

MEMORANDUM

TO: Brian Montgomery, Gisele Roget, and Elissa O. Saunders

FROM: Alys Cohen, National Consumer Law Center

DATE: August 22, 2019

RE: HECM Non-Borrowing Spouses Experiencing MOE Problems with RMS

Since RMS and its parent company, Ditech, filed for bankruptcy protection, it has become even more apparent that both companies failed to properly service consumers' mortgage loans in many respects. Among the issues that have arisen, RMS has had a significant number of MOE assignments that were either rejected by HUD or in which RMS failed to complete the assignment because of its understanding of HUD's MOE policies. Non-borrowing spouses whose loans were serviced by RMS and who have experienced difficulty accessing the MOE assignment program should be given flexibility and a renewed opportunity to have the mortgage loan assigned. We are asking that HUD take the following actions:

- Inform RMS, or its successor servicer once that entity is known, that HUD will accept MOE assignments with respect to these loans despite missed deadlines, provided that all other eligibility criteria are met;
- Communicate to the servicer that HUD will approve extensions of the foreclosure timelines and will not financially penalize servicers while they undertake to submit MOE elections and assignments related to these loans; and
- Consider extending similar relief to all non-borrowing spouses whose loans are serviced by RMS.

Below please find examples of problems faced by certain non-borrowing spouses, whose loan was serviced by RMS, who have been attempting to access the MOE assignment program and save their homes. We appreciate the opportunity to work with you on these issues.

D.F., Boulder Creek, CA

Submitted by Sandy Jolley, Consumer Advocates Against Reverse Mortgage Abuse
Servicer: Reverse Mortgage Solutions (RMS), transferred from Champion Mortgage
Date of Death of Borrower: 10/17/2014

Ms. F began applying for the MOE immediately after ML 2015-15 was issued. She met all eligibility criteria and provided all documents requested. Champion confirmed her eligibility for the MOE by letter dated 8/25/2015. Ms. F heard nothing further until the servicing was transferred to RMS effective 5/1/2016. Ms. F contacted RMS about her MOE approval, but as is not uncommon in servicing transfers, RMS did not receive the complete file in the transfer from Champion, and did not have any of Ms. F's MOE information or documents. Ms. F had to resubmit everything to start the MOE process again with RMS. RMS sent an MOE approval letter dated 7/22/16, along with a tolling, forbearance & release agreement, which Ms. Firenze promptly signed and returned. RMS did not provide any further updates or correspondence, and Ms. F assumed the loan had been assigned to HUD. Out of the blue, in 2018, RMS's counsel

started calling her and suggesting that she needed to refinance. To date, RMS has not provided specific information about why the loan apparently was not assigned to HUD.

N.B., Houston, TX

Submitted by Lauren Masullo, Lone Star Legal Aid

Servicer: Reverse Mortgage Solutions (RMS)

Date of Borrower's Death: December 10, 2012

*Foreclosure lawsuit pending

Mrs. B is a long-time resident of her home, where she and her now-deceased husband moved to assist his mother in her older age. Mr. B inherited the home from his mother after she passed away. In 2006, Mr. B entered into the reverse mortgage as the sole borrower. After Mr. B passed away in 2012, Mrs. B inherited the home pursuant to an Administration Deed. On July 29, 2016, RMS notified Mrs. B that she qualified as an eligible non-borrowing spouse and met the criteria for the MOE deferral period. Mrs. B promptly executed a Tolling and Forbearance Agreement and NBS Certification on August 9, 2016, per RMS's instructions. For nearly three years thereafter, RMS did not provide any further correspondence or updates, other than to state that it was awaiting a decision from HUD on the assignment. RMS then abruptly sent a June 10, 2019 notice of foreclosure sale scheduled for July 2, 2019. Mrs. B, assisted by Lone Star Legal Aid, attempted to obtain information from RMS and HUD about why the assignment of the loan had not been completed, but has been unable to obtain any details. By letter dated June 26, 2019, counsel for RMS notified Mrs. B, for the first time, that HUD had denied the assignment. However, the letter provided no details as to the date of the assignment request, the date of denial, or the basis of the denial. It merely stated that HUD had declined the assignment and that the Tolling and Forbearance Agreement was terminated. It also stated that Mrs. B had several options to avoid foreclosure, such as paying the loan balance or executing a Deed in Lieu, but provided no opportunity for Mrs. B to pursue these options. Instead, RMS proceeded with the foreclosure sale on July 2, 2019. Legal Aid has filed litigation on behalf of Mrs. B challenging the validity of the foreclosure. It appears that Mrs. B met and continues to meet all eligibility criteria under ML 2015-15, and is at significant risk of losing the family home where she has resided for decades.

M.G., Jamaica, NY

Submitted by Stacey Woods, Queens Legal Services

Servicer: Reverse Mortgage Solutions (RMS)

Date of Borrower's Death: June 18, 2014

*Foreclosure lawsuit pending

Reverse Mortgage Solutions ("RMS") began to evaluate Ms. G for the MOE on October 8, 2015. By that time, the only barrier to assignment of the loan to HUD was the past due property

charges in the amount of \$7,295.51. (The borrower was behind on his property taxes at the time of his death on June 18, 2014, and the arrears continued to accrue after his death.) On January 28, 2016, RMS sent Ms. G a notice informing her that she was an eligible non-borrowing spouse and that she had 30 days to submit payment for the property taxes advanced by RMS. Mrs. G was unable to come up with the \$7,295.51 in a lump sum within such a short time. RMS notified HUD on March 8, 2016 that they were calling the loan due and payable. RMS notified Ms. G on April 25, 2016 that she did not qualify for the MOE and that they would commence foreclosure proceedings. RMS commenced the foreclosure action on July 8, 2016. Mrs. G is represented by Queens Legal Services in the foreclosure proceedings. Mrs. G was approved for a loan from the local department of social services in August of 2016, and checks totaling \$7,295.51 were sent to RMS. RMS rejected the payment. RMS's counsel represented to QLS during settlement negotiations that they had asked HUD to waive the MOE Assignment deadlines imposed by Mortgagee Letter 2015-15 and to accept assignment of the loan, but that HUD refused. QLS asked HUD to waive the deadlines on July 17, 2017 via email and phone, and HUD has again refused. QLS is currently seeking leave to amend Mrs. G's answer in the foreclosure action to include a cross-claim against HUD challenging the MOE deadlines under the Administrative Procedure Act. NCLC brought this case to HUD's attention almost a year ago, and again requests that HUD waive the deadlines and allow the loan to be assigned. Mrs. G has lived in her home since 1975. Her husband was a World War II veteran. If HUD does not G an exception to the MOE deadline, Mrs. G will face foreclosure, eviction, and displacement from her longtime home. She remains current on property charges to date and meets all other eligibility criteria for the MOE.

S.Y., Oliver Springs, TN

Submitted by Janet Mynatt, Legal Aid Society of Middle Tennessee and the Cumberland

Servicer: Reverse Mortgage Solutions, Inc.[SBM1]

Date of Borrower's Death: March 9, 2015

Mrs. Y and her husband purchased their home in 2006. In May 2009, they entered into a reverse mortgage loan with Mr. Y as the sole borrower. He was age 70 and she was age 66 at the time. Mr. Y passed away on March 19, 2015. He did not leave a will, but Ms. Y was an heir under intestate law. On April 24, 2015, Mrs. Y submitted documentation per her servicer's instructions (Champion Mortgage) to establish that she met the eligibility criteria for the MOE Assignment of the loan to HUD for deferral of due and payable status until her death. Under Tennessee law Mrs. Y has the legal right to remain in the property for life. RMS began servicing the loan on May 1, 2015. Mrs. Y submitted documentation to show she met all requirements for the MOE assignment to RMS multiple times after they began servicing the loan. RMS timely notified HUD that it elected to assign the loan through the MOE assignment process on October 9, 2015 (within the applicable deadline). Mrs. Y executed and returned a Forbearance and Tolling Agreement prepared by Trustee counsel for RMS on April 27, 2016. RMS last requested

additional documentation for its assessment of eligibility on November 3, 2016 to be submitted to RMS by November 30, 2016. Mrs. Y again provided RMS the requested documentation along with legal authority supporting her legal right to remain in the property on November 20, 2016. On April 20, 2018, a different law firm (not the Trustee firm) notified Legal Aid that HUD had declined the MOE Assignment. Legal Aid contacted the HUD National Servicing Center by e-mail on May 2, 2018, and learned from HUD that RMS never made the MOE Assignment and that if RMS made the assignment now, it would be declined as untimely. On June 12, 2018, the firm representing RMS acknowledged that RMS never made the MOE Assignment and advised that they now must pursue foreclosure or a short sale by the terms of the HECM Deed of Trust and in order to maximize the amount of FHA insurance reimbursement RMS will be eligible to receive for the loan. Legal Aid contacted HUD again earlier this year, and received a voicemail on April 17, 2019 from Bobby Zayac, Associate Regional Counsel for Region IV, indicating that HUD would accept assignment of the loan and would notify RMS that the assignment request could be resubmitted. However, Legal Aid has not received any further update or response since that date. Mrs. Y is desperate to save her home and faces the risk of imminent foreclosure if assignment is not accepted.