

**REPLY TO:**

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28 East Main Street, Suite 1800  
Rochester, NY 14614

September 22, 2017

KINGS COUNTY SUPREME COURT  
360 ADAMS STREET  
BROOKLYN, NY 11201

RE: PATRICK POLLARD SR., vs. REGAL 22 CORP., WESLEY BORUM, 35 AVE  
CORONA REALTY INC., SHANDELLE SOLNY, REVERSE MORTGAGE  
SOLUTIONS, INC., et al.,  
Property Address: 920 EAST 58TH STREET, BROOKLYN, NY 11234  
Our File No.: RMTN007D  
Index No.: 501784/2017

Dear Justice Partnow:

Relative to the referenced matter, on behalf of Defendant, REVERSE MORTGAGE SOLUTIONS, INC., enclosed please find a courtesy copy of the said Defendant's Affirmation in Opposition to Summary Judgement that has been filed with the NYSCEF system, which is returnable on **October 10, 2017** before Your Honor.

Thank you for your kind consideration in this matter.

Respectfully yours,  
**FEIN, SUCH & CRANE, L.L.P.**

Jonathan Vasquez  
Legal Assistant

cc: VERONICA RENTA IRWIN, ESQ.  
IRWIN & STREINER LLC  
Attorney for Plaintiff  
1180 NORTHERN BLVD., SUITE 203  
MANHASSET, NY 11030

ABRAHAM HOSCHANDER ESQ.  
LAW OFFICES OF ABRAHAM HOSCHANDER  
3811-13th AVENUE SUITE 300  
BROOKLYN, NY 11218

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS  
RMTN007D

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PATRICK POLLARD SR.,

*Plaintiff,*

-vs-

**AFFIRMATION IN LIMITED  
OPPOSITION TO SUMMARY  
JUDGMENT**

Index No. 501784/2017

REGAL 22 CORP., WESLEY BORUM, 35 AVE  
CORONA REALTY INC., SHANDELLE SOLNY,  
REVERSE MORTGAGE SOLUTIONS, INC.,  
UNITED STATES OF AMERICA, NEW YORK  
STATE DEPARTMENT OF TAXATION AND  
FINANCE, NEW YORK CITY DEPARTMENT  
OF SOCIAL SERVICES, NEW YORK CITY  
PARKING VIOLATIONS BUREAU, and "JOHN  
DOE NO. 1 " through "JOHN DOE NO. 10,"

*Defendants.*

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MICHAEL S. HANUSEK ESQ. , affirms under penalties of perjury the truth of the following:

1. I am an attorney with the law firm of Fein, Such & Crane, LLP, attorneys of record for Defendant, REVERSE MORTGAGE SOLUTIONS, INC., ("Defendant") in this action and am duly admitted to practice law in New York State. I have knowledge of the facts stated herein based on a review of the files maintained by my office. I am personally familiar with the relevant facts and circumstances of this matter, particularly the pleadings filed and proceedings conducted herein.

2. I submit this Affirmation in Opposition to Plaintiff's Motion for Summary Judgment **only to the extent that it expressly or by implication seeks any declaratory relief adversely affecting the lien of Defendant's Mortgage.**

3. Defendant is the holder of a reverse mortgage dated July 15, 2010 executed and

delivered by Plaintiff in the amount of \$742,500.00, which reverse mortgage was duly recorded in the office of the KINGS County Clerk on July 29, 2010 in CRFN Number 2010000254149 and affects the real property commonly known as 920 East 58<sup>th</sup> Street, Brooklyn, New York and also known as Section 23, Block 7761, Lot 58 Kings County. (See, Exhibit A annexed hereto.)

4. In his Complaint and in this Motion, Plaintiff does not dispute or deny the existence of the above reverse mortgage lien or that Defendant is the holder thereof. (See, Exhibit B annexed).

5. In his Complaint and in this Motion, Plaintiff does not make any allegations or demands for relief that would void, vacate or otherwise invalidate in any way the lien and underlying reverse mortgage obligation held by Defendant. Plaintiff acknowledges that the Defendant was only named as such due to being a necessary party and that Defendant's interest does "not affect the issue of ownership, the issue brought by Plaintiff to be determined by this Court." (See, paragraph 27 at page 10 of the April 18, 2017 Affirmation of Veronica Renta Irwin Esq. contained in Exhibit B annexed.)

6. As a matter of law, a mortgage can still be valid even when the deed is set aside as a result of it being obtained by fraud. Tompkins v Rodenberger, 103 N.Y.S. 2d 368 (Tioga County 1951) (Deed obtained by fraudulent representations; mortgage given by grantee held valid); Valentine v Lunt, 115 N.Y. 496 (1889); Swanstrom v Day 93 N.Y.S. 192 (Kings County 1905) (Deed obtained by undue influence; mortgage given by grantee held valid). There is not even such an issue in this particular case, as Plaintiff, the Defendant's mortgagor, is seeks to be restored as the owner of the mortgaged premises.

7. Further, an Order granting summary judgment in favor of the Defendant REVERSE MORTGAGE SOLUTIONS INC. striking an Answer filed by the Plaintiff has been entered in the Kings County action entitled *Reverse Mortgage Solutions v. Patrick Pollard, et al.*, Supreme Court

of New York Kings County Index. No. 507836/2013. (Exhibit C annexed.)

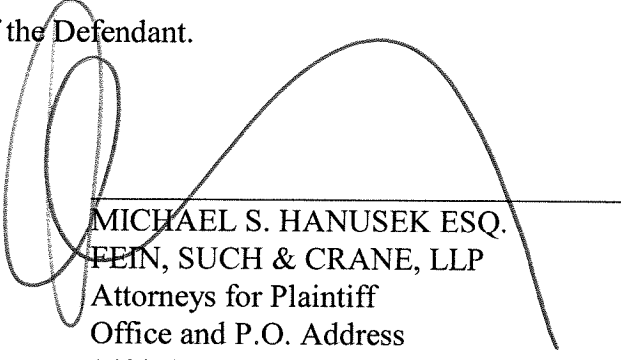
8. Based on all of the above, **any Judgment entered in favor of the Plaintiff must not contain any affirmative or declaratory relief against the reverse mortgage interest of the Defendant.**

9. This Affiant has seen far too many cases where our Firm's client has been joined merely as an interested party due to having a mortgage interest of record and a Judgment or Order is entered using a form or template which adversely affects if not destroys our client's mortgage interest because such a mortgagee is treated or included generically as one of the "Defendants" in the Judgment or Order.

### CONCLUSION

WHEREFORE, the Defendant REVERSE MORTGAGE SOLUTIONS, INC. respectfully requests that any Judgment entered in favor of the Plaintiff not contain any affirmative or declaratory relief against the reverse mortgage interest of the Defendant.

Dated: September 22, 2017



MICHAEL S. HANUSEK ESQ.  
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