

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	: Case No. 12-12020 (MG)
Debtors.	: Jointly Administered
: :	
----- X	

**ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO ISSUE SUBPOENAS COMPELLING THE PRODUCTION OF
DOCUMENTS AND PROVISION OF TESTIMONY BY THE DEBTORS AND OTHERS
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004**

Upon consideration of the motion (the "Rule 2004 Motion"),¹ dated June 1, 2012, of the Official Committee of Unsecured Creditors (the "Committee") of the above-captioned debtors and debtors-in-possession (the "Debtors"), for entry of an order, pursuant to 11 U.S.C. §§ 105(a) and 1103(c), Rules 2004, 9006(c)(1), and 9013 of the Federal Rules of Bankruptcy Procedure (the "Rules"), and Rule 9006-1(b) of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), authorizing the Committee to issue subpoenas compelling the production of documents and the provision of testimony by the Debtors and other entities and persons; that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; that the Rule 2004 Motion and the relief requested therein are a core proceeding pursuant to 28 U.S.C. § 157(b); that the relief requested in the Rule 2004 Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties-in-interest; that proper notice has been given under the circumstances and no further notice is necessary; and after due deliberation thereon, and good and sufficient cause appearing therefor, it is hereby:

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Rule 2004 Motion, including the draft subpoena attached thereto as Exhibit B.

ORDERED that the Rule 2004 Motion is granted in its entirety and on the terms set forth herein;

ORDERED that pursuant to 11 U.S.C. §§ 105(a) and 1103(c); Rules 2004, 9006(c)(1), 9013; and Local Rule 9006-1(b), the Committee is authorized to serve subpoenas (the "Committee Subpoenas") compelling the production of documents and the provision of testimony on the Debtors; Ally Financial, Inc.; Cerberus Capital Management, L.P.; Ally Bank; and IB Finance Holding Company, LLC (and each of the aforementioned entities' current and former, direct and indirect affiliates and subsidiaries); and certain of each of these entities' current or former directors, officers, employees, and advisors;

ORDERED that the Committee shall file with the Court an affidavit or declaration of service for each Committee Subpoena it serves;

ORDERED that the subject of a Committee Subpoena (a "Commanded Person") compelling the production of documents shall produce responsive, non-privileged documents on a rolling basis and in the manner instructed in Exhibit B to the Rule 2004 Motion. Such document productions shall be substantially completed and received by the Committee no later than twenty-one (21) days after receipt of a Committee Subpoena, and fully completed and received by the Committee no later than thirty (30) days after receipt of a Committee Subpoena, unless otherwise agreed to by the Committee or ordered by the Court;

ORDERED that if a Commanded Person claims that any privilege or protection excuses production of any document or part thereof, the Commanded Person must, consistent with Rule 7026 and Local Civil Rule 26.2 of the United States District Court for the Southern District of New York, expressly make such claim in a writing to the Committee that provides a general description of the categories of documents being withheld and the basis for doing so, sufficient in

detail for the Committee to determine whether there is an adequate basis for invoking privilege or protection. Such writing shall be served on the Committee no later than seven (7) days after the Commanded Person is required by this Order to complete their document production;

ORDERED that a Commanded Person compelled by a Committee Subpoena to provide testimony shall submit to an oral examination at a deposition no later than twenty-one (21) days after receiving a Committee Subpoena, unless otherwise agreed to by the Committee or ordered by the Court;

ORDERED that nothing herein shall limit the rights of a Commanded Person to seek relief under Rule 9016 or Rule 45 of the Federal Rules of Civil Procedure, except that any objections to a Committee Subpoena must be served on the Committee no later than ten (10) days after receipt of such subpoena; and any motion to quash or modify a Committee Subpoena must be filed with the Court and served on the Committee no later than fourteen (14) days after receipt of such subpoena;

ORDERED that, in addition to the requirements of the immediately preceding decretal paragraph, in the event of a discovery dispute in this action counsel shall first meet and confer in an effort to resolve the dispute before engaging in motion practice. If counsel are unable to resolve the dispute, counsel for any party seeking assistance from the Court shall, before filing any discovery motion, arrange a telephone call with the Court and all counsel directly involved in the dispute. The Court will endeavor to resolve the dispute without the filing of motions;

ORDERED that the Committee may file on an *ex parte* basis additional motions seeking authority to obtain discovery under Rule 2004 from other entities or individuals; and

ORDERED that this Court shall retain jurisdiction to resolve any disputes arising from or related to this Order, and to interpret, implement, and enforce the provisions of this Order.

Dated: New York, New York
_____, 2012

HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Draft Document Subpoena To The Debtors

UNITED STATES BANKRUPTCY COURT

Southern District of New York

In re
Residential Capital, LLC, et al.,

DRAFT SUBPOENA FOR RULE 2004 EXAMINATION

Debtors.

Case No.*12-12020(MG)

Chapter 11

To:
Residential Capital, LLC, et al.
c/o Morrison & Foerster LLP
Attn: Jamie A. Levitt, Esq.
1290 Avenue of the Americas
New York, NY 10104

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A

PLACE

Kramer Levin Naftalis & Frankel LLP
Attn: Barry H. Berke, Esq.
1177 Avenue of the Americas
New York, NY 10036

DATE AND TIME

June [], 2012, 5:00 p.m. EST

ISSUING OFFICER SIGNATURE AND TITLE

/s/ Barry H. Berke, Esq.

DATE

June [], 2012

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Barry H. Berke, Esq.
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100

* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE	SIGNATURE OF SERVER
ADDRESS OF SERVER	

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

12. All documents and communications concerning the AFI Settlement and Plan Sponsor Agreement, including without limitation all valuations, appraisals, and fairness opinions, and all communications with AFI, Cerberus, or Ally Bank related to the AFI Settlement and Plan Sponsor Agreement.

13. All documents and communications concerning the Junior Secured Noteholders' Plan Support Agreement, including without limitation (a) all communications with AFI, Cerberus, Ally Bank, or the Junior Secured Noteholders concerning the Junior Secured Noteholders' Plan Support Agreement; and (b) all communications with the Junior Secured Noteholders concerning the allocation of the proceeds of any asset sales and of any settlements.

14. All documents and communications concerning the RMBS Trust Settlement Agreement, including without limitation all valuations, appraisals, or fairness opinions concerning any aspect or term of the RMBS Trust Settlement Agreement, and all communications with AFI, Cerberus, Ally Bank, the Investors, Institutional Investors (as each is defined in the RMBS Trust Settlement Agreement) and/or trustees, and each of their attorneys or advisors (including without limitation Gibbs & Bruns, LLP; Ropes & Gray LLP; and Kelly Drye & Warren LLP), related to the RMBS Trust Settlement Agreement.

15. All documents and communications concerning the RMBS Plan Support Agreement, including without limitation all valuations, appraisals, or fairness opinions concerning any aspect or term of the RMBS Plan Support Agreement, and all communications with AFI, Cerberus, Ally Bank, the Consenting Claimants (as each is defined in the RMBS Plan Support Agreement) and/or trustees, and each of their attorneys or advisors (including without limitation Gibbs & Bruns, LLP; Ropes & Gray LLP; and Kelly Drye & Warren LLP), related to the RMBS Plan Support Agreement.