

Loan #**35694128**

**LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND
INDEMNIFICATION AGREEMENT**

STATE OF ALABAMA)
COUNTY OF SHELBY)

MORTGAGOR NAME: **ELLERY W. CUMMINGS AND
FELICIA A. CUMMINGS, HUSBAND
AND WIFE**

ORIGINAL MORTGAGEE: **THE MORTGAGE OUTLET, INC.**

DATED: **16TH DAY OF SEPTEMBER, 2003**

RECORDED: **INSTRUMENT NUMBER
20031002000665090**

THIS LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND INDEMNIFICATION AGREEMENT (this "Agreement") is made by COUNTRYWIDE HOME LOANS, INC. to and for the benefit of FIRST AMERICAN TITLE INSURANCE COMPANY and its partners, directors, officers, agents, and employees referred to herein collectively as "First American".

WITNESSETH

WHEREAS, Countrywide Home Loans, Inc. is the owner and holds all of the right, title and interest in, to and under that certain Promissory Note executed by Ellery W. Cummings and Felicia A. Cummings, husband and wife in favor of The Mortgage Outlet, Inc. and dated the 16th day of September, 2003 (hereafter the "Note");

WHEREAS, an Assignment of Mortgage is used to memorialize the transfer of interest to Countrywide Home Loans, Inc., or to a predecessor in interest of Countrywide Home Loans, Inc., and is customarily caused to be recorded in the office of the Judge of Probate of the county where the subject property is located;

WHEREAS, in this instance, the Assignment of the beneficial interest of the Mortgage (hereafter the "Assignment"), as herein defined, to Countrywide Home Loans, Inc., or to a predecessor in interest of Countrywide Home Loans, Inc. was not recorded in the office of the Judge of Probate of the county where the subject property is located;

WHEREAS, Countrywide Home Loans, Inc. does not have possession of the Assignment, nor does Countrywide Home Loans, Inc. have knowledge regarding the whereabouts of the Assignment, and furthermore Countrywide Home Loans, Inc. has used due diligence and its best efforts to locate this Assignment.

NOW THEREFORE, Countrywide Home Loans, Inc. represents, warrants and covenants as follows:

1. **Countrywide Home Loans, Inc. represents:**

- (a.) That KIMBERLY DAWSON, executing this Agreement on behalf of Countrywide Home Loans, Inc., is the 1ST VICE PRESIDENT of Countrywide Home Loans, Inc. and has the power and authority to enter into this Agreement and to execute same on behalf of Countrywide Home Loans, Inc.;
- (b.) That as of the date hereof, Countrywide Home Loans, Inc. is the sole owner of the Note, which is secured by that certain Mortgage recorded in Instrument Number 20031002000665090 in the Office of the Judge of Probate of Shelby County (hereafter the "Mortgage");
- (c.) That it is the understanding of Countrywide Home Loans, Inc. that the Assignment was duly executed and delivered by Countrywide Home Loans, Inc.'s predecessor in interest but has been lost or misplaced, and Countrywide Home Loans, Inc. has been unable to locate the Assignment despite diligent efforts to do so;
- (d.) That if the Assignment is located at any time hereafter Countrywide Home Loans, Inc. shall immediately forward the Assignment to First American;
- (e.) That Countrywide Home Loans, Inc. warrants it has not assigned, pledged, sold, endorsed, or in any way transferred or hypothecated the Note or any interest therein.

2. **Indemnity.** Countrywide Home Loans, Inc. shall indemnify, defend and hold harmless First American from and against any and all liability, claims, demands, losses, damages or expenses, including but not limited to, reasonable attorney's fees and costs, suffered by, incurred by or asserted against First American, or any of them, by reason of any claim by anyone that the representations and warranties set forth in Paragraph 1 hereof are false or inaccurate in any respect, or by reason of any claim that the Mortgage is unenforceable, insufficient, or impaired.

3. **First American's Attorneys.** In the event of any litigation brought against First American which is covered by Paragraph 2 above, Countrywide Home Loans, Inc. agrees that First American shall have the right, in its sole discretion, to select and retain any attorneys to advise or defend them against said litigation, and Countrywide Home Loans, Inc. shall pay the reasonable attorney's fees and cost, as provided in Paragraph 2 above.
4. **Joint and Several Liability** The obligations of Countrywide Home Loans, Inc. hereunder shall be joint and several.
5. **Attorney's Fees.** In the event of any litigation between Countrywide Home Loans, Inc. and First American arising out of the parties' respective rights and/or obligations under the Agreement, or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's cost and expenses of such litigation, including, without limitation, reasonable attorney's fees and cost.
6. **Construction.** This Agreement, or any instrument to be drafted in the future, shall be construed without regard to any presumption or rule requiring construction against the party drafting said Agreement.
7. **Successors and Assigns.** This Agreement shall be binding on Countrywide Home Loans, Inc., their respective heirs, executors, administrators, successors and assigns, and shall inure to the benefit of First American and its respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, Countrywide Home Loans, Inc. has executed this Agreement on this 21st day of DECEMBER, 2006.

Countrywide Home Loans, Inc.

By: [Signature]

KIMBERLY DAWSON, 1ST VICE PRESIDENT

Its _____

ACKNOWLEDGEMENT

STATE OF TEXAS)

COUNTY OF COLLIN)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that ~~KIMBERLY DAWSON, 1ST VICE PRESIDENT~~, whose name as 1ST VICE PRESIDENT of Countrywide Home Loans, Inc., is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 20th day of DECEMBER, 2006.

Kathy Repka
NOTARY PUBLIC
My commission Expires:



This instrument prepared by:
Ginny Rutledge
Sirote & Permutt, P.C.
P.O. Box 55727
Birmingham, AL 35255