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December 18, 2023

Via Certified Mail, Return Receipt Requested
No. 9314769904300115231310

Joanna Burke
46 Kingwood Greens Drive
Kingwood, Texas 77339

Re: Civil Action No. 23-3593; *Burke v. PHH Mortgage Corporation, et al.*, in the in
the 8th Circuit Court of Appeals; Our file no. 14-003766-670-3

Dear Ms. Burke:

Please accept this letter in response to your *Demand Letter to Cancel Scheduled Foreclosure Sale and Provide Notice of Cancellation: Lis Pendens for 46 Kingwood Greens Drive, Kingwood, Texas 77339* dated December 3, 2023, addressed to our law firm, concerning the mortgage loan on the property located at 46 Kingwood Greens Drive, Kingwood Texas 77339 (hereinafter the "Property").

In your letter, you demand cancellation of the pending foreclosure due to a Notice of Lis Pendens filed in the Official Public Records of Harris County, Texas on December 11, 2023, at Instrument Number RP-2023-465481, concerning the lawsuit referenced above.

Under Texas law, a lis pendens may be filed during the pendency of an action involving title to real property, the establishment of an interest in real property, or an enforcement of an encumbrance against real property. Tex. Prop. Code Ann. § 12.007(a).

A lis pendens does not operate as a lien on property. *In re Miller*, 433 S.W.3d 82, 85 (Tex. App.—Houston [1st Dist.] 2014, no pet.). It is a means of providing notice of the pendency of an action involving real estate and may have the effect of protecting the filing party's alleged rights to the property that are in dispute in the pending litigation. *Id.*

However, a lis pendens is not an independent cause of action and has no existence separate and apart from the litigation of which it provides notice. *Id.* Furthermore, a lis pendens does not prevent conveyance; it merely puts the purchaser on notice as to the status of the land. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 418 (Tex. App.—Fort Worth 2009, no pet.).

Consequently, the Notice of Lis Pendens filed in the Official Public Records of Harris County, Texas does not prohibit the sale from moving forward. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas M. Frame". The signature is written in a cursive style with a large initial "N".

Nicholas M. Frame
