



Letter of Acknowledgement
Between PNC Bank, N.A. and Executive Office for United States Trustees

This Letter of Acknowledgement is made and entered into as of December 3, 2020, by and between the Executive Office for United States Trustees (“EOUST”) and PNC Bank, N.A. (“PNC”) (collectively, the “Parties”).

Introduction

The Parties acknowledge that, beginning in late 2015, PNC, on its own initiative, began an internal review of servicing practices in Chapter 13 bankruptcy cases. The review encompassed payment change notices (“PCNs”); running of post-petition escrow analyses (“escrow”); notices of post-petition fees, costs and expenses (“PPFNs”); reconciliation of home equity installment loans and lines of credit (“Home Equity Accounts”); and responses to notices of final cure (responses to “NOFCs”).

As part of its review, PNC proactively provided status reports to EOUST regarding its review; remediated borrower accounts on the basis of potential harm, not actual harm; and self-reported its conclusions to EOUST. This Letter summarizes the Parties’ discussions and sets forth the remediation PNC has performed and the operational enhancements it has implemented.

PNC’s Representation of Facts

Without waiving any right or privilege, PNC represents that the following facts are accurate to the best of its knowledge and belief:

A. Payment Change Notices and Escrow

In the fall of 2015, PNC discovered that some of its PCNs may not have been filed or served in a timely and accurate manner. In response, PNC evaluated its PCN-related policies, processes, and procedures; met with bankruptcy servicing staff members; evaluated samples of court-filed PCNs; and reviewed its PCN end-to-end operations.

PNC reviewed all accounts where a PNC borrower with a loan secured by real estate was in active Chapter 13 bankruptcy protection at any time between December 2011 and August 2017, and where PNC’s system of record reflected that the borrower’s payment had changed during the course of the borrower’s bankruptcy case.¹ PNC determined that it may have filed or served untimely or inaccurate PCNs, or did not file PCNs, for as many as 7,731 accounts. PNC fully remediated these accounts, using a compensation methodology that was borrower-friendly and designed to ensure that no borrower was under remediated and that remediation occurred expeditiously. For example, PNC erred on the side of classifying a payment change as improperly filed, even where, in a number of cases, the borrower and Chapter 13 trustee had notice of the payment change

¹ Unless otherwise noted, the time period December 2011 and August 2017 constitutes “the relevant period” for purposes of this Letter.

through other valid means (*e.g.*, a court order approving a loan modification or a proof of claim). PNC also provided remediation where the borrowers did not make timely payments or where the payment change involved a payment decrease. PNC also provided remediation where the payment change was *de minimis*, as was often the case with home equity lines of credit. The consequence of PNC's remediation was that some borrowers were over remediated, or were remediated where they suffered no harm at all.

In the course of its PCN remediation review, PNC also ensured that it identified and remediated any untimely-filed post-petition escrow analyses. PNC runs post-petition escrow analyses on a 12-month cycle, but it identified approximately 3,647 accounts where it did not do so in a timely manner.

PNC ultimately provided PCN- and escrow-related credits or refunds totaling approximately \$4.3 million. PNC's approach materially inflated both the number of borrowers who were remediated and the dollar amount of remediation because it addressed any potential for borrower harm, not just actual borrower harm.

B. Charged-Off Home Equity Accounts

During its review of PCNs filed in connection with Home Equity Accounts, PNC identified 1,792 real-estate secured accounts in Chapter 13 bankruptcy that it had charged off. As a matter of accounting practice and directives of the Office of the Comptroller of the Currency, PNC is required to charge off accounts that are severely delinquent. However, in the case of the Home Equity Accounts, the charge-off process impacted how PNC's system of record tracked monthly amounts due and corresponding payment amounts during Chapter 13 bankruptcy. PNC could have manually reconstructed those payment histories using available data and remediated those borrowers using the rules identified above. However, PNC sought to avoid a lengthy remediation process that would have delayed remediation to potentially impacted borrowers. Accordingly, PNC adopted an expedited, streamlined remediation approach that over-remediated its borrowers. For 1,792 Home Equity Accounts owned by PNC, PNC forgave the outstanding balances and released the corresponding liens. For 354 Home Equity Accounts owned by other investors or subject to a borrower opt-out, PNC provided \$599 per account in credits and refunds.

C. Responses to NOFCs for Charged-Off Home Equity Accounts

PNC responds to NOFCs filed by Chapter 13 Trustees pursuant to Bankruptcy Rule 3002.1. Because of the issue in tracking monthly payment data on charged-off accounts described above, the servicing platform PNC used to service charged-off Home Equity Accounts did not reliably state whether a customer was current at the time the NOFC was filed. As a result, PNC may have agreed that the borrower's account was current when it was actually delinquent. PNC identified 42 discharged Home Equity Accounts and 731 Home Equity Accounts in active Chapter 13 bankruptcy that were affected by the system limitation. Again, PNC could have manually reconstructed the accounts and remediated only the accounts that were adversely impacted. However, to expedite and streamline

the remediation process, PNC remediated all 773 Accounts by forgiving the debt and releasing the lien, which resulted in over-remediation of these borrowers.

D. Post-Petition Fee Notices

PNC identified approximately 57 Home Equity Accounts during the relevant period for which it had failed to timely file PPFNs after advancing funds for either unpaid real estate taxes or force-placed insurance. To remediate these accounts, PNC waived the assessed amounts, issuing waivers, refunds, or credits of approximately \$357,000.

E. Operational Enhancements

To address the bankruptcy issues described above, PNC adopted enterprise-wide enhancements to improve the identification of risks and internal controls. PNC consolidated the oversight and management of all bankruptcy accounts (mortgage, Home Equity, auto, and unsecured loans) into one department, and added bankruptcy subject-matter experts to the business operations, risk, and compliance areas. PNC also moved its Home Equity Accounts to the same servicing system on which its mortgage accounts are housed to standardize its servicing operations and avoid data limitations.

Furthermore, PNC increased its testing of bankruptcy controls and processes, took steps to automate its processes, to the extent possible, and engaged in significant testing and monitoring of manual processes. Additionally with respect to PCNs, Home Equity PPFNs (Mortgage PPFNs are handled by law firms), and Home Equity NOFCs (same), PNC implemented peer-to-peer quality reviews to help ensure accuracy and timeliness, and coordinated its mail delivery and pickup systems to ensure that service occurs on the date reflected in the certificate of service, where applicable.

This Letter may be executed in any number of counterparts, each of which when executed and delivered shall be considered an original, but all counterparts together shall be considered a single document.

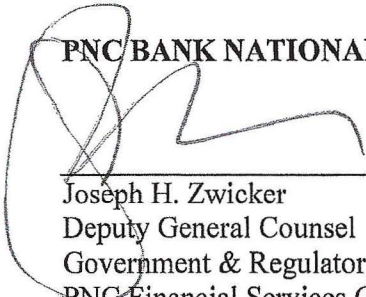
PNC's Reservation

This Letter and its contents are not to be used as an admission of liability, violation, or wrongdoing by PNC to any person or entity or on any legal or equitable theory. This Letter is made without trial or adjudication of any issue of fact or law. In entering into this Letter, PNC does not waive any privilege, including the attorney-client privilege.

PNC Letter of Acknowledgement
December 3, 2020

Seen and acknowledged:

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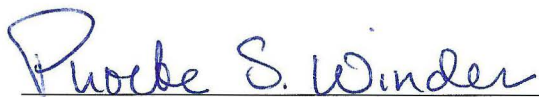
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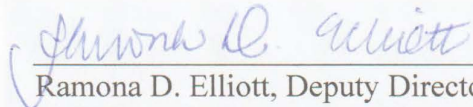
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EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES

Handwritten signature of Ramona D. Elliott in blue ink, written over a light blue rectangular background.

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