

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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U.S. BANK NATIONAL ASSOCIATION, U.S. BANK
TRUST COMPANY, NATIONAL ASSOCIATION,

Plaintiff,

- v -

NA,

Defendant.

INDEX NO. 652307/2022

MOTION DATE N/A, N/A, N/A

MOTION SEQ. NO. 001 011 012

**DECISION + ORDER ON
MOTION**

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HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 13, 19, 20, 47, 48, 49, 50, 51, 52, 53, 63, 64, 65, 66, 67, 68

were read on this motion to/for MISC. SPECIAL PROCEEDINGS.

The following e-filed documents, listed by NYSCEF document number (Motion 011) 117, 118, 119, 120, 121, 122, 135, 146, 169, 170, 171

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 012) 112, 113, 114, 115, 116, 123, 134, 147

were read on this motion to/for MISCELLANEOUS.

Reference is made to a related case captioned *Deer Park Road Management Company, LP v Nationstar Mortgage, LLC*, Index No. 654474/2022. As relevant by Decision and Order dated September 6, 2022 (Index No. 654474/2022, NYSCEF Doc. No. 72) which is incorporated herein in its entirety, the Court held that the Termination Price included the Deferred Principal Balance and that HEMP did not serve to exclude otherwise not forgiven principal which was only deferred from the amount due to the certificate holders as part of the Termination Price. For the reasons discussed in that decision, the Certificateholders are entitled to judgment on the pleadings in this case. For the avoidance of doubt, the Trust Agreements for the FFML 2005-

FF9 Trust and the GPMF 2006-AR7 Trust both define the Termination Price as including “100% of the unpaid principal balance of each Mortgage Loan” (NYSCEF Doc. No. 4, § 7.01[b]; NYSCEF Doc. No. 11, § 7.01[b]). The Series Supplement to the Pooling and Service Agreement for the CSMC 2007-NC1 Trust defines the Termination Price as including “100% of the Stated Principal Balance of each Mortgage Loan” (NYSCEF Doc. No. 6, § 11.01[b]). The Pooling and Service Agreement for the CSMC 2007-NC1 Trust defines Stated Principal Balance as the principal balance of the Mortgage Loan minus amounts distributed to Certificateholders and any Realized Losses on such Mortgage Loan (NYSCEF Doc. No. 5, at 28). Thus, by the plain language of the Governing Agreements, the Termination Price must include the Deferred Principal Balances. For FFML 2005-FF9 Trust and the GPMF 2006-AR7 Trust, the Deferred Principal Balances are clearly part of the unpaid balance for each loan and thus properly included in the Termination Price. For the CSMC 2007-NC1 Trust, the Deferred Principal Balances are not Realized Losses and therefore are part of the Stated Principal Balance and thus properly included in the Termination Price. NRZ’s argument based on the HEMP guidelines and otherwise simply fail as the amount was never forgiven.

It is hereby ORDERED that the Certificateholders’ motion for judgment on the pleadings is granted; and it is further

ORDERED that NRZ’s motion for judgment on the pleadings is denied; and it is further

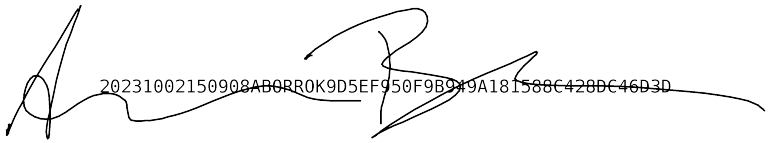
ORDERED that the Petition is granted solely to the extent that it seeks judicial instruction; and it is further

ORDERED that the Petitioners are instructed that the calculation of the Termination Threshold and the Termination Price for each of the Trusts should include Deferred Principal Balances; and it is further

ORDERED that the Petitioners are authorized and protected by the Governing Agreements, any other related documents, and any applicable law with respect to any conduct, act, or omission to act by Petitioners in accordance with this Decision and Order; and it is further

ORDERED that all parties to the Governing Agreements and other related documents, all Certificateholders, and any other parties with actual, asserted, or claimed rights or interest in the Trusts are barred from asserting any claims against the Petitioners with respect to any conduct, act, or omission to act by the Petitioners so long as the same is consistent with this Decision and Order.

10/2/2023
DATE


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ANDREW BORROK, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

