

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
HOMEBANC MORTGAGE) Case No. 07-11079 (KJC)
CORPORATION, *et al.*,¹)
) Jointly Administered
)
Debtors.) Hearing Date: August 27, 2007 at 10:00 a.m. (proposed)
) Objections Due: August 24, 2007 at 4:00 p.m. (proposed)

NOTICE OF MOTION

TO: (I) THE UNITED STATES TRUSTEE, (II) COUNSEL TO THE DEBTORS' PREPETITION BANK LENDERS, (III) THE CONSOLIDATED LIST OF THE DEBTORS' LARGEST CREDITORS, AND (IV) ALL PARTIES THAT HAVE REQUESTED NOTICE IN THESE CASES.

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the attached **DEBTORS' MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105 AND 363: (A) APPROVING AGREEMENT FOR REPURCHASE AND SALE OF WAREHOUSED LOANS PURSUANT TO ACCEPTED PREPETITION BIDS; AND (B) AUTHORIZING THE DEBTORS TO SELL SUCH PROPERTY FREE AND CLEAR OF LIENS, INTERESTS, AND ENCUMBRANCES, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND** (the "Motion").

PLEASE TAKE FURTHER NOTICE that by separate motion, a copy of which is also included herewith, the Debtors have requested that the Court order that objections to the Motion must be filed on or before **August 24, 2007 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 Market Street, Wilmington, Delaware 19801.

You must serve a copy of any objection upon the Debtors' proposed undersigned counsel so as to be received on or before the Objection Deadline, as may be set by the Court.

PLEASE TAKE FURTHER NOTICE THAT BY SEPARATE MOTION THE DEBTORS HAVE REQUESTED THAT A HEARING ON THE MOTION BE HELD AUGUST 27, 2007 AT 10:00 A.M. (ET) BEFORE THE HONORABLE KEVIN J. CAREY, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

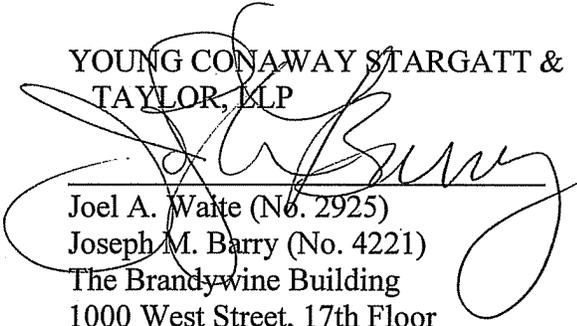
¹ The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319.



PLEASE TAKE FURTHER NOTICE, that if you fail to respond on or before the Objection Deadline, as may be set by the Court, the Court may grant the relief requested in the Motion without further notice or hearing.

Dated: Wilmington, Delaware
August 21, 2007

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Proposed Attorneys for the Debtors and
Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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_____) Hearing Date: August 27, 2007 at 10:00 a.m. (ET) (proposed)
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**DEBTORS' MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY CODE SECTIONS 105 AND 363: (A) APPROVING
AGREEMENT FOR REPURCHASE AND SALE OF WAREHOUSED LOANS
PURSUANT TO ACCEPTED PREPETITION BIDS; AND (B) AUTHORIZING
THE DEBTORS TO SELL SUCH PROPERTY FREE AND CLEAR
OF LIENS, INTERESTS, AND ENCUMBRANCES, WITHOUT ANY
REPRESENTATIONS OR WARRANTIES OF ANY KIND**

HomeBanc Mortgage Corporation ("HBMC"), HomeBanc Corp. ("HomeBanc"), HomeBanc Funding Corp. ("HomeBanc Funding"), HomeBanc Funding Corp. II ("HomeBanc Funding II"), HMB Acceptance Corp. ("HMB Acceptance") and HMB Mortgage Partners, LLC ("Mortgage Partners") (collectively, the "Debtors"), as debtors and debtors in possession herein, by and through their undersigned attorneys, hereby submit this motion (the "Motion") pursuant to Sections 105 and 363(b) of Title 11, United States Code (the "Bankruptcy Code"), and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), seeking an order approving (A) approving agreement for repurchase and sale of warehoused loans (along with the servicing rights for such loans) pursuant to accepted prepetition bids; and (B) authorizing the Debtors to sell such property free and clear of liens, interests, and encumbrances, without any

¹ The last four digits of the taxpayer identification numbers for each of the Debtors follow in parentheses: (i) HomeBanc Mortgage Corporation (2745); (ii) HomeBanc Corp. (3067); (iii) HomeBanc Funding Corp. II (6229); (iv) HMB Acceptance Corp. (6280); (v) HMB Mortgage Partners, LLC (9446); and (vi) HomeBanc Funding Corp. (5742). Each of these entities has a mailing address of: 2002 Summit Boulevard, Suite 100, Atlanta, GA 30319

representations or warranties of any kind. In support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105 and 363 of the Bankruptcy Code and Rule 6004 of the Bankruptcy Rules.

BACKGROUND

2. On August 9, 2007 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the Clerk of this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

3. No trustee or examiner has been appointed in the Debtors' Chapter 11 cases, nor has any creditors' or other official committee been appointed herein pursuant to Section 1102 of the Bankruptcy Code.

THE DEBTORS' BUSINESS

4. Prior to the Petition Date, the Debtors' business primarily entailed the origination, servicing and sale of mortgage loans, as well as investment in mortgage loans and mortgage-backed securities resulting from the securitization of residential mortgage loans. The Debtors also invested in securitized mortgage loans originated by the Debtors and by others and sold mortgage loans to institutional investors. The Debtors offered an array of mortgage products and primarily made loans to borrowers with good credit profiles. Most of its portfolio

consisted of securitized fixed and adjustable-rate mortgage (ARM) loans of prime and alternate A quality.

5. As of December 31, 2006, the Debtors held a leveraged portfolio of mortgage loans held for investment and mortgage-backed securities in the amount of approximately \$5.7 billion. As of December 31, 2006, the Debtors operated more than 21 loan production offices located in Georgia, Florida and North Carolina. The Debtors originated approximately \$5.9 billion in aggregate principal amount of loans in 2006.

6. As of June 30, 2007, on an unaudited book value basis, the Debtors had total assets of approximately \$5.1 billion and total liabilities of approximately \$4.9 billion. As of the Petition Date, the Debtors had 184 employees.

EVENTS LEADING TO THE CHAPTER 11 FILING

7. As has been heavily publicized in the media, the secondary mortgage industry in America has virtually collapsed in the last few weeks and months. The devaluation of the Debtors' mortgage-backed securities and mortgage loan holdings was caused by, among other factors, falling real estate prices and a spike in consumer defaults on mortgage obligations. The downward pressure on loan and security values accelerated as more and more borrowers were forced to sell securities and loans in an effort to meet margin calls, such that for the last two weeks the markets for these assets has been disrupted to the point of dysfunction. The disruption in the credit markets in the past few weeks was unprecedented in the company's experience and caused major write-downs of its loan and security portfolios.

8. In the case of the Debtors, these write downs led to significant margin calls with respect to the Debtors' credit facilities. As of early August, the Debtors became unable to meet these margin calls.

9. As a consequence, the Debtors' prepetition lenders (the "Warehouse Lenders") under (1) a Master Repurchase Agreement, between, among others, JPMorgan Chase Bank, N.A. ("JPMorgan"), as administrative agent, various buyers, and certain of the Debtors, as sellers, dated October 31, 2006 (as amended, the "Warehouse Facility"); and (2) a Master Repurchase Agreement, between JPMorgan as Buyer and certain of the Debtors, as sellers, dated January 23, 2007 (as amended, the "Aggregation Facility" and together with the Warehouse Facility, the "Prepetition Facilities"), provided the Debtors notices of purported defaults and notified the Debtors that they intended to exercise certain rights and remedies.

10. The Debtors, assisted by counsel and professional advisors, worked diligently to preserve as much value as possible for the companies. In the past few weeks, a number of entities with serious interest in purchasing various portions of the Debtors' businesses and the Debtors engaged in active, around-the-clock negotiations. However, none of these transactions was able to gel and, having been unable to fund loans for the past week, the Debtors were forced to shut down their origination business.

11. On August 7, 2007, the Debtors implemented a reduction in force, resulting in the termination of approximately 900 employees. The Debtors retained approximately 184 employees who are absolutely essential to the Debtors' continued orderly wind-down of the operations. It is anticipated that the employee headcount will reduce further as various wind-down tasks are completed and the Debtors' remaining assets are sold.

RELIEF REQUESTED

12. By this Motion, the Debtors seek entry of an order pursuant to sections 105 and 363(b) of the Bankruptcy Code and Bankruptcy Rule 6004 approving the Debtors' repurchase of certain pools of loans from the Warehouse Lenders, and the immediate re-sale of

same to third parties and authorizing the Debtors to sell their right, title and interest in and to such loans to the buyer listed below (the “Buyer”), on an “as is, where is” basis, free and clear of all encumbrances without any representations or warranties of any kind.

THE PROPERTY TO BE SOLD

13. Prior to the Petition Date, the Debtors had sought bids in the marketplace for certain pools of mortgage loans (the “Mortgages”) held by the Warehouse Lenders under the Warehouse Facility and/or the Aggregation Facility. Pursuant to such marketing effort, multiple bids were received on the following pools of loans, and the Debtors selected the best bids based on price, ability to close and timing, as set forth below:

Asset Class	Settlement Date	Unpaid Principal Balance (“UPB”)	Investor	Price
Prime Fixed Rate Mortgage	8/17/2007 (flow ²)	\$138,100,000 ³	Countrywide Home Loans	101.08% of UPB (on a weighted average basis)
Prime Fixed Rate Mortgage	8/17/2007 (flow)	\$100,000,000	Countrywide Home Loans	101.67% of UPB (on a weighted average basis)

14. The above bids⁴ regarding this \$238,000,000⁵ pool of Mortgages were received after a normal, prepetition marketing process for assets of this type, and were selected

² The term “flow” indicates that the Mortgages in question and bought and transferred on a rolling basis.

³ Of this amount, approximately \$110,000,000 of the bid upon Mortgages have already been transferred to the Buyer and paid for prepetition. By this Motion, the Debtors seek authority to complete the transaction by transferring the balance (approximately \$28,000,000 of Mortgages).

⁴ Documentation for such bids is not attached to this Motion, as such bid information is considered highly confidential business information to both the Debtors and the Buyer. If the Court requires, such documentation can be submitted under seal, or provided to interested parties with an appropriate confidentiality agreement.

⁵ Or, \$128,100,000 when the \$110,000,000 of loans already transferred to Countrywide prepetition is taken out of the calculation.

from among numerous bids on these assets. Thus, it is highly unlikely that any higher or better bids would be received if the Debtors were required to re-market the Mortgages. Indeed, as the unpaid principal balance of these assets decreases, and given the deterioration in the marketplace for these assets, it is likely that the bid prices would decrease from those listed above.

15. Furthermore, the Mortgages in question are currently owned by the Warehouse Lenders under various repurchase agreements. The completion of this repurchase/sale is being done primarily to accommodate the Warehouse Lenders in liquidating their loans, the benefit to the Debtors being the reduction of their debt to the Warehouse Lenders in the amount of the purchase price shown above. Should this Motion not be approved, the Warehouse Lenders will be able to simply take the Mortgages and sell them in their own name. However, the price that would be received by the Warehouse Lenders in such liquidation would likely be less than the bids already received, to the detriment of the Debtors' estates.

BASIS FOR RELIEF

16. Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Such estate property may be sold free and clear of liens, claims and interests in the property, so long as one of the provisions of section 363(f) of the Bankruptcy Code is satisfied. 11 U.S.C. § 363(f).

17. Whether a sale of assets pursuant to section 363(b) of the Bankruptcy Code should be approved in a particular case is a matter addressed to the Court's discretion, giving due consideration to the sound business judgment of the proponent of the sale. *See Stephens Indus., Inc. v. McClung*, 789 F.2d 386 (6th Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169 (D. Del. 1991).

18. In determining whether a sale satisfies the business judgment standard, courts in this Circuit require: (a) that there be sound business reasons for the sale; (b) that accurate and reasonable notice of the sale be given; (c) that the sale yield an adequate price, i.e., one that is fair and reasonable; and (d) that the parties to the sale have acted in good faith. *In re Titusville Country Club*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991).

19. This Court may additionally grant the relief requested herein under section 105(a) of the Bankruptcy Code and as otherwise provided therein and under applicable law. Section 105(a) grants broad authority to bankruptcy courts to enforce the provisions of the Bankruptcy Code under equitable common law doctrines, providing, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

A. The Sale is Justified and is a Sound Exercise of the Debtors’ Business Judgment

20. Sound business reasons exist to justify selling the Mortgages upon the terms set forth herein. First, the Debtors are in the process of liquidating their residual estates and winding down their business affairs and, accordingly, have no use for the Mortgages. Second, in light of the agreements with the Warehouse Lenders, the Mortgages have no economic value to the Debtors other than to satisfy the debt to the Warehouse Lenders, given that, if this Motion is not approved, the Warehouse Lenders can simply close out their repurchase agreements and sell the Mortgages themselves. Third, as noted above, before the Petition Date, the Debtors undertook efforts to market and sell the Mortgages to interested purchasers. Because the Buyer is the entity having submitted firm, written offers and is ready, willing and able to close these proposed trades, and was selected from among numerous bidders, the Debtors believe that the Buyer currently represents the best market for the sale of the Mortgages. Fourth, the

Warehouse Lenders consent to and support this Motion and have agreed that to the extent the Buyer fails to consummate the purchase of any of the Mortgages, the Warehouse Lenders will repurchase such Mortgages at exactly the same price, without deductions or offsets of any kind. Fifth, the repurchase and sale of the Mortgages will benefit the Debtors' estates by reducing the debt owed to the Warehouse Lenders.

21. In light of the above factors, the Debtors believe that the repurchase and sale of the Mortgages to the Buyer on the terms and conditions set forth above and in the bids will yield an adequate purchase price, maximize value, and will relieve the Debtors of certain debt.

22. Finally, in proposing the sale of the Mortgages to the Buyer, the Debtors submit that they have negotiated and acted in good faith. The Debtors undertook significant marketing efforts that led the Debtors to the Buyer, willing to purchase the Mortgages on terms and conditions acceptable to the Debtors. As of the date hereof, no other party has submitted a firm, written offer for the sale of the Mortgages on the terms and conditions better than those set forth herein. Accordingly, the Debtors submit that the sale proposed herein is in good faith, constitutes an exercise of the Debtors' sound business judgment and is in the best interests of the Debtors' estates and creditors.

B. The Buyer Should Be Granted the Protections of a Good Faith Purchaser

23. The Buyer should be granted the protections of a good faith purchaser under Section 363(m) of the Bankruptcy Code. That section reads, in pertinent part, as follows:

The reversal or modification on appeal of an authorization under [section 363(b) or (c)] of a sale or lease of property does not affect the validity of the sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

24. Although the Bankruptcy Code does not define “good faith purchaser,” the United States Court of Appeals for the Third Circuit, construing Section 363(m) of the Bankruptcy Code, has stated that “the phrase encompasses one who purchases in ‘good faith’ and for ‘value.’” *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147 (3d Cir. 1986); *see also Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc.*, 141 F.3d 490 (3d Cir. 1998). To constitute a lack of good faith, a party’s conduct in connection with the sale must usually amount to “fraud, collusion between the purchaser and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders.” *Id.* (citing *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)). *See also In re Bedford Springs Hotel, Inc.*, 99 B.R. 302, 305 (Bankr. W.D. Pa. 1989); *Matter of Perona Bros., Inc.*, 186 B.R. 833, 839 (D.N.J. 1995). Due to the absence of a bright line test for good faith, the determination is based on the facts of each case, concentrating on the “integrity of [an actor’s] conduct during the sale proceedings.” *In re Pisces Leasing Corp.*, 66 B.R. 671, 673 (E.D.N.Y. 1986) (quoting *Rock Indus. Mach.*, 572 F.2d at 1998).

25. The terms of the above-described bids were negotiated at arms’ length, without collusion, and in good faith. There is no relationship between the Debtors and the Buyer, nor any of their officers and directors. There are no agreements between the Debtors and Buyer regarding the subject matter of this Motion other than the bids. Neither the Debtors nor the Buyer have engaged in any conduct that would cause or permit the bids to be avoided under Section 363(m). Accordingly, the Debtors request that the Court determine the Buyer to have negotiated and acted at all times in good faith and, as a result, be entitled to the protections of a good faith purchaser under Section 363(m) of the Bankruptcy Code.

C. The Sale Should Be Free and Clear of All Liens, Claims, Interests, Charges and Encumbrances

26. In accordance with Section 363(f) of the Bankruptcy Code, a debtor may sell property under section 363(b) “free and clear of any interest in such property of an entity other than the estate” provided that at least one of the following conditions is satisfied:

- a) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- b) such entity consents;
- c) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- d) such interest is in bona fide dispute; or
- e) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

See In re General Bearing Corp., 136 B.R. 361, 366 (Bankr. S.D.N.Y. 1992); *In re Collins*, 180 B.R. 447, 449-50 (Bankr. E. D. Va. 1995) (“Section 363(f) is phrased in the disjunctive, such that only one of the enumerated conditions must be met in order for the Court to approve the proposed sale.”); *In re P.K.R. Convalescent Centers, Inc.*, 189 B.R. 90, 93-94 (Bankr. E. D. Va. 1995) (“[Section] 363 covers more situations than just sales involving liens . . . Section 363(f) addresses sales free and clear of any interest . . .”). Furthermore, pursuant to Section 105 of the Bankruptcy Code, the Court may authorize the sale of a debtor’s assets free and clear of any claims. *VolvoWhite Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.)*, 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987).

27. The Debtors submit that one or more of the subsections of Section 363(f) of the Bankruptcy Code applies to holders of claims against or interests in the Mortgages. Any holders of claims and interests will be adequately protected because their claims and interests will attach to the proceeds attributable to the sale or in which such holders have claims and

interests, subject to any claims and defenses the Debtors may possess with respect thereto. Moreover, the Warehouse Lenders will consent to these transactions. Accordingly, the transactions contemplated by the above-described bids should be approved, free and clear of claims and interests under Section 363(f) of the Bankruptcy Code.

28. Based upon the foregoing, the Debtors request that the Court authorize them to sell the Mortgages free and clear of any liens, claims, charges or encumbrances, with any enforceable liens, claims or encumbrances to attach to the proceeds of the sale of the Mortgages, subject to the rights and defenses of the Debtors, if any, with respect thereto.

D. Waiver of Stay of Order

29. Pursuant to Bankruptcy Rule 6004(g) and 6006(d), an order authorizing the sale of property or assumption of contracts is stayed for ten days after the entry of the order unless the Court orders otherwise. The Debtors request that the Court order that such stay not apply with respect to the sale. Such a stay would cause a further delay in closing out these trades, and cause further costs and risk to the estate, thus reducing the overall benefit and value of the sale.

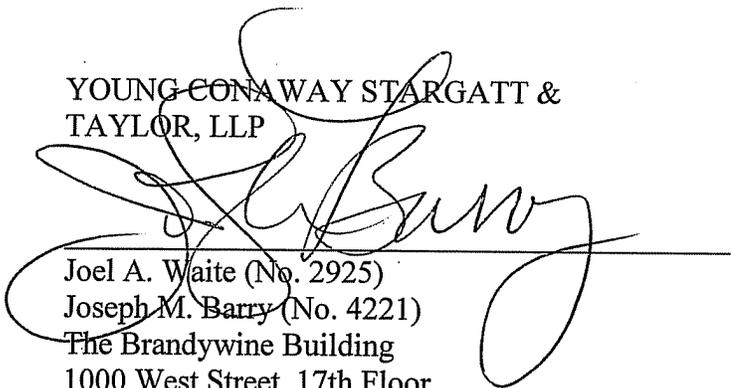
NOTICE

30. Notice of this Motion will be provided to: (i) the United States Trustee, (ii) counsel to the Debtors' prepetition bank lenders, (iii) the consolidated list of the Debtors' largest creditors, and (iv) all parties that have requested notice in these cases. The Debtors submit that no other or further notice need be provided.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form annexed hereto (i) approving the sale of the Mortgages on the terms and conditions set forth herein, and (ii) granting the Debtors such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
August 21, 2007

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

A large, stylized handwritten signature in black ink, appearing to read "J. Barry", is written over a horizontal line. The signature is positioned to the right of the typed name "Joseph M. Barry" and partially overlaps the firm's name above.

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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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HOMEBANC MORTGAGE CORPORATION, <i>et al.</i> , ¹)	Case No. 07-11079 (KJC)
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**ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105 AND 363:
(A) APPROVING AGREEMENT FOR REPURCHASE AND SALE OF WAREHOUSED
LOANS PURSUANT TO ACCEPTED PREPETITION BID; AND (B) AUTHORIZING
THE DEBTORS TO SELL SUCH PROPERTY FREE AND CLEAR
OF LIENS, INTERESTS, AND ENCUMBRANCES, WITHOUT ANY
REPRESENTATIONS OR WARRANTIES OF ANY KIND**

Upon the *Debtors' Motion For An Order Pursuant To Bankruptcy Code Sections 105 And 363: (A) Approving Agreement For Repurchase And Sale Of Warehoused Loans Pursuant To Accepted Prepetition Bid; And (B) Authorizing The Debtors To Sell Such Property Free And Clear Of Liens, Interests, And Encumbrances, Without Any Representations Or Warranties Of Any Kind* (the "Motion"), filed by the above-captioned debtors and debtors-in-possession (the "Debtors"), and the Debtors and the Buyer² having agreed to sell and purchase the Mortgages; and due and sufficient notice having been given to all parties-in-interest; and any objections to the relief requested in the Motion having been withdrawn or resolved and to the extent not withdrawn or resolved, are hereby overruled; and it appearing that sale of the Mortgages to the Buyers is in the best interests of the Debtors, their estates, creditors and other parties-in-interest; and sufficient cause appearing therefor,

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² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

IT IS HEREBY FOUND AND DETERMINED that:

- A. It is in the best interests of the Debtors, the Debtors' estates, their creditors, and other parties-in-interest to grant the relief requested in the Motion and authorize the Debtors to sell the Mortgages to the Buyer;
- B. To the extent any inconsistency arises as between this Order and the bids described in the Motion, this Order shall control.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Motion is granted;
2. The repurchase and sale of the Mortgages to the Buyer, and each of the transactions contemplated thereby are approved in their entirety;
3. Pursuant to 11 U.S.C. § 363(b), the Debtors are authorized to perform their obligations under and comply with the terms of the sale as set forth in the Motion, and consummate the sale of the Mortgages to the Buyer;
4. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate and implement, the sales, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the sales, and to take all further actions as may be requested by the Buyer for the purpose of assigning, transferring, granting, conveying and conferring to the Buyer the Mortgages, or as may be necessary or appropriate to the performance of the obligations as contemplated by the sales;
5. Notwithstanding anything set forth to the contrary in any bid, the Buyer understand and agree that the Debtors are conveying their rights to the Mortgages as is, without warranties or representations of any kind, whether express or implied;
6. The Debtors and the Buyer are authorized to take any and all actions as may be necessary or desirable to implement the sales and each of the transactions contemplated thereunder;
7. The sale by the Debtors of the Mortgages to the Buyer is free and clear of all liens, claims, interests, or encumbrances thereon and any presently existing liens;
8. To the extent that, after the Debtors repurchase the Mortgages from the Warehouse Lenders, and one or more of the Buyer fails to consummate the purchase of same, the Debtors shall re-sell the Mortgages to the Warehouse Lenders, and the Warehouse Lenders shall re-purchase same, at exactly the same price, without deductions or offsets of any kind;

9. This Court hereby retains jurisdiction over the Buyer and the Debtors to enforce the sales.

Dated: _____, 2007
Wilmington, Delaware

The Honorable Kevin J. Carey
United States Bankruptcy Judge