

UNITED STATES BANKRUPTCY COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

-----X Chapter 7

In Re:

Case Number: 10-23019

[REDACTED]

Debtors.

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**ORDER (A) UNDER 11 U.S.C. § 524 GRANTING DEBTORS' MOTION TO  
SANCTION BANK OF AMERICA, NA FOR VIOLATION OF DISCHARGE  
INJUNCTION, (B) DISMISSING CHAPTER 7 CASE, AND (C) RETAINING  
JURISDICTION OVER ENFORCEMENT OF ORDER**

Upon the motion, dated July 25, 2013 (the "Motion"), of the above debtors (the "Debtors"), by their counsel, Michael H. Schwartz, P.C., seeking to hold Bank of America, NA in contempt for violation of the discharge injunction pursuant to 11 U.S.C. § 524 and for the award of sanctions therefor; and there being due and sufficient notice of the Motion; and there being no objections to the requested relief; and upon the record of the hearing held by the Court on the Motion on September 5, 2013 (the "Hearing"), at which only Michael H. Schwartz, P.C. appeared, on behalf of the Debtors; and, after due deliberation, the Court having found and concluded, for the reasons stated at the Hearing, that (1) it has core jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b) and 1334, (2) the Motion was procedurally proper, (3) Bank of America, NA has repeatedly violated the Debtors' discharge, including after notice of the reopening of this case for the specific purpose of enforcing the discharge injunction, (4) such violations were willful, and (5) such violations are likely to continue unless Bank of America, NA

is appropriately sanctioned, it appearing from the demand letters and correspondence from Bank of America, NA submitted in connection with the Motion that such violations are incorporated into Bank of America, NA's business model; and the Court at the Hearing having directed counsel for the Debtors to submit his time and expense records in connection with this matter to establish compensatory damages for Bank of America, NA's violation of the discharge injunction; and counsel having done so, on notice to Bank of America, NA, and the Court having found, based on its review of such records that the amount provided herein constitutes fair and reasonable legal fees and expenses as compensatory damages for Bank of America, NA's discharge violation; now, therefore, good and sufficient cause appearing, it is hereby

ORDERED, that the Motion is granted; and it is further

ORDERED, that Bank of America, NA shall promptly pay the sum of \$9,468.85 in legal fees and expenses as compensatory damages for its violation of the Debtors' discharge pursuant to 11 U.S.C. § 524, to counsel for the Debtors, Michael H. Schwartz, One Water Street, White Plains, New York 10601; and it is further

ORDERED, that until Bank of America, NA rescinds its demand that the Debtors pay their discharged debt to it,<sup>1</sup> Bank of America, NA shall pay the sum of \$10,000.00 each month, commencing October 1, 2013, to Edwin Ramos and Michelle Ava

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<sup>1</sup> As found by the Court at the Hearing, a notice which clearly states that the amount owed by the debtors is provided for information purposes only in connection with Bank of America's *in rem* rights against the collateral securing the Debtors' debt and is not an attempt to enforce such debt against the Debtors personally or against any other asset of the Debtors would not violate the discharge injunction under 11 U.S.C. § 524, but the demands made on the Debtors before the date of the Hearing were not made in such manner.

Stouber-Ramos, c/o their counsel, Michael H. Schwartz, P.C.; and  
it is further

ORDERED that the foregoing sanctions shall continue at the  
rate of \$10,000.00 per month for every month that Bank of  
America, its successors and assigns, demands payment of the  
Debtors of their discharged debt;<sup>2</sup> and it is further

ORDERED, that the Debtors shall cause this Order to be  
served upon

Brian Moynihan  
President and CEO  
Bank of America Corporation  
100 North Tryon Street  
Charlotte, NC 28255

Gary G. Lynch, Esq.  
Global General Counsel  
Bank of America  
One Bryant Park  
New York, NY 10036

Mr. Enrique Velasco  
Assistant Vice President  
Nationstar Mortgage LLC  
350 Highland Drive  
Lewisville, TX 75067

by regular mail on or before September 20, 2013; and it is  
further

ORDERED, that this reopened case is dismissed; provided,  
that the Court will retain jurisdiction over the enforcement of  
this Order.

Dated: White Plains, New York  
September 17, 2013

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<sup>2</sup> See footnote 1.

/s/Robert D. Drain  
Hon. Robert D. Drain  
U.S. Bankruptcy Judge