



Exhibit 2



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August 4, 2016

OUR FILE NUMBER
258,938-1160

VIA EMAIL

C. Barr Flinn
Young Conaway Stargatt & Taylor, LLP
Rodney Square
1000 N. King Street
Wilmington, DE 19801

WRITER'S DIRECT DIAL
(202) 383-5383

WRITER'S E-MAIL ADDRESS
jkilduff@omm.com

Re: Pagliara v. Fannie Mae, Case No. 1:16-cv-193 (GMS)

Dear Mr. Flinn:

On behalf of Fannie Mae, we are writing to ask you to correct certain incorrect statements in Pagliara's Verified Complaint and Pagliara's Remand Motion dated August 1, 2016. Pagliara's Remand Motion states that "Fannie Mae was initially federally chartered, but subsequently incorporated in Delaware...." Remand Motion at 3. There is no citation to support this proposition. The Remand Motion later states that "on August 21, 2002, Fannie Mae filed a certificate of incorporation in Delaware." Remand Motion at 7. For support, Pagliara cites to Exhibit C of his Verified Complaint, which appears to be a certificate of incorporation filed on August 21, 2002 with the Delaware Secretary of State for an entity purportedly called "Federal National Mortgage Association, Inc."

As even the slightest diligence by you or your client would have revealed, the Delaware Secretary of State voided the 2002 certificate of incorporation for "Federal National Mortgage Association, Inc.," attached as Exhibit C to your Verified Complaint, more than twelve years ago. In so doing, the Secretary of State explained that "the aforesaid corporation is no longer in existence and good standing under the laws of the State of Delaware having become inoperative and void the first day of March, A.D. 2004 for non-payment of taxes." A copy of this certificate is attached to this letter. The fact that the Secretary of State voided the certificate of incorporation for the "Federal National Mortgage Association, Inc." is readily ascertainable on the Secretary of State's website for a fee of \$10. The underlying 2004 certificate is available for an additional \$50 fee. We would expect that you would be familiar with the process of obtaining these documents. The 2004 certificate is judicially noticeable because it is a decision letter of a government body and it is integral to Pagliara's complaint. *See Pension Benefit Guar. Corp. v.*

White Consol. Indus., Inc., 998 F.2d 1192, 1197 (3d Cir. 1993); *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1426 (3d Cir. 1997).

In addition, as you know, Pagliara did not sue “Federal National Mortgage Association, Inc.,” as listed in the certificate. The company Pagliara sued – the Federal National Mortgage Association – has never been known as “Federal National Mortgage Association, Inc.,” nor has it ever been incorporated in the State of Delaware. In fact, the very first section of Fannie Mae’s Bylaws, which you also attach to your Remand Motion at Exhibit A, makes clear that Fannie Mae shall be known as the “Federal National Mortgage Association” or “Fannie Mae.” Bylaws § 1.01. Similarly, Fannie Mae’s Charter, which is also publicly available, states that Fannie Mae shall be known as “Federal National Mortgage Association.” Charter § 302(a)(1), 302(a)(2)(B). Fannie Mae’s Charter further provides that Fannie Mae can “conduct its business without regard to any qualification or similar statute in any State of the United States,” Charter §309(a), so there would be no reason for Fannie Mae to file such a certificate. And on its face, the certificate attached as Exhibit C to your Verified Complaint should have placed you on notice that it did not relate to Fannie Mae. It states that the “Federal National Mortgage Association, Inc.” was authorized to issue up to 1,500 shares of common stock. As any review of Fannie Mae’s public SEC filings – including the Form 10-K that Pagliara attached an excerpt of as Exhibit C to the Remand Motion – makes clear, Fannie Mae has over one billion shares of common stock outstanding. *See* Fannie Mae Form 10-K (Feb. 19, 2016), at F-3.

If you have any basis for alleging that the entity Pagliara sued – the Federal National Mortgage Association, or Fannie Mae – is incorporated in the State of Delaware other than Exhibit C to Pagliara’s Verified Complaint, please provide it as soon as possible,¹ but no later than one week from today, so that we are able to address it in our opposition to Pagliara’s remand motion. Consistent with your obligations under applicable rules of civil procedure and rules of professional responsibility, please also confirm that you will be filing a corrected Verified Complaint and a corrected Remand Motion to account for the fact that Fannie Mae is not incorporated in Delaware and that the certificate Pagliara cited to support its allegation that Fannie Mae is incorporated in Delaware was voided in 2004. Thank you for your prompt attention to this matter.

Sincerely,



Jeffrey W. Kilduff
of O'MELVENY & MYERS LLP

cc: Counsel of Record

¹ Note that the Federal Housing Finance Agency’s Final Rule on corporate governance, entitled “Responsibilities of Boards of Directors, Corporate Practices and Corporate Governance Matters,” makes clear that Fannie Mae’s election to follow a state’s corporate governance and indemnification practices and procedures does not “create any rights in any third party, ... nor shall it cause or be deemed to cause any regulated entity to become subject to the jurisdiction of any state court with respect to entity’s corporate governance.” 12 C.F.R. § 1239.3(d).

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE CERTIFICATE OF INCORPORATION OF "FEDERAL NATIONAL MORTGAGE ASSOCIATION, INC.", WAS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FIRST DAY OF AUGUST, A.D. 2002.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION IS NO LONGER IN EXISTENCE AND GOOD STANDING UNDER THE LAWS OF THE STATE OF DELAWARE HAVING BECOME INOPERATIVE AND VOID THE FIRST DAY OF MARCH, A.D. 2004 FOR NON-PAYMENT OF TAXES.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION WAS SO PROCLAIMED IN ACCORDANCE WITH THE PROVISIONS OF GENERAL CORPORATION LAW OF THE STATE OF DELAWARE ON THE TWENTY-FIFTH DAY OF JUNE, A.D. 2004 THE SAME HAVING BEEN REPORTED TO THE GOVERNOR AS HAVING NEGLECTED OR REFUSED TO PAY THEIR ANNUAL TAXES.




Jeffrey W. Bullock, Secretary of State

3560366 8400
SR# 20161641989

Authentication: 201979750
Date: 03-14-16

You may verify this certificate online at corp.delaware.gov/authver.shtml