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VIA HAND DELIVERY

The Honorable Gregory M. Sleet
United States District Court
District of Delaware
844 North King Street
Room 4324, Unit 19
Wilmington, Delaware 19801

Re: Jacobs, et ano v. The Federal Housing Finance Agency, et al.
C.A. No. 15-708-GMS

Dear Judge Sleet:

I write on behalf of FHFA, Fannie Mae and Freddie Mac in response to plaintiffs' March 2, 2016 letter (Dkt. 36). Plaintiffs' letter should be disregarded because it "include[s] argument akin to what would be found in a brief." *Execware, LLC v. BJ's Wholesale Club, Inc.*, 2015 WL 4275314, at *2 n.4 (D. Del. July 15, 2015) (magistrate's report), *objections sustained in part*, 2015 WL 5734434 (D. Del Sept. 30, 2015). Moreover, Plaintiffs' argument is incorrect and its new authority is irrelevant. In *Adams*, the court merely held that Fannie Mae and Freddie Mac are not "officer[s], employees or agents of the United States" for purposes of the False Claims Act. The court did not address the scope of FHFA's powers as Conservator, the impact of HERA's jurisdiction withdrawal provision or the scope of the Conservator's succession to "all rights" of the Enterprises' shareholders. Nor did the court suggest that FHFA loses any of its powers and authorities under HERA by succeeding to the rights, titles, powers and privileges of the Enterprises and their shareholders. The *Adams* court simply referred to HERA's succession provision in rejecting an argument that conservatorship had transformed the Enterprises into agents of the United States for purposes of the False Claims Act. Further, even absent conservatorship, the Enterprises are creatures of federal (not state) law and their federal charters expressly provide them—and thus the Conservator—with discretion to issue preferred stock "on such terms and conditions as the board of directors shall prescribe." 12 U.S.C. § 1718(a); *id.* § 1455(f). See also Dkt. No. 23 at 15-18; *Adams*, slip op. at 5 ("Fannie Mae and Freddie Mac are ... sponsored or chartered by the federal government").

Respectfully,



Robert J. Stearn, Jr. (No. 2915)

cc: Counsel of record (via CM/ECF)

