect of a commercial lien without proper cause, becomes a lien debtor and his/her property becomes forfeited as the pledge to secure the lien. Pound breach (breach of impoundment) and rescue is a felony.
17. It is against the law for a Judge to summarily remove, dismiss, dissolve or diminish a Commercial Lien.
18. Only the Lien Claimant or a Jury can dissolve a commercial lien.
19. Notice to agent is notice to principal; notice to principal is notice to agent.

**20. PUBLIC HAZARD BONDING OF CORPORATE AGENTS**

All officials are required by federal, state, and municipal law to provide the name, address and telephone number of their public hazard and malpractice bonding company and the policy number of the bond and, if required, a copy of the policy describing the bonding coverage of their specific job performance. Failure to provide this

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information constitutes corporate and limited liability insurance fraud (15 USC) and is prim-a-facie evidence and grounds to impose a lien upon the official personally to secure their public oath and service of office.

21. . This International Commercial Obligation Lien is, in part, supported & prefaced on UCC-9/102 (Agricultural Liens); UCC 9/607-610 (Secured Party's Right to take possession after default), with ALL RIGHTS RESERVED.

**Parties:**

**Lien Claimants:**

Joseph Cornelius Nicholas<sup>(c)</sup>  
General Post Office Box 8202  
Pelham Campus New York  
Near: [10803-9998]  
(914)433-8629

Alison Mary Nicholas  
252 Garden Avenue  
Mount Vernon, New York,  
Near: [10553 ]

**Lien Debtors:**

22. Select Portfolio Servicing Inc,  
SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
23. Timothy O'Brien, President Select Portfolio Servicing, Inc.  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
24. Anthony Thomas, Agent  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
25. Michael Kruger, Vice President – Compliance  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
26. Tiffany Hazel Agent  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
27. Tiresha Lampkins Agent  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250

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28. The Bank of New York Mellon, f/k/a, The Bank Of New York as trustee Structure Asset Mortgage Investments II Trust 2006-AR8 Mortgage Pass- Through Certificates Series 2006-AR8- OWNER  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
29. Credit Suisse Group AG (owner of SPS)  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
30. Tidjane Thiam MBA Chief Exec. Officer and Member of  
The Exec. Board  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
31. Robert S. Shafir Chairman for The Americas  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
33. David R. Mathers Chief Financial Officer and Member of the Exec. Board  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
35. James L. Amine Chief Exec. Officer of Investment Banking & Capital Markets and  
Member of Exec. Board  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250
37. Ms. Lara J. Warner Chief Compliance & Regulatory Affairs Officer and Member of the  
Exec. Board  
C/O SPS P.O. Box 65250  
Salt Lake, Utah 84165-0250

**Allegations:**

40. **Select Portfolio Servicing, Inc.** (SPS) is a loan servicing company founded in 1989 as Fairbanks Capital Corp. with operations in Salt Lake City, Utah and Jacksonville Florida? Yes? or No? If No, please explain.
41. Select Portfolio Servicing was created as a Utah company in 1989. Filings with both the Utah Secretary of State and the U.S Securities and Exchange Commission (SEC) confirm this. Filings with the Utah SOS and SEC would more accurately confirm that Fairbanks Capital Corp. was created as a Utah company in 1989 ? Yes? or No? If No, please explain.
42. Fairbanks Holding (the parent company of Fairbanks Capital) was owned in part by PMI Group, Inc., and bond guaranty firm Financial Security Assurance .In November 2003, Fairbanks Capital

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Corp.? Yes? or No? If No, please explain.

43. Fairbanks Capital Holding Corp. agreed to pay \$40 million to settle with the FTC and the U.S Department of Housing and Urban Development (HUD),<sup>11</sup> which charged them with engaging in a number of unfair, deceptive, and illegal practices in the servicing of subprime mortgage loans. Yes? or No? If No, please explain.
44. The Commission distributed the \$40 million as redress to affected consumers. The settlement also imposed a number of specific limitations on Fairbanks's ability to charge fees and engage in certain practices when servicing mortgage loans. Is this historical notation correct? Yes? or No? If No, please explain.
45. In early 2004, Fairbanks changed its name to Select Portfolio Servicing, Inc. and SPS Holding Corp? Yes or No? If No, please explain.
46. Fairbanks changed its name to Select Portfolio Servicing effective June 30, 2004 according to its Articles of Amendment? Yes or No? If No, please explain.

In 2005, Select Portfolio Servicing was purchased by Credit Suisse, a financial services company, headquartered in Zürich, Switzerland. According to a Securities and Exchange Commission report (CFN: 1-6862) filed August 12, 2005, Credit Suisse First Boston (USA), Inc. now known as Credit Suisse, purchased Select Portfolio Servicing and its parent holding company for \$144.4 million?. Yes? or No? If No, please explain

47. Select Portfolio Servicing current CEO is Timothy O'Brien and it's COO is Randhir Gandhi? Yes? or No? If No, please explain.

#### **MORTGAGE & ASSIGNMENTS**

48. A "yes or no" question: has each sale, transfer or assignment of this mortgage, monetary instrument, deed of trust or any other instrument we executed to secure this debt, been recorded in the county property records in the county and state in which our property is located from the inception of this account to the present date? If not, why?
49. A "yes or no" question: is your company, the servicers of this mortgage account, the holder in due course and beneficial owner of this mortgage, monetary instrument, and/or deed of trust?
50. A "yes or no" question: have any sales, transfers, or assignments of this mortgage, monetary instrument, deed of trust, or any other instrument we executed to secure this debt been recorded in any electronic fashion such as [MERS] MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC as nominee for SOUTHSTAR FUNDING, LLC Select Portfolio Servicing Inc, The Bank of New York Mellon, f/k/a, The Bank Of New York as trustee Structure Asset Mortgage Investments II Trust 2006-AR8 Mortgage Pass- Through Certificates Series 2006-AR8- OWNER or other internal or external recording system from the inception of this account to the present date? ? Yes or No? If No, please explain.
51. If yes, please detail for me the names of each seller, purchaser, assignor, assignee, or any holder in due course to any right or obligation of the note, mortgage, deed or security instrument that was executed, securing the obligation on this account that was not recorded in

the county records where our property is located, whether they be mortgage servicing rights or the beneficial interest in the principal and interest payments.

#### **ATTORNEY FEES.**

32. For purposes of our questions below dealing with attorney fees, please consider the terms "attorney fees" and "legal fees" synonymously.
53. A "yes or no" question: have attorney fees ever been assessed to this account from the inception of this account to the present date?
54. If yes, please detail each separate assessment, charge and collection of attorney fees to this account from the inception of this account to the present date, and the date of such assessment to this account.
55. A "yes or no" question: have attorney fees ever been charged to this account from the inception of this account to the present date?
56. If yes, please detail each separate charge of attorney fees to this account from the inception of this account to the present date and the date of such charge to this account.
57. A "yes or no" question: have attorney fees ever been collected from this account from the inception of this account to the present date?
58. If yes, please detail each separate collection of attorney fees from this account from the inception of this account to the present date and the date of such collection from this account.
59. Please provide the name and address of each attorney or law firm that has been paid any fees or expenses related to this account from the inception of this account to the present date.
60. Please identify the provision, paragraph, section or sentence of any note, mortgage, deed of trust or any agreement we signed, authorizing the assessment, charge or collection of attorney fees.
61. Please detail each separate attorney fee assessed to this account and for which corresponding payment period or month such fee was assessed from the inception of this account to present date.
62. Please detail each separate attorney fee collected from this account and for which corresponding payment period or month such fee was collected from the inception of this account to present date.
63. Please detail any adjustments in attorney fees assessed and on what date such adjustment was made and the reasons for such adjustment.
64. Please detail any adjustments in attorney fees collected and on what date such adjustment were made and the reasons for such adjustment.
65. A "yes or no" question: has interest been charged on any attorney fee assessed or charged to



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this account?

66. A "yes or no" question: is interest allowed to be assessed or charged on attorney fees charged or assessed to this account?
67. How much in total attorney fees have been assessed to this account from the inception of this account until present date?
68. How much in total attorney fees has been collected on this account from the inception of this account until present date?
69. How much in total attorney fees have been charged to this account from the inception of this account until present date?
70. Please provide copies of all invoices and detailed billing statements from any law firm or attorney that has billed such fees that been assessed or collected from this account.

**SUSPENSE/UNAPPLIED ACCOUNTS.** For purposes of this section, please treat the term "suspense account" and "unapplied account" synonymously.

71. A "yes or no" question: has there been any suspense or unapplied account transactions on this account from the inception of this account until present date?
72. If yes, please explain the reason for each and every suspense transaction that occurred on this account. If no, skip the questions in this section dealing with suspense and unapplied accounts.
73. In a spreadsheet, or in letter form in a columnar format, please detail each suspense or unapplied transaction, both debits and credits that occurred on this account from the inception of this account until present date.

#### **LATE FEES.**

For purposes of our questions below dealing with late fees, please consider the terms "late fees" and "late charges" to be one in the same.

74. A "yes or no" question: have you reported the collection of late fees on this account as interest in any statement to me or to the IRS [INTERNAL REVENUE SERVICE]?
75. A "yes or no" question: have any previous servicers or sub-servicers of this mortgage reported the collection of late fees on this account as interest in any statement to us or to the IRS?
76. A "yes or no" question: do you consider the payment of late fees as liquidated damages to you for not receiving payment on time?
77. A "yes or no" question: are late fees considered interest?
78. Please detail what expenses and damages you incurred for any late payment we made.

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79. A "yes or no" question: were any of these expenses or damages charged or assessed to this account in any other way?
80. If yes, please describe what expenses or charges were charged or assessed to this account.
81. Please describe what expenses you or others undertook due to any late payment we made.
82. Please describe what damages you or others sustained due to any late payment we made.
83. Please identify the provision, paragraph, section, or sentence of the note, mortgage, deed of trust, or agreement we signed that authorized the assessment or collection of late fees.
84. Please detail each separate late fee assessed to this account, and for which corresponding payment period or month such late fee was assessed, from the inception of this account to present date.
85. Please detail each separate late fee collected from this account, and for which corresponding payment period or month such late fee was collected, from the inception of this account to present date.
86. Please detail any adjustments in late fees assessed, and on what date such adjustment was made, and the reasons for such adjustment.
87. A "yes or no" question: has interest been charged on any late fee assessed or charged to this account?
88. A "yes or no" question: is interest allowed to be assessed or charged on late fees charged or assessed to this account?
89. A "yes or no" question: have any late charges been assessed to this account?
90. If yes, how much in total late charges have been assessed to this account from the inception of this account until present date?
91. Please cite the exact months or payment dates you, or other previous servicers of this account, claim any late payments have been made from the inception of this account to the present date.
92. A "yes or no" question: have late charges been collected on this account from the inception of this account until present date?
93. If yes, how much in total late charges have been collected on this account from the inception of this account until present date?

#### **SERVICING RELATED QUESTIONS.**

For each of the following questions listed below, please provide a detailed explanation in writing that answers each question. In addition I need the following answers to questions concerning the servicing of this mortgage account from its inception to the present date. Accordingly, can you please provide, in writing, the answers to the questions listed below:

94. A "yes or no" question: did the originator or previous servicers of this account have any

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- financing agreements or contracts with your company or any affiliate of your company?
95. A "yes" or "no" question: did the originator of this account or previous servicers of this account have a warehouse account agreement or contract with your company?
  96. A "yes" or "no" question: did the originator of this account, or previous servicers of this account, receive any compensation, fee, commission, payment, rebate or other financial consideration from your company or any affiliate of your company for handling processing, originating, or administering this alleged loan?
  97. If yes, please describe and itemize each and every form or compensation, fee, commission, payment, rebate, or other financial consideration paid to the originator of this account by your company or any affiliate.
  98. Please identify where the originals of this entire account file are currently located and how they are being stored, kept, and protected?
  99. A "yes" or "no" question: do you know the exact location of the original signed monetary instrument, or mortgage?
  100. If yes, please provide the physical location and anyone holding this note as a custodian or trustee, if applicable.
  101. If no, then answer this "yes or no" question: upon demand, would you be able to certify that you have the ability to produce absolute first hand evidence, in the form of the original
  102. As was requested in the pass and was not sent please provide us with A signed copy of the note signed with blue ink, that you, or the entity that appointed you, are holder in due course of this alleged debt and or security regarding account
  103. A "yes or no" question: since the inception of this alleged loan, has there been any assignment of the monetary instrument/asset to any other party?
  104. If yes, identify the names & addresses of each individual, party, bank, trust or entity that has received such assignment.
  105. A "yes or no" question: since the inception of this alleged loan, has there been any assignment of the deed of trust, or mortgage and note, to any other party?
  106. If yes, please identify the names & addresses of each individual, party, bank, trust or entity that has received such assignment.
  107. A "yes or no" question: since the inception of this alleged loan, has there been any sale or assignment of servicing rights to this mortgage account to any other party?
  108. If yes, please identify the names & addresses of each and every individual, party, bank, trust or entity that has received such assignment or sale.
  109. A "yes or no" question: since the inception of this alleged loan, have any sub-servers serviced any portion of this alleged loan?

110. If yes, please identify the names and addresses of each and every individual, party, bank, trust or entity that has sub-serviced this alleged loan.
111. A "yes or no" question: has this mortgage account been made a part of any mortgage pool since the inception of this alleged loan?
112. If yes, please identify for me each and every account mortgage pool that this mortgage has been a part of from the inception of this account to the present date.
113. Has each assignment of our asset/monetary instrument been recorded in the county land records where the property associated with this mortgage account is located?
114. A "yes or no" question: has there been any electronic assignment of this mortgage with MERS (Mortgage Electronic Registration Systems, Inc.) or any other computer mortgage registry service of computer program?
115. If yes, please identify the name and address of each individual, entity, party, bank, trust or organization or servicers that has been assigned the mortgage servicing rights to this account as well as the beneficial interest to the payments of principal and interest on this alleged loan.
116. A "yes or no" question: have there been any investors (as defined in your industry) who have participated in any mortgage-backed security, collateral mortgage obligation, or other mortgage security instrument that this mortgage account had ever been a part of from the inception of this mortgage to the presents date?
117. If yes, please identify the name and address of each and every individual, entity, organization and/or trust.
118. Please identify the parties to all sales contracts, servicing agreements, assignments, allonges, transfers, indemnification agreements, recourse agreements and any agreement related to this account from its inception to the current date written above, and include their mailing addresses.
119. Please identify the parties to all sales contracts, servicing agreements, assignments, allonges, transfers, indemnification agreements, recourse agreements and any agreement related to this account from its inception to the current date.
120. How much was paid by you for this individual mortgage account?
121. If part of a mortgage pool, what was the principal balance used by you to detcrmine payment for this alleged loan?
122. If part of a mortgage pool, of the principal balance above, what was the percentage paid by you used to determine the purchase price of this alleged loan?
123. Who did you issue a check or payment to for this alleged loan?
124. Please provide copies with the front and back of the canceled check.
125. A "yes or no" question: Were you not served notice of the Administrative claim and fail to

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acknowledge the notarized notice?

126. A "yes or no" question: Did you provide the entire necessary document that was required in the claim File # SPS10242016?
127. Did you or did you not received a Cease and Desist Notice? Yes or No
128. True or false: were you not sent Default Notice? If no explain.
129. Yes or No: were you not sent Second Notice of Demand and Settlement for closing of Escrow Notice of fault opportunity to cure? If no explain
130. Yes or No: were you not sent a UCC 1 Financing Statement Final Adjusted Accounting and True bill, If no explain
131. Yes or No: Did you respond to these notices as was directed. If no explain
132. Yes or No: were you not told the consequences for non response? If no explain
133. Yes or No: were you not told we will legally and lawfully be compensated for the default and injury in the sum amount outline in the claim? If no explain
134. THE AFFIANT SAYS, SWEARS TO, AND MAKES OATH TO THE FOLLOWING FACTS CONCERNING THE BELOW-DESCRIBED NOTE AND ALLEGED LOAN:
135. Identity of Affiant.
- Affiants affirm that affiants are identified as "Borrower" on the below-described Note. Said "Borrower", also identified as JOSEPH NICHOLAS & ALISON NICHOLAS hereafter "Affiants", attest to the below-stated facts as an interested party to the subject matter and the below-described subject property.
136. Subject property. Affiants affirm that subject property is located at: 252 GARDEN AVE,

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John A.N.

MOUNT VERNON, NY 10553.

137. **Possession of copy of NOTE.** Affiants affirm that Affiants are in possession of a copy of a NOTE, dated: AUGUST 3, 2006 and that promises to pay the sum of THREE HUNDRED FIFTY-THREE THOUSAND FIVE HUNDRED AND NO/100 Dollars (U.S.\$ 353,500.00 USD to SOUTHSTAR FUNDING, LLC.
138. **"Borrow" defined.** Affiants observe that the Merriam-Webster dictionary defines the word "Borrow" as: "to receive with the implied or expressed intention of returning the same or an equivalent."
139. **"Lend" defined.** Affiants affirm that the Merriam-Webster dictionary defines the word "Lend" as: "to let out (money) for temporary use on condition of repayment with interest."
140. **Lender.** Any and all parties who claim to be owed money by the Affiants, or who claim the Affiants have an ongoing "obligation", under the above-described Note, will be referred to as the "Lender" for purposes of this Affidavit.
141. **"Respondent" defined.** Affiants affirm that the recipient of the Affidavit and the letter to which this Affidavit is attached, is the Respondent, unless the recipient assigns or appoints another party to be the Respondent and notifies Affiants, with written notice to Affiants, that another party is the Respondent. Said notice must identify the person as authorized to act as the alternative Respondent in their official capacity, complete with name, address, corporate name, and the job title of the Respondent.
142. **Alleged loan already received.** The Affiants observe that, with the language, "...in return for a loan that I have received...", the above-described NOTE unequivocally affirms that the Affiants had already received the alleged "loan" as of the date the NOTE was signed.
143. **NOTE is not a loan.** Affiants affirm that since the above-described NOTE states that the referenced loan had occurred *before* the NOTE was signed, the above-described NOTE cannot possibly be the loan. Therefore, the Affiants affirm that, as per the language in the NOTE, the NOTE and the alleged loan are two distinctly different items.
144. **No money lent.** "Lender" expects Affiants to "repay" the alleged loan with money, yet Affiants Affirm the fact that there exists no loan, mortgage, or other signed document stating that the "Lender" loaned Affiants any money. Affiants reaffirm the above definition of "borrow" ("to receive with the implied or expressed intention of returning the same or an equivalent"), but Affiants affirm that not only was no money received by Affiants in the alleged loan, no loan was "received" by Affiants. Affiants affirm that if no money was received by Affiants, no money was lent by the "Lender".
145. **None of "Lender's" credit lent.** Affiants affirm, with the support of certain below-stated affirmations, that the "Lender", in fact, never lent any of its own pre-existing money, credit or assets as consideration to purchase the Note or credit agreement from the Affiants.
146. **Lack of legitimate consideration.** In light of the above affirmation, Affiants affirm that there was

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an utter lack or legitimate consideration that would be necessary in order to execute an actual loan contract.

147. **No loan, or loan proceeds, received.** Affiants affirm that the Affiants were not the recipient of any loan proceeds or loan disbursement in any form and, in spite of an intense search of all pertinent records, the Affiants were able to find no loan disbursement instructions or loan disbursement confirmation or receipt of said loan in any form whatsoever. In light of the lack of evidence that a loan was received, the Affiants affirm that, in spite of the fact that the NOTE asserts that the Affiants had already received a loan as of the date the above-described NOTE was signed, the Affiants have not, in fact, received said loan.
148. **NOTE not evidence of a loan.** The Affiants conclude that since the above-described NOTE states that the referenced loan was an event that allegedly had already occurred at some unspecified date in the past, prior to the date the above-described NOTE was signed, the above-described NOTE cannot be relied upon as evidence that "a loan" was, in fact, received, especially since the above-described NOTE merely affirms that a loan "was received" by the Affiants, but provides no evidence that a loan disbursement ever occurred. Affiants affirm, therefore, that the Note is not evidence of a loan and cannot be relied upon as evidence of a loan.
149. **Affiants were the true lender if a loan occurred.** Affiants affirm that if any loan occurred in this transaction, it was the Affiants who temporarily loaned credit to the "Lender". This is evidenced by the following two facts: (1) the "Lender" accepted the Affiant's Note, not as a promissory note containing the promise of a future payment, but as a monetized negotiable instrument which constituted the creation of newly issued credit into an account controlled by the "Lender", and (2) by the appearance of credit or "money of account" showing up in the "Lender's" "books", the "Lender" experienced a financial benefit in the exact amount on the Note; a credit that originated from the Affiant. Further, the Affiants affirm that the "Lender" identifies the Note/credit amount that it received from the Affiants, as an asset.
150. **"Lender" created and promulgated false assumptions.** The Affiants affirm that, as of the date the above-described NOTE was signed, along with other "mortgage" documents, including the accompanying security instrument, the Affiants were deceived into believing the following false assumptions:
151. A loan was being provided to the Affiants by a "lender", and
152. Said loan had not yet been provided to the Affiants by the time the NOTE was signed, and
153. The above-described NOTE is the said loan and said loan commenced on the date the NOTE was signed, and
154. The NOTE would not be used for any purpose other than executing and commemorating a standard loan arrangement where actual money was being lent.
155. Several facts that contravene the above assumptions have become apparent. As a result of many hours of research and careful examination of what documentation is in the possession

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of the Affiants, the Affiants affirm the following facts:

156. Affiants affirm that a loan had *not* been provided to the Affiants and had not been received by the Affiants as of the date the NOTE was signed, and
157. Affiants affirm that the author of the NOTE falsely and deceptively stated that the Affiants *had received* a loan when, in fact, no loan had been received by the Affiants, and
158. Affiants affirm that the only thing that commenced on the date the Note was signed was the execution of the Note wherein a promise of a payment was made, and
159. Affiants affirm that the Affiants signed documents which the Affiants believed to be a standard mortgage, loan, and Note with the standard relationships between borrower and Lender when such was *not* the case. The records and research of the Affiants indicate that, with the signing of the Note and the execution of the Deed of Trust, the Affiants were deceived into believing the false notion that a long-term, ongoing financial obligation was created, when in fact the promise of payment was quickly fulfilled in its entirety.
160. Affiants affirm that the "Lender" accepted the Affiant's debt obligation (the promise to repay) as an asset on its books, thus monetizing the Affiant's signature, and
161. Affiants affirm that the "Lender" then created on its books a liability in the form of a demand deposit or other demand liability. Affiants further affirm that if this is the case, the "Lender's" original bookkeeping entry for Affiant's "account" shows an increase in the amount of the asset being credited on the asset side of its books and a corresponding increase on the liability side of its books equal to the value of the asset (amount on the Note.), and
162. Affiants affirm that if the "Lender" received the Affiant's signed promise to repay as an asset, and if the "Lender" is also considering the monetized amount as a continuing debt to the "Lender", showing the "balance" of this "debt" as a demand deposit in a transaction account on behalf of the Affiants, the "Lender" is in gross error, and
163. Affiants affirm that instead of the "Lender" lending *money* to the Affiants, as the Affiants reasonably believed from the face of the Note, the Affiants, by signing and providing the Note to the "Lender", *created* the credit assigned to the above-described transaction account without the Affiant's permission, authorization, or knowledge, and
164. Affiants affirm that for all intents and purposes, the Affiants originated the funds used in the transaction. Soon thereafter, or in anticipation of receipt of the signed Note, the "Lender" entered the *credit* on its own books, falsely representing those funds as having been lent to the Affiants, and
165. Affiants affirm the not only did the "Lender" *not* lend money to the Affiants, the "Lender" didn't even lend to the Affiants credit that originated with the "Lender" (see Affirmation # 10), and
166. Affiants further affirm that the "Lender" failed to disclose any details about the true nature of



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the transaction, such as, but not limited to, the above-described details, and

167. Affiants affirm that there is only one true and correct conclusion to derive from the above-described transaction: the promise to pay (or repay), as described in the Note, was fulfilled and the obligation, which has also been referred to as a "debt", has been completely and fully satisfied, and
168. In light of the above, the Affiants affirm that the "Lender" was: (1) in error to record this transaction on its books as a liability, (2) in error when it failed to disclose the true nature of the transaction to the Affiants, (3) in error to declare, in the language of the Note, that the Affiants had "received" a loan, when in fact that declaration could not have been further from the truth, and (4) in error when, as Beneficiary of the Deed of Trust, it failed to abide by the terms of the Deed of Trust by failing to inform the Trustee that the obligation referred to in the Deed of Trust had been satisfied, and
169. Affiants further affirm that Affiants may also have been deceived into issuing a security.
170. Affiants affirm that the Note may have been converted into a trade-able security as the subject of transmittal or reference, in exchange for which the "Lender" would have received both full payment of the entire principle of the Note and a premium of approximately 2.5% of the entire loan balance, and
171. Affiants affirm that if item #1 above is the cases (1) the Note has been satisfied in full by third-party payment, (2) no assignment or sale of the actual instruments occurred on record, nor was the same disclosed, and (3) the transfer of certain rights prior to, or contemporaneous with, the alleged "closing" of this "loan" transaction negated; any interest in the transaction by the "Lender" and thus voided any authority of the "Lender" to enter into any agreement with a Trustee, who therefore holds title solely in constructive trust for the Affiants, and in which a transfer of rights has occurred, which involved the guarantee of revenue and payments that were not provided for in the Note, and
172. Affiants affirm that if the Note is a negotiable instrument under the Uniform Commercial Code, and represents a source of passive income to any third party it would constitute the issuance of a security without compliance with the applicable state and Federal securities laws, and
173. Affiants affirm that unless the above-stated possibility (that Affiants may have issued a security without having been informed of this) is denied and rebutted by a qualified, interested party, it will be assumed to be true.
174. ~~No~~ loan, no obligation. Affiants affirm that, notwithstanding the fact that the Affiants have made a due and diligent search for documentary evidence that a loan was provided to the Affiants by the "Lender", the Affiants find that no such evidence exists and never did. There is no loan and there never was any actual loan. A signed NOTE, stating an obligation to pay/repay a debt, was presented; the entire balance of said obligation was almost immediately satisfied by said Note. Additionally, as affirmed above, the obligation may have been satisfied

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by an unidentified third party. In any case, no notification or disclosures were made to the Affiants that the obligation was satisfied by at least one of the two above-described methods. This process clearly involved several instances of fraud. Since there is no actual loan, and since the obligation referred to in the NOTE was completely satisfied, there was no, and there is no, ongoing financial obligation.

175. ~~No~~ valid contract, no obligation. Affiants affirm that there exists no valid contract between the "Lender" and Affiants. The Note and the Deed of Trust are the purported to be binding contracts between the above parties. However, both documents lack the integral elements that constitute a valid, legally enforceable contract. Where there is no valid contract, there are no actual, enforceable obligations.
176. Affiants affirm that the document titled "Exhibit B" (Elements of a Legally Binding Contract), made part of this presentment by reference and annexed hereto, correctly and accurately represents the essential components a given document must contain in order for said document to be considered a legally binding contract. Therefore, any rebuttal of this Affidavit must also rebut "Exhibit B".
177. Affiants affirm that the following facts preclude the above-described Note and Deed of Trust from being able to be considered legally binding contracts:
178. Affiants affirm that the offer is vague or non-existent. The Note states that a loan had been received by Affiants, but fails to state who provided the loan, the date of the loan, or reference any documentation of said loan. Perhaps if a loan had been received, this could have been made part of an offer. As it is, whatever the offer might be, said offer MUST BE specific so that it can be accepted. Without an offer, there can be no actual acceptance, and
179. Affiants affirm that there is no mutuality of obligation, or "meeting of the minds" Between "Lender" and Affiants, and
180. Affiants affirm that there is no definitive certainty and/or agreement as to the entire subject matter, and
181. There is no offer to accept. An oblique reference to an alleged loan that had allegedly already been "received" is not an offer or an acceptance. A mere reference to an event that allegedly already occurred cannot be considered to be any part of the Note or the Deed of Trust, which had not, as of the date of the Note and Deed of Trust, and still has not, been ratified by both parties, and
182. Even if the alleged loan HAD been received and could be considered to be part and parcel to the Note and Deed of Trust, no reference is made as to who provided the alleged loan, and
183. Even if the alleged loan HAD been received and could be considered to be part and parcel to the Note and Deed of Trust, no reference is made as to the date of the alleged loan, and
184. Even if the alleged loan HAD been received, no reference is made, in the Note or the Deed of Trust, as to the existence of ANY documentation that commemorates the specifics of the

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- issuance and specifics of the receipt of the alleged Loan, and
185. "Lender" offered nothing and, in response, there was nothing for Affiants to accept, and
186. At the time of this transaction, Affiants had no idea of the true nature of the transaction as outlined above, and
187. "Lender" failed to disclose the true meaning of the fact that, for a very short period of time, Affiants actually held title to the subject property "free and clear", no encumbrances, no liens, no obligations of any kind, and
188. "Lender" failed to disclose that Affiant was the originator of the credit that was used to effectuate the purchase of the subject property, nor did Affiants agree to this in advance, and
189. "Lender" failed to disclose that the entire debt/obligation described in the Note and Deed of Trust would be satisfied once the Note was monetized by the "Lender", nor would Affiants ever knowingly agree to pay the debt/obligation twice, and
190. There is nothing in the alleged contract that describes any real performance of the "Lender", and
191. Although Affiants signed said documents, no one else did. There is no valid contract when one or more of the parties to the alleged contract fail to sign and date said contract, and
192. In light of the fact that a loan was never received, Affiants are left to assume that there was either some other form of exchange, besides the lending of money, in exchange for a security instrument, or there was, in fact, no actual exchange of equals, and
193. Affiants affirm that there is a complete lack of consideration in the alleged contracts.
194. Affiants purchased the subject property with Affiant's own credit by agreeing to allow "Lender" to access Affiant's credit, and
195. "Lender" realized instant financial gain from the transaction when "Lender" accessed Affiant's credit and monetized it, and
196. "Lender" provided absolutely no financial consideration in the transaction as said financial consideration was provided, in full, by Affiants, and
197. Although Affiants were competent to enter into a contract at the time of the transaction, Affiants affirm that the question of Affiant's competency to enter into an otherwise legally binding contract was negated when "Lender" failed to provide full disclosure as to the true nature of the transaction. No one who is unaware of all the underlying facts and premises concerning a given contract is a competent party to such an arrangement.
198. **Reimbursement due.** In light of the above, the Affiants affirm that the Affiants have been defrauded out of all money paid to the "Lender" since the time the Note was signed and satisfied shortly thereafter. Consequently, the Affiants are due a reimbursement of all money