

JS-6

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 CENTRAL DISTRICT OF CALIFORNIA
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11 MAY 26 AM 10:28

LODGED

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 18 United States of America

19 IN THE UNITED STATES DISTRICT COURT FOR THE
 20 CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,
 23 Plaintiff,
 24 v.
 25 BAC HOME LOANS SERVICING, LP F/K/A
 26 COUNTRYWIDE HOME LOANS
 27 SERVICING, LP; AND
 28 ANY SUCCESSORS IN INTEREST
 Defendant.

CV11 04534
 CIVIL NO.

[PROPOSED]
CONSENT ORDER

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I. INTRODUCTION

This Consent Order (Order) resolves the claims of the United States that the Defendant BAC Home Loans Servicing, LP formerly known as Countrywide Home Loans Servicing, LP (“Countrywide Servicing”) violated the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. app. § 533(c) (“Section 533(c)”), when it foreclosed without court orders on the pre-service residential mortgages of individuals who were in military service¹ or were otherwise protected by the SCRA in states that allowed for non-judicial foreclosures.

Under the provisions of this Order, Countrywide Servicing will implement policies and procedures to ensure that the pre-service mortgages of servicemembers are not foreclosed in violation of Section 533 of the SCRA, and will compensate servicemembers² whose pre-service mortgages were foreclosed in violation of Section 533(c) between January 1, 2006 and December 31, 2010. The measures to achieve this objective, detailed in subsequent sections of this Order, include implementation of policies and procedures to regularly monitor foreclosures of mortgages serviced by Countrywide Servicing in order to prevent, detect and address foreclosures of such mortgages that violate Section 533 of the SCRA and to remediate any such foreclosures should they occur.

The parties have entered into this Order to resolve voluntarily the claims asserted by the United States in order to avoid the risks and burdens of litigation.

¹ The term “military service” is defined by Section 511 of the SCRA, 50 U.S.C. app. § 511(2). Throughout the term of this Order, the term “military service” has the same meaning as in Section 511 of the SCRA.

² The term "servicemember" means a member of the uniformed services, as that term is defined in Section 101(a)(5) of Title X of the United States Code. 50 U.S.C. app. § 511. Throughout the term of this Order, the term "servicemember" has the same meaning as in Section 511 of the SCRA.

1 The parties agree that full implementation of the terms of this Order will provide a
2 fair and reasonable resolution of the allegations of the United States in a manner
3 consistent with Countrywide Servicing's legitimate business interests.

4 The parties have agreed to the entry of this Consent Order, as indicated by
5 the signatures below.

6 **II. FACTUAL BACKGROUND**

7 BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing,
8 LP ("Countrywide Servicing") is a wholly-owned subsidiaries of Bank of America
9 Corporation that services mortgage loans with its principal place of business at
10 4500 Park Granada, Calabasas, CA 91302. Countrywide Servicing provided
11 mortgage services, including conducting foreclosures on mortgages, on behalf of
12 the holders of mortgage loan asset-backed certificates.

13 The Complaint alleges that Countrywide Servicing foreclosed on pre-service
14 mortgages between January 1, 2006 and at least May 31, 2009, in violation of
15 Section 533(c) of the SCRA. Additionally, the Complaint alleges that
16 Countrywide Servicing did not consistently determine the active duty status of
17 mortgagors prior to foreclosure from January 1, 2006, through at least May 31,
18 2009. Countrywide Servicing denies any wrongdoing as alleged by the United
19 States or otherwise.

20 Therefore, it is **ORDERED, ADJUDGED AND DECREED** as follows:

21 **III. INJUNCTION³**

22 **A. General Injunction**

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24
25 ³ The requirements of the injunctive provisions of this Order may be
26 modified by consent of the parties to reflect amendments to the applicable
27 provisions of the SCRA. If the parties cannot agree, either party may present the
28 dispute to this Court for resolution.

1 1. Countrywide Servicing, including all of its officers, employees, agents,
2 representatives, affiliated assignees, and affiliated successors in interest, and all
3 those in active concert or participation with any of them, are hereby enjoined from
4 foreclosing on the pre-service mortgages of SCRA protected⁴ borrowers⁵ without
5 providing the protections conferred by the SCRA.

6 2. Unless otherwise stated herein, the provisions of this Order shall be
7 implemented within 60 days of the effective date of this Order and shall continue
8 throughout its term. The effective date of this Order shall be the date on which it is
9 approved and entered by the Court.

10 **B. SCRA Foreclosure Policies and Procedures**

11 3. Countrywide Servicing shall develop and implement SCRA Foreclosure
12 Policies and Procedures in accord with the injunctive provisions of this Order to
13 ensure that it does not foreclose on the pre-service mortgages of servicemembers in
14 a manner inconsistent with the SCRA.

15 4. Prior to referring a mortgage for foreclosure proceedings and within seven
16 days prior to conducting a foreclosure sale pursuant to a non-judicial foreclosure
17 process on any mortgage, Countrywide Servicing shall query the United States
18 Department of Defense Manpower Data Center ("DMDC") website to determine if
19 the borrower(s) is SCRA protected. To determine if the borrower(s) is SCRA
20 protected, Countrywide Servicing shall also incorporate into its SCRA Foreclosure
21 Policies and Procedures a requirement that Countrywide Servicing shall query the
22 DMDC website within two business days prior to a foreclosure sale pursuant to a

23
24 ⁴ The term "SCRA protected" means an individual who has received orders
25 to enter military service, is in military service, or is within nine months of the
26 completion of military service at the time of the anticipated foreclosure sale.

27 ⁵ The term "borrower(s)" includes all individuals obligated under the note at
28 the time of the foreclosure and who have a current or vested ownership interest in
the property securing the mortgage.

1 non-judicial foreclosure process on any mortgage and within three business days of
2 the date on which any applicable redemption period would have expired but for the
3 operation of the SCRA.⁶

4 5. For purposes of compliance with this Consent Order, Countrywide Servicing
5 shall be entitled to reasonably rely on the accuracy of the DMDC website in
6 determining whether the protections conferred by the SCRA apply to any borrower
7 in cases where the borrower has not notified Countrywide Servicing of military
8 service. However, if Countrywide Servicing learns that a foreclosure sale resulting
9 from a non-judicial foreclosure process has been completed on a property owned
10 by an SCRA protected borrower(s), Countrywide Servicing will take corrective
11 action in the same manner delineated in paragraph ten for violations detected
12 through the monitoring program.

13 6. If prior to referring the loan to foreclosure Countrywide Servicing or its
14 agent learns from the DMDC website, the borrower, indicia in the borrower's loan
15 file, or otherwise that the borrower(s) is SCRA protected, neither Countrywide
16 Servicing nor its agent will refer the loan for non-judicial foreclosure proceedings
17 or conduct foreclosure proceedings except as provided in paragraphs seven through
18 nine.

19 7. If the borrower is SCRA protected, Countrywide Servicing or its agent may
20 foreclose only if it: (a) petitions a court for an order allowing the foreclosure as set
21 forth below in paragraph eight; or (b) obtains a waiver pursuant to Section 517 of
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24 ⁶ In addition, the SCRA provides that "[a] period of military service may not
25 be included in computing any period provided by law for the redemption of real
26 property sold or forfeited to enforce an obligation, tax, or assessment." 50 U.S.C.
27 app. 526(b).

1 the SCRA, 50 U.S.C. app. § 517, as set forth below in paragraph nine.⁷ The
2 requirements set forth in this paragraph do not apply if Countrywide Servicing or
3 its agent has explicit information from the borrower or the DMDC website that the
4 borrower was in military service when the mortgage loan was originated.

5 8. If Countrywide Servicing or its agent pursues a foreclosure action in court
6 and the borrower fails to answer the action, Countrywide Servicing will file a
7 military affidavit with the court as required by Section 521 of the SCRA, 50 U.S.C.
8 app. § 521(b)(1)(A). Countrywide Servicing will instruct its foreclosure counsel to
9 query and its foreclosure counsel will query the DMDC database on or about the
10 date the affidavit is filed in court to determine if the borrower is in military service.
11 If the DMDC website returns a certificate indicating that the borrower is in military
12 service, Countrywide Servicing will instruct its foreclosure counsel to file and its
13 foreclosure counsel will file an affidavit stating that “the defendant is in military
14 service,” attaching the most recent certificate returned from the DMDC website
15 showing military service prior to seeking default judgment.

16 9. If an SCRA protected borrower, or such borrower’s spouse or legal
17 representative, informs Countrywide Servicing that the borrower no longer wishes
18 to retain ownership of the property, or if the borrower determines that a non-
19 judicial foreclosure may be in the borrower’s interests, Countrywide Servicing may
20 request that the SCRA protected borrower sign a waiver of the borrower’s
21 protection against non-judicial foreclosure under the SCRA. Countrywide
22 Servicing must initiate this process with the borrower at least 30 days in advance of

23 ⁷ These requirements shall not apply to cases where Countrywide Servicing
24 agrees with the borrower to accept instead of foreclosure a short sale or deed-in-
25 lieu of foreclosure or other resolution of the borrower’s debt that does not involve
26 foreclosure; however, Countrywide Servicing must still provide a copy of the letter
27 agreed upon pursuant to paragraph nine if it seeks a waiver in association with one
28 of these non-foreclosure arrangements, although Countrywide Servicing need not
provide the letter according to the time limits of paragraph nine.

1 any anticipated foreclosure date by sending a letter and a copy of the proposed
2 waiver to the borrower. The letter and waiver must be in a form approved by the
3 United States, advise the borrower of his or her protection against non-judicial
4 foreclosure under the SCRA, encourage the borrower to discuss the waiver with an
5 attorney, and provide contact information for United States Military Legal
6 Assistance. Countrywide Servicing must submit the form letter and waiver to the
7 United States for approval within 60 days of the entry of the Order. The United
8 States shall have 60 days from receipt of these documents to raise any objections to
9 Countrywide Servicing's proposed letter and waiver, and, if it raises any, the
10 parties shall confer to resolve their differences. In the event they are unable to do
11 so, any party may bring the dispute to this Court for resolution.

12 **C. SCRA Foreclosure Monitoring Program**

13 10. Countrywide Servicing shall develop and implement a foreclosure
14 monitoring program designed to ensure compliance with this Order and the SCRA.
15 This program shall consist of a quarterly review, the results of which shall be
16 documented and shall be presented quarterly for review by Countrywide
17 Servicing's senior managers, officers, and Board (or a committee thereof) for
18 review and approval not later than 60 days after the end of each quarter. Each
19 quarterly review shall include, but not be limited to, a mortgage foreclosure
20 analysis designed to detect the non-judicial foreclosure of pre-service mortgages of
21 servicemembers from at least a statistically valid sample of foreclosed mortgages
22 and an analysis of any complaints of SCRA violations relating to mortgage
23 foreclosure. Each quarterly review shall also include a review of Countrywide
24 Servicing's compliance with the SCRA Foreclosure Policies and Procedures
25 described in Part III.B of this Order based on at least a statistically valid sample.
26 In the event that any such review discloses the non-judicial foreclosure of any
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1 servicemember's pre-service mortgage, in violation of the SCRA, Countrywide
2 Servicing shall determine the reason(s) for this violation and shall promptly take
3 corrective action to address the violation, including, where possible, restoring
4 ownership of the home to the servicemember upon request,⁸ taking action as
5 reasonably determined to be necessary against any agents or employees involved in
6 the foreclosure, financial remediation of the foreclosure, and modifications to the
7 SCRA Foreclosure Policies and Procedures established pursuant to paragraphs
8 three through nine where appropriate. Countrywide Servicing shall document all
9 such violations and actions taken and shall provide the quarterly reviews and any
10 documentation and analysis relating thereto to the United States within 60 days
11 after the end of each quarter. If the United States raises any objections to
12 Countrywide Servicing's actions, Countrywide Servicing and the United States
13 shall meet and confer to consider appropriate steps to address the concerns raised
14 by the United States' review. If the parties are unable to come to an agreement
15 regarding such objections or concerns, any party may bring the dispute to this
16 Court for resolution.

17 **D. Approval of SCRA Foreclosure Policies and Procedures and Monitoring**
18 **Program**

19 11. Countrywide Servicing shall provide a copy of the proposed SCRA
20 Foreclosure Policies and Procedures required under paragraphs three through nine,
21 and descriptions of the monitoring program required under paragraph ten,
22 including the methodology for selecting a statistically valid sample of loans for
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24

25 _____
26 ⁸ The provision regarding restoration of ownership applies only if
27 Countrywide Servicing has not yet sold the property to a bona fide third party
28 purchaser.

1 review,⁹ to counsel for the United States within 45 days of the effective date of this
2 Order.¹⁰ The United States shall have 45 days from receipt of these documents to
3 raise any objections to Countrywide Servicing's SCRA Foreclosure Policies and
4 Procedures and Monitoring Program, and, if it raises any, the parties shall confer to
5 resolve their differences. In the event they are unable to do so, any party may
6 bring the dispute to this Court for resolution. Subsequent proposed revisions to
7 these policies and programs shall be submitted to the United States for review and
8 resolution in the manner provided for in this paragraph.

9 **E. SCRA Compliance Training**

10 12. No later than 45 days after Countrywide Servicing's new training program
11 pursuant to Section III.E is approved by the United States or the Court pursuant to
12 paragraph fifteen of this Order, Countrywide Servicing shall provide SCRA
13 compliance training to any management officials or employees who: (a) provide
14 customer service to servicemembers in connection with the servicing of
15 servicemembers' mortgage loans, or (b) have significant involvement in any aspect
16 of the mortgage foreclosure process. During this training, Countrywide Servicing
17 shall provide to each participant: (a) a copy of this Order as well as the portions of
18 Countrywide Servicing's new SCRA Foreclosure Policies and Procedures

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20 ⁹ If Countrywide Servicing's monitoring review identifies any cases of
21 noncompliance with Section 533 of the SCRA, 50 U.S.C. app. § 533, the parties
22 shall confer about how to expand the review beyond the statistically valid sample.
23 In the event that the parties are unable to reach agreement, any party may bring the
24 dispute to this Court for resolution.

25 ¹⁰ All material required by this Order to be sent to counsel for the United
26 States shall be sent by commercial overnight delivery service addressed as follows:
27 Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S.
28 Department of Justice, 1800 G Street NW, Washington, DC 20006, Attn: DJ 216-
12C-1, or by facsimile to 202-514-1116.

1 applicable to that participant;¹¹ and (b) training on the terms of this Order, the
2 requirements of the SCRA, and his or her responsibilities under each. During the
3 term of this Order, Countrywide Servicing shall provide annual SCRA training to
4 these management officials, employees or agents with respect to their
5 responsibilities and obligations under the SCRA, the SCRA Foreclosure Policies
6 and Procedures and the terms of this Order. The person or entity that conducts this
7 training shall certify in writing to counsel for the United States that Countrywide
8 Servicing successfully completed this training.

9 13. Countrywide Servicing shall secure a signed statement from each employee
10 at its SCRA compliance training acknowledging that he or she has received and
11 read this Order and the SCRA Foreclosure Policies and Procedures, has had the
12 opportunity to have questions answered about this Order and the SCRA
13 Foreclosure Policies and Procedures, and agrees to abide by the SCRA Foreclosure
14 Policies and Procedures.¹² This statement shall be in the form set forth in Exhibit
15 A. Countrywide Servicing shall maintain a signed statement from each employee
16 acknowledging that he or she has received and read this Order and the SCRA
17 Foreclosure Policies and Procedures, has had the opportunity to have questions
18 answered about this Order and the SCRA Foreclosure Policies and Procedures, and
19 agrees to abide by the SCRA Foreclosure Policies and Procedures. Countrywide
20 Servicing shall also follow these training procedures for each of its employees who
21 subsequently becomes involved in providing customer service to servicemembers
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23 ¹¹ The requirement to provide a copy of Countrywide Servicing's
24 SCRA Foreclosure Policies and Procedures is satisfied by Countrywide
25 Servicing's making these materials available to employees through the
26 company's intranet.

27 ¹² For purposes of this section, an electronic signature of an employee or
28 agent shall be deemed satisfactory for purposes of verifying training required under
this Order.

1 in connection with the servicing of a servicemember's mortgage loan or in
2 conducting foreclosures within 30 days of his or her hiring, promotion or transfer.

3 14. Countrywide Servicing shall obtain commitments from all third-party
4 vendors involved in conducting foreclosures to secure a signed statement from
5 each employee or agent of the third-party vendor acknowledging that the employee
6 or agent has received and read this Order and the instructions regarding SCRA
7 compliance provided by Countrywide Servicing to the third-party vendor. This
8 statement shall be in the form set forth in Exhibit A. Countrywide Servicing shall
9 require each vendor to maintain a signed statement from each employee or agent
10 acknowledging that he or she has received and read this Order and Countrywide
11 Servicing's instructions regarding SCRA compliance and agrees to abide by those
12 instructions. Countrywide Servicing shall also obtain commitments from each
13 third-party vendor that the vendor will follow these training procedures for each of
14 the vendor's employees and agents who subsequently becomes involved in
15 providing customer service to servicemembers in connection with the servicing of
16 a servicemember's mortgage loan or in conducting foreclosures within 30 days of
17 his or her hiring, promotion or transfer. Countrywide Servicing shall require that
18 the vendor provide Countrywide Servicing and the United States with access, upon
19 reasonable notice, to the vendor's records and files to verify the vendor's
20 compliance with the requirements contained in this paragraph.

21 15. Countrywide Servicing shall provide the curriculum, instructions and any
22 written material included in the training required by this Section to the United
23 States within 45 days of the United States' approval of the SCRA Foreclosure
24 Policies and Procedures pursuant to paragraph eleven. The United States shall
25 have 45 days from receipt of these documents to raise any objections to
26 Countrywide Servicing's training materials and, if it raises any, the parties shall
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1 confer to resolve their differences. In the event they are unable to do so, any party
2 may bring the dispute to this Court for resolution. Countrywide Servicing's
3 employees and agents may undergo the training required by Section III.E via live
4 training, computer-based training, web-based training or via interactive digital
5 media. Should the training be conducted in any format other than live training,
6 Countrywide Servicing shall ensure that employees and agents have the
7 opportunity to have their questions answered by a company contact that
8 Countrywide Servicing identifies as having SCRA expertise within one business
9 day of the training. Any expenses associated with the training program required by
10 Section III.E shall be borne by Countrywide Servicing.

11 **F. SCRA Foreclosure Audit**

12 16. Countrywide Servicing shall commence a review of all nonjudicial
13 foreclosures that either BAC Home Loans Servicing, LP f/k/a Countrywide Home
14 Loans Servicing, LP or Countrywide Home Loans, Inc. conducted from June 1,
15 2009 through December 31, 2010, and any nonjudicial foreclosures either entity
16 conducted from January 1, 2006 through May 31, 2009 for which Countrywide
17 Servicing will provide additional information to the United States to determine
18 compliance with Section 533(c) of the SCRA.¹³ This review will evaluate whether
19 either entity foreclosed, in violation of Section 533(c) of the SCRA, on any pre-
20 service residential mortgage loans while the borrower was SCRA protected. No
21 later than 30 days after the effective date of this Order, Countrywide Servicing
22 shall provide data regarding all foreclosures by either entity in states that permit

23 ¹³ Countrywide Servicing will certify within 30 days of the entry of this
24 Decree that it has provided the United States with complete information as to non-
25 judicial foreclosures conducted between January 1, 2006 and May 31, 2009 by
26 either BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing,
27 LP or Countrywide Home Loans, Inc. If necessary to provide this certification,
Countrywide Servicing will provide additional information, including information
as to co-borrowers, prior to this certification date.

1 non-judicial foreclosures from June 1, 2009 through December 31, 2010, as well as
2 complete data for the nonjudicial foreclosures identified above. The United States
3 will identify any cases where a borrower was SCRA protected at the time of the
4 foreclosure sale. Countrywide Servicing will then review all loans so identified
5 and within 30 days of receiving a list of the individuals identified by the United
6 States provide a written report of the review to the United States. Persons
7 identified by this audit who did not receive from either entity all the protections
8 provided by Section 533(c) of the SCRA (hereinafter "SCRA Eligible
9 Servicemembers To Be Determined") shall be compensated pursuant to Section IV.

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11 **G. SCRA Interest Rate Audit**

12 17. No later than 30 days after the effective date of this Order, Countrywide
13 Servicing shall contract with one or more qualified independent accounting firms
14 ("Independent Auditor"), approved in advance by the United States.¹⁴ The
15 Independent Auditor shall submit its methodology to the United States; such
16 methodology shall be subject to the approval of the United States. The
17 Independent Auditor(s) shall review a statistically valid sample of Countrywide
18 Servicing's home mortgage files dating from January 1, 2008 through December
19 31, 2010,¹⁵ and prepare a written report analyzing home mortgage loans (a)
20 incurred by a servicemember or a servicemember and the servicemember's spouse
21 jointly before the servicemember entered military service, and (b) where the
22 borrower provided written notice and a copy of military orders to Countrywide
23 Servicing of military service pursuant to Section 527(b)(1) of the SCRA (loans

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25 ¹⁴ Countrywide Servicing shall bear all costs for the Independent Auditor(s).

26 ¹⁵ Servicemembers who were part of the settlement class in *Fourte v.*
27 *Countrywide Home Loans, Inc.*, No. 07-CV-1363 (D.N.J.) will be excluded from
the audit required by this paragraph.

1 meeting these conditions referred to in this paragraph as “Home Military Loans”).
2 This report will address whether, during the period of military service and for the
3 statutorily-required period thereafter, Countrywide Servicing limited the interest
4 rate (including charges and fees as defined in Section 527(d)(1) of the SCRA) of
5 such Home Military Loans to a maximum of 6 percent per year, forgave interest
6 exceeding 6 percent per year, reduced the amount of any periodic payment due
7 from the servicemember by the amount of interest forgiven, and otherwise
8 complied in all respects with Section 527 of the SCRA. The Independent Auditor
9 shall provide both Countrywide Servicing and the United States with a copy of its
10 written report.

11 **IV. COMPENSATION OF SCRA ELIGIBLE SERVICEMEMBERS**

12 18. Within 10 business days after entry of this Consent Order, Countrywide
13 Servicing shall deposit the sum of TWENTY MILLION DOLLARS
14 (\$20,000,000) into an interest bearing account (the “Settlement Fund”) for the
15 purpose of compensating persons whom the United States, after consultation with
16 Countrywide Servicing, has determined to be victims of violations of Section
17 533(c) of the SCRA between January 1, 2006 and May 31, 2009 (hereinafter
18 “Previously Identified SCRA Eligible Servicemembers”).¹⁶ In addition, within 10
19 business days of the entry of this Order, Countrywide Servicing shall submit proof
20 to the United States that this account has been established and the funds deposited.

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22 ¹⁶ This group of Previously Identified SCRA Eligible Servicemembers does
23 not, however, include SCRA protected borrowers whose nonjudicial foreclosures
24 were conducted by either BAC Home Loans Servicing, LP f/k/a Countrywide
25 Home Loans Servicing, LP or Countrywide Home Loans, Inc. from January 1,
26 2006 through May 31, 2009 and for which Countrywide Servicing may provide
27 additional information to the United States, pursuant to footnote 13. Such
28 individuals shall be considered SCRA Eligible Servicemembers To Be Determined
as described in paragraph sixteen and compensated pursuant to paragraph nineteen
and twenty-three.

1 The total amount paid by Countrywide Servicing collectively to the Previously
2 Identified SCRA Eligible Servicemembers foreclosed on between January 1, 2006
3 and May 31, 2009 shall not exceed \$20,000,000, plus accrued interest.

4 19. Within 180 days of the effective date of this Order, the United States shall
5 provide to Countrywide Servicing a list of Previously Identified SCRA Eligible
6 Servicemembers as described in paragraph eighteen who were foreclosed on
7 between January 1, 2006 and May 31, 2009 and an amount each individual shall
8 receive from the Settlement Fund (referenced in paragraph eighteen) to compensate
9 for both economic and non-economic damages these persons have suffered. With
10 this production, the United States shall also provide Countrywide Servicing with a
11 description of its methodology for distribution of the Settlement Fund. Within one
12 year of the entry of this Order, the United States shall provide to Countrywide
13 Servicing a list of SCRA Eligible Servicemembers To Be Determined identified
14 pursuant to paragraph sixteen, and an amount each individual shall receive, to
15 compensate for both economic and non-economic damages these persons have
16 suffered in accord with the methodology established by the United States for
17 distribution of the Settlement Fund to Previously Identified SCRA Eligible
18 Servicemembers. The United States shall consider in good faith any issues with
19 respect to SCRA Eligible Servicemembers that Countrywide Servicing raises
20 within 30 days of receiving the lists of persons pursuant to this paragraph.

21 20. The details of administration pursuant to this Section as set forth in
22 paragraphs nineteen, twenty-two, and twenty-three can be modified by agreement
23 of the parties and without further Court approval.

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1 21. No SCRA Eligible Servicemember¹⁷ shall be paid any amount from the
2 Settlement Fund or otherwise pursuant to this Order until he or she has executed
3 and delivered to Countrywide Servicing a written release, as set forth in Exhibit B,
4 of all claims, legal or equitable, that he or she might have against the released
5 persons and entities regarding the claims asserted by the United States in this
6 lawsuit, so long as such claims accrued prior to the entry of this Order.

7 22. Throughout the term of this Order, the United States may request any
8 information it reasonably believes will assist in identifying SCRA Eligible
9 Servicemembers and determining their damages. Countrywide Servicing shall,
10 within 30 days or other time to which the parties agree, supply, to the extent that it
11 is within its control, such information as requested.

12 23. Countrywide Servicing shall, no later than 45 days after receiving the
13 compensation lists referred to in paragraph nineteen or, if Countrywide Servicing
14 has raised issues with respect to a borrower's proposed compensation, no later than
15 30 days after the United States has responded to the issues raised by Countrywide
16 Servicing, notify each identified person eligible for compensation by a letter (using
17 its best efforts to locate each person).¹⁸ The form of this letter shall be subject to
18 the review and approval of the United States. At a minimum, the letter shall state
19 that the identified person is eligible for compensation in the indicated amount,
20 provided he or she executes and returns to Countrywide Servicing a copy of the
21 release, which release shall be enclosed with the notice along with an addressed
22 and postage-paid return envelope. Each letter shall identify the loan(s) the

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24 ¹⁷ "SCRA Eligible Servicemember" refers to both the SCRA Eligible
25 Servicemembers To Be Determined and the Previously Identified SCRA Eligible
26 Servicemembers.

27 ¹⁸ Countrywide Servicing shall, at its own expense, engage an independent
28 settlement administrator, approved by the United States, to satisfy the requirements
of paragraph twenty-three.

1 identified person has or had with Countrywide Servicing or Countrywide Home
2 Loans, Inc.. If the parties are unable to agree on the terms of the letter, any party
3 may bring the dispute to the Court for resolution. Any letters that are returned with
4 a forwarding address shall promptly be re-sent to that new address. Countrywide
5 Servicing shall provide an accounting of these notifications, indicating the name
6 and address to which each was dispatched, within the 45-day period referred to in
7 this paragraph. Countrywide Servicing shall issue checks in the amounts indicated
8 on the compensation lists to all identified persons who execute and return the
9 releases. Countrywide Servicing shall issue and mail such checks no later than 21
10 days after the receipt of the release. Countrywide Servicing shall set forth
11 reasonable deadlines for requirements of return of releases, and for the timely
12 deposit of checks, subject to approval of the United States, so that the
13 compensation is distributed and checks are presented for payment or become void
14 prior to the date that is two years from the date the initial notifications are sent.
15 Countrywide Servicing shall provide, on a monthly basis, an accounting of releases
16 received (with copies of the releases), checks sent (with copies of the checks), and
17 notifications for which no response has been received or that were reported to be
18 undeliverable. The United States may make its own efforts to locate SCRA
19 Eligible Servicemembers.

20 24. Any funds designated pursuant to paragraph nineteen for Previously
21 Identified SCRA Eligible Servicemembers but not distributed, plus accrued
22 interest, within two years of the date the initial notifications are sent may be used
23 by Countrywide Servicing to offset the amounts paid pursuant to paragraph
24 nineteen to SCRA Eligible Servicemembers To Be Determined. Should any funds
25 still be remaining in the Settlement Fund two years after the initial notifications are
26 sent to SCRA Eligible Servicemembers to Be Determined, these funds shall be
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1 distributed for purposes of furthering the goals of the SCRA. Countrywide
2 Servicing will consult with and obtain the non-objection of the United States in
3 selecting recipient(s) of these funds, and the parties shall obtain the Court's
4 approval prior to distribution of the fund.

5 25. Countrywide Servicing shall request that all major credit bureaus remove
6 any negative entries resulting from Countrywide Servicing's foreclosure of the
7 SCRA Eligible Servicemembers' mortgages. Countrywide Servicing shall not
8 pursue any amounts owed under the SCRA Eligible Servicemembers' mortgages.
9 Countrywide Servicing will indemnify SCRA Eligible Servicemembers should a
10 Trustee or third party seek to collect any remaining amounts owed under the SCRA
11 Eligible Servicemembers' mortgages.

12 **V. REPORTING AND RECORD-KEEPING REQUIREMENTS**

13 26. For the duration of this Order, Countrywide Servicing shall retain all records
14 relating to its obligations hereunder, including its mortgage foreclosure activities,
15 as well as its compliance activities as set forth herein. The United States shall have
16 the right to review and copy such non-privileged records upon request, including
17 loan files and electronic data for mortgages foreclosed during the period of this
18 Order.

19 27. This Order shall be binding on Countrywide Servicing, including all its
20 officers, employees, agents, representatives, affiliated successor entities and all
21 those in active concert or participation with any of them as described herein. In the
22 event that Countrywide Servicing seeks to transfer or assign all or part of its
23 operations¹⁹ to an affiliated successor entity, Countrywide Servicing shall, as a
24 condition of the sale, obtain the written agreement of the affiliated successor entity
25

26 ¹⁹ For purposes of this paragraph, the requirements relating to the transfer or
27 assignment of "operations" does not include the transfer or assignment of servicing
28 rights to an independent third party.

1 to be bound by any obligations remaining under this Order for the remaining term
2 of this Order. In the event Countrywide Servicing seeks to transfer or assign all or
3 part of its operations to an independent third party entity, Countrywide Servicing
4 shall, as a condition of sale, obtain the written agreement of the independent third
5 party entity to: (a) comply with the terms of the SCRA, and (b) be bound by any
6 obligations remaining under paragraphs sixteen and seventeen and Section IV of
7 this Order for the remaining term of this Order.

8 28. During the term of this Order, Countrywide Servicing shall notify counsel
9 for the United States in writing monthly of receipt of any written SCRA complaint
10 relating to mortgage foreclosure against Countrywide Servicing or any of
11 Countrywide Servicing's agents or employees. Countrywide Servicing shall
12 provide a copy of the written complaint with the notification. Countrywide
13 Servicing will incorporate into its SCRA Foreclosure Policies and Procedures a
14 requirement that all customer service personnel upon receiving any oral SCRA
15 complaint against Countrywide Servicing or any of Countrywide Servicing's
16 agents or employees related to mortgage foreclosure shall notify individuals
17 designated and trained to receive SCRA complaints. Countrywide Servicing shall
18 provide notification to the United States monthly of the receipt of any such oral
19 complaint. Whether regarding a written or oral SCRA complaint, the notification
20 to the United States shall include the full details of the complaint, including the
21 complainant's name, address, and telephone number. Countrywide Servicing shall
22 also promptly provide the United States all non-privileged information it may
23 request concerning any such complaint and shall inform the United States in
24 writing within 30 days of the terms of any resolution of such complaint. Such
25 complaints shall be treated in accordance with the procedures outlined in paragraph
26 ten.

1 **VI. ADMINISTRATION**

2 29. This Order shall be in effect for four years, except as specified below. It
3 may be extended further upon motion of the United States to the Court, for good
4 cause shown.

5 30. Any time limits for performance fixed by this Order may be extended by
6 mutual written agreement of the parties. Other modifications to this Order may be
7 made only upon approval of the Court, upon motion by either party. The parties
8 recognize that there may be changes in relevant and material factual circumstances
9 during the term of this Order which may impede the accomplishment of their goals.
10 The parties agree to work cooperatively to discuss and attempt to agree upon any
11 proposed modifications to this Order resulting therefrom.

12 31. In the event that any disputes arise about the interpretation of or compliance
13 with the terms of this Order, the parties shall endeavor in good faith to resolve any
14 such dispute among themselves before bringing it to this Court for resolution. The
15 United States agrees that if it reasonably believes that Countrywide Servicing has
16 violated any provision of this Order, it will provide Countrywide Servicing written
17 notice thereof and allow 30 days to resolve the alleged violation before presenting
18 the matter to this Court. In the event of either a failure by Countrywide Servicing
19 to perform in a timely manner any act required by this Order or an act by
20 Countrywide Servicing in violation of any provision hereof, the United States may
21 move this Court to impose any remedy authorized by law or equity, including
22 attorneys' fees and costs.

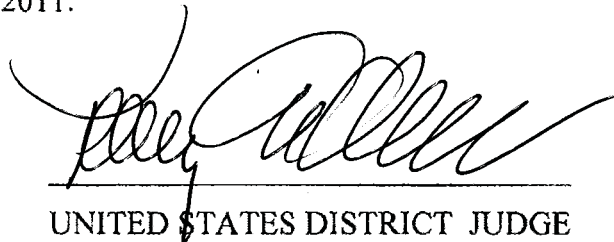
23 32. Countrywide Servicing's compliance with the terms of this Order shall fully
24 and finally resolve all claims of the United States relating to its alleged violations
25 of Section 533(c) of the SCRA in states allowing for non-judicial foreclosures, as
26 alleged in the Complaint in this action, including all claims for equitable relief and
27

1 monetary damages. Each party to this Order shall bear its own costs and attorneys'
2 fees associated with this litigation.

3 33. The Court shall retain jurisdiction for the duration of this Order to enforce
4 the terms of the Order, after which time the case shall be dismissed with prejudice.

5
6 **IT IS SO ORDERED:**

7 This 20th day of May, 2011.

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11 UNITED STATES DISTRICT JUDGE

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1 By their signatures below, the parties consent to the entry of this Consent Order.

2 For the United States:

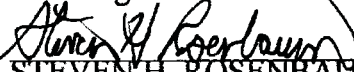
3

4 ANDRÉ BIROTTE JR.
United States Attorney

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

5


6 LEON W. WEIDMAN
7 Assistant United States Attorney
Chief, Civil Division


STEVEN H. ROSENBAUM
Chief
Housing and Civil Enforcement Section

8

9

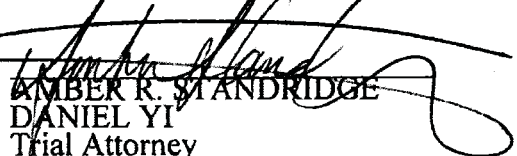
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ELIZABETH A. SINGER
Director, U.S. Attorneys' Fair Housing
Program
Housing and Civil Enforcement Section

11

12


MARCUS M. KERNER
Assistant United States Attorney


AMBER R. STANDRIDGE
DANIEL YI
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice

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1 **For Defendant:**

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EXHIBIT A

Employee/Agent Acknowledgment

I acknowledge that on _____ I was provided training regarding SCRA Compliance, copies of the Consent Order entered by the Court in United States v. BAC Home Loans Servicing, LP, et al., (C.D. Cal.), and the parts of the SCRA Policy and Procedures developed pursuant thereto which are applicable to my duties. I have read and understand these documents and have had my questions about these documents and the SCRA answered. I understand my legal responsibilities and shall comply with those responsibilities.

Signature

Print Name

Job Title

Date

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EXHIBIT B

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. BAC Home Loans Servicing, LP, et al., (C.D. Cal.), and the Defendant's payment to me of \$ _____, pursuant to the Consent Order, I hereby release and forever discharge all claims, arising prior to the entrance of this Order, related to the facts at issue in the litigation referenced above and related to the alleged violations of Section 533 of the Servicemembers Civil Relief Act, that I may have against the Defendant, all related entities, parents, predecessors, successors, subsidiaries, and affiliates, and all of its past and present directors, officers, agents, managers, supervisors, shareholders and employees and its heirs, executors, administrators, successors or assigns.

Executed this ____ day of _____, 20__.

Signature _____

Print Name _____

Address _____