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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

ALAN GARDNER, on behalf of himself and
others similarly situated,

No. 10-2-36902-3 SEA

Plaintiff,

v.

GMAC MORTGAGE, LLC, a foreign
corporation,

Defendant.

TIFFANY SMITH, on behalf of herself and
others similarly situated,

No. 11-2-10126-6 SEA

Plaintiff,

v.

HEMCOMINGS FINANCIAL, LLC, a
foreign corporation,

Defendant.

NOTICE OF CLASS ACTION
CERTIFICATION AND PROPOSED
SETTLEMENT

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY

You may have received a notice of class action settlement regarding an agreement dated March 2, 2012 (the "Original Settlement") to settle these cases because you paid a fee to GMAC Mortgage, LLC ("GMACM") or Homecomings Financial, LLC ("Homecomings") to record a Substitution of Trustee (SOT) or similar form when you paid off your home loan in Washington State. GMACM and Homecomings subsequently filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court

1 (“Bankruptcy Court”) on May 14, 2012 (the “Bankruptcy Proceeding”). The Bankruptcy
2 Proceeding abrogated the effect of the Original Settlement. Plaintiffs’ Counsel filed two
3 Proofs of Claim in the Bankruptcy Proceeding on October 23, 2012 (the “Claims”).

4 The purpose of this notice is to provide you with information about the Court’s
5 continued certification of these cases as a class action for settlement purposes, the parties’
6 proposed settlement of the cases and the Claims (the “Settlement”), and your rights with
7 respect to the settlement class certification and the Settlement.

8 **WHAT ARE THESE CASES ABOUT?**

9 Plaintiffs Alan Gardner and Tiffany Smith allege that GMACM and Homecomings
10 breached their contracts with borrowers and violated the Washington Consumer Protection
11 Act by collecting SOT recording fees from borrowers at the time borrowers paid off their
12 Washington home loans.

13 GMACM and Homecomings deny Plaintiffs’ claims and allegations and assert that
14 they were allowed to charge SOT recording fees by the applicable contracts, and that their
15 collection of such fees fully complied with all applicable Washington state laws.

16 The Court has not ruled on the merits of Plaintiffs’ claims and has not decided
17 whether Plaintiffs or Defendants would win these cases. However, the parties have engaged
18 in lengthy settlement negotiations and have agreed on a proposed settlement of the lawsuits
19 and Claims in the Bankruptcy Proceeding that they believe is fair, adequate and reasonable,
20 and in the best interests of the members of the Settlement Class. The terms of the proposed
21 Settlement are summarized below. If the Settlement is approved first by the Bankruptcy
22 Court, and then by this Court at the final settlement approval hearing on June 20, 2014,
23 settlement payments will be distributed to members of the Settlement Class as described
24 below. In addition, the Court will enter an order permanently dismissing all claims that were
25 or could have been asserted in the lawsuit as explained below.
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WHAT IS A CLASS ACTION?

The Court provisionally certified these cases as a class action for purposes of the Original Settlement on March 14, 2012. On February 10, 2014 the Court granted continued certification of these cases as a class action for purposes of an Amended Class Action Settlement Agreement (the “Amended Agreement”) dated December 11, 2013. A “class action” is a type of lawsuit in which the named plaintiffs are entitled to bring a lawsuit for themselves and on behalf of a larger group of similarly situated “Class Members.” In a class action, the final outcome of the lawsuit will apply in the same manner to all class members unless they choose to be excluded from the lawsuit.

In these cases, the Court approved Alan Gardner and Tiffany Smith (the “Named Plaintiffs”) to serve as class representatives and Adam J. Berger and Martin S. Garfinkel of Schroeter Goldmark & Bender, Guy Beckett of Berry & Beckett PLLP, and Roblin Williamson of Williamson & Williams to act as attorneys for the Settlement Class (“Class Counsel”). The Court has certified this Class for settlement purposes only, and should the Court fail to grant final approval of the Settlement for any reason, the Settlement Class will be decertified and the Parties will proceed with litigation of the cases and Claims in the Bankruptcy Proceeding. If the Court grants final approval of the Settlement described below, and you choose to remain a member of the Settlement Class, you will be bound by the proposed Amended Agreement.

WHAT ARE THE REASONS FOR THIS SETTLEMENT?

Since Plaintiffs filed their Complaints, Plaintiffs and Defendants have conducted extensive litigation and discovery concerning the claims asserted by Plaintiffs and have vigorously investigated the facts and law applicable to the case.

Plaintiffs and their counsel reached the Settlement after considering the risks and benefits to the class of settlement or continued litigation. Among the factors considered were the likelihood that the settlement will provide fair, cost-effective and assured compensation

1 for class members in light of the Bankruptcy Proceeding, the risks, difficulties, and
2 uncertainties in obtaining and maintaining certification of a litigation class and in proving
3 liability and damages at trial, and the expense and delay inherent in continued litigation and
4 appeals. Plaintiffs and their counsel balanced these risks in determining that the proposed
5 Settlement is fair, adequate and reasonable, and in the best interests of the Settlement Class.

6 GMACM and Homecomings have concluded that further litigation of the class action
7 and Claims would be protracted and expensive for all parties. Substantial amounts of time,
8 energy and resources have been and, unless this Settlement is made, will continue to be,
9 devoted to the companies' defense of Plaintiffs' claims. Defendants also recognize that
10 litigating these cases on a class action basis would be expensive and time consuming.
11 Defendants have, therefore, agreed to the terms set forth in the proposed Amended
12 Agreement to finally resolve all claims in the class actions.

13 As noted above, GMACM and Homecomings have denied and continue to deny each
14 of the claims and contentions alleged by Plaintiffs in these class actions and in the
15 Bankruptcy Proceeding. Neither the proposed Amended Agreement, nor any action taken to
16 carry out the proposed Amended Agreement is, may be construed as, or may be used as an
17 admission, concession, or indication by or against GMACM or Homecomings, or their
18 officers, directors, members, employees or representatives, of any fault, wrongdoing or
19 liability whatsoever.

20 **DESCRIPTION OF THE PROPOSED SETTLEMENT**

21 The following is a summary of the basic provisions of the proposed Settlement. The
22 specific and complete terms are contained in the proposed Amended Agreement, a copy of
23 which is on file with the Clerk of the Court, King County Courthouse, Seattle, Washington.

24 • Defendants will create a Settlement Fund of \$285,000 that will be used to pay all
25 individual Class Member awards, Class Counsel's attorneys' fees and costs, settlement
26 administration costs, and any class representative fees in the case.

1 • There are two relevant time periods in the case. The claims against GMACM will be
2 settled for the time period from October 20, 2004 through the Date of the Settlement
3 Agreement. The claims against Homecomings will be settled for the time period from March
4 18, 2005 through the Date of the Settlement Agreement. Collectively, these dates constitute
5 the “Settlement Class Period.”

6 • The net balance of the Settlement Fund, after deduction of any attorneys’ fees and
7 costs, settlement administration costs, and class representative fees awarded by the Court,
8 will be divided equally among the award recipients. Class Counsel estimate that the
9 individual settlement award for each award recipient will be approximately \$1.65 if the Court
10 approves the requested attorneys’ fees and costs, settlement administration costs, and class
11 representative fees described below.

12 • Upon final approval of the Settlement by the Court, individual settlement awards will
13 be sent automatically to all Settlement Class Members for whom the Claims Administrator
14 has a valid address. The Claims Administrator shall be deemed to have a valid address for a
15 Settlement Class Member when the Summary Class Notice sent to that Class Member has not
16 been returned as undeliverable after the initial mailing or re-mailing following a reasonable
17 address trace. Settlement Class Members need not submit a claim form or take any other
18 action in order to receive the individual settlement awards.

19 • Settlement Class Members shall have ninety (90) days following distribution of the
20 individual settlement awards to cash the individual settlement award checks.

21 • Subject to approval by the Court, Class Counsel will request an attorneys’ fee award
22 of up to 30% of the Settlement Fund, plus out-of-pocket costs incurred in litigation of the case
23 and administration of the Settlement.

24 • Subject to approval by the Court, Plaintiff Alan Gardner and Plaintiff Tiffany Smith
25 will receive payments out of the Settlement Fund of up to \$8,000 and \$4,000, respectively, as
26 class representative fees. These sums are intended to compensate the Plaintiffs for their time

1 and effort expended as the representatives of the class and will be in addition to their
2 individual settlement awards.

3 • Any amounts remaining in the Settlement Fund after distribution of the individual
4 settlement awards as a result of opt-outs, undeliverable Notices, or uncashed settlement
5 award checks will be distributed equally to the Legal Foundation of Washington (50%) and
6 the Northwest Consumer Law Center (50%).

7 **WHAT IS THE LEGAL EFFECT OF THE SETTLEMENT**

8 If the Court approves the Settlement, the Court will enter a Final Judgment dismissing
9 the Class Actions with prejudice, and within five (5) business days, Plaintiffs will withdraw
10 their Claims in the Bankruptcy Proceeding. The effect of such a Final Judgment will be to
11 release and discharge GMACM and Homecomings from all claims for collection of the SOT
12 recording fees under any state, federal, contract, or other law arising during the Settlement
13 Class Period described above that were or could have been asserted by the named Plaintiffs
14 or Class Members based on the facts and circumstances alleged in the Complaints. When
15 claims are “released,” that means that a person covered by the release cannot later sue or
16 recover from GMACM or Homecomings for any of the claims that are covered by the
17 Release.

18 **WHAT OPTIONS DO I HAVE** 19 **WITH RESPECT TO THE CASE AND THE SETTLEMENT?**

20 **1. Option to Remain in Class Action:**

21 You do not need to do anything to remain a member of this class. Unless you
22 specifically request to be excluded from the class or have already requested to be excluded
23 from the class, you will be deemed a member of the class. As a member of the class, you
24 will be bound by all terms of any settlement and judgment finally approved by the Court.

25 You will not need to file a claim form to receive compensation under the proposed
26 settlement if you remain in the class. If the Court grants final approval of the settlement, you

1 will receive your individual settlement award check approximately 30 days after the date that
2 final approval becomes final and not subject to any appeal.

3 **2. Option to Decline Participation in the Settlement:**

4 If you do not want to remain a member of the Settlement Class, you must make a
5 written request to be excluded from the class in writing. A form for requesting exclusion is
6 appended to this Notice. You do not need to make a written request to be excluded from the
7 class if you have already done so.

8 Your request for exclusion must include your name, current address, telephone
9 number, last four digits of your social security number, your signature, and an unequivocal
10 statement that you intend to be excluded from the Settlement. If there was more than one
11 borrower obligated on a loan for which GMACM or Homecomings collected an SOT
12 recording fee, a request for exclusion will be valid for such transaction only if all borrowers
13 request exclusion from the Settlement. If you paid multiple SOT recording fees during the
14 Settlement Class Period, your request for exclusion will presumptively apply to all such
15 transactions, unless you specify by loan number, date, or address of the real property subject
16 to the loan payoff which transaction(s) you wish to be excluded from the Settlement.

17 In order for your request for exclusion to be valid, you must mail it to the Claims
18 Administrator at the following address, postmarked no later than April 24, 2014:

19 GMAC/Homecomings Class Action Settlement
20 PO Box 12983
21 Birmingham, AL 35202

22 If you submit a valid and timely request for exclusion from the Settlement Class you
23 will not be entitled to receive any benefits under the proposed Amended Agreement, nor will
24 you be bound by its terms or any Final Judgment if the Settlement is approved by the
25 Superior Court. In that event, you may pursue any claims you may have against GMACM or
26 Homecomings by filing your own lawsuit, subject to all applicable defenses.

1 **3. To Object to the Settlement:**

2 If you wish to remain in the class action but object to the settlement, the attorneys'
3 fee award, or the class representative fee, you must file an objection in writing with the Court
4 by April 24, 2014 and serve copies upon Class Counsel and Defendants' Counsel at the
5 following addresses, postmarked no later than April 24, 2014:

6 Class Counsel

7 Adam J. Berger & Martin Garfinkel
8 Re: GMACM/Homecomings Settlement
9 Schroeter Goldmark & Bender
10 810 Third Avenue, Suite 500
11 Seattle, WA 98115

Defendants' Counsel

Thomas J. Cunningham & J. Matthew Goodin
Re: GMACM/Homecomings Settlement
LOCKE LORD LLP
111 S. Wacker Drive
Chicago, IL 60606

12 Your objection must contain your name, current address, and the substance of your
13 objections.

14 You may also appear in person at the final approval hearing in order to explain your
15 objection to the settlement, if you state your desire to do so in your written objections. You
16 may hire an attorney at your own expense to represent you at this hearing and in making
17 objections to the settlement. If you do not file written objections and state your intent to
18 appear in advance of the hearing, you will not be allowed to present oral objections at the
19 hearing.

20 Only Class Members who object to the proposed Settlement in accordance with these
21 procedures shall be permitted to appeal or otherwise seek review of the Superior Court's
22 decision approving the proposed Settlement. Class Members who fail to present objections
23 to the proposed Settlement in the manner provided above shall be deemed to have waived
24 any such objections and shall be forever foreclosed from making any objections (by appeal or
25 otherwise) to the proposed Settlement.

26 **FINAL SETTLEMENT APPROVAL HEARING**

On June 20, 2014, at 9:00 a.m., at the King County Courthouse in Seattle,
Washington, the Honorable Laura Gene Middaugh will conduct a hearing (the "Final

1 Settlement Approval Hearing”) to determine whether the proposed Settlement is fair,
2 adequate and reasonable, and should be granted final approval. The date and time of the
3 Final Settlement Approval Hearing are subject to change without further notice.

4 **EXAMINATION OF COURT PAPERS AND INQUIRIES**

5 The foregoing is only a summary of this class action and the proposed Settlement and
6 does not purport to be comprehensive. For more detailed information, interested persons
7 should refer to the pleadings filed in this case, which may be inspected at the Office of the
8 Clerk of the King County Superior Court in Seattle, Washington. All questions concerning
9 the proposed Settlement should be directed to the Claims Administrator at 1-888-465-9207.

10 **PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
11 DEFENDANT OR THE DEFENDANT’S ATTORNEYS WITH INQUIRIES.**

1 **REQUEST FOR EXCLUSION**

2 ***Gardner v. GMAC Mortgage LLC, No. 10-2-36902-3 SEA***
3 ***Smith v. Homecomings Financial LLC, No. 11-2-10126-6 SEA***

4 Name: _____

5 Address: _____

6 Telephone No.: _____

7 Last Four Digits of Your Social Security No.: _____

8
9 I wish to be excluded from the Settlement Class in *Gardner v. GMAC Mortgage LLC*,
10 No. 10-2-36902-3 SEA, and *Smith v. Homecomings Financial, LLC*, No. 11-2-10126-6
11 SEA (King Co. Superior Court). **This Request for Exclusion does not need to be**
12 **submitted if you previously submitted a Request for Exclusion from this**
13 **Settlement Class.**

14 _____
Signature

15 If more than one borrower was obligated on your mortgage, all borrowers must submit a
16 request for exclusion in order for your request for exclusion to be valid.

17 If you wish to request exclusion for only some, but not all, of your transactions with
18 GMACM or Homecomings during the Settlement Class Period, please provide as much of
19 the following information as possible for each transaction you wish excluded. You do not
20 need to provide this information if you want all of your transactions excluded.

21 Loan No.: _____

22 Loan Payoff Date: _____

23 Address of Mortgaged Property: _____

24 In order to exclude yourself from the Settlement Class in this case, you must complete and
25 mail this form, postmarked no later than April 24, 2014, to:

26 GMAC/Homecomings Class Action Settlement
PO Box 12983
Birmingham, AL 35202