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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. THOMAS P. PHELAN,

Justice

TRIAL/IAS, PART 14
NASSAU COUNTY

HSBC MORTGAGE CORPORATION (USA), successor
by merger to Republic Consumer Lending Group, Inc.,

ORIGINAL RETURN DATE: 11/12/03

Plaintiff(s),

SUBMISSION DATE: 11/12/03

-against-

INDEX No.: 7210/03

DAVID URBACH, MIRIAM URBACH, REPUBLIC
CONSUMER LENDING GROUP, INC.,

MOTION SEQUENCE #1,2

Defendant(s).

The following papers read on this motion:

Notice of Motion.....	1-3
Proposed Judgment.....	4
Cross-Motion.....	5

Motion by plaintiff for a judgment of foreclosure and sale is granted without opposition. Cross-motion by HSBC Mortgage Corporation USA (HSBC), the claimed successor by merger to defendant Republic Consumer Lending Group, Inc. (Republic) for an order including in the judgment of foreclosure and sale a decretal paragraph regarding surplus monies in accordance with RPAPL 1351(3) is denied without prejudice to pursuing surplus monies upon a showing, *inter alia*, that it is the successor to defendant Republic.

The affidavit by Denise Mecca dated November 4, 2003 merely states that she is "the AVP of HSBC Mortgage Corporation (USA), successor by merger to Republic Consumer Lending Group, Inc." No indication is provided as to what "AVP" stands for and nothing is provided to elaborate on the merger through which HSBC claims to have become the successor.

Curiously, while both movant and cross-movant are represented by the same counsel, and movant includes a proposed judgment of foreclosure and sale as part of its moving papers, cross-movant does not provide a second proposed judgment as part of its submission which includes the decretal paragraph sought to be added.

RE: HSBC MORTGAGE v. URBACH, et al.

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The proposed judgment included with plaintiff's motion papers shall be forwarded this date to the Motion Support Unit of the Court and should it be found consistent with the terms of this memorandum, it shall be executed upon completion of such review.

This decision constitutes the order of the court.

Dated: 12-22-03

HON THOMAS P. PHELAN

J.S.C.

ENTERED

DEC 26 2003

NASSAU COUNTY
COUNTY CLERK'S OFFICE