

16.4 Homeowner’s First Set of Interrogatories and Requests for Production of Documents

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

[Plaintiffs],)
)
Plaintiffs,)
)
vs.)
)
Second Chance Program, Inc.;)
Harrison & Chase, Inc.;)
J.T. Foxx;)
David Ruiz;)
Donald Thomas, LLC;)
BankFinancial Corporation; and)
Unknown Owners and Nonrecord Claimants,)
)
Defendants.)

Case No. [No.]

Donald Thomas, LLC,)
)
Plaintiff,)
)
v.)
)
[Defendants] [sic],)
)
Defendants.)

CONSOLIDATED WITH

No. [No.]

[PLAINTIFFS]’S FIRST DISCOVERY REQUEST
DIRECTED AT SECOND CHANCE PROGRAM, INC. J.T. FOXX, DAVID RUIZ, AND
HARRISON & CHASE, INC.

[Plaintiffs] (“[Plaintiffs]”), through their attorneys, Michelle A. Weinberg and the Legal Assistance Foundation of Metropolitan Chicago, and pursuant to Illinois Supreme Court Rules, hereby request that defendants Second Chance Program, Inc., J.T. Foxx, David Ruiz, and Harrison & Chase, Inc., respond to the following interrogatories and produce the below-listed

documents at the Legal Assistance Foundation of Metropolitan Chicago, 111 West Jackson Boulevard, Suite 300, Chicago, Illinois, on or before (28) days after service hereof, in accordance with Illinois Supreme Court Rule 201.

Unless otherwise stated, the time period of these requests is from February, 2003 to the present.

INTERROGATORIES

1. State the name, job title, and business address of each person providing information in response to these discovery requests.

ANSWER:

2. State the name, residence and business addresses and phone numbers, and job position of all person(s) and/or entities who had any involvement in the subject transaction(s) or has knowledge of any facts relating to matters alleged in plaintiffs' Complaint and/or defendants' Answer, and/or who may testify as witnesses at the trial or any hearing hereof, describing generally each individual's involvement (*e.g.*, broker, realtor, appraiser, communications with sellers or buyers, preparation of documents, disbursement of funds, collection of rent, etc.), and identify each and every written or recorded statement made by such potential witnesses.

ANSWER:

3. Identify each person who took part in or was present at the closing which took place on February 4, 2005, and identify which persons are or were agents or employees of Donald Thomas, L.L.C., Second Chance Program, Inc., J.T. Foxx, or Harrison & Chase.

ANSWER:

4. State the date and subject matter of any and all communications (oral or written): (a) between or among any of the parties to this action, and (b) between you and any other person or entity, in any way relating to [Plaintiffs] or the property located at [Address], in Chicago, Illinois, including but not limited to either the February 4, 2005, transaction between [Plaintiffs] and Donald Thomas, L.L.C., or the May 26, 2005, transaction between Donald Thomas, L.L.C., and BankFinancial, F.S.B. Identify or produce all documents reflecting or relating to such communications, including but not limited to letters, faxes, notes, internal memoranda, calendars, computer data, and credit applications, disclosures, etc.

ANSWER:

5. Provide an accounting of all compensation, consideration, and/or value allegedly provided to [Plaintiffs] in connection with the subject transaction.

ANSWER:

6. Provide an accounting of any and all compensation received by each defendant in connection with the subject transactions (including the February 4, 2005, closing, the subsequent rental payments, and the May 26, 2005, loan to Donald Thomas, L.L.C.), and describe the services or consideration provided for such compensation.

ANSWER:

7. State the total number of foreclosure rescue transactions you have entered into, identifying the purchasing entity or person and the selling homeowners' name, address and phone numbers, and identify each homeowner who (a) has repurchased the property, (b) is still paying pursuant to the leaseback agreement, (c) who has been subject to an eviction action, stating the case number and outcome of the eviction action, or (d) any other status. (*Note: this Interrogatory relates to defendants' advertised "98.3% success rate"*)

ANSWER:

8. Identify by full name, address, and phone number, each individual who appears in the video provided to Illinois state legislators entitled "Foreclosure Survivors - The People's Voice," regarding the proposed Illinois Mortgage Rescue Fraud Act.

ANSWER:

9. Identify each officer, director, partner, owner, shareholder, incorporator, and/or founder of the Second Chance Program, Inc., Harrison & Chase, Inc., and Donald Thomas, L.L.C., providing full name, last known address, and phone numbers, and state the percentage ownership interest of each one with such an interest.

ANSWER:

10. Describe the business relationships between and/or among J.T.Foxx, David Ruiz, Second Chance Program, Inc., Harrison & Chase, Inc., Donald Thomas, L.L.C., Howard Malman, Donald Thomas individually, William Sullivan, and Deborah Wright, including whether any share office space, phone systems, and/or computer systems.

ANSWER:

11. Describe the manner in which the “repurchase price” is generally calculated in similar sale-leaseback foreclosure rescue transactions, and how it was calculated in [Plaintiffs]’ transaction.

ANSWER:

12. If you are declining to produce any document or respond to any paragraph in whole or in part because of a claim of privilege, please identify the subject matter, type of document (e.g., letter, memorandum), date, and author of the privileged communication or information, all persons that prepared or sent it, and all recipients or addressees; identify each person to whom the contents of each such communication or item of information have heretofore been disclosed,

orally or in writing; state what privilege is claimed; and state the basis upon which the privilege is claimed.

ANSWER:

13. If any document requested was, but no longer is, in your possession or subject to your control, please state: the date of its disposition; the manner of its disposition (e.g., lost, destroyed, or transferred to a third party); and an explanation of the circumstances surrounding the disposition of the document.

ANSWER:

14. Pursuant to Illinois Supreme Court Rule 213(f)(2) and 213(f)(3), with respect to each expert or opinion witness whom you will or may call upon to give evidence in connection with this case, please state: his or her name, address, telephone number, occupation, and current employment; the subject matter of his or her expertise; any matters which you contend qualify him or her as an expert; the substance of all facts and opinions to which he or she could testify if called as a witness; a summary of the grounds for each such opinion, and identify all documents, reports or statements made by any such expert.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents (including all computer or digital media-stored data) relating or referring to [Plaintiffs], the subject property, and the subject transactions and/or account, or which are indexed, filed or retrievable under their name or any number, symbol, designation or code (such as a transaction number or Social Security number) assigned to them or to the property at issue ([Address], Illinois), including but not limited to all documents reflecting or relating to the offer to purchase, agreement to sell, payments made to MERS or the [Plaintiffs'] mortgagee, communications with Fisher & Fisher (foreclosure counsel for MERS in Case No. 04 CH 21632), payments made to any other person or entity in connection with the subject transactions(s), the origination, approval, disbursement, administration, and payment history of any loan(s) secured by the subject property (*i.e.*, the loan transaction between Donald Thomas, L.L.C. and BankFinancial, F.S.B.), any and all agreements between Donald Thomas, L.L.C., and any other party in any way pertaining to the property, all appraisals, applications, worksheets, analyses, and/or other related documents prepared in connection with the transaction, calendars, datebooks, etc., relating to the closing date of the transaction, general instructions to closing agents, all documents reflecting communications and correspondence related to the subject transaction and/or property, including any communications with Deborah Wright, and any and all documents, not covered by another section of this request, that otherwise relate or refer to the transaction between [Plaintiffs] and Donald Thomas, L.L.C.

2. Any and all documents defendants, or any one of them, intend to introduce at trial, not otherwise covered by the foregoing request.

3. All documents reflecting or relating to the relationship between or among any of the following: J.T. Foxx, David Ruiz, Second Chance Program, Inc., Donald Thomas, L.L.C., Donald Thomas (individually), and/or Harrison & Chase, Inc., including documents reflecting co-ownership of corporations, partnership agreements, joint venture agreements, communications reflecting transactions and/or all agreements between or among these individuals or entities.

4. All documents relating to any judicial or administrative proceeding, public or private consumer protection agency or office, and all customer complaints in which J.T. Foxx, David Ruiz, Second Chance Program, Inc., Donald Thomas, and/or Harrison & Chase, Inc., was alleged to have made misrepresentations or violated any consumer protection statutes, rules or regulations relating to mortgages or real estate transactions.

5. Copies of all insurance policies which may afford coverage as to the matters complained of, or under which a claim was made, including but not limited to title insurance and/or any policy which refers to consumer protection coverage and any comprehensive general liability policy.

6. All documents identified in response to the above Interrogatories, and all documents referred to or reviewed in preparing the response to the above Interrogatories, not otherwise called for in these document production requests.

Respectfully submitted,

Michelle A. Weinberg

Michelle A. Weinberg
Legal Assistance Foundation of
Metropolitan Chicago
111 W. Jackson Blvd. Suite 300
Chicago, IL 60604
(312) 347-8394
Atty. No. 91017

CERTIFICATE OF SERVICE

I, Michelle A. Weinberg, an attorney, certify that I served the attached:
[PLAINTIFFS]' FIRST DISCOVERY REQUEST DIRECTED AT SECOND CHANCE
PROGRAM, INC. I.T. FOXX, DAVID RUIZ, AND HARRISON & CHASE, INC. by mailing a
copy via first-class mail to their counsel of record on _____ before
5:00 p.m., addressed as follows:

Kent Maynard & Associates LLC
17 North State Street, Suite 1700
Chicago, Illinois 60602

Michelle A. Weinberg

Michelle A. Weinberg
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