

EXHIBIT A



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Northern District of California*

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November 7, 2014

VIA U.S. MAIL AND EMAIL

Rachel Goodman, Esq.
American Civil Liberties Union
125 Broad Street
New York, NY 10004

Re: *ACCE v. FHFA*, N.D.C.A. Case No. 13-05618 KAW

Dear Rachel:

We have discussed resolving the above-referenced case without further briefing in light of the Court's September 4, 2014 Order denying both parties' motions for summary judgment. Below please find the Federal Housing Finance Agency's ("FHFA") proposal.

A. FHFA's Search For Documents Responsive to the FOIA Request

1. Voicemail Search

On August 25, 2014, the parties provided to the Court a Status Statement stating their agreement that FHFA would search for voicemail messages received from nine individuals in the financial industry identified by Plaintiffs. Dkt. No. 62. Plaintiffs provided a list of nine selected industry representatives identified from the correspondence produced by FHFA in response to the FOIA Request: Chris Killian, Richard Dorfman, Serena Mentor, Hayley Boesky, David Stevens, Andrew Szalay, Chris Katopis, Kent Smith and Joe Ventrone. Frank Wright, Senior Counsel, FHFA's Office of General Counsel ("OGC"), reviewed correspondence produced by FHFA in response to the FOIA Request to locate work, cellular and other telephone numbers of the identified industry representatives. OGC also searched FHFA's shared network drive for documents that might contain telephone numbers of the selected industry representatives. These searches yielded 15 work, mobile and other telephone numbers for the nine industry representatives.

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OGC then asked Tina Moore in FHFA's Office of Technology and Information Management ("OTIM") to search the agency's Cisco Unity Connection ("CUC") voice messaging servers for voicemails from the selected industry representatives. OGC provided OTIM with the names and telephone numbers of the FHFA custodians whose files were searched for documents responsive to the FOIA Request ("FHFA Custodians"), and the telephone numbers of the selected industry representatives. OGC asked OTIM to search the individual CUC mailboxes of the FHFA Custodians for any voicemails recorded by the telephone numbers of the selected industry representatives. No such voicemails were identified. OGC also reviewed the logs of voice messages in the mailboxes of the FHFA Custodians, but did not find the telephone numbers of the selected industry representatives.

OGC searched the Outlook email mailboxes of the FHFA Custodians to locate all emails with attached voicemail audio files in .WAV format. OGC reviewed the emails with voicemail attachments that displayed the phone number of the caller to determine whether any of those were from the telephone numbers of the selected industry representatives. None were. OGC also reviewed the emails with voicemail attachments that listed the sender as unknown or unlisted to determine whether any were from the selected industry representatives. OGC listened to the five voicemails identified through this process, and found that none were responsive to Plaintiffs' FOIA Request.

As this search has been completed and no responsive information was identified, FHFA proposes that the parties agree that the request for voicemail searches has been resolved.

2. Confirmation of Search of Alfred Pollard's Email Files

On August 5, 2012, you emailed me regarding a potential issue with the sufficiency of FHFA's search for documents responsive to the FOIA Request. You pointed to an email chain among Meg Burns, Alfred Pollard, and Tom Deutsch of the American Securitization Forum dated June 28, 2012 that had been produced from Ms. Burns's email, but not Mr. Pollard's email. FHFA has determined that this Encase, the e-discovery tool FHFA used in this matter, created two folders of potentially responsive documents identified in Mr. Pollard's email, one from his Outlook folder and one from his archive e-mail folder. The Agency was unaware at the time of the email review that two folders of potentially responsive documents were created, and, thus, only reviewed one. All of the potentially responsive documents identified both in Mr. Pollard's Outlook and archive email files have now been reviewed. FHFA also researched this matter with respect to all other FHFA Custodians, and determined that a second folder of potentially responsive documents was created for Mr. DeMarco, which has also been reviewed. Only one folder of potentially responsive documents was created for all other custodians. This review generated 1,122 pages of documents responsive to the FOIA Request, 830 from Mr. Pollard's archive email, and 292 from Mr. DeMarco's archive email. These documents will be produced in their entirety, subject only to redactions on the basis of privacy, consistent with FHFA's previous productions, with the exception of three pages, which will be produced with redactions pursuant to Exemptions 4, 5 and 6, as described below.

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Document Description	Number of Pages	Exemption	Reason for withholding information
Email dated June 21, 2013 from Alfred Pollard, General Counsel, to Edward DeMarco, Acting Director	1	5	<p>The text of this email consists of two paragraphs.</p> <p>The first paragraph will be produced in full.</p> <p>The second paragraph sets out Mr. Pollard's summary of three legal options available to the agency and the Enterprises (Fannie Mae and Freddie Mac). Because this constitutes the General Counsel's confidential communication of legal advice to the agency's Acting Director at the time, it will be redacted on the basis of the attorney-client privilege.</p>
Email string last dated August 7, 2013 from Alfred Pollard to Robert Lawrence, Associate General Counsel of Freddie Mac, William McDavid, Executive Vice President, General Counsel and Corporate Secretary, Lance Wolf, Vice President and Deputy General Counsel for Litigation and Investigations for Freddie Mac	1	4 & 6	<p>The original email in this string is from Freddie Mac's Associate General Counsel, Robert Lawrence, to Mr. Pollard, FHFA's General Counsel, with a copy to William McDavid and Lance Wolf of Freddie Mac's General Counsel's Office.</p> <p>The text of this email consists of three paragraphs. The first and second paragraph set out a confidential attorney-client communication between the Associate General Counsel of Freddie Mac and the General Counsel of FHFA describing legal action contemplated by Freddie Mac.</p> <p>The third paragraph will be produced in its entirety.</p> <p>The next email in the string, a non-substantive reply from Mr. Pollard, will be produced in its entirety.</p> <p>Portions of email addresses and phone numbers will be redacted for privacy.</p>

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Email string last dated August 6, 2013 from Alfred Pollard to Bradley Lerman, Executive Vice President, General Counsel and Corporate Secretary, Fannie Mae	1	4 & 6	<p>The original email in this string is from Fannie Mae's General Counsel, Brad Lerman, to Mr. Pollard, FHFA's General Counsel. It has a salutation, three paragraphs of text and a closing. The three paragraphs of text will be redacted as they set out a confidential attorney-client communication discussing the impact on the Enterprise of the City of Richmond's eminent domain activity, a legal analysis of this activity, and Fannie Mae's planned legal response.</p> <p>The next email in the string, a non-substantive reply from Mr. Pollard, will be produced in its entirety.</p> <p>Portions of email addresses and phone numbers will be redacted for privacy.</p>
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Today, FHFA produced 1,122 pages of documents to Plaintiffs, including the three documents with redactions as set out above. FHFA proposes that with this production, the parties agree that any issue regarding the sufficiency of FHFA's search for documents responsive to the FOIA Request is resolved.

B. Documents Withheld Pursuant to Exemptions 4 and 5

In an effort to resolve this case, and although FHFA believes it properly applied Exemptions 4 and 5 to the documents at issue in the parties' motions for summary judgment, it is willing to produce some or all of the information previously withheld and redacted as described below.

1. Exemption 4

The information withheld pursuant to Exemption 4 originated from Fannie Mae or Freddie Mac. To resolve this matter, FHFA proposes producing in full the information in each document related to eminent domain. The remainder of the information, which is highly confidential and non-responsive to the FOIA Request, will be redacted.

Document A36 is a five page memorandum prepared by Freddie Mac's Office of General Counsel. It was sent to Alfred Pollard, FHFA's General Counsel, by William McDavid, Executive Vice President, General Counsel and Corporate Secretary, Lance Wolf, Vice President and Deputy General Counsel for Litigation and Investigations for Freddie Mac, and Robert Lawrence, Associate General Counsel of Freddie Mac. It discusses legal advice and litigation strategies under consideration by Freddie Mac in response to the City of Richmond's eminent domain efforts, as well as confidential financial information about Freddie Mac's business

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operations. On the first page of the document, the date, to, from and subject line information will be provided, as well as one partial paragraph of factual background information. The remainder of the document, which is legal analysis, will be redacted.

Document A37 is a one page email prepared by Fannie Mae's General Counsel that discusses legal advice and litigation strategies that Fannie Mae was considering in response to the City of Richmond's eminent domain efforts, as well as Fannie Mae's confidential financial and business operations information. The "from," "sent," "to" and "subject" line information will be produced, as well as the closing line and signature. The remaining text of the e-mail, which is legal analysis, will be redacted.

Document C1 is one page of draft confidential meeting notes from the August 2013 meeting of the Freddie Mac Enterprise Risk Management Committee. It discusses, among other things, the potential impact of recent eminent domain activity in California on Freddie Mac's business operations. Eminent Domain is discussed in one paragraph of this document, approximately 1/3 of the page, that will be produced, along with the title of the document. The remaining text, which is highly confidential and non-responsive, will be redacted.

Document C2 is a 152 page confidential presentation to the Business and Risk Committee of Freddie Mac's Board of Directors. It includes a one page analysis of eminent domain issues. Freddie Mac redacted pages 80-89 before submission to FHFA, so the page numbers show that C2 is a 161 page document, but only 152 pages are in FHFA's possession, custody and control. On page 13/161, a single line of text that reads "Eminent Domain" will be produced. The remainder of the page will be redacted. On page 15/161, there is a header titled "Eminent Domain" and three paragraphs of text that will be produced. The remainder of the text on the page will be redacted. All other pages of the document, which contain highly confidential non-responsive information, will be redacted.

Document C4 is a two page email summarizing Fannie Mae's confidential discussion of issues raised at the August 5, 2013 Fannie Mae Executive Management Committee meeting. It contains one paragraph discussing Fannie Mae's legal strategies with respect to underwater mortgages, which will be produced. The "from," "sent," "to," "cc" and "subject" line information will be produced, along with the signature block at the end of the document. In addition, one bullet point of information regarding eminent domain will be produced. The remainder of the highly confidential, non-responsive information will be redacted.

Document C5 is a nine page collection of draft confidential meeting notes from the July 31, 2013 meeting of the Fannie Mae Management Committee that discusses decisions facing the Enterprise. The title of the document and the single sentence that refers to eminent domain activity in Richmond, California will be produced. The remainder of the highly confidential, non-responsive information will be redacted.

FHFA proposes that with this production, the parties agree that any issue regarding the use of Exemption 4 to redact information on documents produced in response to the FOIA Requests has been resolved.

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2. Exemption 5

The information redacted or withheld pursuant to Exemption 5 originated at FHFA. In an effort to resolve this matter, FHFA proposes releasing Documents A32, A33, A39, A40, A41, A42, B21 in full, and reducing the redactions on Document B30.

Document B30 is a two page email exchange regarding the use of eminent domain by San Bernadino County from which deliberations between Mr. Pollard, FHFA's General Counsel, and Edward DeMarco, the Acting Director at the time, have been redacted. FHFA has already produced the originating email in this chain from Richard Dorfman of SIFMA. FHFA proposes reducing the redactions on this document so that only the text of the communications between Mr. Pollard and Mr. DeMarco are concealed, and the "from," "sent," "to," and subject line information is produced.

FHFA proposes that with this production, the parties agree that any issue regarding the use of Exemption 5 to redact information on documents produced in response to the FOIA Requests has been resolved.

C. Attorney's Fees

I understand that the ACLU estimates that it has accrued \$130,000 in attorney's fees to date. FHFA is willing to discuss resolving the matter of attorney's fees along with all other outstanding issues in this matter. Given the amount of attorney's fees that the ACLU estimates it has accrued, however, FHFA requests the opportunity to review the ACLU's billing records to verify that the claimed amounts are recoverable under FOIA.

We look forward to your response.

Best regards,
MELINDA HAAG

United States Attorney


REBECCA A. FALK
Assistant United States Attorney