UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRTIETH REGION

WATERSTONE MORTGAGE CORPORATION	)
	)
and	) Case No. 30-CA-073190
	)
PAMELA HERRINGTON	)

WATERSTONE MORTGAGE CORPORATION'S ANSWER TO THE AMENDED COMPLAINT

Now comes Waterstone Mortgage Corporation (hereinafter, "Waterstone"), by and through its undersigned counsel, and hereby answers the Amended Complaint brought by the Acting General Counsel of the National Labor Relations Board alleging that Waterstone has violated the National Labor Relations Act. Waterstone denies any and all such allegations generally and specifically. In support thereof, Waterstone states as follows:

1. (a) Waterstone is without information sufficient to admit or deny the allegations in Paragraph 1(a) of the Amended Complaint; however, Waterstone admits that it was served with a copy of the charge in this proceeding.

(b) Waterstone is without information sufficient to admit or deny the allegations in Paragraph 1(b) of the Amended Complaint; however, Waterstone admits that it was served with a copy of the first amended charge in this proceeding.

2. Waterstone admits the allegations contained in Paragraphs 2 (a), (b), (c) and (d) of the Amended Complaint insofar as Waterstone admits that it is subject to the requirements of the National Labor Relations Act.

3. Waterstone denies the allegations contained in Paragraph 3 of the Amended Complaint. However, Waterstone admits that Chris Randall has served as an Area Manager and Eric J. Egenhoefer is the President of Waterstone.

Jt. Stipulated Exh. I

4. (a) Waterstone admits the allegations contained in Paragraph 4(a) of the Amended Complaint to the extent it accurately quotes a selected portion of a Loan Originator Employment Agreement used by Waterstone, but denies the allegation that the individual arbitration agreement has been promulgated, maintained, and enforced at all material times insofar as Waterstone ceased to promulgate this language on or about July 23, 2012 and has been limited in its ability to enforce this language since the United States District Court for the Western District of Wisconsin issued an Order limiting its import on March 16, 2012.

(b) Waterstone admits the allegations contained in Paragraph 4(b) of the Amended Complaint but denies the allegations to the extent they suggest that the individual arbitration agreement was required after July 23, 2012.

5. (a) Waterstone admits the allegations contained in Paragraph 5(a) of the Amended Complaint to the extent it alleges that, on or about July 23, 2012 and thereafter, Waterstone has promulgated, maintained and enforced an amendment to its employment agreement as set forth in Exhibits 2 and 3 to the Amended Complaint and provided this amendment to current employees through a letter dated July 23, 2012 and attached to the Amended Complaint as Exhibit 1. Waterstone denies the allegations contained in Paragraph 5(a) to the extent it suggests it applies at all material times, that the amendment can be categorized as an individual arbitration agreement, that the amendment is applicable to former employees, and that, to the extent Option A and Option B are provided as separate exhibits, Waterstone provided the amendment to current employees in a piecemeal fashion.

(b) Waterstone admits the allegations contained in Paragraph 5(b) of the Amended Complaint but denies the allegations to the extent they suggest that the amendment was required before July 23, 2012.

6. The allegations contained in Paragraph 6 of the Amended Complaint are a legal conclusion that does not require an answer. To the extent an answer is required, Waterstone denies the allegations of Paragraph 6.

7. The allegations contained in Paragraph 7 of the Amended Complaint are a legal conclusion that does not require an answer. To the extent an answer is required, Waterstone denies the allegations contained in Paragraph 7 of the Amended Complaint to the extent Paragraph 7 of the Amended Complaint assumes the existence of unfair labor practices, but admits that the unfair labor practices alleged would affect commerce.

AFFIRMATIVE DEFENSES

By and for its Affirmative Defenses, Waterstone states:

First Affirmative Defense

1. The Amended Complaint fails to state a claim upon which relief may be granted against Waterstone.

Second Affirmative Defense

2. The Amended Complaint is barred as it is contrary to applicable Supreme Court precedent.

Third Affirmative Defense

3. The Amended Complaint is barred because compulsory arbitration is presumptively lawful.

Fourth Affirmative Defense

4. The Amended Complaint is barred because the Charging Party is not an employee protected by the National Labor Relations Act.

Fifth Affirmative Defense

5. The Amended Complaint is without merit as the Charging Party voluntarily signed the Loan Originator Employment Agreement that contains the arbitration clause at issue.

Sixth Affirmative Defense

6. The Amended Complaint is barred, in whole or in part, by the doctrine of unclean hands and/or the misconduct of the Charging Party.

Seventh Affirmative Defense

7. The Amended Complaint is barred, in whole or in part, by the doctrine of laches.

Eighth Affirmative Defense

8. The Amended Complaint is barred, in whole or in part, by the appropriate statutes of limitations.

Ninth Affirmative Defense

9. The Amended Complaint is barred, in whole or in part, by the doctrine of waiver.

Tenth Affirmative Defense

10. The Amended Complaint is barred, in whole or in part, by the doctrine of estoppel.

Eleventh Affirmative Defense

11. Waterstone reserves the right to plead additional defenses that may be identified during investigation and/or the course of discovery.

WHEREFORE, Waterstone Mortgage Corporation respectfully requests that the Complaint be dismissed and for such other and further relief as may be just and proper.

DATED: August 24, 2012

Respectfully submitted,

Ari Karen

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CERTIFICATE OF SERVICE

THIS WILL CERTIFY that on this 24th day of August 2012, a copy of the foregoing Answer was electronically filed and delivered via electronic mail to:

Dan Getman
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9 Paradies Lane
New Paltz, NY 12561
Attorneys for Pamela E. Herrington

Russell B. Berger

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