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CENTRAL DISTRICT OF CALIF.
LOS ANGELES

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14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 **WESTERN DIVISION**

18 **SACV12**

633 JST (MLbx)

19 UNITED STATES SECURITIES AND
20 EXCHANGE COMMISSION,

Plaintiff,

21 vs.

22 OPTION ONE MORTGAGE
23 CORPORATION n/k/a SAND CANYON
CORPORATION,

24 Defendant.

Case Number:

The Honorable

**COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS**

JURY TRIAL DEMANDED

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1 Plaintiff United States Securities and Exchange Commission (the
2 “Commission”) alleges:

3 **I. JURISDICTION AND VENUE**

4 1. The Commission brings this action pursuant to Sections 20(b) and
5 20(d) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77t(b), 77t(d)].

6 2. This Court has jurisdiction over the action pursuant to Section 22(a)
7 of the Securities Act [15 U.S.C. § 77v(a)].

8 3. Venue is proper in this Court pursuant to Section 22(a) of the
9 Securities Act [15 U.S.C. § 77v(a)].

10 4. Option One Mortgage Corporation n/k/a Sand Canyon Corporation
11 (“Option One”) resides in and may be found in this District. Option One also
12 transacted business in this District and, in connection with certain of the acts,
13 transactions, and courses of business described in this Complaint, directly or
14 indirectly, made use of the means or instrumentalities of interstate commerce, or of
15 the mails, or the facilities of a national securities exchange in this District.

16 **II. SUMMARY**

17 5. This case concerns the fraudulent sale of residential mortgage-backed
18 securities (“RMBS”) by Option One.

19 6. Option One was one of the country’s largest subprime lenders. In its
20 fiscal year 2006, Option One originated nearly \$40 billion in subprime mortgage
21 loans.

22 7. From on or about January 24, 2007 through March 12, 2007, Option
23 One sponsored over \$4.3 billion of RMBS in seven separate offerings.

24 8. The offering documents for the RMBS represented to investors that
25 Option One was obligated to repurchase or replace any mortgage loan in the pools
26 collateralizing the RMBS for which there was a breach of a representation or
27 warranty that materially and adversely affected the value of the loan or the RMBS
28 investors’ interest in the loan. The offering documents also contained risk

1 disclosures that omitted important information about Option One's financial
2 condition.

3 9. Further, certain Option One senior officers signed agreements and
4 certifications representing that, among other things, they knew of no reasons why
5 Option One would not be able to fulfill its obligations and that the offering
6 documents did not contain any materially misleading statements.

7 10. In reality, as Option One and its senior officers knew or should have
8 known, Option One was experiencing financial difficulties as a result of the decline
9 in the subprime mortgage market, could not meet its loan repurchase obligations on
10 its own due to its deteriorating financial condition, and needed its parent company,
11 H&R Block Inc. ("Block"), through a subsidiary, to continue providing voluntary
12 financial support to maintain its operations and meet its escalating loan repurchase
13 obligations.

14 11. The offering documents misled investors about Option One's
15 precarious financial condition and, hence, its inability to fulfill its obligations on its
16 own to repurchase or replace loans for which there were breaches of a
17 representation or warranty that materially and adversely affected the value of the
18 loans or the RMBS investors' interest in the loans.

19 12. RMBS investors cared about Option One's financial condition
20 because they cared about Option One's ability to meet its repurchase obligations.

21 13. By using the misleading representations to offer and sell RMBS to
22 investors and engaging in other transactions, practices, and courses of business that
23 operated as a fraud or deceit on investors in each of the seven RMBS offerings,
24 Option One violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15
25 U.S.C. § 77q(a)(2) and (3)].

26 **III. DEFENDANT**

27 14. Option One is a California corporation with headquarters in Irvine,
28 California. Option One is an indirect wholly owned mortgage banking subsidiary

1 of Block. Between approximately 1993 and 2008, Option One was in the business
2 of originating, sponsoring, selling, and servicing subprime mortgage loans. In
3 2007, Option One established trusts for the purpose of selling RMBS to investors.
4 Option One sponsored each trust, and originated and serviced the mortgage loans
5 contained in each trust. In 2008, Option One changed its name to Sand Canyon
6 Corporation and sold its servicing business.

7 **IV. OTHER ENTITIES**

8 15. Option One Mortgage Loan Trusts (the “Trusts”) are four New York
9 common law trusts with principal offices in Irvine, California. The Trusts include
10 Option One Mortgage Loan Trust 2007-1 (the “2007-1 Trust”), Option One
11 Mortgage Loan Trust 2007-FXD1 (the “2007-FXD1 Trust”), Option One
12 Mortgage Loan Trust 2007-CP1 (the “2007-CP1 Trust”), and Option One
13 Mortgage Loan Trust 2007-2 (the “2007-2 Trust”). Pooling agreements among
14 Option One, an Option One subsidiary, and a third-party firm (as trustee)
15 established the Trusts. The Trusts did not have any directors, officers, or other
16 employees. They acted only through Option One, an Option One subsidiary, and
17 the trustee.

18 16. Option One Mortgage Securities Net Interest Margin (“NIM”) Trusts
19 (the “NIM Trusts”) are three Delaware statutory trusts with principal offices in
20 Wilmington, Delaware. The NIM Trusts include Option One Mortgage Securities
21 NIM Trust 2007-1 (the “2007-1 NIM Trust”), Option One Mortgage Securities
22 NIM Trust 2007-FXD1 (the “2007-FXD1 NIM Trust”), and Option One Mortgage
23 Securities NIM Trust 2007-CP1 (the “2007-CP1 NIM Trust”). Trust agreements
24 among a wholly owned special purpose vehicle of an Option One subsidiary and a
25 third-party firm (as owner trustee) established the NIM Trusts. Upon formation,
26 Option One’s special purpose vehicle owned the NIM Trusts. The NIM Trusts did
27 not have any directors, officers, or other employees. At formation, they acted only
28 through the special purpose vehicle, which acted solely through Option One.

1 **V. FACTS**

2 **A. Overview of Option One's RMBS Business**

3 17. In 2006 and 2007, Option One originated subprime loans and sold
4 them in the secondary market through RMBS securitizations or whole loan pool
5 sales. Whole loan pool sales involved the sale of an entire pool of subprime
6 mortgage loans to one purchaser. Option One funded its mortgage originations
7 using credit lines (the "Warehouse Lines") provided by a consortium of financial
8 firms (the "Warehouse Lenders"). Option One's Warehouse Lines were short-term
9 revolving credit facilities that Option One used to originate new subprime
10 mortgages.

11 18. When Option One sold the mortgages it originated in a RMBS
12 securitization or a whole loan pool sale, it used the proceeds to pay down the
13 balances on its Warehouse Lines. From January through March 2007, Option One
14 received more money for its mortgages by engaging in RMBS securitizations
15 rather than whole loan pool sales. The RMBS securitizations were an integral part
16 of Option One's business.

17 19. Generally, the Warehouse Lenders also acted as underwriters (the
18 "Underwriters") for Option One's RMBS securitizations, including the
19 securitizations of the Trusts and the NIM Trusts.

20 20. Option One's RMBS were debt obligations that represented claims to
21 the cash flows from pools of residential mortgage loans. When securitizing a pool
22 of subprime mortgages, Option One utilized a series of wholly owned subsidiaries
23 and trusts. First, Option One, through its subsidiaries, sold the loans into a trust.
24 That trust then issued RMBS that represented claims on the principal and/or
25 interest payments made by borrowers on the loans in the pool. A RMBS investor's
26 risk and return were functions of the tranche, or class of RMBS within the trust
27 (e.g., senior/mezzanine/subordinated), that the RMBS investor purchased. Each
28 tranche had its own credit rating.

1 21. Option One retained certain tranches of RMBS from each of its
2 RMBS called “residual interests” (“Residual Interests”). The Residual Interests
3 were unrated and typically consisted of RMBS at the bottom of the capital
4 structure, meaning they typically were the first RMBS to incur losses.

5 22. Option One’s NIM offerings were securitizations of its Residual
6 Interests. By engaging in NIM offerings, Option One was able to monetize its
7 Residual Interests.

8 23. Before each of the Trusts issued RMBS, offering materials, including
9 a prospectus supplement (“prospectus”), were distributed. These offering materials
10 contained disclosures, relating to the RMBS, and representations and warranties
11 relating to the mortgage loans collateralizing the RMBS. Before each of the NIM
12 Trusts issued notes, a private placement memorandum (“PPM”) that incorporated
13 by reference the prospectuses of the underlying Trusts was distributed.

14 24. The prospectus for each of the Trusts represented that Option One was
15 obligated to repurchase or replace any mortgage loans from the trust for which
16 there were breaches of a representation or warranty that materially and adversely
17 affected the value of the loans or the RMBS investors’ interest in the loans.
18 Because of these obligations, Option One faced potentially significant liabilities.

19 25. Option One employees put together prospectuses with the help of
20 Option One’s outside counsel. Few changes were made to the disclosures from
21 one securitization to the next. Option One rarely suggested any changes to the risk
22 disclosures and did not have an adequate process in place for ensuring that the risk
23 disclosures were current.

24 26. The prospectuses for the Trusts prominently featured Option One’s
25 corporate logo on the cover page. Moreover, in connection with each Trust,
26 Option One, as sole stockholder, executed a consent ratifying all actions taken by
27 its subsidiaries in connection with issuing the RMBS. The individuals who signed
28 RMBS documents on behalf of Option One and its subsidiaries did not distinguish

1 the work they performed on behalf of Option One from the work they performed
2 for its subsidiaries.

3 27. In connection with each of the Trusts, Option One and its subsidiaries
4 executed mortgage loan purchase agreements (“MLPAs”), which were required to
5 close the trust and which memorialized both the terms of the sale of the mortgage
6 pool for securitization and the representations and warranties governing the loans.
7 In the MLPAs, which were referenced in the prospectuses and attached to Forms 8-
8 K that an Option One subsidiary, Option One Mortgage Acceptance Corporation
9 (“Option One Acceptance”), filed with the Commission on behalf of each trust,
10 Option One represented that it did not have any reason or cause to believe that it
11 could not perform the covenants set forth in the MLPAs. The MLPAs provided
12 that Option One shall repurchase or replace those mortgage loans collateralizing
13 the trusts for which there were breaches of a representation or warranty that
14 materially and adversely affected the value of the loans or the RMBS investors’
15 interest in the loans.

16 28. In connection with each of the Trusts, Option One and its subsidiaries
17 executed underwriting agreements (the “Underwriting Agreements”), which were
18 required to close the trust and which memorialized the representations and
19 warranties provided to the Underwriters and the conditions under which the
20 Underwriters agreed to purchase the RMBS. In the Underwriting Agreements,
21 which were referenced in the prospectuses and attached to Forms 8-K that Option
22 One Acceptance filed with the Commission on behalf of each trust, Option One
23 represented that the prospectus did not and would not contain any untrue statement
24 of a material fact or omit to state a material fact necessary in order to make the
25 statements therein, in light of the circumstances under which they were made, not
26 misleading. The Underwriting Agreements also confirmed the parties’
27 understanding that the Underwriters intended to offer the RMBS for sale to the
28 public as set forth in the prospectus.

1 29. In connection with each of the Trusts and NIM Trusts, senior officers
2 of Option One and its subsidiaries executed officer certifications (the “Officer
3 Certifications”) that were required to close the offerings. Among other things, the
4 Officer Certifications affirmed that:

5 (1) the officer had carefully examined the relevant MLPA, and Option
6 One’s representations and warranties in the MLPA were true and correct in
7 all material respects;

8 (2) the officer had carefully examined the relevant Underwriting
9 Agreement, and Option One’s representations and warranties in the
10 Underwriting Agreement were true and correct in all material respects;

11 (3) the officer had carefully examined the prospectus and nothing had
12 come to the officer’s attention that would lead the officer to believe that the
13 prospectus contained any untrue statement of a material fact or omitted to
14 state any material fact necessary to make the statements made in the
15 prospectus not misleading;

16 (4) subsequent to issuance of the prospectus or PPM, there had not been
17 any material adverse change in Option One’s financial condition or results;
18 and

19 (5) nothing had come to the officer’s attention that led the officer to
20 believe that the PPM contained any untrue statement of a material fact or
21 omitted to state any material fact necessary to make the statements made in
22 the PPM not misleading.

23 30. For each of its offerings, Option One received cash proceeds from the
24 sales of RMBS to investors and retained a Residual Interest.

25 **B. Overview of Option One’s RMBS Disclosure Process**

26 31. Contrary to certifications by Option One’s senior officers, Option
27 One’s senior officers did not carefully examine the prospectuses, PPMs, MLPAs,
28 and Underwriting Agreements.

1 32. Option One did not install or maintain sufficient policies or
2 procedures, or take proper steps to ensure that an Option One employee who knew
3 about Option One's financial condition and its financial relationship with Block
4 reviewed and approved Option One's disclosures in the prospectuses and PPMs
5 before they were distributed to investors.

6 33. Before each of the Trusts closed, the Underwriters convened a due
7 diligence call to ensure that all material information was included in the
8 prospectus. At least one Option One employee represented Option One on each
9 due diligence call.

10 34. The Underwriters prepared agendas for each of the due diligence
11 calls, which included the following topics:

12 (1) Option One's major operational and financial concerns for the next
13 three months;

14 (2) adverse developments in Option One's operations or financial
15 condition that were not disclosed in the prospectus for the previous trust;

16 (3) any material developments, circumstances, or other facts that the
17 Underwriters should know about before entering the market to sell the
18 RMBS.

19 35. During the calls, the participants discussed each topic on the agenda.
20 Option One employees provided a response for each topic before the participants
21 discussed the next topic on the agenda. Although the Underwriters received some
22 financial information in connection with the Warehouse Lines, Option One's
23 reliance upon voluntary funding from Block through a subsidiary was not disclosed
24 on any of these due diligence calls.

25 **C. Option One's Source of Funding to Support Its Operations**

26 36. When Option One needed cash for its non-origination operating
27 activities, it borrowed money from a Block subsidiary through a line of credit
28 ("Line of Credit"), which carried an interest rate of one month LIBOR plus 250

1 basis points. The Line of Credit agreement required funding of only \$150 million
2 of borrowings. Borrowings above \$150 million under the Line of Credit were
3 dependent on Block's ability and willingness to provide Option One with the
4 necessary cash because Block was under no obligation to do so.

5 37. Option One used the Line of Credit to fund its operating activities.

6 **D. Option One's Deteriorating Financial Condition**

7 38. Option One's fiscal year runs from May 1 to April 30 with quarters
8 ending on July 31, October 31, January 31, and April 30.

9 39. Before fiscal year 2007, Option One was one of the country's largest
10 subprime originators and was generally profitable.

11 40. In its fiscal year 2006, Option One originated approximately \$40
12 billion in subprime mortgages. However, the subprime mortgage market started to
13 decline during Option One's fiscal year 2007 starting in approximately the summer
14 of 2006. As a result, Option One began experiencing losses and a decline in
15 revenues, including pretax losses of approximately \$5 million and \$40 million in
16 the first and second quarters of fiscal year 2007 that ended on July 31, 2006 and
17 October 31, 2006, respectively.

18 41. In response to these losses, Option One tightened its loan origination
19 underwriting standards in August 2006, December 2006, January 2007, February
20 2007, and March 2007 by, among other things, requiring prospective borrowers to
21 have stronger credit profiles.

22 42. It generally took several weeks before changes to origination
23 underwriting standards would produce a pool of loans using the new standards.
24 Hence, from January 2007 to March 2007, Option One still held large numbers of
25 loans that had been originated under the earlier standards. The earlier loans made
26 up significant portions of the loan pools that Option One securitized between
27 January 2007 and March 2007.

1 **1. Block's Examination of Strategic Alternatives for Option**
2 **One**

3 43. Although Option One was Block's indirect, wholly owned subsidiary,
4 Block never guaranteed Option One's loan repurchase obligations or the
5 Warehouse Lines.

6 44. In its November 6, 2006 Form 8-K filed with the Commission, Block
7 announced that it was lowering its fiscal year earnings guidance by over 20% to
8 reflect continued pricing pressures in the mortgage market. Block also announced
9 that it was evaluating strategic alternatives for Option One including a possible
10 sale or other transaction. Block simultaneously announced that Option One was
11 closing 12 branch offices to reflect changes in the mortgage market.

12 45. Between approximately December 2006 and April 2007, Block
13 negotiated a possible sale of Option One. Meanwhile, Option One continued
14 operating, including maintaining its Warehouse Lines and absorbing losses on its
15 loan originations.

16 46. Option One's mounting losses threatened Block's credit rating, which
17 was placed on credit watch with negative implications on or about March 16, 2007
18 by Standard & Poor's.

19 47. In its April 19, 2007 Form 8-K filed with the Commission, Block
20 announced that it had entered into an agreement to sell Option One for \$300
21 million less than Option One's tangible net asset value at closing. Block and the
22 tentative purchaser never consummated the sale and they ultimately terminated the
23 purchase agreement on or about December 3, 2007.

24 **2. Option One's First Round of Debt Covenant Waivers**

25 48. By December 2006, Option One's officers were discussing whether
26 Option One needed to obtain waivers of the minimum net income covenants in the
27 Warehouse Lines for the fiscal quarter ending on January 31, 2007 (the "January
28 Waivers"). The Warehouse Lines were all subject to a minimum net income

1 covenant that required Option One to maintain a cumulative minimum net income
2 of at least \$1.00 for four consecutive fiscal quarters. A breach of that covenant for
3 any of the Warehouse Lines could have resulted in the termination of all of the
4 Warehouse Lines.

5 49. A violation of any minimum net income covenant would have
6 permitted the Warehouse Lenders to demand that Option One pay off their billions
7 of dollars of outstanding balances on the Warehouse Lines, to terminate future
8 funding obligations, and to terminate Option One's right to service existing loans.

9 50. By at least January 4, 2007, Option One knew that it likely would
10 need to obtain the January Waivers.

11 51. On or about January 13, 2007, Option One's outside auditor was
12 advised that Option One would need the January Waivers. By that date, Option
13 One was also considering whether it needed to obtain waivers of the minimum net
14 income covenants in the Warehouse Lines for the fiscal quarter ending on April 30,
15 2007 (the "April Waivers").

16 52. Option One ultimately needed to request the January Waivers from
17 each of its Warehouse Lenders. It obtained the January Waivers on or about
18 January 24, 2007. The January Waivers ran from January 24, 2007 through April
19 27, 2007.

20 3. Concerns About Option One's Financial Condition

21 53. On or about January 3, 2007, Option One learned that one of the five
22 largest purchasers of Option One's RMBS was concerned about Option One's
23 viability and wanted to know whether Option One could return to profitability.

24 4. Option One's Continued Financial Deterioration

25 54. On or about February 5, 2007, Option One estimated its pretax net
26 loss for the fiscal quarter ending on January 31, 2007 to be at least \$100 million.
27 On that same date, Option One held approximately \$5.6 billion in subprime loans
28 on the Warehouse Lines.

1 55. Under its agreements with the Warehouse Lenders, Option One could
2 not receive the entire market value of loans it originated using funds from the
3 Warehouse Lines. The Warehouse Lenders loaned Option One only a percentage
4 of each loan's face value. The difference, known as a "haircut," constituted cash
5 collateral, or margin. When the market value of the loans decreased, Option One
6 had to pay the Warehouse Lenders additional margin.

7 56. Because of the declining values of the loans on the Warehouse Lines,
8 Option One had to send the Warehouse Lenders approximately \$164 million of
9 additional margin by the end of January 2007. That amount increased to
10 approximately \$300 million by the end of February 2007 and approximately \$330
11 million by March 15, 2007.

12 57. In February 2007, Option One interacted directly with the Warehouse
13 Lenders in an effort to reduce or delay the margin calls.

14 58. In addition to using the Line of Credit to pay repurchase demands,
15 Option One also used money borrowed under the Line of Credit to cover its margin
16 calls. As a result, the outstanding balance on the Line of Credit ballooned to over
17 \$884 million on or about January 11, 2007. It eventually reached over \$1.1 billion
18 on or about March 26, 2007.

19 59. Because Option One did not have sufficient funds from its operations
20 to meet all of its growing loan repurchase demands, it used money borrowed under
21 the Line of Credit to help pay repurchase demands. In fiscal year 2007, Option
22 One used borrowed funds to repurchase approximately \$990 million of loans from
23 securitizations and whole loan pool sales and reserved for another approximately
24 \$38.4 million of loan repurchases. Option One generally suffered a loss on the
25 loans it repurchased because it was forced to resell them at a deep discount or
26 commence foreclosure proceedings on the properties that secured the loans.

27 60. On or about February 17, 2007, Option One's Chief Financial Officer
28 sent a confidential email to certain Option One senior officers stating that Option

1 One did not have its own cash flow and was borrowing hundreds of millions of
2 dollars to fund, among other things, loan repurchases and margin calls.

3 **5. Option One's Second Round of Debt Covenant Waivers**

4 61. By March 5, 2007, Option One advised the Warehouse Lenders that
5 Option One would likely need the April Waivers.

6 62. On March 14, 2007, Block filed a Form 10-Q disclosing for the first
7 time Option One's January Waivers and reporting that Option One incurred an \$85
8 million net loss in the fiscal quarter ending on January 31, 2007. The filing also
9 disclosed that Option One believed it would violate its minimum net income
10 covenants on April 30, 2007, and acknowledged that, in the absence of the April
11 Waivers, Option One's Warehouse Lenders could, among other things, terminate
12 their future funding obligations under the Warehouse Lines and terminate Option
13 One's right to service the existing loans on the Warehouse Lines.

14 **E. Option One's RMBS Offerings**

15 **1. The Trusts and NIM Trusts**

16 63. The prospectus for the 2007-1 Trust was issued on or about January
17 16, 2007. The 2007-1 Trust closed on or about January 24, 2007. The principal
18 balance of the RMBS issued by the 2007-1 Trust was approximately \$1.7 billion.
19 Option One senior officers signed the MLPA, the Underwriting Agreement, the
20 January 18, 2007 Form 8-K to which the MLPA and the Underwriting Agreement
21 were attached, and the Officer Certifications for the 2007-1 Trust. The
22 Underwriting Agreement is dated January 16, 2007. The MLPA is dated January
23 19, 2007. The Officer Certifications are dated January 24, 2007.

24 64. The PPM for the 2007-1 NIM Trust was issued on or about January
25 29, 2007 and the 2007-1 NIM Trust closed on or about that same day. The PPM
26 for the 2007-1 NIM Trust specifically incorporated by reference the prospectus for
27 the 2007-1 Trust. The principal balance of the notes issued by the 2007-1 NIM
28 Trust was approximately \$73 million. An Option One senior officer signed the

1 Officer Certifications for the 2007-1 NIM Trust. The Officer Certifications are
2 dated January 29, 2007.

3 65. The prospectus for the 2007-FXD1 Trust was issued on or about
4 January 19, 2007. The 2007-FXD1 Trust closed on or about January 30, 2007.
5 The principal balance of the RMBS issued the by 2007-FXD1 Trust was
6 approximately \$817 million. An Option One senior officer signed the MLPA, the
7 Underwriting Agreement, the January 18, 2007 Form 8-K to which the MLPA and
8 the Underwriting Agreement were attached, and the Officer Certifications for the
9 2007-FXD1 Trust. The MLPA and the Underwriting Agreement are dated January
10 19, 2007. The Officer Certifications are dated January 30, 2007.

11 66. The PPM for the 2007-FXD1 NIM Trust was issued on or about
12 January 31, 2007 and the 2007-FXD1 NIM Trust closed on or about that same day.
13 The PPM for the 2007-FXD1 NIM Trust specifically incorporated by reference the
14 prospectus for the 2007-FXD1 Trust. The principal balance of the notes issued by
15 the 2007-FXD1 NIM Trust was approximately \$22 million. An Option One senior
16 officer signed the Officer Certifications for the 2007-FXD1 NIM Trust. The
17 Officer Certifications are dated January 31, 2007.

18 67. The prospectus for the 2007-CP1 Trust was issued on or about
19 February 15, 2007. The 2007-CP1 Trust closed on or about February 22, 2007.
20 The principal balance of the RMBS issued by the 2007-CP1 Trust was
21 approximately \$756 million. An Option One senior officer signed the MLPA, the
22 Underwriting Agreement, the February 8, 2007 Form 8-K to which the MLPA and
23 the Underwriting Agreement were attached, and the Officer Certifications for the
24 2007-CP1 Trust. The MLPA and the Underwriting Agreement are dated February
25 15, 2007. The Officer Certifications are dated February 22, 2007.

26 68. The PPM for the 2007-CP1 NIM Trust was issued on or about March
27 8, 2007. The 2007-CP1 NIM Trust closed on or about March 12, 2007. The PPM
28 for the 2007-CP1 NIM Trust specifically incorporated by reference the prospectus

1 for the 2007-CP1 Trust. The principal balance of the notes issued by the 2007-CP1
2 NIM Trust was approximately \$33 million. An Option One senior officer signed
3 the Officer Certifications for the 2007-CP1 NIM Trust. The Officer Certifications
4 are dated March 12, 2007.

5 69. The prospectus for the 2007-2 Trust was issued on or about March 2,
6 2007. The 2007-2 Trust closed on or about March 12, 2007. The principal balance
7 of the RMBS issued by the 2007-CP1 Trust was approximately \$952 million.
8 Option One senior officers signed the MLPA, the Underwriting Agreement, the
9 March 1, 2007 Form 8-K to which the MLPA and the Underwriting Agreement
10 were attached, and the Officer Certifications for the 2007-2 Trust. The MLPA and
11 the Underwriting Agreement are dated March 2, 2007. The Officer Certifications
12 are dated March 12, 2007. Two of the Officer Certifications for the 2007-2 Trust
13 were drafted for one Option One senior officer's signature but were signed by
14 another Option One senior officer.

15 2. The Misleading Statements

16 70. In the prospectuses for the Trusts, Option One represented that it was
17 obligated to repurchase or replace any mortgage loan in the pools collateralizing
18 the RMBS for which there was a breach of a representation or warranty that
19 materially and adversely affected the value of the loan or the RMBS investors'
20 interest in the loan.

21 71. All of the MLPAs for the Trusts represented that Option One did not
22 have any reason or cause to believe that it could not perform its covenant
23 obligations, including its repurchase obligations.

24 72. All of the Underwriting Agreements for the Trusts represented that the
25 prospectuses did not contain any misleading statements.

26 73. All of the Officer Certifications for the Trusts represented that:
27
28

1 (1) the officer had carefully examined the relevant MLPA and Option
2 One's representations and warranties in the MLPA were true and correct in
3 all material respects;

4 (2) the officer had carefully examined the relevant underwriting
5 agreement and Option One's representations and warranties in the
6 underwriting agreement were true and correct in all material respects;

7 (3) the officer had carefully examined the prospectus and nothing had
8 come to the officer's attention that would lead the officer to believe that the
9 prospectus contained any untrue statement of a material fact or omitted to
10 state any material fact necessary to make the statements made in the
11 prospectus not misleading; and

12 (4) subsequent to issuance of the prospectus, there had not been any
13 material adverse change in Option One's financial condition or results.

14 74. All of the Officer Certifications for the NIM Trusts represented that:

15 (1) nothing had come to the officer's attention that led the officer to
16 believe that the PPM contained any untrue statement of a material fact or
17 omitted to state any material fact necessary to make the statements made in
18 the PPM not misleading; and

19 (2) subsequent to issuance of the PPM, there had not been any material
20 adverse change in Option One's financial condition or results.

21 75. All of the representations in Paragraphs 70 through 74 were rendered
22 misleading by Option One's failure to disclose: (1) its deteriorating financial
23 condition; (2) its inability to meet its loan repurchase obligations on its own; (3)
24 that Option One was reliant on borrowings under the Line of Credit to meet its
25 repurchase obligations; and (4) that its ability to repurchase or replace loans was
26 dependent on Option One's continued ability to borrow under the Line of Credit.

1 **3. The Misleading Statements Were Material**

2 76. Option One's financial condition was important to investors in the
3 Trusts and the NIM Trusts because it mattered to investors whether Option One
4 could meet its loan repurchase obligations.

5 77. Information about Option One's financial condition became more
6 important to investors as the subprime mortgage market deteriorated and the
7 amount of Option One's repurchase obligations climbed.

8 78. Investors in the Trusts and NIM Trusts reviewed the prospectuses and
9 PPMs for information about Option One's financial condition.

10 **4. Option One's Disclosure Failures**

11 79. Option One never disclosed to investors in the Trusts or the NIM
12 Trusts Option One's deteriorating financial condition, its inability to meet its loan
13 repurchase obligations on its own, that Option One was reliant on borrowings
14 under the Line of Credit to meet its repurchase obligations, or that its ability to
15 repurchase or replace loans was dependent on Option One's continued ability to
16 borrow under the Line of Credit..

17 80. As Option One knew or should have known, the prospectuses, PPMs,
18 MLPAs, Underwriting Agreements, and Officer Certifications for the 2007-1
19 Trust, the 2007-FXD1 Trust, the 2007-1 NIM Trust, and the 2007-FXD1 NIM
20 Trust failed to disclose Option One's deteriorating financial condition (including
21 the January Waivers), that Option One could not meet its loan repurchase
22 obligations on its own due to its deteriorating financial condition, or that Option
23 One's ability to repurchase or replace loans was dependent on its continued ability
24 to borrow under the Line of Credit.

25 81. As Option One knew or should have known, the prospectus, PPM,
26 MLPA, Underwriting Agreement, and Officer Certifications for the 2007-CP1
27 Trust and the 2007-CP1 NIM Trust similarly failed to disclose Option One's
28 deteriorating financial condition (including the January Waivers), that Option One

1 could not meet its loan repurchase obligations on its own due to its deteriorating
2 financial condition, or that Option One's ability to repurchase or replace loans was
3 dependent on its continued ability to borrow under the Line of Credit. The
4 prospectus, PPM, MLPA, Underwriting Agreement, and Officer Certifications for
5 the 2007-CP1 Trust and the 2007-CP1 NIM trust did include a generic risk factor
6 that a number of subprime loan originators had recently experienced serious
7 financial difficulties, including bankruptcy, and that the difficulties resulted, in
8 part, from declining markets for the originators' loans and from loan repurchase
9 claims. However, the disclosures failed to disclose that Option One was
10 experiencing similarly serious financial difficulties and, rather, could be interpreted
11 as giving the impression that Option One was not experiencing such financial
12 difficulties.

13 82. As Option One knew or should have known, the prospectus, MLPA,
14 Underwriting Agreement, and Officer Certifications for the 2007-2 Trust
15 supplemented the disclosures made in the 2007-CP1 Trust and the 2007-CP1 NIM
16 Trust with only the general warning that Option One may not be able to meet its
17 loan repurchase obligations. The disclosures failed to disclose that Option One
18 already could not meet its loan repurchase obligations on its own due to its
19 deteriorating financial condition or that Option One's ability to repurchase or
20 replace loans was dependent on its continued ability to borrow under the Line of
21 Credit. Instead, the prospectus for the 2007-2 Trust supplemented the disclosures
22 made in the 2007-CP1 Trust and the 2007-CP1 NIM Trust with only the general
23 warning that Option One may not be able to meet its loan repurchase obligations.

24 83. During Option One's due diligence calls with the Underwriters, no
25 Option One employee disclosed that Option One could not meet its loan
26 repurchase obligations on its own due to its deteriorating financial condition or that
27 Option One's ability to repurchase or replace loans was dependent on its continued
28 ability to borrow under the Line of Credit.

1 84. On the dates that Option One employees participated in Option One's
2 due diligence calls with the Underwriters and signed the MLPAs, the Underwriting
3 Agreements, and the Officer Certifications, they knew or should have known about
4 Option One's deteriorating financial condition (including the January Waivers and
5 the potential need for the April Waivers), that Option One could not meet its loan
6 repurchase obligations on its own due to its deteriorating financial condition, and
7 that Option One's ability to repurchase or replace loans was dependent on its
8 continued ability to borrow under the Line of Credit.

9 **5. Option One Obtained Money By Means of Its**
10 **Misstatements**

11 85. Option One received cash proceeds from the sale of RMBS issued by
12 the Trusts and the NIM Trusts.

13 86. As discussed above, Option One did not fully disclose all of the risks
14 of investing in the Trusts and the NIM Trusts. Had these risks been fully
15 disclosed, investors may have chosen to purchase RMBS collateralized by loans
16 originated by companies other than Option One or may have negotiated more
17 favorable purchase terms.

18 **CLAIM FOR RELIEF**

19 **MISREPRESENTATION IN THE OFFER OR SALE OF SECURITIES**

20 **Violations of Section 17(a)(2) of the Securities Act**

21 87. The Commission realleges and incorporates by reference paragraphs 1
22 through 86 as if fully set forth herein.

23 88. Option One, in the offer or sale of securities, by the use of the means
24 and instruments of transportation or communication in interstate commerce or by
25 use of the mails, directly or indirectly, obtained money or property by means of
26 untrue statements of material fact or omitted to state material facts necessary in
27 order to make the statements made, in light of the circumstances under which they
28 were made, not misleading.

1 89. Option One negligently engaged in the fraudulent conduct described
2 above.

3 90. By engaging in the fraudulent conduct described above, Option One
4 violated, and unless restrained and enjoined will continue to violate, Section
5 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

6 **Violations of Section 17(a)(3) of the Securities Act**

7 91. The Commission realleges and incorporates by reference paragraphs 1
8 through 86 as if fully set forth herein.

9 92. Option One, in the offer or sale of securities, by the use of the means
10 and instruments of transportation or communication in interstate commerce or by
11 use of the mails, directly or indirectly, engaged in transactions, practices, or
12 courses of business which operated or would operate as a fraud or deceit upon
13 purchasers of securities.

14 93. Option One negligently engaged in the fraudulent conduct described
15 above.

16 94. By engaging in the fraudulent conduct described above, Option One
17 violated, and unless restrained and enjoined will continue to violate, Section
18 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the Commission respectfully requests that this Court:

21 **I.**

22 Issue a judgment, in a form consistent with Rule 65(d) of the Federal Rules
23 of Civil Procedure, enjoining Option One and its agents, servants, employees,
24 attorneys, and those persons in active concert or participation with Option One,
25 who receive actual notice of the order by personal service or otherwise, from
26 violating Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §
27 77q(a)(2) and (3)].
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II.

Enter an order requiring Option One to disgorge all ill-gotten gains that Option One received from the violations alleged herein, together with prejudgment interest thereon;

III.

Enter an order requiring Option One to pay a civil penalty pursuant to Section 20 of the Securities Act [15 U.S.C. § 77t].

IV.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

V.

Grant such other and further relief as this Court deems appropriate and necessary.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Commission demands that this case be tried to a jury on all issues so triable.

Dated: April 24, 2012

Respectfully submitted,

**UNITED STATES SECURITIES
AND EXCHANGE COMMISSION**



JOHN B. BULGOZDY