

I.8.4 Interrogatories, Requests for Admissions to Foreclosing Trust

**PLAINTIFF'S INTERROGATORIES AND REQUEST FOR PRODUCTION TO  
DEFENDANT (XYZ) TRUST**

**DEFINITION OF TERMS**

1. The term "plaintiff" or "plaintiffs" means the party identified as such in this pleading.
2. The term "defendant or defendants" means any or all of the parties to this litigation who are delineated as defendants in these pleadings and their subsidiaries, affiliates, any successors and assigns, and predecessors, and includes every officer, director, partner, agent, employee, attorney, servant, or any other person presently or formerly acting for or on behalf of said entity.
3. The term "document" is used in its customary broad sense to include, by way of illustration only and not by way of limitation, all written or graphic matter of every kind or description, whether printed or reproduced by any process, or written and/or produced by hand, whether final or draft, original or reproduction, whether or not claimed to be privileged or otherwise subject to exclusion from discovery, whether in the actual or constructive possession, custody or control of the defendant, including: letters correspondence, memoranda or transcripts of telephone or personal conversations, microfilm, microfiche, telegrams, books, magazines, newspapers, advertisements, periodicals, bulletins, circulars, brochures, pamphlets, statements, notices, advertising layouts, trade letters, press releases, reports, rules, regulations, directives, teletype or telefax messages, minutes or records of meetings, interoffice communications, financial statements, ledgers, books of account, proposals, prospectuses, offers, invoices, orders, receipts, working papers, desk calendars, appointment books, diaries, routing slips, time sheets, logs, movies, tapes (or visual or audio reproduction), records, drawings, blueprints, sketches, plans, graphs, charts, photographs, shipping papers, purchase orders, phonograph records, phono-records, data processing paper results, data printouts and computations (both in existence and stored in memory components), transcripts of oral statements or testimony, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports of consultants, forecasts, opinions of counsel, court papers and any and all other data compilations or information resources from which information can be obtained or translated, if necessary, through detection devices into reasonably usable form, or material similar to any "document" as used herein. "Document" as used herein also includes the original of any document in whatever form or medium it may exist, and all copies of each such document bearing, on any sheet or side thereof, any marks, including by way of illustration only and not by way of limitation, initials, stamped indicia, any comment or notation, or any character not a part of the original text, or any reproduction thereof.
4. The term "communication" means any contact, oral or written, formal or informal, at any time or place, under any circumstances, in any manner, whereby a statement of any nature is transmitted or transferred, and shall include, without limitation, any documents containing, constituting reflecting, memorializing, referring or relating to any such contact.

5. The word “or” means and/or and should be read both ways so as to encompass both constructions and calls for documents to be produced responsive to both constructions.

6. The term “representative” refers to any employee, agent, attorney or accountant.

7. The term “person” means natural person, proprietorships, partnerships, groups, corporations, associations, societies, organizations, or government bodies or any other individual or entity.

8. The term “identify” when used in connection with a natural person means to set forth the full name, title, present business address and present business affiliation of said person.

9. The term “identify” when used in connection with a person which is a proprietorship, partnership, corporation, or other organization means to set forth the full name and present business address of that dealership, proprietorship, partnership, corporation, or other organization.

10. The term “identify” when used with reference to a document means to state the date and author (and, if different, the signer or signers), the addresses of the author(s), signer(s), or any individual(s) receiving copies, the type of document (e.g., letter, memorandum, chart), and its present or last known location or custodian.

11. The term “identify” when used with reference to an agreement, contract, understanding or communication means, in addition to Definition 10 above: (a) to state whether it was written or oral, to identify the parties thereto, the place where it was made or occurred, and the date or dates thereof; (b) to identify the parties thereto, the place where it was made or occurred, and the date or dates thereof; (c) to identify the persons who negotiated or had any role in suggesting, framing or drafting the terms of the agreement, contract or understanding or who participated therein; and (d) to state the substance of the communication, agreement, contract or understanding.

12. The term “identify” when used with reference to a meeting, incident, occurrence or conversation means to state its date, place and subjects covered, to identify its participants and to identify all documents reporting upon or otherwise recording or referring to anything that transpired at such meetings.

13. The term “the transaction” or “the transactions” or “account” or “accounts” when used herein without qualifications means the transactions and accounts between and among the Debtors and the named defendants in all related activities and agents or assigns of either party.

14. The term “Note” shall refer to the Mortgage Promissory Note executed by the plaintiffs in connection with the mortgage loan transaction that is the subject of this litigation.

15. The term “Mortgage” shall refer to the Document filed in the Records of the Probate Judge’s Office for the County in which the Real Property that is the subject of this litigation is located which is alleged to secure one of the defendants’ alleged lien against the Real Property.

16. The term “Real Property” shall refer to the Real Property and improvements that is the subject of this litigation.

17. The term “present” means up to and including the date of your final response to these interrogatories and requests for production of documents.

18. The term “relating to” or “relates to” means regarding, reflecting, discussing, describing, containing, identifying, analyzing, studying, reporting, commenting, evidencing, constituting, revealing, setting forth, considering, recommending, questioning, disputing, contesting, correcting, construing, mentioning, associated with, referring to, alluding to, or pertaining to, in whole or in part.

19. The singular shall be construed to include the plural, and the plural shall be construed to include the singular.

20. The masculine includes the feminine, and the feminine includes the masculine.

21. The word “and” shall be construed to include the word “or,” and the word “or” shall be construed to include the word “and.”

22. The word “each” shall be construed to include the word “every,” and the word “every” shall be construed to include the word “each.”

23. The word “any” shall be construed to include the word “all,” and the word “all” shall be construed to include the word “any.”

## **II. INSTRUCTIONS**

1. The time period for which production of documents and things requested shall be from the date of origination of the mortgage loan that is the subject of this litigation until the date of your responses unless otherwise specified.

2. Each of the following requests is continuing, and in the event that at any later date you obtain or discover any additional document responsive to any request, you shall submit such document promptly.

3. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of a document, the portion(s) of that document not subject to objection should be produced with the portion(s) objected to deleted and indicated clearly.

4. Each document is to be produced in its entirety even if only a portion of the document is related to the identified subject matter and without abbreviation, editing, or expurgation and including all appendices, tables, or other attachments. If an appendix, table, or other attachment is not presented with the original but is attached to a copy thereof or is otherwise available, it

should be submitted and clearly marked to indicate the document to which it corresponds. With the exception of privileged material, no document or portion thereof should be masked or deleted in any manner. To the extent possible, documents should be produced in the same order and arrangement as in the file form which they are taken.

5. Unless otherwise requested, in lieu of producing original documents, you may produce photocopies, provided that you shall retain the original documents and produce them to the plaintiffs upon request. Further, copies of original documents may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents, and their submission constitutes a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any legal proceeding. *Please provide color copies of any document originally produced in color or containing type, writing, or other marks in any color other than black.*

6. Documents that may be responsive to more than one request need not be submitted more than once; however, such documents should be so identified.

7. All headings herein are included only for organization purposes and should not be construed as being part of any request, or as limiting any request in any manner.

### **III. PRIVILEGE**

If any document would be required to be produced in response to any request except for the fact that a privilege against production is claimed, set forth for each such document:

1. Its date, title, type of document (memorandum, letter, e-mail, electronic communication, data file, data image, etc.), and length;

2. Its preparer, sender, addressee, recipient and anyone who received a copy of that document when it was originally disseminated;

3. A general description of its subject matter (without revealing the information as to which any privilege is claimed);

4. The exact grounds upon which the objection to production is based;

5. The identity of all persons, in addition to those identified as required by section 2 herein, known to you who have seen or had access to the document;

6. The identity of all parties who have had custody or possession of the document and at what periods of time; and

7. The identity of the person now in possession of the document.

### **IV. DOCUMENTS NO LONGER IN EXISTENCE OR NO LONGER UNDER YOUR POSSESSION, CUSTODY OR CONTROL**

If any document, requested herein was at one time in existence and under your possession, custody or control but has since been lost, discarded or destroyed or has been removed from your possession, custody or control, then with respect to each such document:

1. Identify and describe such document by date, title and type of document;
2. State when each such document was most recently in your possession or subject to your control and what disposition was made of such document, including an identification of the person, if any, presently in possession or control of such document if such document has not been lost or destroyed;
3. Please identify all of your systems that contained at one time images of the originals of such documents, where such images are stored, how they are stored, and produce a copy of your document retention and document destruction policy;
4. Please state where you maintain copies of all documents in the event of a mass disaster and identify all documents at such location and how they are stored at such location;
5. State the name, title, and location of each party who conducted a search for any lost documents in this case and describe in detail the nature and extent of each search and produce all reports, findings or search results generated by said parties;
6. State the full name and address of the Master Document Custodian for the original loan documents in this case and produce all records related to such documents in the possession of the said Custodian and all documents, reports, or forms produced by said Custodian with respect to all of the documents related to the securitization of the mortgage note in this case;
7. State when any such lost document was transferred or destroyed, identify the person who transferred or destroyed such document and the persons who authorized or directed that the document be transferred or destroyed or having knowledge of its transfer or destruction and state the reason such document was transferred or destroyed; and
8. Identify all persons having knowledge of the contents of any lost or destroyed documents.

## **V. ORGANIZATION**

Pursuant to the Alabama Rules of Civil Procedure it is requested that the documents produced be organized and labeled so as to correspond with the categories of this request for production.

## **VI. INTERROGATORIES**

**Question No. 1:**

Do you agree that the pooling and servicing agreement dated September 1, 2005 is the agreement which created this trust? If your answer to the foregoing is in the negative please explain in detail how this trust was created including in your answer a statement of where, when and how the trust was formed and pursuant to what law was the trust formed.

**Response:**

**Question No. 2:**

Please state the name and address of the depositor to this Pooling and Servicing Agreement.

**Response:**

**Question No. 3:**

Please state the name and address of the master servicer to this Pooling and Servicing Agreement.

**Response:**

**Question No. 4:**

Please state the name and address of the trustee to this Pooling and Servicing Agreement.

**Response:**

**Question No. 5:**

Please state the custodian for this trust including their name, address and contact information.

**Response:**

**Question No. 6:**

Please state the name, address and contact information of the master servicer to this trust.

**Response:**

**Question No. 7:**

Please state the primary purpose for the formation of this trust.

**Response:**

**Question No. 8:**

Please state the cut off date for this trust.

**Response:**

**Question No. 9:**

Do you agree that this trust is formed and governed under the laws of the State of New York?

**Response:**

**Question No. 10:**

If you do not agree please state in detail every reason that you disagree and provide any documentation, evidence, or other explanatory materials in support of your position.

**Response:**

**Question No. 11:**

Please state the name and address of every person who has signed any document under oath for filing with the Internal Revenue Service or the Securities and Exchange Commission regarding this trust. For each such person identified please provide:

a) That person's name, address and contact information if they are employed by any party who executed the Pooling and Servicing Agreement.

b) If they are not employed by a party who executed the Pooling and Servicing Agreement please state the name of their employer at the time in which they executed the subject documents with the Internal Revenue Service and/or the Securities and Exchange Commission.

**Response:**

**Question No. 12:**

Please identify every attorney or law firm who provided an Opinion of Counsel to any party who executed the Pooling and Servicing Agreement for this Trust with respect to any action on behalf of this trust at any time since its formation with respect to any issue which the Pooling and Servicing Agreement requires any party to the agreement to obtain an Opinion of Counsel. This request should be interpreted as requesting:

a) The name of any attorney who provided an opinion of counsel;

b) The Firm who employed the attorney;

c) The last available contact information for the attorney in the possession of the respondent including name, address, phone number(s), facsimile numbers and email addresses.

**Response:**

**Question No. 13:**

Please produce every opinion of counsel received by any party to the Pooling and Servicing Agreement for this Trust in the possession of the Trust or reasonably available to the Trust through the parties to the Pooling and Servicing Agreement with respect to any matter involving any action on behalf of this trust at any time since its formation with respect to any issue which the Pooling and Servicing Agreement requires any party to the agreement to obtain an Opinion of Counsel.

**Response:**

**Question No. 14:**

Please identify every accountant or accounting firm who provided any Opinion as to the compliance with the REMIC provisions of the United States Tax Code to either the Trust or any Party to the Pooling and Servicing Agreement which formed the Trust at any time since the formation of the Trust. This request should be interpreted as requesting:

a) The name of any accountant who provided any opinion as referenced in the question;

b) The Firm who employed the accountant;

c) The last available contact information for the accountant in the possession of the respondent including the accountant's name, address, phone number(s), facsimile numbers and email addresses.

**Response:**

**Question No. 15:**

Please produce a copy of every opinion received from an Accountant or Accounting Firm as to the compliance with the REMIC provisions of the United States Tax Code to either the Trust or any Party to the Pooling and Servicing Agreement which formed the Trust at any time since the formation of the Trust.

**Response:**

**Question No. 16:**



Please Identify every “Certifying Officer” as that term is defined in the Pooling and Servicing Agreement, who has certified any act of the trust whether that officer is employed by the servicer, the trustee, the depositor, the originator, or any agent or employee of any of those parties. For each such officer please provide:

a) Their last known address and phone number as well as any other contact information available to the Trust or any party to the Trust Agreement (the PSA).

b) The complete employment file (excluding dates of birth and social security numbers) of each certifying officer.

c) List each act certified and the officer who certified the act and to whom the act was certified (i.e. the Internal Revenue Service, The SEC, etc.).

d) Provide a complete copy of each responsive certification.

**Response:**

**Question No. 17:**

Please produce a copy of the mortgage loan purchase agreement executed by each signatory to that agreement.

**Response:**

**Question No. 18:**

Please produce a copy of the mortgage note including any indorsements upon said promissory note as well as any tender and delivery receipts or other evidences of transfer and receipt as between the originator and any other party to the securitization agreement which allegedly ultimately resulted in the sale of this promissory note to this Trust. If there are any documents which purport to transfer the promissory note between the Originator and any other entity please provide the following information also:

a) The identity (including their name, last known address, last available contact information and employer and title at the time of the act described) of any person who executed any indorsement, allonge, transfer authorization or acknowledgement, bailment letter, delivery guarantee, delivery receipt, acknowledgement, bailee letter, or any other type of delivery confirmation.

b) The date upon which the document(s) requested was executed.

c) Any forms, resolutions, or grants of authority empowering the person executing the documents to undertake the transfer of the promissory notes on behalf of the entity transferring the promissory notes.

**Response:**

**Question No. 19:**

Please produce a complete copy of any prospectus or free writing prospectus filed with the SEC or prepared or produced on behalf of trust. This should also include any supplements to any prospectus so identified.

**Response:**

**Question No. 20:**

Please list the name of every seller as that term is defined by the trust Pooling and Servicing Agreement who has sold any mortgage loan to this trust.

**Response:**

**Question No. 21:**

Please state the start up day of this trust.

**Response:**

**Question No. 22:**

Please identify every person or entity who has served as the “tax matters person” for this trust include in your answer their name, address and last know contact information including phone numbers, fax numbers and any email addresses known or reasonably available to the respondent.

**Response:**

**Question No. 23:**

Please identify the individual or entity who has executed any Internal Revenue Service Form 1066, U. S. Real Estate Mortgage Investment Conduit income tax return, including Schedule Q thereto, as well as any other forms required under applicable tax law for this trust at any time since its inception or creation through the present day. This information should include the current or last known contact information including the name, address, phone or fax numbers and any email addresses known or reasonably available to the respondent for the person so identified.

**Response:**

**Question No. 24:**

Please produce any and all executed exhibits to the pooling and servicing agreement as part of your production of the pooling and servicing agreement in this case.

**Response:**

**Question No. 25:**

Please produce any correspondence or communication of any kind between any of the parties to the Pooling and Servicing Agreement regarding any matter in any way related to the trust, the trust agreement, or the oversight, maintenance and administration of the trust and its assets.

**Response:**

**Question No. 26:**

Please state whether or not there has been a servicing transfer with respect to this trust.

**Response:**

**Question No. 27:**

Please produce a full and complete copy of the mortgage file with respect to the Plaintiff's loan.

**Response:**

**Question No. 28:**

Please state the closing date for this trust.

**Response:**

**Question No. 29:**

Please identify any entity, individual or party who has an agreement of any kind, type or nature with the Trust for any

**Response:**

**Question No. 30:**

Please identify the NIMS Insurer for this Trust. This information should include the current or last known contact information including the name, address, phone or fax numbers and any email addresses known or reasonably available to the respondent for the person or entity so identified.

**Response:**

**Question No. 31:**

Please identify every form of insurance, overcollateralization, payment guarantee, swap, interest rate swap, credit enhancement or any other form of payment guarantee, protection against default, or derivative which in any manner insures, attempts to insure, guarantees or attempts to guarantee payments to the certificate holders of the Trust as set forth in the Pooling and Servicing Agreement or any agreement that is executed between the Trust and any other entity as a result of the creation of the trust.

**Response:**

**Question No. 32:**

For each item or agreement identified in the previous question please identify the parties to that agreement, produce an executed copy of the agreement and describe in plain English what the agreement addresses and the protection, guarantee or insurance provided by the agreement.

**Response:**

**Question No. 33:**

Identify all parties answering or assisting in providing answers to these interrogatories and request for production and for each such party include the current or last known contact information including the name, address, phone or fax numbers and any email addresses known or reasonably available to the respondent.

**Response:**

**Question No. 34:**

Please identify who is currently in possession of the promissory note that is the subject of this litigation and where said promissory note is physically located. Your identification should include the name, address, phone or fax numbers and any email addresses known or reasonably available to the respondent.

**Response:**

**Question No. 35:**

Identify all securitizations known to you to have been made by where the assets of the trust included home mortgage loans originated or purchased by Option One Mortgage Corporation at any time from the origination of the loan that is the subject of this litigation until the present day.

**Response:**

