

08-433-CD

Bank of NY vs Robert Powell al

FILED

MAR 12 2008
11:20 AM
William A. Shaw
Prothonotary/Clerk of Courts

4 Cents to Staff

PHELAN HALLINAN & SCHMIEG, LLP
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
SHEETAL R. SHAH-JANI, ESQ., Id. No. 81760
JUDITH T. ROMANO, ESQ., Id. No. 58745
JENINE R. DAVEY, ESQ., Id. No. 87077
MICHAEL E. CARLETON, ESQ., Id. No. 203009
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

173779

ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWALT, INC.
ALTERNATIVE LOAN TRUST 2005-80CB
MORTGAGE PASS-THROUGH CERTIFICATES ,
SERIES 2005-80CB
7105 CORPORATE DRIVE
PLANO, TX 75024

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-433-C0

CLEARFIELD COUNTY

Plaintiff

v.

ROBERT W. POWELL
DARLENE S. POWELL
SECTION 1 LOT 191 TREASURE LAKE
A/K/A 3344 BAY ROAD
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA
C/O THE UNITED STATES ATTORNEY FOR
THE WESTERN DISTRICT OF PENNSYLVANIA,
P.O. BOX 1805
U.S. POST OFFICE AND COURTHOUSE
PITTSBURGH, PA 15230
Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:
Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

**IF THIS IS THE FIRST NOTICE THAT YOU HAVE
RECEIVED FROM THIS OFFICE, BE ADVISED THAT:**

**PURSUANT TO THE FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977),
DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE
DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S)
DO SO IN WRITING WITHIN THIRTY (30) DAYS OF
RECEIPT OF THIS PLEADING, COUNSEL FOR
PLAINTIFF WILL OBTAIN AND PROVIDE
DEFENDANT(S) WITH WRITTEN VERIFICATION
THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED
TO BE VALID. LIKEWISE, IF REQUESTED WITHIN
THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING,
COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S)
THE NAME AND ADDRESS OF THE ORIGINAL
CREDITOR, IF DIFFERENT FROM ABOVE.**

**THE LAW DOES NOT REQUIRE US TO WAIT UNTIL
THE END OF THE THIRTY (30) DAY PERIOD
FOLLOWING FIRST CONTACT WITH YOU BEFORE
SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH
THE LAW PROVIDES THAT YOUR ANSWER TO THIS**

COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWALT, INC.
ALTERNATIVE LOAN TRUST 2005-80CB
MORTGAGE PASS-THROUGH CERTIFICATES ,
SERIES 2005-80CB
7105 CORPORATE DRIVE
PLANO, TX 75024

2. The name(s) and last known address(es) of the Defendant(s) are:

ROBERT W. POWELL
DARLENE S. POWELL
SECTION 1 LOT 191 TREASURE LAKE
A/K/A 3344 BAY ROAD
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA
C/O THE UNITED STATES ATTORNEY FOR
THE WESTERN DISTRICT OF PENNSYLVANIA, P.O. BOX 1805
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PITTSBURGH, PA 15230

who is/are the mortgagor(s) and/or real owner(s) of the property hereinafter described.

3. On 07/29/2005 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to COLUMBIA HOME LOANS which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200511786. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 10/01/2007 and each month thereafter are due and unpaid, and by the terms

of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$84,742.59
Interest	\$2,937.60
09/01/2007 through 03/10/2008	
(Per Diem \$15.30)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$137.30
07/29/2005 to 03/10/2008	
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$89,817.49
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
TOTAL	\$89,817.49

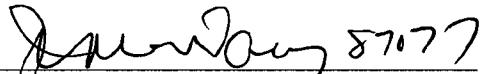
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.
8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability

discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.
10. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.
11. The United States of America is made a Defendant herein pursuant to 28 U.S.C. 2410, because of federal tax liens that have been filed with the Prothonotary of CLEARFIELD County in the Judgment Index Unit as follows:
 - (a) United States vs. ROBERT W. POWELL; IRS Docket No. 2006-01784-CD; filed 10/30/2006; in the amount of \$24,865.38

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$89,817.49, together with interest from 03/10/2008 at the rate of \$15.30 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: 
FRANCIS S. HALLINAN, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
SHEETAL R. SHAH-JANI, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
JENINE R. DAVEY, ESQUIRE
MICHAEL E. CARLETON, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191, "BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA, RECORDED IN THE RECORDER OF DEEDS OFFICE IN MISC. DOCKET MAP FILE NO. 25.

EXPECTING AND RESERVING THEREFROM AND SUBJECT TO:

1. ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS, RESTRICTIONS AND LIMITATIONS SHOWN OR CONTAINED IN PRIOR INSTRUMENTS OF RECORD AND IN THE AFORESAID RECORDED PLAN.
2. THE DECLARATION OF RESTRICTIONS, TREASURE LAKE, INC. RECORDED IN MISC. BOOK VOL. 146, P. 476; ALL OF SAID RESTRICTIONS BEING COVENANTS WHICH RUN WITH THE LAND.
3. ALL MINERALS AND MINING RIGHTS OF EVERY KIND AND NATURE.
4. A LIEN OF ALL UNPAID CHARGES OR ASSESSMENTS AS MAY BE MADE BY TREASURE LAKE, INC. OR TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.; WHICH LIEN SHALL RUN WITH THE LAND AND BE AN ENCUMBRANCE AGAINST IT.

PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 334 BAY ROAD

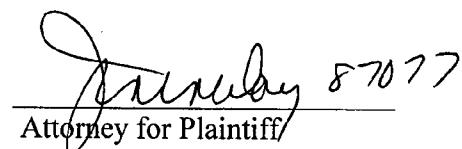
PARCEL: 128-C02-001-00-191-00-21

VERIFICATION

I hereby state that I am the attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the Court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that I am authorized to make this verification pursuant to Pa.R.C.P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of my knowledge, information and belief.

Furthermore, counsel intends to substitute a verification from Plaintiff upon receipt.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsifications to authorities.



Attorney for Plaintiff

DATE: 3/11/08

PHELAN HALLINAN & SCHMIEG, LLP
By Lawrence T. Phelan, Esquire, ID. No. 32227
Francis S. Hallinan Esquire, ID No. 62695
One Penn Center at Suburban Station
Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

FILED NOCC
m/12/5961
APR 03 2003 (60)

William A. Shaw
Prothonotary/Clerk of Courts

Attorney for Plaintiff

**BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWALT, INC.
ALTERNATIVE LOAN TRUST 2005-80CB
MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2005-80CB**

Plaintiff

**Court of Common Pleas
CLEARFIELD County
No. 2008-433-CD**

vs.

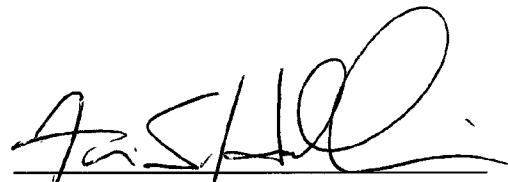
Defendant(s)

PRAECIPE TO SUBSTITUTE LEGAL DESCRIPTION

TO THE PROTHONOTARY:

Kindly substitute the attached legal description for the legal description originally filed with the complaint in the instant matter.

4/1/08
Date



Lawrence T. Phelan, Esquire
Francis S. Hallinan, Esquire
Attorneys for Plaintiff

PHS # 173779

LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191,
"BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP,
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OFFICE IN MISC. DOCKET MAP FILE NO. 25.

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PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 3344 BAY ROAD

PARCEL: 128-C02-001-00-191-00-21

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FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

**BANK OF NEW YORK AS TRUSTEE
FOR THE CERTIFICATEHOLDERS
CWALT, INC. ALTERNATIVE LOAN
TRUST 2005-80CB MORTGAGE
PASS-THROUGH CERTIFICATES ,
SERIES 2005-80CB**

Plaintiff

vs.

**ROBERT W. POWELL
DARLENE S. POWELL
* *****USA*******

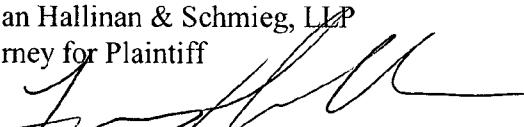
**: COURT OF COMMON PLEAS
: CIVIL DIVISION
: NO. 2008-433-CD
: CLEARFIELD COUNTY
: Plaintiff
: vs.
: Defendant(s)**

**PRAECLYPE TO SUBSTITUTE VERIFICATION
TO CIVIL ACTION COMPLAINT
IN MORTGAGE FORECLOSURE**

TO THE PROTHONOTARY:

Kindly substitute the attached verification for the verification originally filed with the complaint in the instant matter.

Phelan Hallinan & Schmieg, LLP
Attorney for Plaintiff

By: 
Francis S. Hallinan, Esquire

Date: 5/7/08

FILED NO
MAY 09 2008
2008
cc
©

William A. Shaw
Prothonotary/Clerk of Courts

PHS #: 173779

VERIFICATION

MARK BISHOP

hereby states that he/she is

1st VICE PRESIDENT of BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWALT, INC. ALTERNATIVE LOAN TRUST 2005-80CB MORTGAGE PASS-THROUGH CERTIFICATES , SERIES 2005-80CB, servicing agent for Plaintiff in this matter, that he/she is authorized to take this Verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



Name: **MARK BISHOP, 1ST VICE PRESIDENT**

DATE: **MAR 13 2008**

Title:

Company: BANK OF NEW YORK AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS CWALT, INC.
ALTERNATIVE LOAN TRUST 2005-80CB
MORTGAGE PASS-THROUGH
CERTIFICATES , SERIES 2005-80CB

D, 4

PHELAN HALLINAN & SCHMIEG, LLP
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FRANCIS S. HALLINAN, ESQ., Id. No. 62695
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(215) 563-7000

ATTORNEY FOR PLAINTIFF

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FOR THE CERTIFICATEHOLDERS
CWALT, INC. ALTERNATIVE LOAN
TRUST 2005-80CB MORTGAGE
PASS-THROUGH CERTIFICATES ,
SERIES 2005-80CB**

: COURT OF COMMON PLEAS
: CIVIL DIVISION
: NO. 2008-433-CD
: CLEARFIELD COUNTY

Plaintiff

vs.

**ROBERT W. POWELL
DARLENE S. POWELL
* *****USA *******

:
:
:
:
:

Defendant(s)

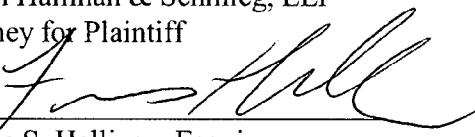
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Praeclipe to attach Verification of Complaint was sent via first class mail to the following on the date listed below:

ROBERT W. POWELL
DARLENE S. POWELL
* *****USA *****
SECTION 1 LOT 191 TREASURE LAKE, A/K/A 3344 BAY ROAD
DUBOIS, PA 15801

ROBERT W. POWELL
38 TREASURE LAKE
Du Bois, PA 15801-9001

Phelan Hallinan & Schmieg, LLP
Attorney for Plaintiff

By: 
Francis S. Hallinan, Esquire

Date: 5/7/08

FILED ^{NO CC}
 mhi:35/01
 JUN 05 2008
 BDA
 William A. Shaw
 Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
 BY: Michele M. Bradford, Esquire, ID No. 69849
 Jenine R. Davey, Esquire, ID No. 87077
 One Penn Center at Suburban Station
 1617 JFK Boulevard, Suite 1400
 Philadelphia, PA 19103-1814
 (215) 563-7000

Bank of New York as Trustee for the
 Certificateholders CWALT, Inc. Alternative Loan
 Trust 2005-80CB Mortgage Pass-Through
 Certificates, Series 2005-80CB
 7105 Corporate Drive
 Plano, TX 75024
 Plaintiff

vs.

Robert W. Powell
 Darlene S. Powell
 Section 1 Lot 191 Treasure Lake
 a/k/a 3344 Bay Road
 DuBois, PA 15801
 Defendants

ATTORNEYS FOR PLAINTIFF

Court of Common Pleas

Civil Division

Clearfield County

No. 08-CD-0433

MOTION TO DIRECT THE SHERIFF TO FILE AFFIDAVIT OF SERVICE

1. Plaintiff commenced the instant mortgage foreclosure action by filing a Complaint on March 12, 2008. A true and correct copy of the Complaint is attached hereto, made part hereof, and marked as Exhibit "A".
2. The Sheriff of Clearfield County was requested to serve the Complaint upon the Defendants.

3. On May 29, 2008, the Sheriff's office verbally advised counsel for Plaintiff that Robert A. Powell and Darlene S. Powell were served on April 4, 2008.

4. On May 30, 2008, Plaintiff sent the Defendants a ten day letter notifying them of its intention to file a default judgment.

5. To date, the Clearfield County Sheriff's office has not filed the Affidavit of Service, which was made on April 4, 2008.

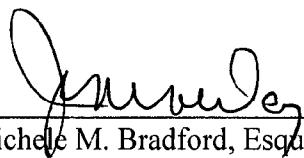
6. Plaintiff is unable to enter judgment and praecipe for a writ of execution until the Sheriff's office files the Affidavit of Service of the Complaint with the Prothonotary. Interest accrues at the rate of \$15.30 per day on this mortgage account.

7. The Plaintiff is greatly prejudiced by the delay in the filing of the Sheriff's Affidavit of Service.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order directing the Sheriff of Clearfield County to file the Affidavit of Service of the Complaint with the Prothonotary within seven days.

Respectfully submitted,
PHELAN HALLINAN & SCHMIEG, LLP

6/4/08
Date



Michelle M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

EXHIBIT A

173779 - 400000

MAR 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

I hereby certify this to be true and
attested copy of the original
statement filed in this case.

MAR 12 2008

Attest:

William A. Shaw
Prothonotary/
Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
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ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-433-CO

CLEARFIELD COUNTY

ATTORNEY FILE COPY
PLEASE RETURN

Plaintiff

v.

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DARLENE S. POWELL
SECTION 1 LOT 191 TREASURE LAKE
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Defendants

We hereby certify the
within to be a true and
correct copy of the
original seal of record

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

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814-765-2641 x 5982

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THE NAME AND ADDRESS OF THE ORIGINAL
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THE END OF THE THIRTY (30) DAY PERIOD
FOLLOWING FIRST CONTACT WITH YOU BEFORE
SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH
THE LAW PROVIDES THAT YOUR ANSWER TO THIS**

COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

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MORTGAGE PASS-THROUGH CERTIFICATES ,
SERIES 2005-80CB
7105 CORPORATE DRIVE
PLANO, TX 75024

2. The name(s) and last known address(es) of the Defendant(s) are:

ROBERT W. POWELL
DARLENE S. POWELL
SECTION 1 LOT 191 TREASURE LAKE
A/K/A 3344 BAY ROAD
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA
C/O THE UNITED STATES ATTORNEY FOR
THE WESTERN DISTRICT OF PENNSYLVANIA, P.O. BOX 1805
U.S. POST OFFICE AND COURTHOUSE
PITTSBURGH, PA 15230

who is/are the mortgagor(s) and/or real owner(s) of the property hereinafter described.

3. On 07/29/2005 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to COLUMBIA HOME LOANS which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200511786. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 10/01/2007 and each month thereafter are due and unpaid, and by the terms

of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$84,742.59
Interest	\$2,937.60
09/01/2007 through 03/10/2008 (Per Diem \$15.30)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges 07/29/2005 to 03/10/2008	\$137.30
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$89,817.49
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
TOTAL	\$89,817.49

7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.

8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability

discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.
10. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.
11. The United States of America is made a Defendant herein pursuant to 28 U.S.C. 2410, because of federal tax liens that have been filed with the Prothonotary of CLEARFIELD County in the Judgment Index Unit as follows:
 - (a) United States vs. ROBERT W. POWELL; IRS Docket No. 2006-01784-CD; filed 10/30/2006; in the amount of \$24,865.38

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$89,817.49, together with interest from 03/10/2008 at the rate of \$15.30 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: *Francis S. Hallinan 87077*

FRANCIS S. HALLINAN, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
SHEETAL R. SHAH-JANI, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
JENINE R. DAVEY, ESQUIRE
MICHAEL E. CARLETON, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191,
"BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP,
CLEARFIELD COUNTY, PENNSYLVANIA, RECORDED IN THE RECORDER OF DEEDS
OFFICE IN MISC. DOCKET MAP FILE NO. 25.

EXPECTING AND RESERVING THEREFROM AND SUBJECT TO:

1. ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS, RESTRICTIONS AND LIMITATIONS SHOWN OR CONTAINED IN PRIOR INSTRUMENTS OF RECORD AND IN THE AFORESAID RECORDED PLAN.
2. THE DECLARATION OF RESTRICTIONS, TREASURE LAKE, INC. RECORDED IN MISC. BOOK VOL. 146, P. 476; ALL OF SAID RESTRICTIONS BEING COVENANTS WHICH RUN WITH THE LAND.
3. ALL MINERALS AND MINING RIGHTS OF EVERY KIND AND NATURE.
4. A LIEN OF ALL UNPAID CHARGES OR ASSESSMENTS AS MAY BE MADE BY TREASURE LAKE, INC. OR TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.; WHICH LIEN SHALL RUN WITH THE LAND AND BE AN ENCUMBRANCE AGAINST IT.

PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 334 BAY ROAD

PARCEL: 128-C02-001-00-191-00-21

VERIFICATION

I hereby state that I am the attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the Court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that I am authorized to make this verification pursuant to Pa.R.C.P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of my knowledge, information and belief. Furthermore, counsel intends to substitute a verification from Plaintiff upon receipt.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsifications to authorities.

Jainelay 87077

Attorney for Plaintiff

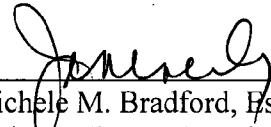
DATE: 3/11/08

VERIFICATION

The undersigned hereby state that they are the attorneys for the Plaintiff in this action, that they are authorized to make this Verification, and that the statements made in the foregoing Motion to Direct Sheriff to file Affidavit of Service and Brief in support thereof are true and correct to the best of their knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

PHELAN HALLINAN & SCHMIEG, LLP

6/4/08
Date



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

Bank of New York as Trustee for the
Certificateholders CWALT, Inc. Alternative Loan
Trust 2005-80CB Mortgage Pass-Through
Certificates, Series 2005-80CB
7105 Corporate Drive
Plano, TX 75024
Plaintiff

vs.

Robert W. Powell
Darlene S. Powell
Section 1 Lot 191 Treasure Lake
a/k/a 3344 Bay Road
DuBois, PA 15801
Defendants

ATTORNEYS FOR PLAINTIFF

Court of Common Pleas

Civil Division

Clearfield County

No. 08-CD-0433

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion to Direct Sheriff to File
Affidavit of Service and Brief in Support thereof were served upon the following interested
parties via first class mail on the date indicated below:

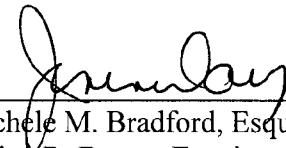
Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

Robert W. Powell
Darlene S. Powell
Section 1 Lot 191 Treasure Lake
a/k/a 3344 Bay Road
DuBois, PA 15801

6/4/08
Date

PHELAN HALLINAN & SCHMIEG, LLP



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103872
NO: 08-433-CD
SERVICE # 1 OF 4
CCMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
VS.
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBERT W. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBERT POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED

03/57/08
JUN 11 2008

LM
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DCCKET # 103872
NO: 08-433-CD
SERVICE # 2 OF 4
CCMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
vs.
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DARLENE S. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DARLENE POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103872
NO: 08-433-CD
SERVICE # 3 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
vs.
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBERT W. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBERT POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SEC 1 LOT 191, TREASURE LAKE aka 3344 BAY RD., DUBOIS, PA. "OCCUPIED"

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103872
NO: 08-433-CD
SERVICE # 4 OF 4
CCMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
vs.
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DARLENE S. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DARLENE POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SEC 1 LOT 191 TREASURE LAKE aka 3344 BAY ROAD, DUBOIS "OCCUPIED"

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103872
NO. 08-433-CD
SERVICES 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
vs.
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

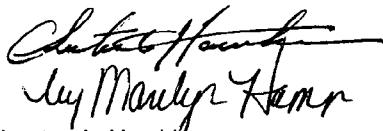
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	675935	40.00
SHERIFF HAWKINS	PHELAN	675935	60.00

Sworn to Before Me This

____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

U
FILED 1CC Atty
03/16/08 Davy
JUN 09 2008
William A. Shaw
Prothonotary/Clerk of Courts
1CC Sheriff
(clout memo)
610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Bank of New York as Trustee for the Certificateholders CWALT, Inc. Alternative Loan Trust 2005-80CB Mortgage Pass-Through Certificates, Series 2005-80CB 7105 Corporate Drive Plano, TX 75024	:	Court of Common Pleas
Plaintiff	:	Civil Division
vs.	:	Clearfield County
Robert W. Powell Darlene S. Powell Section 1 Lot 191 Treasure Lake a/k/a 3344 Bay Road DuBois, PA 15801	:	No. 08-CD-0433
Defendants	:	

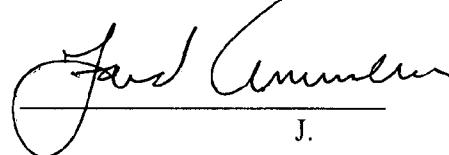
ORDER

AND NOW, this 6th day of June, 2008, upon consideration of

Plaintiff's Motion to Direct Sheriff to File Affidavit of Service, and any response thereto, it is
hereby:

ORDERED and DECREED that the Sheriff of Clearfield County is hereby directed to
complete and file an Affidavit of Service of the foreclosure Complaint within seven days of the
date of this Order.

BY THE COURT:


J.

FILED

JUN 09 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/19/08

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED

JUN 18 2009

W/10-3566

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to ATF

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87977
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

Bank of New York as Trustee for the	:	Court of Common Pleas
Certificateholders CWALT, Inc. Alternative Loan	:	
Trust 2005-80CB Mortgage Pass-Through	:	
Certificates, Series 2005-80CB	:	
7105 Corporate Drive	:	Civil Division
Plano, TX 75024	:	
Plaintiff	:	
vs.	:	
Robert W. Powell	:	
Darlene S. Powell	:	
Section 1 Lot 191 Treasure Lake	:	No. 08-0433-CD
a/k/a 3344 Bay Road	:	
DuBois, PA 15801	:	
Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the Order granting Plaintiff's Motion to Direct Sheriff to File Affidavit of Service were served upon the following interested parties via first class mail on the date indicated below:

Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

Robert W. Powell
Darlene S. Powell
Section 1 Lot 191 Treasure Lake
a/k/a 3344 Bay Road
DuBois, PA 15801

10/16/08
Date

PHELAN HALLINAN & SCHMIEG, LLP



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff