

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

Case No.: 16-2009-CA-002464

Division: CV-H

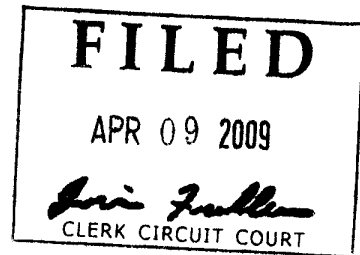
EVERHOME MORTGAGE COMPANY,

Plaintiff,

vs.

JOHN C. CALVIN; SENTINEL FEDERAL
CREDIT UNION f/k/a Ellsworth Air Force
Base Federal Credit Union; et al.

Defendant(s).



MOTION TO DISMISS FOR LACK OF JURISDICTION

Defendant JOHN C. CALVIN , through counsel, moves to dismiss this case for lack of jurisdiction and in support thereof alleges as follows:

1. On or about July 30, 2003, John Calvin executed a promissory note in favor of “RBMC, Inc., a Delaware corporation” and a related mortgage in favor of Mortgage Electronic Registration Systems, Inc., a Delaware corporation “acting solely as a nominee for Lender and Lender’s successors and assigns.” According to the mortgage “RBMG, Inc., a Delaware corporation” was the “Lender.”
2. Beginning in 1999 through May 5, 2005, a purported Delaware corporation named RBMG, Inc. was registered with the Florida Secretary of State as a foreign (Delaware) corporation doing business in Florida.
3. The Delaware Secretary of State has no record of ever incorporating RBMG, Inc.
4. The Delaware Secretary of State has records of ten entities which include the

letter string RBMG as part of their name, but not of a RBMG, Inc. Copies of the web search result pages are attached hereto as Exhibit A.

5. There is no record of any Florida domestic entity named RBMG, Inc.

6. Paragraph 5 of the Complaint alleges the Note and Mortgage and any subsequent assignments are attached to the Complaint.

7. The Note payable to RBMG, Inc. and Mortgage naming Mortgage Electronic Registration Systems, Inc. as mortgagee and a purported assignment of rights in the mortgage and underlying debt (but not in the note) are the only documents attached to the Complaint.

8. The purported assignment is dated January 9, 2008 and alleges an assignment by Mortgage Electronic Registration Systems, Inc. as nominee for RBMG, Inc., a Delaware Corporation to Everhome Mortgage Company.

9. There is no purported assignment of the Note and RBMG, Inc. is not a party plaintiff.

10. The purported assignment of the Mortgage by the alleged "nominee" of RBMG, Inc. cannot be effective for the following reasons:

a. On July 30, 2003 no lawful entity styled "RBMG, Inc." existed; the purported foreign corporation doing business in Florida under that name apparently never having in fact been incorporated anywhere.

b. On January 9, 2008, no lawful entity styled "RBMG, Inc." existed; even the purported Delaware corporation which had purported to be doing business in Florida had withdrawn its "authority" as of May 5, 2005.

c. The actions of Mortgage Electronic Registration Systems, Inc. to convey and assign interests from a non-existent corporation as "nominee" for the non-existent corporation

are a nullity.

d. Even if Mortgage Electronic Registration Systems, Inc. had the power to convey its rights as mortgagee under the mortgage it had no power to convey any rights in the underlying obligation memorialized by the Note.

11. There is no allegation in the Complaint that Everhome Mortgage Corporation is a successor or assign of the original lender, "RBMG, Inc., a Delaware Corporation."

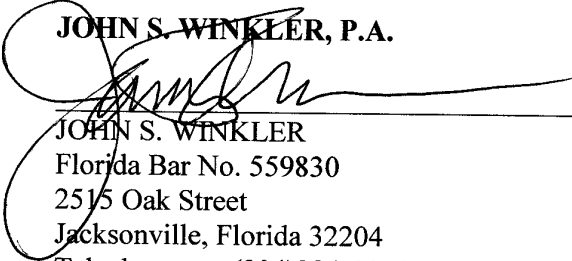
12. There is no allegation in the Complaint that Mortgage Electronic Registration Systems, Inc. is a successor or assign to the original lender, "RBMG, Inc., a Delaware Corporation."

WHEREFORE the Plaintiff, Everhome Mortgage Company, lacks jurisdiction to maintain this foreclosure action absent the establishment of proof both that RBMG, Inc. was in fact a lawful entity on July 30, 2003 and that Everhome Mortgage Company is in fact the successor in interest and proper party plaintiff in this action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by United States Mail delivery Heidi Mohammed, Esq., Shapiro & Fishman, LLP, 2424 North Federal Highway, Suite 360, Boca Raton, Florida 33431 on this 8TH day of April, 2009.

JOHN S. WINKLER, P.A.



JOHN S. WINKLER

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Attorney for Defendant John C. Calvin

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13 Matches found

* Required Field

* Entity Name: or File Number:

This field is not case sensitive.

- SERVICES**
- Pay Taxes
- File UCC's
- Delaware Laws Online
- Name Reservation
- Entity Search Status
- Validate Certificate
- Customer Service Survey

FILE NUMBER ENTITY NAME

2913627	RBMG FUNDING CO. HOME EQUITY LOAN TRUST 1998-1
2977227	RBMG FUNDING CO. MORTGAGE LOAN TRUST 1998-2
3051819	RBMG FUNDING CO. MORTGAGE LOAN TRUST 1999-1
3132383	RBMG FUNDING CO. MORTGAGE LOAN TRUST 1999-2
2834816	RBMG FUNDING TRUST 1997-2
3007782	RBMG LLC
4575559	RBMG, LLC
3680349	RBM GLOBAL SOLUTIONS, LLC
2461679	RBMG MORTGAGE, INC.
3315208	RBMG PFC, INC.
3298810	RBM GRENADA, LLC
2938134	RBM GROUP INCORPORATED
2767486	RBMG SUBSIDIARY INC.

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Frequently Asked Questions

To retrieve information on a Delaware entity, Key in the name of the entity you are searching. The search results will return both active and inactive entities from our database. This is not an indication of the current status of an entity. The information provided in this application is real time and reflects the information on our database as of the date of the search. When the list of names is returned click the name and the information page will be returned.

- SERVICES**
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- File UCC's
- Delaware Laws Online
- Name Reservation
- Entity Search Status
- Validate Certificate
- Customer Service Survey

The entity information provided on this website, free of charge, consists of the entity name, file number, incorporation/formation date, registered agent name, address, phone number and residency.

However, additional information can be obtained for a fee.

If you would like to order a Certificate of Status, Certified Copy of a filed document or a Plain Copy of same, please contact a Delaware online agent. Please click here.

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