

## **11.8 Joint Motion for Preliminary Approval of Settlement and Approval of the Manner and Form of Notice**

### **JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AND APPROVAL OF THE MANNER AND FORM OF NOTICE**

Counsel for all Parties in this action jointly move this Court, pursuant to Federal Rule of Civil Procedure 23(e), for preliminary approval of the Parties' Settlement Agreement and Approval of the Manner and Form of Notice to the Settlement Class Members. In support of this motion, the Parties state:

1. The Plaintiffs, [First Plaintiff] and [Second Plaintiff], filed this Class Action lawsuit on March 23, 1998. The Amended Complaint asserts claims on behalf of a Class of persons who entered into mortgage agreements that originated with or were acquired by Community ("Community Mortgageors"), and who were subject to one or more of the following practices engaged in by the Defendants, Community, and/or South View: (1) charging the mortgagor for a loan advance used to pay a tax, insurance, water, or sewage bill (the "bills"), unless the mortgagor's monthly payments, as in fact billed, were in arrears; (2) charging the mortgagor interest on a loan advance for time that preceded the disbursement of the loan advance; (3) failing to pay the mortgagor, until March 1996, for escrow interest that had accrued during calendar year 1995; (4) sending the mortgagor an annual statement on or after April of 1987 that listed Community as the mortgage owner; and/or (5) placing payments made by a mortgagor whose mortgage originated with South View into an escrow account. Plaintiffs have sought damages against Standard Mortgage Corporation of Georgia ("Standard"), Three Rivers Bank & Trust Company ("Three Rivers Bank"), and Federal Home Loan Mortgage Corporation ("Freddie Mac") on behalf of the Class. Freddie Mac has been dismissed from the litigation.

2. At all relevant times, Defendants have asserted and continue to assert that their conduct with respect to the matters complained of in this Action was entirely proper and lawful. Defendants further have asserted and continue to assert that the Plaintiffs' claims are all without merit and deny all allegations of wrongdoing.

3. The Parties have engaged in substantial discovery related to the issues. The Parties, however, recognize that further litigation of this Action would be protracted and expensive and the outcome uncertain. Accordingly, the Parties have agreed to settle this Action based on the terms set forth in the Stipulation of Settlement, attached hereto as Exhibit 1, so as to end all Class Claims which are, or could have been, asserted in this Action. Class Counsel has engaged in extensive arms' length negotiations in order to evaluate and reach a settlement they have concluded is fair and equitable to the Class.

4. If the Settlement receives final approval from this Court, Defendants will create a Settlement Fund totaling Two Hundred Thirty-Five Thousand Dollars (\$235,000). Defendants will not be required to escrow or otherwise set aside specific monies to create the Settlement Fund.

5. If the Settlement is approved, this money will be distributed to Class Members based upon their pro rata share of the amount of the Settlement Fund remaining after any court approved attorneys' fees, costs of litigation, costs of notice, and incentive awards have

been deducted. Plaintiffs' counsel expects to apply to the Court for an award of attorneys' fees and reimbursement of costs and expenses incurred in the pursuit and Settlement of this litigation. In addition, Plaintiffs' counsel expects to apply to the Court for an incentive award for the Representative Plaintiffs, [First Plaintiff] and [Second Plaintiff]. Plaintiffs' counsel will seek payment from the Settlement Fund of a fee of thirty (30%) percent, costs and expenses in the amount of no more than Seven Thousand Dollars (\$7,000), and an incentive award for the [First and Second Plaintiffs] of Two Thousand Five Hundred Dollars (\$2,500). Any fees, costs and expenses, and incentive payments that the Court awards shall be paid out of the Settlement Fund prior to the distribution of the Settlement Fund to settling Class Members.

6. Consistent with the Settlement Agreement and the facts adduced through discovery, the Parties move that a settlement class be certified and be defined as all individuals identified on the November 20, 2000, letters of Jane Doe. Defendants represent that Ms. Doe's letters contain the names of each individual that satisfies the class definition stated above in Paragraph 1. If, through inadvertence or otherwise, the Class size has been underestimated, the Stipulation of Settlement will remain in effect, and up to ten (10) Settlement Class Members may be added without altering the amount of the Settlement Fund. If, through inadvertence or otherwise, the Class size has been underestimated by more than ten (10) individuals, the Stipulation of Settlement is voidable upon written notice of Plaintiffs' notification that the Class size had been undersized by more than ten (10) persons.

7. The attorneys for the Parties believe that the settlement of this action on the terms and conditions set forth in the Settlement Agreement is fair, reasonable and adequate, especially in light of the risks of further litigation.

8. The Parties recommend that notice of the proposed Settlement, in the form attached hereto as Exhibit 2, be sent by First Class mail to the last known address of all Settlement Class Members.

WHEREFORE, the Parties jointly move this Court to preliminarily approve the Settlement Agreement, approve the form and manner of notice, and schedule a final hearing addressing the fairness of the proposed Settlement, pursuant to Federal Rule of Civil Procedure 23(e). A proposed Order preliminarily approving this settlement and the proposed class notice is attached hereto as Exhibit 3.

Respectfully submitted,

## 11.9 Settlement Agreement and Release

### UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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Plaintiffs, )  
)  
) [Judge]  
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RAL HOME

LOAN MORTGAGE CORPORATION

Defendants.

SETTLEMENT AGREEMENT AND RELEASE

MADE this \_\_\_\_ day of February 2001, by and between representative plaintiffs [FIRST PLAINTIFF] and [SECOND PLAINTIFF] (“Representative Plaintiffs” or “the [First and Second Plaintiffs]”) in their capacity as representatives by and through their counsel on behalf of all Plaintiffs as defined in Paragraph 1.05, infra, and Defendants, Standard Mortgage Corporation of Georgia (“Standard”) and Three Rivers Bank & Trust Company (“Three Rivers”), by and through their counsel.

I. DEFINITIONS

1.01 “Agreement” shall mean this Settlement Agreement.

1.02 “Defendants” shall mean Standard Mortgage Corporation of Georgia and Three Rivers Bank & Trust Company, and their respective predecessors, successors or assigns; and their past or present personal representatives, parents, subsidiaries, affiliates, officers, directors, employees, trustees, agents or partners, including all mortgage servicers.

1.03 “Final Approval” of this Agreement shall occur at such time as: (1) final judgment is entered herein by the United States District Court for the Western District of Pennsylvania approving this Agreement as fair, reasonable and adequate; and (2) Plaintiffs’ claims are barred by Court Order of the United States District Court for the Western District of Pennsylvania from being prosecuted; and (3) the United States District Court for the Western District of Pennsylvania has awarded attorneys’ fees to Plaintiffs’ Counsel from the Settlement Fund; and (4) the judgment approving this settlement and award of attorneys’ fees has become final by the expiration of the appeal period without an appeal having been taken, or, if an appeal has been taken, by an order affirming the judgment becoming final with the appeals being dismissed or otherwise terminated.

1.04 “Parties” shall mean Plaintiffs and Defendants.

1.05 “Plaintiffs” shall mean the Representative Plaintiffs and all persons who come within the definition of the class certified by the United States District Court for the Western District of Pennsylvania on September 20, 2000, and shall include all persons who entered into mortgage agreements with Community Savings Association (“Community”) or that were acquired by Community and who were subject to one or more of the following practices allegedly engaged in by Standard, Three Rivers and/or South View Savings and Loan Association (“South View”): (1) charging the mortgagor for a loan advance used to pay a tax, insurance, water, or sewage bill unless the mortgagor’s monthly payments, in fact, were in

arrears; (2) charging the mortgagor interest on the loan advance for time that preceded the disbursement of the loan advance; (3) failing to pay the mortgagor until March, 1996 for escrow interest that accrued during the calendar year of 1995; (4) sending the mortgagor an annual statement on or after April of 1987 that listed Community as the mortgage owner; and/or (5) placing payments paid by the mortgagor whose mortgage originated with South View in an escrow account.

This settlement class release, however, shall not include within its scope:

- a. Claims arising out of disputes unrelated to the Parties' notes and mortgages that are at issue in this lawsuit; and
- b. That may arise out of calculation methods instituted for the first time at a future date.

**1.06** "Plaintiffs' Claims" shall mean all claims which were asserted in this action, or which could have been asserted as class claims in the present action, on behalf of the Plaintiffs, including but not limited to claims relating to mortgage agreements with Community Savings Association ("Community") or that were acquired by Community and who were subject to one or more of the following practices allegedly engaged in by Standard, Three Rivers and/or South View Savings and Loan Association ("South View"): (1) charging the mortgagor for a loan advance used to pay a tax, insurance, water, or sewage bill unless the mortgagor's monthly payments, in fact, were in arrears; (2) charging the mortgagor interest on the loan advance for time that preceded the disbursement of the loan advance; (3) failing to pay the mortgagor until March, 1996, for escrow interest that accrued during the calendar year of 1995; (4) sending the mortgagor an annual statement on or after April of 1987 that listed Community as the mortgage owner; and/or (5) placing payments paid by the mortgagor whose mortgage originated with South View in an escrow account. "Plaintiffs' Claims" shall include any claims or causes of action which any of the Plaintiffs, their respective predecessors or successors, or any of their past or present personal representatives, assigns, parents, subsidiaries, affiliates, officers, directors, employees, agents, or partners may have against Defendants, or any one of the entities or individuals that come within the definition of "Defendants" as per Paragraph 1.02 herein, including those which arise out of, relate to, or are based upon the facts, matters, acts, activities, or occurrences which are alleged, described, set forth or referred to in the Complaint or Amended Complaint.

**1.07** "Plaintiffs' Counsel" shall mean the firm of [Firm of Attorney for Plaintiff] and, particularly, [Attorney for Plaintiff] of that firm.

**1.08** "Representative Plaintiffs" shall mean [First Plaintiff] and [Second Plaintiff].

**1.09** "Settlement Class" shall mean the class, certified by the United States District Court for the Western District of Pennsylvania, on September 20, 2000, which includes mortgagors on all residential mortgages agreements with Community Savings Association ("Community") or that were acquired by Community and who were subject to one or more of the following practices allegedly engaged in by Standard, Three Rivers and/or South View Savings and Loan Association ("South View"): (1) charging the mortgagor for a loan advance used to pay a tax, insurance, water, or sewage bill unless the mortgagor's monthly payments, in fact, were in arrears; (2) charging the mortgagor interest on the loan advance for time that preceded the disbursement of the loan advance; (3) failing to pay the mortgagor until March, 1996 for

escrow interest that accrued during the calendar year of 1995; (4) sending the mortgagor an annual statement on or after April of 1987 that listed Community as the mortgage owner; and/or (5) placing payments paid by the mortgagor whose mortgage originated with South View in an escrow account.

The Parties agree that the class consists of the persons that are listed on Ms. Doe's letters dated November 20, 2000. In the event that as a result of inadvertence or otherwise class members had been excluded from her letters, up to ten (10) class members may be added to our class list by the Defendants without the payment of any additional settlement funds.

**1.10** "Settlement Fund" shall mean the common fund in the amount of Two Hundred Thirty Five Thousand Dollars (\$235,000.00) to be paid to Plaintiffs to be distributed by Plaintiffs' counsel as class trustee as provided for in Section III of this agreement.

**1.11** "Tentative Approval" of this Agreement shall mean that the Court has preliminarily approved this Agreement subject to a fairness hearing after notice to the Plaintiffs.

**1.12** "The Court" shall mean United States District Court for the Western District of Pennsylvania.

**1.13** "This Action" shall mean the case entitled *[First Plaintiff] and [Second Plaintiff] v. Standard Mortgage Corporation of Georgia, Three Rivers Bank & Trust Company and Federal Home Loan Mortgage Corporation*, No. 98-679 in the United States District Court for the Western District of Pennsylvania.

**1.14** As used herein, the plural of any defined term includes the singular thereof and the singular of any defined term includes the plural thereof.

## **II. RECITALS**

**2.01** WHEREAS, the Representative Plaintiffs brought this action on behalf of themselves and all other persons similarly situated as residential mortgagors having mortgages at or through Defendants which were formerly held by Community; and

**2.02** WHEREAS, in order to end this litigation and controversy between Plaintiffs and Defendants, to secure total and final settlement of all Plaintiffs' Claims against Defendants arising out of or relating to the alleged acts and omissions set forth in Plaintiffs' Complaint and/or Amended Complaint, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation, the Parties desire to settle and terminate this action and all claims asserted therein, as well as any and all other claims Plaintiffs may have against the Defendants which could have been asserted against the Defendants by the Representative Plaintiffs, including those in connection with or arising out of or relating to any of the facts underlying this Action, regardless of the legal theory on which such claims may be based including all claims for violations of federal, state, common or other law alleged in this Action; and

**2.03** WHEREAS, the Representative Plaintiffs and Plaintiffs' counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable and adequate and that a settlement of this action is in the best interests of the Plaintiffs; and

**2.04** WHEREAS, counsel for Plaintiffs warrant that this Agreement has been entered into in good faith and that no conflicts of interest exist on their part;

2.5 NOW THEREFORE, in mutual consideration of the covenants and conditions recited herein, the Parties hereby agree that this action shall be fully and finally settled, discontinued and dismissed with prejudice, subject to the approval of this Honorable Court, upon the terms and conditions set forth herein.

### **III. AGREEMENT TERMS**

**3.01** In final settlement of all of Plaintiffs' claims, Defendants will pay within forty (40) days after final approval of this Settlement Two Hundred Thirty Five Thousand Dollars (\$235,000.00) by a check made payable to [Attorney for Plaintiffs], Class Trustee.

**3.02** In the event that Tentative Approval of this Agreement is not obtained within ninety (90) days from the date hereof, or Final Approval of this Agreement does not occur, then this Agreement shall become null and void after written notice by one of the Parties to the other party. The Court shall not have the power to change any provision of this Agreement without the agreement of counsel to all Parties who are signatories hereto.

**3.03** Plaintiffs and/or their attorneys shall make application to the court for an award of reasonable attorneys' fees, costs and expenses to be paid exclusively from the Settlement Fund, and shall not seek any recovery for attorneys' fees, costs or expenses or any monies whatsoever from the Defendants or from any person or entity, other than from the Settlement Fund. The total sought to be recovered from the Settlement Fund by Plaintiffs or their attorneys for Plaintiffs' Counsel's fees shall not exceed thirty (30%) percent and costs and expenses not to exceed Seven Thousand (\$7,000) Dollars.

**3.04** Effective upon Final Approval of this Agreement, Defendants, The Federal Home Loan Mortgage Corporation and all other persons or entities, including those persons or entities identified in Paragraph 1.02 above who are or may be liable to Plaintiffs based upon the claims asserted in this Action or based upon causes of action or claims which could have been raised in this Action by the Representative Plaintiffs on behalf of the class members, are forever released from all claims on behalf of Plaintiffs, either asserted in this Action or which could have been asserted against Defendants and/or The Federal Home Loan Mortgage Corporation in this Action by the Representative Plaintiffs on behalf of the class members, including those which arise from or might arise from, relate to, or deal with the facts involved in this Action, including all claims for violations of federal, state, common or other law. Effective upon Final Approval of this Agreement, Defendants, The Federal Home Loan Mortgage Corporation and all other persons or entities who may be liable to Plaintiffs, including but not limited to all persons and entities identified in Paragraph 1.02 hereof, are released by Plaintiffs from any and all claims or causes of action which were or could have been asserted by the Representative Plaintiffs in this Action on behalf of the class members arising out of or relating to the facts underlying this Action.

**3.05** It is expressly understood and agreed by and between the Parties and by their respective Counsel that the amount paid in Settlement includes an amount paid in consideration for monies which will or could accrue to Plaintiffs in the future.

**3.06** It is hereby agreed by and between the Parties and by their respective Counsel that, upon entry of an order of the Court providing Final Approval of this Agreement, the docket

for this Action will be marked “settled” within twenty days of Final Approval of this agreement. Plaintiffs will take all steps necessary to have the case marked “settled and discontinued” as per Paragraph 5.03 and will provide official evidence of same to Defendants.

**3.07** After Final Approval of this Agreement and within thirty (30) days after receipt of the Settlement Fund as provided in Paragraph 3.01, the Settlement Fund as provided in Paragraph 3.01, shall be distributed by Plaintiffs’ Counsel as trustee as follows:

- a. The approved attorneys’ fees and expenses shall be deducted from the Settlement Fund and paid to Plaintiffs’ Counsel as directed by the Court;
- b. The remainder of the Settlement Fund (the “Net Settlement Fund”) shall be prorated equally among the Plaintiffs (i.e., the class members). Plaintiffs’ Counsel will provide to the Court and to Counsel for Community Savings an Affidavit of Distribution within twenty (20) days of each cash distribution to the class members.
- c. It is expressly understood and agreed by and between the Parties and by their respective counsel that Plaintiffs’ Counsel will seek all costs and expenses attendant to the prosecution and settlement of this action only from and against the Settlement Fund. It is agreed that neither Plaintiffs, nor their Counsel, will seek any costs or expenses relative to this lawsuit from Defendants.

**3.08** The share of any Class Member who cannot be located within six (6) months of the date of Final Approval of this Agreement shall be held in the Settlement Fund and be available to be claimed by any such person for a period of six (6) months from the date of Final Approval of this Agreement. After such initial six (6) month period, any such sums shall be held in the Settlement Fund for an additional six (6) month period and will serve as a source of funds to correct for any administrative errors in the computation of distributive shares or other errors or costs arising in the administration of the Settlement Fund. Any portion of the Settlement Fund, (including interest thereon) remaining in the Settlement Fund one (1) year after Final Approval, shall be repaid by Plaintiffs’ Counsel, as Trustee to the Class, to Neighborhood Legal Services of Pittsburgh.

**3.09** Plaintiffs’ Counsel, at their own cost, shall be responsible for the administration and distribution of the Settlement Fund, including the obligations set forth in Paragraph 3.08 and the obligation to administer and implement all legally required withholdings from the shares distributed to the Plaintiffs. Plaintiffs’ counsel will seek compensation from the Settlement Fund for their costs incurred in distributing the fund. Neither Defendants, nor their counsel, shall have any obligation whatsoever with respect to the administration and distribution of the Settlement Fund except as provided in Paragraph 3.01 and Paragraph 3.10.

**3.10** Defendants shall not be liable for any claims including, but not limited to, claims for damages, monies, attorneys’ fees, costs or expenses or any of the Plaintiffs or of any other person or entity in connection with this Action or the settlement, beyond the amount provided in the Settlement Fund. Moreover, neither Plaintiffs nor their Counsel, nor Defendants nor their counsel, shall be liable for any errors of computation or errors in the distribution or administration of the Settlement Fund. Defendants, having delivered the required funds (\$235,000.00) to [Attorney for Plaintiffs], Class Trustee, as described in Paragraph 3.01 above,

will not be liable or accountable if said funds are not available for distribution to Plaintiffs for any reason. Further, it is agreed that, if there is Final Approval of this Agreement, but the Settlement Fund is not later available, through no fault (in whole or in part) of Defendants, or if Plaintiffs, or any one of them, for any reason do not receive their proper share of such Settlement Fund, Defendants' prior delivery of the required funds (\$235,000.00) to [Attorney for Plaintiffs], Class Trustee, is hereby agreed to be delivery to said Plaintiffs and said Plaintiffs are considered to have been paid by Defendants.

**3.11** This Court shall not have the power to change any provision of this Agreement without the written agreement of counsel for all Parties.

#### **IV. CLASS SETTLEMENT PROCEDURES**

**4.01** Plaintiffs' Counsel shall submit this Agreement to the Court for its Tentative Approval within five (5) days after it is signed by all Parties.

**4.02** Defendants agree, solely for the purposes of this Settlement and its implementation, if such Settlement fails to be approved or otherwise fails, then Defendants retain all rights to object to the maintenance of this action as a class action.

**4.03** Following Final Approval by the Court of the Settlement, counsel for both Parties shall, within five (5) days, jointly file a motion for a final judgment declaring this Action as a proper class action and dismissing all claims in this Action with prejudice.

**4.04** Simultaneously with the submission of this Agreement to the Court, Plaintiffs' Counsel shall submit to the Court a motion to tentatively approve settlement, including a request to approve the form and manner of notice of the proposed settlement to the classes and to set a fairness hearing date with a proposed order.

**4.05** At the fairness hearing conducted after approved notice to the Plaintiffs, Plaintiffs' Counsel will request the Court to enter a final order approving this Agreement, and to enter judgment, approving the Agreement as fair, reasonable, adequate and binding on all Plaintiffs (i.e., on all class members).

**4.06** The Court will be requested to retain jurisdiction over all matters pertaining to the administration of this Agreement, including the allocation and distribution of the Settlement Fund, until such time as the Court receives the certification that final distribution of the Settlement Fund has been made as provided in Section 5.03.

#### **V. ADMINISTRATION OF THE SETTLEMENT**

**5.01** Notice to Plaintiffs of this Settlement and the request for attorneys' fees, costs and expenses shall be made in such manner and form as the Court directs. Unless the Court directs otherwise, Plaintiffs' Counsel and Defendants' Counsel agree that Plaintiffs' Counsel will send notice by first-class United States Mail to the last known address of all Plaintiffs, including those persons for whom the address is known but the identity of the mortgage is unknown, using Defendants' records.

**5.02** Plaintiffs whose notice is returned or remains undeliverable within six (6) months from the date of Final Approval of this Agreement, shall be ineligible to share in the Settlement Fund. Plaintiffs' Counsel may contact the Social Security Administration, United States Postal Service or take other reasonable steps to locate Plaintiffs. The Settlement Fund shares of unlocated individuals shall, for an additional six (6) month period, serve as a source of funds to



correct for any errors in the computation or distribution of the Settlement Fund. Any sums remaining in the Settlement Fund after one year from the date of Final Approval of this agreement shall be paid to Neighborhood Legal Services of Pittsburgh. Such use and payment of the Settlement Fund shall fully discharge the entitlement or claim of Plaintiffs whose shares are unclaimed against the Settlement Fund or otherwise in connection with Plaintiffs' claims.

**5.03** Within twenty (20) days after the final distribution of the Settlement Fund in accordance with Section 3.07, Plaintiffs' Counsel shall certify to the Court that such distribution has been made and shall have the docket for this Action marked settled and discontinued.

**5.04** Plaintiffs' Counsel and Defendants' Counsel shall use their best efforts to cause this Agreement to be tentatively approved by the Court as promptly as possible, and to take all steps contemplated by this Agreement to effect such Settlement on the stated terms and conditions. If there is neither a Tentative Approval nor a Final Approval of this Agreement, the Parties shall make a good faith effort to renegotiate the affected provisions. If no agreement is reached in such renegotiations, Defendants and Plaintiffs may withdraw from this Agreement.

**5.05** This Agreement represents the full and complete agreement of the Plaintiffs and Defendants, and no other agreement of the Plaintiffs and Defendants, and no other agreements or understandings exist. This Agreement may only be modified in writing, signed by counsel for the Parties.

**5.06** Defendants' agreement to and participation in this Settlement is not an admission of liability on the part of the Defendants or on the part of any of the persons or entities identified in Paragraph 1.02 above and Plaintiffs agree that they will not attempt to utilize this Settlement Agreement or the actions of the Defendants pursuant thereto as any evidence of liability on the part of the Defendants.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed this [Date].

ON BEHALF OF PLAINTIFFS:

By:

[Attorney for Plaintiffs]

Date: [Date]

ON BEHALF OF DEFENDANTS:

By:

[Attorney for Defendants]

Date: February \_\_\_\_, 2001

**11.10 Notice of Proposed Class Action Settlement**

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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Plaintiffs, ) **CLASS ACTION**  
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RAL HOME )  
LOAN MORTGAGE CORPORATION )  
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Defendants. \_\_\_\_\_)

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**-YOU ARE NOT BEING SUED -  
PLEASE READ THIS NOTICE CAREFULLY  
YOUR RIGHTS MAY BE AFFECTED BY THIS PENDING LITIGATION**

**TO:** CERTAIN PENNSYLVANIA MORTGAGORS WHO ENTERED INTO MORTGAGE AGREEMENTS THAT ORIGINATED WITH OR WERE ACQUIRED BY COMMUNITY SAVINGS ASSOCIATION (“Community”).

## **IMPORTANT INFORMATION ABOUT YOUR RIGHTS**

You have been identified as a potential member of the Class on whose behalf certain claims are being asserted in the above-captioned Civil Action, pending in the United States District Court for the Western District of Pennsylvania (the “Court”). The Court certified this Action to proceed as a Class Action on behalf of the Class described below.

The purpose of this Notice is to advise you of the pendency and proposed settlement of this Action against Standard Mortgage Corporation of Georgia (“Standard”) and Three Rivers Bank & Trust Company (“Three Rivers Bank”), so that you may make whatever decision you deem appropriate for the protection of your interests. Records provided by Standard and Three Rivers Bank indicate that you are a Class Member as defined in the proposed Settlement Agreement, whose rights may be affected by the Settlement. If the Settlement is approved by the Court, it will permanently settle your claims against Standard, Three Rivers Bank and The Federal Home Loan Mortgage Corporation (“Freddie Mac”).

**YOUR CLAIMS AGAINST STANDARD AND THREE RIVERS BANK  
WILL BE RELEASED BY THIS ACTION, UNLESS YOU EXCLUDE  
YOURSELF FROM THIS CLASS**

### **DESCRIPTION OF THE LITIGATION**

On January 23, 1998, [First Plaintiff] and [Second Plaintiff] filed this Class Action on behalf of themselves and all others similarly situated (“Plaintiffs”). The Complaint, as amended (the “Amended Complaint”), asserts claims against Standard, a mortgage servicer, and Three Rivers and Freddie Mac, mortgage lenders.

## **II. THE CLAIMS**

The claims asserted in the Amended Complaint and now pending before the District Court are based on five alleged practices engaged in by Standard, a mortgage servicer, and three past or present mortgage owners, South View and Community.

*First*, Plaintiffs allege that Standard and the mortgage owners improperly charged loan advances to Class Members’ outstanding balances, where the accounts were not actually in arrears. According to Plaintiffs, Standard and the mortgage owners assessed periodic bill charges that were too low to cover Class Members’ property tax, insurance, water or sewage. They then added loan advances to Class Members’ outstanding balances to cover the shortfall, without notice.

*Second*, Plaintiffs allege that Standard and the mortgage holders improperly placed into escrow periodic bill payments belonging to mortgagors whose mortgages required use of the capitalization method for applying the periodic bill payments. According to Plaintiffs, Class Members whose mortgages originated with South View are entitled to the capitalization method applying periodic bill payments, under which they receive the effect of lowering the interest which accrued annually on the unpaid balance.

*Third*, Plaintiffs allege that Standard and the mortgage holders improperly charged interest on loan advances that pre-dated disbursement of the loan advances. According to

Plaintiffs, Class Members have been charged interest from the first of each month for loan advances made later in the month.

*Fourth*, Plaintiffs allege that Standard and the mortgage holders improperly delayed payment until March of 1996 on escrow interest that accrued during 1995. According to Plaintiffs, Class Members were entitled to receive the escrow interest by year end 1995.

*Fifth*, Plaintiffs allege that Standard and the mortgage holders improperly sent annual statements on or after April 8, 1987, that implied that Community was the mortgage owner to Class Members whose mortgages had been sold or assigned in whole or in part to Freddie Mac. According to Plaintiffs, Freddie Mac's acquisition of mortgages from Community was deceptively concealed from Class Members.

## **II. THE DEFENDANTS**

In their Amended Complaint, Plaintiffs sued three Defendants, Standard, Three Rivers Bank, and Freddie Mac. Nevertheless, at this stage of the litigation, only two Defendants, Standard and Three Rivers Bank ("Defendants") remain because the Court dismissed Plaintiffs' claims against Freddie Mac. Defendants have denied all liability on the charges made in this litigation and have asserted defenses to all of Plaintiffs' claims.

Plaintiffs have not sued Community and South View, because these entities no longer exist. South View ceased to exist in 1983, when it consolidated with Community. Community ceased to exist in 1997, when it consolidated with Three Rivers Bank. Plaintiffs therefore have sued Three Rivers Bank, asserting that it is liable, as a successor in interest, for Community and South View's alleged practices.

## **III. THE CLASS**

The Court has certified a Class consisting of:

All Pennsylvania mortgagors who entered into mortgage agreements with Community or were acquired by Community ("Community Mortgagors"), and who were subject to one or more of the following practices engaged in by the Defendants, Community, and/or South View: (1) charging the mortgagor for a loan advance used to pay a tax, insurance, water, or sewage bill (the "bills"), unless the mortgagor's monthly payments, as in fact billed, were in arrears; (2) charging the mortgagor interest on a loan advance for time that preceded the disbursement of the loan advance; (3) failing to pay the mortgagor, until March, 1996, for escrow interest that had accrued during calendar year 1995; (4) sending the mortgagor an annual statement on or after April of 1987 that listed Community as the mortgage owner; and/or (5) placing payments made by a mortgagor whose mortgage originated with South View in an escrow account.

You have been identified as a member of this Class.

## **DESCRIPTION OF THE SETTLEMENT**

The following is a summary of certain terms of the parties' Stipulation of Settlement, which governs the proposed Settlement between the Plaintiff Class, Defendants and Freddie Mac.

If the Settlement receives final approval from the Court, Defendants will create a Settlement Fund, consisting of Two Hundred Thirty-Five Thousand Dollars (\$235,000) in cash. Defendants will not be required to escrow or otherwise set aside specific monies to create the Settlement Fund.

If the Settlement is approved, the Settlement Fund will be distributed to Class Members based upon their pro rata share of the amount of the Settlement Fund remaining *after* deduction of: (1) any Court-awarded attorneys' fees, (2) any Court-awarded reimbursement of the costs and expenses of litigation, (3) any Court-awarded payment to the Representative Plaintiffs, and (4) any costs of Notice to the Class Members. Plaintiffs' Counsel will petition the Court for payment from the Settlement Fund of attorneys' fees of thirty (30%) percent, reimbursement of costs and expenses totaling no more than Seven Thousand Dollars (\$7,000), and a payment of Two Thousand Five Hundred dollars (\$2,500) to the Representative Plaintiffs.

## **I. DISTRIBUTION OF THE SETTLEMENT**

The Settlement will be administered and distributed by Plaintiffs' Counsel, who shall distribute Settlement proceeds to settling Class Members in the following manner:

1. Within forty days after final approval of the proposed Settlement, Defendants will create the Settlement Fund by providing Plaintiffs' Counsel a check for Two Hundred Thirty-Five Thousand Dollars (\$235,000) made payable to Plaintiffs' Counsel, as Class Trustee.
2. Within thirty days after receiving the Settlement Fund, Plaintiffs' Counsel will deduct from the Settlement Fund any Court-awarded attorneys' fees, reimbursement of costs and expenses, payment for the Representative Plaintiffs, and costs of Notice to the Class Members, and distribute a pro rata share of the remaining balance in Settlement Fund to each Class Member.
3. Within twenty days after distributing the Settlement Fund to the Class Members, Plaintiffs' Counsel will provide an Affidavit of Distribution to the Court and Counsel for Defendants.
4. Plaintiffs' Counsel will seek compensation from the Settlement Fund for their costs incurred in distributing the Fund.
5. The share of any Class Member who cannot be located shall be held in the Settlement Fund for six months from the date on which the settlement receives Final Approval and be available to be claimed by any such person during that time. After those six months have lapsed, the shares of Class Members who have not been located shall be held in the Settlement Fund for an additional six month period and will serve as a source of funds to correct any errors or costs arising in the administration of the Settlement Fund. Any portion of the Settlement Fund (including interest thereon) remaining one year after Final Approval shall be paid by Plaintiffs' Counsel, as Trustee to the Class, to Neighborhood Legal Services of Pittsburgh.

## **II. REASONS FOR THE SETTLEMENT**

The Settlement that is being submitted to the Court for approval includes a release and dismissal with prejudice of the claims of the Members of the Settlement Class against Standard, Three Rivers Bank and Freddie Mac. The Representative Plaintiffs and Plaintiffs' Counsel view this Settlement as advantageous to the Class. The Settlement provides for substantial

compensation to the Class. In addition, the Class faces risks in continuing litigation, with respect to both proof of liability and proof of damages. Standard and Three Rivers Bank, while denying that they are liable to anyone or have committed any wrongdoing, wish to avoid further lengthy, costly, and time-consuming litigation, to obtain a total and final Settlement of the Plaintiffs' claims, and to extinguish any liability under any laws with respect to the matters alleged in the Complaint.

### **III. RELEASE OF CLAIMS**

In exchange for the distribution of Settlement proceeds by Standard and Three Rivers Bank to the settling Class Members, the Plaintiffs will dismiss the Complaint, which includes that claims of the Class, with prejudice and without costs, which dismissal will be approved in a final judgment approving the Settlement. All Members of the Class who have not excluded themselves will be bound by any final judgment entered by the Court. Pursuant to the Settlement, Standard, Three Rivers Bank, Freddie Mac, and each of their parent companies, affiliates, assignors, assignees, subsidiary companies, predecessors, successors, assigns, and former and current attorneys, accountants, representatives, officers, inside and outside directors, shareholders, employees, and/or agents (referred to collectively as the "Released Parties", shall be forever released and discharged from any and all claims, liens, suits, obligations, demands, liabilities, damages (whether compensatory, punitive or otherwise), rights and causes of action, whether known or unknown, suspected or unsuspected, that the Representative Plaintiffs or the non-excluded Plaintiff Class Members now have or have ever had based upon the violation of any state or federal law, regulation or other statutory or common law which arise out of, relate to, or are based in any way upon the matters alleged, or which could have been alleged, in this Action.

## **DESCRIPTION OF YOUR RIGHTS AND OBLIGATIONS**

### **I. YOU CAN REMAIN IN THE CLASS**

Unless you file a timely Request for Exclusion (see below), you will remain in the Class. If the Court approves the Settlement, those individuals who remain in the Class will receive of a pro rata share of the amount of the Settlement Fund remaining after payment of Court-awarded attorneys fees, costs and expenses, and payment for the Representative Plaintiffs. If the Court does not approve the Settlement, then the parties will continue to litigate, and those who remain in the Class will be eligible to participate in whatever settlement or litigation award that Plaintiffs ultimately receive. However, they will also undertake the risk that Plaintiffs will not prevail in the litigation, will receive nothing for their claims, and will have judgment entered against them.

As a Class Member, you automatically will continue to be represented by the [First and Second Plaintiffs] and the Class Counsel, [Attorney for Plaintiffs]. If you choose, you may seek legal representation separate from that provided by the [First and Second Plaintiffs] and Class Counsel, at your own expense, to enter an appearance in this Action on your behalf and represent you.

*Please note that you must continue to make timely monthly payments and timely perform all of your contractual obligations owed Standard, Three Rivers Bank.*

## **II. YOU CAN REMAIN IN THE CLASS AND OBJECT TO THE SETTLEMENT**

If you choose to remain in the Class, you may object to the Settlement. Any Class Member who has not excluded himself or herself (see below) may file a written objection to the Settlement, the Settlement distribution procedures, the request for attorneys' fees and costs made by Class Counsel, the request for payment to the Representative Plaintiffs, and/or any other proceedings in the case. ANY SUCH OBJECTION MUST BE MAILED TO THE CLERK OF THE COURT AND TO COUNSEL FOR THE PARTIES AT THE ADDRESSES SET FORTH BELOW. THE OBJECTION MUST BE POSTMARKED ON OR BEFORE [Date]. Any objection to the Settlement must begin with the following statement: "I object to the proposed Settlement in *[Plaintiff] v. Standard Mortgage Corp. of Ga.*, Civil Action No. 98-679." All objections must be in writing, must state the objector's name, address, and mortgage account numbers, and must state in detail the factual basis and legal grounds for the objection.

## **III. YOU CAN REMAIN IN THE CLASS, OBJECT TO THE SETTLEMENT, AND ATTEND THE COURT HEARING FOR FINAL APPROVAL OF THE SETTLEMENT**

If you choose to remain in the Class and object to the Settlement, you may attend the Court hearing for Final Approval of the Settlement. The proposed Stipulation of Settlement must be finally approved by the Court. A hearing will be held on July 11, 2001, at 10:00 a.m., before the Honorable [Judge], in Courtroom No. 2, U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania to consider whether the proposed Settlement should be approved as fair, reasonable, and adequate.

If you file a timely written objection and have not requested exclusion from the Class (see below), you may appear at the hearing in person or through an attorney retained at your expense. If you wish to appear at the hearing to object to the Settlement, you must provide the Clerk of the Court and counsel for the parties a written notice of your intention to appear at the hearing to object. This notice must be sent to the Clerk of the Court and counsel for the parties, **along with your written objection**, by [Date]. Any written objection to the Settlement and notice of intent to appear at the hearing must be delivered to the Clerk of the Court and counsel for the parties as set forth above.

## **IV. YOU CAN EXCLUDE YOURSELF FROM THE CLASS**

Any individual who would otherwise fall within the definition of Class will be excluded from the Class if that member files an Exclusion Request. If a timely and effective request for exclusion is made by any member of the Class who is a co-borrower or co-obligor of a residential mortgage, then all borrowers or obligors on the mortgage will be excluded from the Class. Class Members who request exclusion will not be entitled to participate in the settlement, if approved, or any settlement or litigation award that Plaintiffs ultimately receive, nor will they be bound by any judgment entered against Plaintiffs in this Action or by the release of claims executed by Plaintiffs in conjunction with settlement.

An Exclusion Request is attached hereto. Should you choose to opt out of the class, sign the attached Exclusion Request. THE EXCLUSION REQUEST MUST BE MAILED TO THE CLERK OF THE COURT AND TO COUNSEL FOR THE PARTIES AT THE ADDRESSES

SET FORTH BELOW. THE EXCLUSION REQUEST MUST BE POSTMARKED BY JUNE 26, 2001.

If you exercise your right to be excluded from the Class, you will not be granted an opportunity to object to the proposed settlement of this Action, the request for attorneys' fees and costs made by Class Counsel, the request for payment to the representative Plaintiffs, or any other proceedings in the case.

**ADDITIONAL NECESSARY INFORMATION**

**I. ADDRESSES**

Objections, Notices of Intent to Attend Hearing, and Requests for Exclusion must be sent to *each* of the following three individuals:

THE CLERK OF THE COURT: [Clerk of the Court]  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
[Address]

COUNSEL FOR THE REPRESENTATIVE  
AND CLASS PLAINTIFFS: [Attorney for Plaintiffs]

COUNSEL FOR STANDARD AND  
THREE RIVERS BANK: [Attorney for Defendants]

**II. FURTHER INFORMATION**

This Notice does not provide a complete description of the Action. For additional information about the Action and the parties, please refer to the pleadings and other documents on file at the Clerk of Court's office at the address listed above, which you may examine in person during normal business hours. If there is any inconsistency between the Class Notice and the parties' Settlement Agreement, the parties' Settlement Agreement will control.

ALL INQUIRIES regarding this Notice, or the class action, or the proposed Settlement should be addressed, *in writing*, to Counsel for the Representative Plaintiffs and the Settlement Class at the following address:

[Attorney for Plaintiffs]

**DO NOT TELEPHONE THE COURT, THE CLERK, STANDARD, THREE RIVERS BANK, OR COUNSEL FOR STANDARD AND THREE RIVERS BANK ABOUT THIS NOTICE, THE MATTERS SET FORTH HEREIN, OR THE LAWSUIT.**

DATED: [Date]



**11.11 Order Preliminarily Approving Settlement and Approving and Form of Notice**

**ORDER PRELIMINARILY APPROVING SETTLEMENT  
AND APPROVING AND FORM OF NOTICE**

And now this [Date], upon consideration of the Parties' Motion for Preliminary Approval of the Proposed Settlement, pursuant to Rule 23 of the Federal Rules of Civil Procedure and other applicable rules, it is ordered, adjudged and decreed that:

1. The proposed settlement in the above-captioned matter is preliminarily approved.
2. All members of the class previously certified by this Court shall receive notice of settlement in the form and manner proposed in the parties' Joint Motion. At their own expense, Plaintiffs shall send the Notice attached to the Joint Motion as Exhibit 2 to all class members within 45 days after entry of this Order.
3. A Final Approval hearing addressing the fairness of the proposed settlement is scheduled for \_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
[Judge]