

Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

December 27, 2006

[REDACTED]
[REDACTED]
[REDACTED]

Re: [REDACTED] - Claimant and closing agent representing [REDACTED]
(Borrower). Protest and Claim for Refund of Intangible Recording Tax paid to the Clerk
of Superior Court, [REDACTED], in the amount of [REDACTED] (total paid was [REDACTED]) when
recording a Security Deed representing a refinance between Borrower and [REDACTED]
[REDACTED] (with MERS) on May 8, 2006

Dear [REDACTED]

I have carefully considered the Protest and Claim for Refund of intangible recording tax in the
above-captioned matter. The request has been considered based upon the information provided in
the Protest, Claim for Refund, and all supporting documentation including your letters of May 4,
2006, June 5, 2006, and July 5, 2006.

It is my determination that intangible recording tax in the amount of [REDACTED] was due when the
security instrument representing a refinance between the parties was recorded on May 8, 2006.

O.C.G.A. § 48-6-65 provides, in pertinent part, "No tax shall be collected on that part of the face
amount of a new instrument securing a long-term note secured by real estate which represents a
refinancing by the original lender of unpaid principal of a previous instrument securing a long-
term note secured by real estate if all intangible recording tax due on the previous instrument has
been paid or the previous instrument was exempt from intangible recording tax."

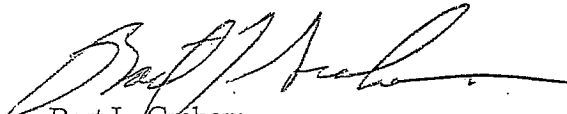
[REDACTED]
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Department of Revenue Rule 560-11-8-.05 provides, in pertinent part, that intangible recording tax is not required to be paid on that part of the face amount of a new instrument securing a long-term note secured by real estate which represents a refinancing by the original lender and original borrower of unpaid principal of an existing instrument securing a long-term note secured by real estate still owned by the original lender, if the intangible recording tax was paid on the original instrument or the original holder of the instrument was exempt.

Mortgage Electronics Registration Systems, Inc. (MERS) was shown as the grantee on the security instrument representing a refinance between the parties. The Terms and Conditions that are a part of the binding agreement between MERS and lenders who register loans on the MERS system requires that the lenders cause MERS to appear in the appropriate public records as the Mortgagee of Record. Since MERS was the Mortgagee of Record on the security instrument that was recorded on May 8, 2006, and the mortgage had been assigned by [REDACTED] to them, it cannot be said that [REDACTED] is the original lender who owned the mortgage at the time of refinancing. The requirement stated in Department of Revenue Rule 560-11-8-.05 was not met.

A copy of this letter is being provided to the Clerk of Superior Court, [REDACTED] so that the money collected and deposited in an escrow account per O.C.G.A. § 48-6-76(b) may be distributed according to law.

Sincerely,


Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]