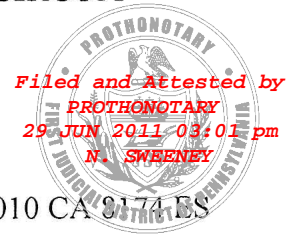


COPY TO BE STAMPED  
BY COURT CLERK  
IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION



CITICORP MUNICIPAL MORTGAGE, INC. )

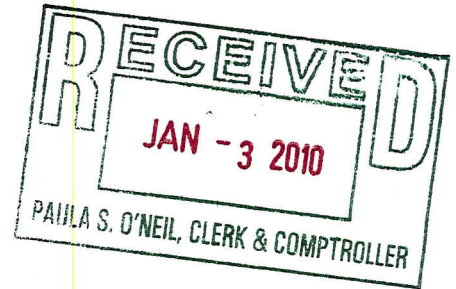
Plaintiff, )

VS. )

ZEPHYRHILLS INDEPENDENT LIVING, )  
LLC, PARKERS CREEK, II, L.L.C., )  
STUART MILLS and GLENN KAPLAN )

Defendants. )

Case No. 51 2010 CA 9174 ES



**PLAINTIFF'S NOTICE OF SERVING FIRST SET OF  
INTERROGATORIES TO DEFENDANT STUART MILLS**

Plaintiff, Citicorp Municipal Mortgage, Inc. ("**Citicorp**"), by and through its undersigned counsel and pursuant to Rule 1.340 of the Florida Rules of Civil Procedure, hereby gives notice that it has served its First Set of Interrogatories to Defendant, Stuart Mills, answers to which are due within thirty days from the date of service.

A handwritten signature in black ink, appearing to read "R. Holliday".

Ronald S. Holliday  
Florida Bar No. 612677  
Stephanie L. Adams  
Florida Bar No. 40548  
DLA PIPER LLP (US)  
100 N. Tampa Street, Suite 2200  
Tampa, Florida 33602  
Telephone: (813) 229-2111  
Facsimile: (813) 229-1447  
Attorneys for Plaintiffs

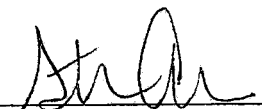
**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by depositing same in the United States mail, postage prepaid, to:

Charles H. Lichtman, Esq.  
BERGER SINGERMAN  
350 East Las Olas Boulevard  
Suite 1000  
Fort Lauderdale, FL 33301

Gary M. Schaaf, Esq.  
BECKER & POLIAKOFF, P.A.  
311 Park Place Boulevard  
Suite 250  
Clearwater, FL 33759

on this 30th day of December 2010.

  
\_\_\_\_\_  
Attorney

## **FIRST SET OF INTERROGATORIES TO DEFENDANT**

### **INSTRUCTIONS**

1. In accordance with Rule 1.340, Florida Rules of Civil Procedure, your response shall set forth the interrogatory and shall set forth the answer to the interrogatory “separately and fully in writing under oath” or “shall state fully the grounds for refusal to answer any interrogatory.” You must sign the responses and your answers shall include all information available to you directly or through agents, representatives, or attorneys.

2. Where knowledge or information in the possession or control of a party is requested or inquired of, such request or inquiry also seeks knowledge or information in the possession or control of the party’s agents, servants, employees, representatives, and attorneys, or other persons acting for or on behalf of the party.

3. If you refuse to answer any interrogatory, in whole or in part, on the grounds of privilege, so state, answer all remaining parts of the interrogatory, state the nature of the privilege (e.g., attorney-client, etc.), and state facts sufficient to support your claim of privilege. For each item of information, communication, document or part thereof as to which you claim privilege, state:

- (a) the date of the document or communication;
- (b) the type, title, and subject matter of the document or communication, sufficient to assess whether the assertion of privilege is valid;
- (c) the name of the person(s) who prepared or signed the document or communicated the information;
- (d) the name and positions of any intended and actual recipients of the document or communication;
- (e) each person now in possession of the original or a copy of the document, information, or communication; and

- (f) the number of the interrogatory to which the document, communication or other information is responsive.

4. If, for reasons other than a claim of privilege, you refuse to answer any interrogatory, answer so much of the interrogatory as is not objectionable and state the grounds upon which the refusal is based with sufficient specificity to permit a determination of the propriety of the refusal. If, for example, you perceive any ambiguities in a question, instruction, or definition, set forth the matter deemed ambiguous and the construction used in answering.

5. In the event that you object to any interrogatory on the basis that it is overbroad for any reason, respond to that interrogatory narrowed in such a way as to render it not overbroad in your opinion, and state the extent to which you have narrowed the interrogatory for purposes of your response.

6. If any interrogatory cannot be answered in full, it should be answered to the extent possible, with an explanation as to why the remainder cannot be answered, disclosing whatever information, knowledge or belief you do have with respect to the unanswered portion, including the name(s) and address(es) of any person(s) or entity(ies) having further information.

7. If any of the interrogatories call for the identification or reference to documents that you know to be missing, destroyed or otherwise disposed of, identify such documents and give particular details as to the disposition of each document, the identity of the person last known to have the document in his or her possession or subject to his or her control, and the identity of each person you have reason to believe had knowledge of its contents or received a copy of the document.

### **DEFINITIONS**

In these interrogatories, the following definitions shall apply:

- (a) **“Identify”** or **“identification,”** when used in reference to a natural person, means to state that person’s full name, present address, home and business telephone

numbers, and present position and business affiliation. When used in reference to a person other than a natural person, “**identify**” or “**identification**” means to state whether that person is a corporation, partnership, or other organization, its full name, present and last known address, telephone number, and the principal place of business. Once a person has been identified properly, it shall be sufficient thereafter when identifying that same person to state their name only;

- (b) “**Identify**” or “**identification**,” when used in reference to a document, means to state the date, the author (or, if different, the signer or signers), the addressee, and the type of document (e.g., letter, memoranda, telegram, chart, etc.). If any such document is no longer in defendant’s possession or subject to defendant’s control, state what disposition was made of it and the reason for such disposition. In lieu of identifying any document, a true and correct copy thereof may be annexed to and incorporated in the answers to these interrogatories;
- (c) “**You**,” “**Your**” and “**Defendant**” refers to Defendant, Stuart Mills;
- (d) “**Citicorp**” and “**Plaintiff**” refers to Plaintiff, Citicorp Municipal Mortgage, Inc., its officers, directors, employees, agents, attorneys, or other representatives;
- (e) The “**Complaint**” refers to the Complaint Plaintiff filed in this action; and
- (f) The “**Counterclaim**” refers to the Counterclaim filed by You in this action.

### **INTERROGATORIES**

1. Please identify the person or persons answering these interrogatories.

**ANSWER:**

2. Please identify all facts and documents that You believe may support the statement in Your Affirmative Defenses to the Complaint and Paragraph 8 to Your Counterclaim that Citicorp, through its agent, Brian Barker, “expressly agreed...to formally release any and all personal claims against Mills...in consideration of Mills’ agreement to close on the Loan, despite his express reservations regarding the Loan.”

**ANSWER:**

3. Please identify all facts and documents that You believe may support the statement in Your Affirmative Defenses to the Complaint and Paragraph 10 of Your Counterclaim that “a workout was agreed to, by and between the parties to the Closing, including Citicorp, by which Mills agreed to close on the Loan, subject to and conditioned upon an agreement...providing that all of his interests in and obligations under Zephyrhills...and in the Project...would thereafter be transferred to a limited liability company owned by Defendant, Glenn Kaplan, in consideration of (1) a purchase price of \$743,000.00, and (2) a release of all personal liability under the Loan.”

**ANSWER:**



4. Please identify all facts and documents that You believe may support the statement in Your Affirmative Defenses to the Complaint and Paragraph 11 of Your Counterclaim that “[a]s an incentive for Mills to enter into the Transfer Agreement, thereby facilitating the closing on the Loan, Citicorp, through Barker, agreed to provide Mills with a full release from any and all liability under the Guaranty, upon the closing on Mills’ transfer of his interest, in accordance with the Transfer Agreement.”

**ANSWER:**

5. Please identify all facts and documents that You believe may support the statement in Your Affirmative Defenses to the Complaint and Paragraph 12 of Your Counterclaim that “Mills, in reasonable reliance upon the Representations of Citicorp, through Barker, entered into and fully performed under the Agreement, by (1) entering into and subsequently closing on the Transfer Agreement, thereby transferring all of his interest in Zephyrhills and the Project, and (2) executing the Loan documents, including the Guaranty, at the Closing.”

**ANSWER:**

6. Please identify all facts and documents that You believe may support the statement in Paragraph 9 of Your Counterclaim that "Citicorp, through Barker, had full knowledge, at the Closing, that Mills was opposed to closing on the Loan."

**ANSWER:**

7. Please identify all facts and documents that You believe may support the statement in Paragraph 27 of Your Counterclaim that “[a]s a direct and proximate result of Citicorp’s breach of its agreement with Mills, by failing to release Mills from the Guaranty, Mills has been substantially damaged.”

**ANSWER:**

8. Please identify all facts and documents that You believe may support the statement in Paragraphs 30 and 36 of Your Counterclaim that “Citicorp knew the Representations to be false, when they were made to Mills at the Closing.”

**ANSWER:**

9. Please identify all facts and documents that You believe may support the statement in Paragraph 31 of Your Counterclaim that “Citicorp intended that Mills rely upon the Representations in closing on the Loan and executing the Guaranty.”

**ANSWER:**

10. Please identify all facts and documents that You believe may support the statement in Paragraph 33 of Your Counterclaim that “[a]s a direct and proximate result of Citicorp’s fraudulent Representations, Mills has been substantially damaged.”

**ANSWER:**

11. Please identify all facts and documents that You believe may support Your Third Affirmative Defense that You are entitled to a set-off.

**ANSWER:**



12. Identify all persons who are believed or known by You to have knowledge concerning any of the facts and documents that You believe may support the statements contained in Your Affirmative Defenses to the Complaint and Your Counterclaims.

**ANSWER:**

13. Identify all communications that You have had with Citicorp regarding the matters described in the Complaint, Your Answer and Affirmative Defenses, and Your Counterclaims, specifying the date of each communication, the person with whom You communicated, the manner of the communication, and the substance of the communication. If any notes or memoranda of oral communications with Citicorp exist, identify all such notes or memoranda.

**ANSWER:**

14. With respect to any and all expert witnesses that you or your attorneys intend to call at the trial of this case, state as to each:

- (a) his or her name, address, and qualifications as an expert;
- (b) the subject matter upon which the witness is expected to testify;
- (c) the substance of the facts and opinions to which the witness is expected to testify;  
and
- (d) identify all reports, memoranda, or correspondence each has prepared regarding this case.

**ANSWER:**

**VERIFICATION**

\_\_\_\_\_  
STUART MILLS

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_)

**BEFORE ME**, the undersigned authority, appeared Stuart Mills, who is personally known to me or produced \_\_\_\_\_ as identification, and after being first duly sworn, says that the foregoing Answers to Interrogatories are true and correct.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(SEAL)

File

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

CITICORP MUNICIPAL MORTGAGE, )  
INC., )

Plaintiff, )

vs. )

Case No. 51-2010-CA-8174-ES

ZEPHYRHILLS INDEPENDENT )  
LIVING, LLC, PARKERS CREEK, II, )  
LLC, STUART MILLS and GLENN )  
KAPLAN, )

Defendants. )

STUART MILLS, )

Counterplaintiff, )

vs. )

CITICORP MUNICIPAL MORTGAGE, )  
INC., )

Counterdefendant. )

**NOTICE OF SERVING RESPONSE OF DEFENDANT, STUART MILLS,  
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT**

Defendant, Stuart Mills (hereinafter "**Mills**"), by and through his undersigned counsel, hereby gives notice of serving his responses to the First Set of Interrogatories to Defendant, propounded herein by the Plaintiff, Citicorp Municipal Mortgage, Inc. (hereinafter "**Citicorp**"), in the form attached hereto.

GruS.f

GARY M. SCHAAF, ESQUIRE  
Florida Bar No. 727067  
BECKER & POLIAKOFF, P.A.  
311 Park Place Boulevard  
Suite 250  
Clearwater, Florida 33759  
(727) 712-4000  
(727) 796-1484 Telefax  
Attorneys for Defendant, Mills

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by regular U.S. mail to Ronald S. Holliday, Esquire, and Stephanie L. Adams, Esquire, of DLA Piper, LLP, counsel for the Plaintiff, at 100 North Tampa Street, Suite 2200, Tampa, Florida 33602, on this 5<sup>th</sup> day of April, 2011.

GruS.f

GARY M. SCHAAF, ESQUIRE

ACTIVE: 3312375\_1

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

CITICORP MUNICIPAL MORTGAGE, INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 512010CA8174ES
	)	
ZEPHYRHILLS INDEPENDENT	)	
LIVING, LLC, PARKERS CREEK, II,	)	
LLC, STUART MILLS and GLENN	)	
KAPLAN,	)	
	)	
Defendants.	)	
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	)	
STUART MILLS,	)	
	)	
Counterplaintiff,	)	
	)	
vs.	)	
	)	
CITICORP MUNICIPAL MORTGAGE,	)	
INC.,	)	
	)	
Counterdefendant.	)	
<hr style="border: 0.5px solid black;"/>		

**RESPONSE OF DEFENDANT, STUART MILLS, TO PLAINTIFF'S  
FIRST SET OF INTERROGATORIES TO DEFENDANT**

Defendant, Stuart Mills (hereinafter "**Mills**"), by and through his undersigned counsel, hereby submits his responses to the First Set of Interrogatories to Defendant, propounded herein by the Plaintiff, Citicorp Municipal Mortgage, Inc. (hereinafter "**Citicorp**"), as follows:

1. Stuart Mills.
2. Citicorp or its predecessor in interest (hereinafter "**Citicorp**"), through its agent, Brian Barker (hereinafter "**Barker**"), expressly agreed, at the July 1, 2008 closing of the subject

loan (hereinafter the “**Closing**”), as defined in Paragraph 9 of the Complaint, and specifically prior and subsequent to the execution of the Guaranty, as defined in Paragraph 31 of the Complaint, to formally release any and all personal claims against Mills, thereunder, including the purported claims asserted herein, in consideration of Mills’ agreement to close on the Loan, despite his express reservations regarding the Loan.

Specifically, Citicorp, through Barker, had full knowledge, at the Closing, that Mills was opposed to closing on the Loan. However, a workout was agreed to, by and between the parties to the Closing, including Citicorp, through Barker, by which Mills agreed to close on the Loan, subject to and conditioned upon an agreement (hereinafter the “**Transfer Agreement**”), providing that all of his interests in and obligations under Zephyrhills, as defined in the introductory paragraph to the Complaint, and in the Project, as defined in Paragraph 9 of the Complaint, would thereafter be transferred to a limited liability company owned by Defendant, Glenn Kaplan, in consideration of (1) a purchase price of \$743,000.00, and (2) a release of all personal liability under the Loan. Copies of the original handwritten agreement, reached and executed at closing, and the later transcribed printed version of the Transfer Agreement, pursuant to which Mills transferred his interests in and obligations under Zephyrhills, are attached to Mills responses to the Plaintiff’s First Request for Production to Defendant, served concurrently herewith.

As an incentive for Mills to enter into the Transfer Agreement, thereby facilitating the closing on the Loan, Citicorp, through Barker, agreed to provide Mills with a full release from any and all liability under the Guaranty, upon the closing on Mills’ transfer of his interest, in accordance with the Transfer Agreement. Mills, in reasonable reliance upon the promises of Citicorp, through Barker, (1) entered into and subsequently closed on the Transfer Agreement,



thereby transferring all of his interest in Zephyrhills and the Project, and (2) executed the Loan documents, including the Guaranty, at the Closing.

Citicorp, through Barker, made such representations to Mills in an effort to induce Mills to close on the subject loan, which, at closing, he had indicated his unwillingness to do.

While Mills, in reliance upon Citicorp's promise to release him from any and all liability under the Guaranty, fully performed his obligations, by executing the Loan documents at the Closing and transferring his interest in Zephyrhills and the Project, Citicorp has failed to provide the promised releases.

Citicorp against Mills herein, as set forth in Count III of the Complaint, to the extent they are successful, are subject to full set-off for amounts due to Mills from Citicorp. Specifically, having failed to fulfill its promises to Mills, in reliance upon which Mills executed the Guaranty and transferred his interests in Zephyrhills and the Project, Citicorp is in breach of its agreement with Mills, and liable for any and all damages arising from such breach, including all of Mills' losses on the Project, which have not yet been fully calculated.

3. See response to Interrogatory #2.
4. See response to Interrogatory #2.
5. See response to Interrogatory #2.
6. See response to Interrogatory #2.
7. See response to Interrogatory #2.
8. See response to Interrogatory #2.
9. See response to Interrogatory #2.
10. See response to Interrogatory #2.
11. See response to Interrogatory #2.

12. Persons:

**Albert Mandia**

(215-498-0344 (mobile)  
[alamandia@msn.com](mailto:alamandia@msn.com)

**Ed Pontier**

(443) 540-4802 (Mobile)  
(410) 861-6801 (Home)  
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Westminster, MD 21157

**John Crouse**

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(610) 275-8372 (Home)  
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**Tim Stevens**

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Broker Associate  
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(609) 922-0547 (Mobile)  
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365B New Albany Road  
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**Glenn Kaplan**

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President  
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[gkaplan@kapdev.com](mailto:gkaplan@kapdev.com)

**Bob Jacobs**

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(610) 613-7560 (Mobile)  
[Robert@rcjconsulting.com](mailto:Robert@rcjconsulting.com)  
1700 Walnut Street – Suite 200  
Philadelphia, PA 19103

**Ira Gubernick**

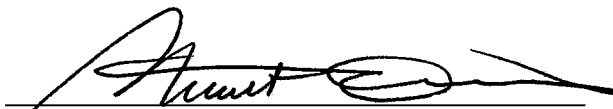
Klehr Harrison  
Attorney  
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(610) 909-5015 (Mobile)  
[igubernick@klehr.com](mailto:igubernick@klehr.com)  
1835 Market Street  
Philadelphia, PA 19103

**Bryan Barker**

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VP – Citi Community Capital  
(415) 627-6484 (Work)  
(415) 218-3510 (Mobile)  
[Bryan.barker@citi.com](mailto:Bryan.barker@citi.com)  
One Sansome Street, 18<sup>th</sup> Floor  
San Francisco, CA 94104

13. All such communications were at the closing on the subject loan, as set forth in response to Interrogatory #2.

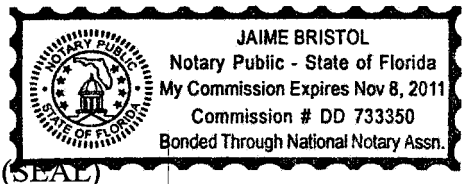
14. Mills has retained no expert witnesses at this time.

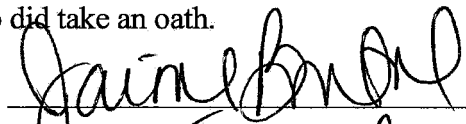
  
STUART MILLS

**NOTARY ACKNOWLEDGEMENT**

Florida  
STATE OF ~~PENNSYLVANIA~~ )  
COUNTY OF Lee ) ss:

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of March, 2011,  
by Stuart D Mills, who is personally known to me or who has produced  
\_\_\_\_\_ as identification and who did take an oath.



  
Print Name: Jaime Bristol

Notary Public for State of Florida

My Commission Expires: 11/8/2011

☒ Personally Known \_\_\_\_\_ ID Produced

ACTIVE: 3263547\_1