

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION and U.S.
BANK TRUST COMPANY, NATIONAL
ASSOCIATION (each separately as Trustee, Securities
Administrator, Paying Agent, and/or Calculation Agent,
as applicable, under various Pooling and Servicing
Agreements),

Petitioners,

For Judicial Instructions under CPLR Article 77.

Index No. 656028/2021

Hon. Andrew S. Borrok
(IAS Part 53)

**AFFIRMATION OF ISAAC M. GRADMAN IN SUPPORT OF ORDER TO SHOW
CAUSE FOR PARTIAL SEVERANCE ORDER AND PARTIAL FINAL JUDGMENT**

ISAAC M. GRADMAN, an attorney duly licensed to practice law in the courts of the State of California and admitted *pro hac vice* in the above-captioned matter, hereby affirms under penalties of perjury, pursuant to New York Civil Practice Law and Rules (“CPLR”) § 2106, that the following is true and correct:

1. I am a partner of the law firm of Perry, Johnson, Anderson, Miller & Moskowitz LLP, and I serve as counsel for Respondent Ellington Management Group L.L.C. (“Ellington”) in the above-captioned matter. I submit this affirmation in support of the Order to Show Cause for Partial Severance Order and Partial Final Judgment (the “Order to Show Cause (BSABS 2007-HE7)”), filed contemporaneously herewith, which seeks entry of the [Proposed] Partial Severance Order and Partial Final Judgment (BSABS 2007-HE7) attached hereto as **Exhibit 1** (the “Proposed Severance Order”).

2. I am familiar with the proceedings in this case and make this affirmation based on my personal knowledge of the facts and matters set forth herein.

3. On December 28, 2021, U.S. Bank National Association and U.S. Bank Trust Company, National Association (collectively “Petitioners”) filed an Amended Petition under CPLR Article 77 at NYSCEF Doc. No. 33 (the “Petition”), seeking judicial instruction concerning the interpretation and application of certain provisions of the contracts governing seventy-seven residential mortgage-backed securitization trusts identified in Exhibit A to the Petition at NYSCEF Doc. No. 34 (the “Subject Trusts”). On July 27, 2023, Petitioners filed a Second Amended Petitioner – at NYSCEF Doc. No. 290 – that, *inter alia*, reduced the number of trusts involved in this proceeding to sixty-six as a result of the entry of two partial severance orders. Those remaining trusts are identified in Exhibit A to the Second Amended Petition at NYSCEF Doc. No. 291 and include BSABS 2007-HE7 (the “Undisputed Trust”).

4. Following the Court’s entry of the Partial Severance Order and Partial Final Judgment concerning the Subject Trust SACO I 2005-6 on January 9, 2024, NYSCEF Doc. No. 354, as well as the Partial Severance Order and Partial Final Judgment concerning the Subject Trust BSABS 2005-HE3 on June 5, 2024, NYSCEF Doc. No. 361, there remain sixty-four Subject Trusts for which judicial instruction is sought in this Action, including the Undisputed Trust.

5. This Court entered Orders to Show Cause on November 29, 2021 (NYSCEF Doc. No. 30) and on January 10, 2022 (NYSCEF Doc. No. 55) (collectively, the “Orders to Show Cause”) which required Petitioners to conduct notice programs (the “Notice Programs”) to provide notice of the proceeding to holders and any other persons claiming an interest in the Subject Trusts (“Potentially Interested Persons”).

6. The Orders to Show Cause required all Potentially Interested Persons to appear in the proceeding, respectively, by January 18, 2022, and January 24, 2022, so that any Potentially Interested Persons could assert why an order and judgment should not be entered granting the relief sought in the Petition; resolving the questions presented by the Petition and directing Petitioners as the Court may so order; permanently barring litigation outside the context of this proceeding on any question, issue, objection, claim, or concern related to the matters in the Petition; and for such other and further relief as this Court deems just and proper.

7. Following the entry of the Orders to Show Cause, various Potentially Interested Persons appeared in this proceeding (“Appearing Parties”).

8. The Appearing Parties include Ellington and Pacific Investment Management Company L.L.C. (“PIMCO”).

9. Counsel for Ellington and PIMCO (collectively, the “Parties”) discussed a possible consensual resolution of the issues raised in this proceeding with respect to the Undisputed Trust, as Ellington and PIMCO are the only Appearing Parties asserting an interest in the Undisputed Trust.

10. As a result of the foregoing discussions, the Parties reached an agreement on the terms of the Proposed Severance Order, and the Parties informed Petitioners of such agreement. Petitioners consent to the terms of the Proposed Severance Order.

11. Prior to this filing, counsel for Ellington provided notice of the Order to Show Cause (BSABS 2007-HE7) to all counsel of record in this case, and no additional Appearing Parties asserted interests in the Undisputed Trust. Therefore, to my knowledge, Ellington and PIMCO are the only Appearing Parties with asserted interests in the Undisputed Trust.

12. If entered by the Court, the Proposed Severance Order would resolve the issues in this proceeding related to the Undisputed Trust and sever it from this proceeding.

13. For the reasons set forth herein and subject to my understanding that the Proposed Severance Order is consented to by all Appearing Parties with asserted interests in the Undisputed Trust, Ellington and PIMCO respectfully request that the Court enter the Order to Show Cause (BSABS 2007-HE7) filed contemporaneously herewith and, following the time for the filing of any oppositions and the consideration thereof by this Court, enter the Proposed Severance Order.

14. No prior application for the relief requested herein has been made to this Court or to any other Court.

Dated: December 19, 2024

/s/ Isaac M. Gradman

Isaac M. Gradman

WORD COUNT CERTIFICATION

Pursuant to the Rules of the Commercial Division of the Supreme Court, Rule 17, this is to certify that the Affirmation of Isaac M. Gradman in Support of Order to Show Cause for Partial Severance Order and Partial Final Judgment contains 828 words, exclusive of the caption, signature blocks, and this certification. This therefore certifies that this document complies with the word-count limit.

Dated: December 17, 2024

Santa Rosa, California

/s/ Isaac M. Gradman

Isaac M. Gradman