COMMONWEALTH OF MASSACHUSETTS NORTHEAST HOUSING COURT

FEDERAL HOME LOAN MORTGAGE CORP

Plaintiff

- 17 -

No. 13-SP



Defendant

JUDGMENT

This action came on for hearing before the Court sitting without a jury, DAVID D. KERMAN, presiding, and the issues having been duly heard and rulings under Rule 56 having been duly rendered, it is hereby ORDERED and ADJUDGED:

That defendant DAWN M. JENKINS recover of the plaintiff FEDERAL HOME LOAN MORTGAGE CORP judgment for dismissal on the merits of the action by the plaintiff.

Susan M. Trippi Clerk Magistrate

Date: November 19, 2013

COMMONWEALTH OF MASSACHUSETTS	S
NORTHEAST HOUSING COURT	

FEDERAL HOME LOAN MORTGAGE CORP

Plaintiff

- v.-

No. 13-SP=

Defendant

RULINGS AND ORDER

At the hearing of the defendant's motion for summary judgment [Doc.#11,13,14] in this post-foreclosure summary process case, the plaintiff conceded that the "right to cure" notice dated January 17, 2010, failed to include the correct name and address of the mortgagee or anyone holding thereunder as required by the Massachusetts Foreclosure and Redemption of Mortgages Law, Gen.L. c.244 §35A(c)(4), and also failed to include the name of any current and former mortgage broker or mortgage loan originator as required by Gen.L. c.244 §35A(c)(5).

However, the plaintiff argues: first, that the notice "substantially complied" with the statute (and with the Mortgage ¶22 which invokes, depends on, and is governed by the "Statutory Power of Sale" and "Applicable Law") and that "strict compliance" with Gen.L. c.244 §35A is not required; second, that compliance with Gen.L. c.244 §35A is not required by the Statutory Power of Sale, Gen.L. c.183 §21, because Gen.L. c.244 §35A is not among "the statutes relating to the foreclosure of mortgages by the exercise of a power of sale"; and third, that the state law requirements of Gen.L. c.244 §35A are preempted by federal law in this particular case because the plaintiff's predecessor was a national bank. I do not agree. See my rulings rendered today in Fannie Mae v. Carvalho, N.E.Hsg.Ct. No. 12-SP-1039 (November 18, 2013) and Wells Fargo Bank v. O'Neill, N.E.Hsg.Ct. No. 12-SP-1317 (November 18, 2013).

The motion by the defendant for summary judgment is allowed. Enter judgment dismissing the complaint.

David D. Kerman Associate Justice

Dated: November 18, 2013

CC:

Murphy, Esq., Daniel P

Marc W Potvin, Esq.
Neighborhood Legal Services, Inc.
50 Island Street
Suite 203
Lawrence, MA 01840-1868