“How to Beat the Banks at Their Own Game”

Stop the Banksters!

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“HOW TO BEAT THE BANKS AT THEIR OWN GAME”

Over the past 14 years or so, I’ve been absolutely obsessed with trying to figure out exactly how, to stop banks from foreclosing on the masses and by George; I think I’ve got it!

From my extensive research, I’ve come to the conclusion that if one is to truly understand “How to Beat the Banks at Their Own Game”, one must first have a general understanding of the following:

1. **Money**
2. **The Lending Process of Commercial Banks**
3. **The Definition of “Loan”**
4. **The Definition of “Debt”**
5. **U.C.C. Article 3 (Negotiable Instruments)**
6. **U.C.C. Article 9 (Secured Transactions)**
7. **P.S.A. Language-(Explained)**
8. **The Securitization Process**
9. **How to Formulate Proper Allegations**

Money

Money[1] is defined in part as:

- The medium of exchange authorized or adopted by a government as part of its currency.
- Assets that can be easily converted to cash such as demand deposit[2] accounts.

The Lending Process of Commercial Banks

Secondly, let's start with the lending process of commercial banks[3].

- When a commercial bank[4] makes a loan, it accepts as an asset the borrower's promissory note.
- It creates a liability[5] on its books in the form of a demand deposit balance in the amount of the loan.
- The deposit is backed by a physical asset[6] that collateralizes the promissory note.
- In other words, commercial banks *accept borrower's notes for value*, in exchange for a non-interest bearing checking account in favor of the borrower.

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[1] Black's Law Dictionary 8th Edition

[2] A non-interest bearing checking account.

[3] American Bankers Association, Money and Banking, David H. Friedman 4th Edition

[4] Commercial bank is to include any and all financial institutions, which are a part of the Federal Reserve System.

[5] An entry on its books, recording an amount of money owed to the borrower, which is equal to the amount of the loan.

[6] The borrower's home.

The Definition of "Loan"

Next we must define the word "Loan" and its usage in commercial banking transactions. In order to grasp its true context, it's necessary to analyze the deed of trust[7].

- However, we must first observe that even though, most notes contain standard language that reads "In return for a loan that I have received, I promise to pay U.S. $____________________ (this amount is called "Principal"), plus interest, to the order of the Lender[8], they usually burden the deed of trust to describe exactly what the loan is.

- Simply put, **"Loan"** means the debt evidenced by the Note.

The Definition of "Debt"

Now that brings me to another point, debt. Debt has many meanings; however improper usage of the term can be to one's detriment. Therefore is imperative that one identifies its true context.

- Debt is an obligation owed by one party (the debtor) to a second party, the creditor.

- Debt is created when a creditor agrees to lend a sum of assets to a debtor.

[7] CALIFORNIA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT Form 3005
[8] MULTISTATE FIXED RATE NOTE—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT Form 3200

- Debt is usually granted with expected repayment; in modern society, in most cases, this includes repayment of the original sum, plus interest.

- In finance, debt is a means of using anticipated future purchasing power in the present before it has actually been earned.[9]

- Debt is an amount of money borrowed by one party from another.

The Uniform Commercial Code

The Uniform Commercial Code ("UCC")[10], which, with state-specific variations, has been adopted as law by all 50 states and the District of Columbia, governs, in significant part, the transfer of mortgage notes[11].

U.C.C. Article 3 (Negotiable Instruments)

Article 3 applies to the negotiation and transfer of a mortgage note that is a "negotiable instrument," as that term is defined in Article 3.[12]

- The mortgage notes in common use today are typically negotiable instruments for UCC purposes.

[9] http://en.wikipedia.org/wiki/Debt

[10] References to the UCC are to the Official Text of the Model UCC, as revised, issued by the National Conference of Commissioners on Uniform State Laws.

[11] For our purposes, term mortgage note has the same meaning as promissory note.

[12] See UCC §§ 3-102, 3-201, 3-203 and 3-204; see, e.g., Swindler v. Swindler, 355 S.C. 245, 250 (S.C. Ct. App. 2003) (Article 3 governs negotiable mortgage note).

What Constitutes a "Negotiable Instrument?"

- A "negotiable instrument" is defined as: an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

    (1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

    (2) is payable on demand or at a definite time;

  And

    (3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain

        (i) an undertaking or power to give, maintain, or protect collateral to secure payment,

        (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral,

  Or

        (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor. UCC § 3-104(a).

- The fact that a mortgage note contains a variable or adjustable interest rate also does not affect the mortgage note's status as a negotiable instrument.

- That is because UCC § 3-112(b) provides that interest may be stated in an instrument[13] as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates.

- The amount or rate of interest may be stated or described in the instrument in any manner and may require reference to information not contained in the instrument.

[13] UCC § 3-104(b) defines "instrument" simply as a "negotiable instrument" for purposes of Article 3.

UCC § 3-112(b).

How is a Negotiable Mortgage Note Transferred?[14]

- A negotiable mortgage note is transferred when it is "delivered" by a person other than the mortgagor[15] for the purpose of giving the transferee the right to enforce the note. See UCC § 3-203(a).

- "Delivery" of a mortgage note occurs when there has been a voluntary transfer of possession of the mortgage note. See UCC § 1-201(b) (15).

- As a general matter, the "transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument . . . " UCC § 3-203(b).

- Accordingly, a person in possession of the note becomes a "person entitled to enforce" if it can prove that it is the transferee. See UCC § 3-301.

- The easiest and most common way to transfer a negotiable mortgage note is through "negotiation." Article 3 defines "negotiation" as "a transfer of possession, whether voluntary or involuntary, of an instrument by a person other than the issuer to a person who thereby becomes its holder." UCC § 3-201(a).

- The "negotiation" of a negotiable mortgage note that is payable to an identified person or entity (such as the entity that originated a mortgage loan and whose name appears as the

[14]It is important to note that Article 3 does not concern "ownership" of a mortgage note, but instead provides for the transfer of a mortgage note and the right to enforce such notes. See UCC § 3-301; UCC § 3-203 cmt. 1. A party need not be the "owner" of the mortgage note to enforce it. See UCC § 3-301 ("A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument."). Thus, a party may have the right to enforce the instrument, but not have "ownership" of that instrument. UCC § 3-203 cmt. 1. For an example of situations where a party with the right to enforce an instrument is not also the "owner" of the instrument, see UCC 3-203 cmt. 1.

[15]For our purposes, Mortgagor means Issuer.

payee in the mortgage note) – "requires **transfer** of **possession** of the instrument and its **indorsement**[16] by the **holder**." UCC § 3-201(b)

- The "holder" of a negotiable mortgage note is "the person in possession of [the mortgage note] that is payable either to bearer or to an identified person that is the person in possession." UCC § 1-201(b)(21)(A)

- In other words, upon the closing of escrow, the "holder" of the mortgage note is the entity that is the payee on the mortgage note and that possesses the note (either actually or constructively).

- After a negotiable mortgage note has been negotiated, the "holder" of the mortgage note is the entity that possesses the mortgage note if the mortgage note was indorsed to that entity or if the mortgage note was indorsed in blank or to bearer.

- The term "indorsement" is defined to include "a signature . . . that alone or accompanied by other words is made on an instrument [in our case, a negotiable mortgage note] for the purpose of . . . negotiating the instrument." UCC § 3-204(a).

- Such an indorsement may be either a "special indorsement" or a "blank indorsement." See UCC § 3-205.

- A "special indorsement" is a written indorsement that specifically "identifies a person to whom it makes the instrument payable." UCC § 3-205(a).

- A "blank indorsement" is an indorsement that does not identify a person to whom the instrument is payable. See UCC § 3-205(b).

- When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of *possession* alone until specially indorsed." UCC § 3-205(b)[17]

[16] Note that the UCC forgoes the more common U.S. spelling of "endorsement" for the less common "indorsement."
[17] An indorsement is considered to be made "on an instrument" for purposes of negotiation when it is made either on the mortgage note itself or on a separate paper, often referred to as an "allonge," that is affixed to the note. See UCC § 3-204(a). Once affixed, the allonge becomes "part of the instrument."

- The negotiation of a negotiable mortgage note that is payable to bearer (such as a negotiable mortgage note that has been indorsed in blank) is affected by "transfer of possession alone." UCC § 3-201(b)

Who May Enforce A Negotiable Mortgage Note?

- The maker[18] of a mortgage note is obligated to pay the note to the "person entitled to enforce the instrument." UCC § 3-412.

- The "person entitled to enforce" a negotiable mortgage note includes "

    (i) the holder of the instrument,

and

    (ii) a non-holder in possession of the instrument who has the rights of a holder." UCC § 3-301.

- Accordingly, to enforce a mortgage note against the borrower, a person must generally prove either that it is a "holder" or that it is a transferee with the rights of a holder. See UCC § 3-301.

- The first category of persons that may enforce a mortgage note is a "holder.

- A "holder" of a negotiable mortgage note is "the person in possession of the mortgage note that is payable either to bearer or to an identified person that is the person in possession." UCC § 1-201(b) (21) (A).

- The second category contemplated by UCC § 3-301– a "non-holder in possession who has the rights of a holder" – is more difficult to define.

[18] For our purposes, Maker means Issuer.

- A person would qualify as a "non-holder in possession" if possession of the mortgage note was transferred to him from the transferor, but the transferor did not indorse the mortgage note. See UCC § 3-203 cmt. 2.

- In this circumstance, the transferee is entitled to enforce the instrument, but to do so, the transferee must first prove both possession of the un-indorsed mortgage note and prove the transfer of the mortgage note by the holder to the transferee.[19]

- In both situations, the person seeking to enforce the mortgage note must have possession of the note.

- U CC § 3-301 also permits a person without possession to enforce a mortgage note where the mortgage note has been lost, stolen, or destroyed within the meaning of UCC § 3-309. See UCC § 3-301.[20]

What Rights Against Borrower Defenses are Available?

What Rights Against Borrower Defenses are Available to the Holder of a Negotiable Mortgage Note?

- A key concept relating to the negotiation of negotiable mortgage notes is the "holder in due course" doctrine. That is because where the "holder" of a negotiable mortgage note is deemed a "holder in due course," the holder takes the mortgage note subject only to specific limited defenses of the borrower. The following is a brief summary of an expansive area of law.

- Under UCC § 3-302(a), "holder in due course" means the holder of an instrument if:

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[19] The right to enforce an instrument and the ownership of that instrument are not necessarily the same. See UCC §3-203 cmt. 1. Thus, a party may have the right to enforce the instrument, but not have "ownership" of that instrument. A party need not be the "owner" of the note to enforce it. See UCC § 3-301

[20] UCC § 3-301 also permits a person without possession to enforce a mortgage note where, in certain circumstances, there has been mistaken payment as defined in UCC § 3-418(d).

a) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity;

and

b) the holder took the instrument:

I. for value,

II. in good faith,

III. without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series,

IV. without notice that the instrument contains an unauthorized signature or has been altered,

V. without notice of any claim to the instrument described in Section 3-306[regarding claims of a property or possessory right in the instrument or its proceeds, including a claim to rescind a negotiation and to recover the instrument or its proceeds],

and

VI. without notice that any party has a defense or claim in recoupment described in Section 3-305 (a). UCC § 3-302(a).

- Under Article 3, a holder in due course of a negotiable mortgage note takes the mortgage note free of:

a) all prior claims to or regarding the mortgage note by any person

and

b) most defenses to enforceability of the mortgage note that may be raised by parties with whom the holder in due course has not dealt. See UCC§§ 3-305 and 3-306.

- The defenses to which a holder in due course may be subject are found in UCC § 3-305, and include; a defense of the obligor based on ,

(i) infancy of the obligor to the extent it is a defense to a simple contract,

(ii) duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor,

(iii) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms, or

(iv) discharge of the obligor in insolvency proceedings.
UCC § 3-305(a) (1).

U.C.C. Article 9 (Secured Transactions)

Article 9 applies to the sale of "promissory notes," a term that generally includes all mortgage notes (both negotiable and nonnegotiable). See UCC §§ 1-201(b) (35) and 9-109(a) (3)[21]

[21] While Article 9 does not directly govern a mortgage on real property, the fact that a mortgage note is itself secured by a mortgage on real property does not render Article 9 inapplicable to transfers of the mortgage note. See UCC § 9-109(b) ("The application of this article [9] to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.").

How Is a Mortgage Note Transferred Under Article 9 of the UCC?

- The sale of mortgage notes is governed, in significant part, by Article 9.

Article 9 establishes,

1. whether the interests of a transferee of a mortgage note have both "attached" and become "perfected" so that those interests will prevail over conflicting claims of third parties, and

2. the rights of the transferee in and to the underlying mortgage that secures the mortgage note.

- Article 9 addresses the sale of mortgage notes, regardless of whether they are negotiable or nonnegotiable.[22]
- More specifically, Article 9 applies to "a sale of . . . promissory notes." UCC § 9-109(a)(3).

- A "promissory note" is defined as "an instrument that *evidences a promise to pay a monetary obligation*, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds." UCC § 9-102(a) (65).[23]

- Residential mortgage notes in common use today are typically "promissory notes" for purposes of Article 9.

- Under Article 9, the sale of a mortgage note (whether or not the mortgage note is negotiable) is deemed a secured transaction and the transferee's "security interest" is automatically perfected when it attaches (more on "attachment" and "perfection" below). See UCC § 9-309(4).

[22] Article 9 also applies to the creation of a lien on, or a "less-than-ownership security interest" in, a mortgage note.

[23] Under Article 9, the term "instrument" is defined broadly as "a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment." UCC § 9-102(a) (47).

- While security interests are most commonly thought of as the liens obtained by lenders, the UCC defines the term "security interest" to also include "any interest of a . . . buyer of . . . a promissory note in a transaction that is subject to Article 9." UCC § 1-201(b)(35)

- In addition, the definition of "secured party" includes "a person to which . . . promissory notes have been sold." UCC § 9-102(a) (72) (D).

- Before a buyer's "security interest" in a mortgage note can be perfected under Article 9, the security interest must "attach."

- A security interest attaches when,

    1. value has been given for the sale,

    2. the seller has rights in the mortgage note or the power to transfer rights in the mortgage note to the buyer and

    3. either
        a. the mortgage note is in the possession of the buyer pursuant to a security agreement of the seller or

        b. the seller has signed a written or electronic security agreement that describes the mortgage note. See UCC § 9-203(b).

- Significantly, the attachment of a security interest in a mortgage note that is itself "secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage or other lien." UCC § 9-203(g)[24]

- Similarly, under UCC § 9-308(e), perfection of a security interest in a promissory note "also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right." UCC § 9-308(e)

[24] The comments to UCC § 9-203 expressly provide that "Subsection (g) codifies the common-law rule that a transfer of an obligation secured by a security interest or other lien on personal or real property also transfers the security interest or lien." UCC § 9-203 cmt. 9 The same holds true for UCC § 9-308(e), under which perfection of a security interest in a mortgage note also accomplishes perfection of a security interest in the mortgage. See UCC § 9-308 cmt. 6.

- In other words, perfection of a security interest (which includes a sale to a buyer) in a mortgage note pursuant to Article 9 also perfects a security interest in the mortgage that secures the note.

- Perfection of the interest in the mortgage note is important because it provides the transferee of the mortgage note with a right in the mortgage note and mortgage superior to that of a subsequent lien creditor of the seller.

- Perfection provides the transferee of the mortgage note with a right in the mortgage superior to that of a subsequent lien creditor of the mortgagee, which includes a bankruptcy trustee (see UCC § 9-102(a) (52). See UCC § 9-308 cmt. 6.

Transfer of Mortgage Notes: Conclusion

- In summary, under the UCC, the transfer of a mortgage note that is a negotiable instrument is most commonly effected by indorsing the note, which may be a blank or special indorsement, and delivering the mortgage note to the transferee (or the agent acting on behalf of the transferee).

- As the residential mortgage notes in common usage typically are "negotiable instruments," this is the most common method of transfer.

- In addition, even without indorsement, the assignment can be effected by transferring possession under UCC § 3-203(a).

- The sale of any mortgage note also effects the assignment and transfer of the mortgage under Article 9.

- The attachment and perfection of the buyer's interest in the mortgage note attaches and perfects the buyer's interest in the underlying mortgage that secures the mortgage note.

P.S.A. Language-Explained

Conveyance of Mortgage Pool Assets; Security Interest

- Most Pooling and Servicing Agreements have language which reads, "The Company does hereby irrevocably sell, transfer, assign, set over and otherwise convey to the Trust, without recourse, all the Company's right, title and interest in and to the Mortgage Pool Assets".

- That being the case, a securitized transaction is governed by U.C.C. Article-3 and U.C.C. Article-9.

The Securitization Process

- The two core legal documents in most residential mortgage loan transactions are the promissory note and the mortgage or deed of trust that secures the borrower's payment of the promissory note.

- The promissory note contains a promise by the borrower to pay the lender a stated amount of money at a specified interest rate (which can be fixed or variable) by a certain date.

- The typical mortgage or deed of trust contains a grant of a mortgage lien or other security interest in the borrower's real property to the lender or, in a deed of trust, to a trustee for the benefit of the lender, to secure the borrower's obligations under the promissory note.[25]

- In a typical mortgage loan securitization, each mortgage loan, which is evidenced by a mortgage note and secured by a mortgage, is sold, assigned and transferred to a trust through a series of steps:

- The loan originator or a subsequent purchaser sells, assigns and transfers the mortgage loans to a "sponsor," which is typically a financial services company.

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[25] For ease of reference, "mortgage" will be used throughout much of this paper to refer to both mortgages and deeds of trust, and "mortgage note" will be used to refer to a promissory note that is secured by a mortgage.

- The sponsor sells, assigns and transfers the mortgage loans to a "depositor," which in turn sells, assigns and transfers the mortgage loans to the trustee, which will hold the mortgage loans in trust for the benefit of the certificate holders.

- The trustee issues the MBS pursuant to a pooling and servicing agreement or trust agreement entered into by the depositor, the trustee and a master servicer or servicers.

- The trustee administers the pool assets, typically relying on the loan servicer to perform most of the administrative functions regarding the pool of mortgage loans.

- In addition, a document custodian is often designated to conduct a review of the mortgage loan documents pursuant to the requirements of the pooling and servicing agreement and to hold the mortgage loan documents for the loans included in the trust pool.

- In general, the loan documents are assigned and transferred from the depositor to the trustee through the indorsement of the mortgage note and the transfer of possession of the mortgage note to the trustee or a custodian on behalf of the trustee.

How to Formulate Proper Allegations

- It never surprises me, when someone tells me that they've filed a lawsuit, alleging TILA, RESPA, fraud or other violations, only to have the defendant show a copy of the note to the judge; and having the judge stop them in their track by asking them a question such as, " Is this your signature?" or "Did you receive a loan?" Maybe even "How did you buy or refinance your property"?

- The reason why most judges are so quick to side with the banksters is because; the majority of homeowners routinely make improper allegations.

- In order to establish a level playing field, homeowners must first learn how to formulate proper allegations.

- Proper allegations are allegations such as;

1. I provided the lender an asset.

2. The asset had actual cash value.
3. The asset had actual cash value equal to $__________.

4. The asset was not a gift.

5. I provided the lender a note.

6. The note had actual cash value.

7. The note had actual cash value equal to $__________.

8. The note was not a gift.

9. The asset and the note were one and the same.

- As you can see, the preceding allegations are designed to first get the bankster to admit that either he received something of value from you or nothing at all. In both cases you win.

- The next group of allegations are designed to get the bankster to admit that he returned something of equal value back to you or nothing at all. In both cases you still win.

1. The lender owed me a liability.

2. The liability had actual cash value.

3. The liability had actual cash value equal to $________.

4. The liability was not a gift.

5. The lender provided me funds.

6. The funds had actual cash value

7. The funds had actual cash value equal to $________.

8. The funds were not a gift.

9. The liability and the funds were one and the same.

- These are but a few of the allegations homeowners can and should use to "Beat The Banks at Their Own Game".

Mortgage Electronic Registration Systems - ("MERS")

- An assignment of the related mortgage is also typically delivered to the transferee or its custodian, except in cases where the related mortgage identifies Mortgage Electronic Registration Systems ("MERS") as the mortgagee.
- Such assignments generally are in recordable form, but unrecorded, and are executed by the transferor without identifying a specific transferee – a so called assignment in blank.

- In some mortgage loan transactions, MERS becomes the mortgagee of record as the nominee of the loan originator and its assignee in the local land records where the mortgage is recorded, either when the mortgage is first recorded or as a result of the recording of an assignment of mortgage to MERS.

- This means that MERS is listed as the record title holder of the mortgage. MERS' name does not appear on the mortgage note, and the beneficial interest in the mortgage remains with the loan originator or its assignee.

- The documents pursuant to which MERS acts as nominee make clear that MERS is acting in such capacity for the benefit of the loan originator or its assignee.

- When a mortgage loan is originated with MERS as the nominal mortgagee (or is assigned to MERS post-origination), MERS tracks all future mortgage loan and loan servicing transfers and other assignments of the mortgage loan unless and until ownership or servicing is transferred (or the loan is otherwise assigned) to an entity that is not a MERS member.

- In this way, MERS serves as a central system to track changes in ownership and servicing of the loan.

- As part of the loan securitization process detailed above, a mortgage note and a mortgage may be sold, assigned and transferred several times from one entity to another. The legal principles that govern the assignment and transfer of mortgage notes and mortgages are generally determined by state law. See Appendix A.

Have you been cheated?

In order for any contract to be valid, there must be 'full disclosure', 'good faith', 'valuable consideration', and 'clean hands'. Here is what the banks advertise: "Come to our bank. We have money to loan you". Is this really what happens?

Did you really get a loan when you contracted to borrow money from the bank to pay for your home? Or was it just an exchange (your note for cash), but the bank called it a loan? Or did two loans occur?

When you entered into a loan contract with a bank, you signed a note or contract promising to pay the loan back, and you agreed that the bank could seize your property if you did not repay the loan. This contract supposedly qualified you to receive the bank's money. But did the bank provide 'full disclosure' of all of the terms of this agreement? Read the following and decide for yourself if the bank was acting in 'good faith', that you received 'valuable consideration', and that your 'signature' on that agreement, is valid.

Bankers want you to believe that: depositors deposit money at banks, then banks lends the depositor's money to borrowers and then the borrowers repay the money. Finally, the money is returned to the depositors who funded the loan. If you think this is how American or Canadian banking works, you have been deceived.

The fact is the economics of today's banking system is similar to stealing, counterfeiting, and swindling, which is why the bankers will not explain the loan details or answer specific questions. Bankers are terrified that the details might be exposed in public court.

The bank's own publications admit and the bank's bookkeeping entries prove that when the banks lend money, the bankers create new money with the economics similar to counterfeiting.

If a counterfeiter counterfeits money and lends it to you, do you have any moral or legal obligation to repay the loan? NO, the law says counterfeiting is illegal and that you do not have to repay the counterfeiter.

James Madison: "History records that the money-changers have used every form of abuse, intrigue, deceit, and violent means possible to maintain their control over governments by controlling the money and its issuance."

Bankers are too smart to counterfeit cash and go to jail. They are money masters and use another method to create new money with the economics similar to counterfeiting without going to jail. The secret involves two kinds of money. Legal tender cash-money and non- legal tender-money, like checks and credit cards. The bank's own publication claims that money does not have to be issued by the government or be in any special form. According to the bank's manual, money is anything that can be sold for cash and that the banks accept as money.

The loan agreement you sign is sold to investors wanting interest. If you do not pay the interest, they foreclose and collect the money. The loan agreement can be sold for cash and the bankers use the loan like non-legal tender money. If you exchange $100 of cash for a $100 check, the bankers acted like a moneychanger and lent you none of the bank's money. If the bank uses your $100,000 loan agreement like money to fund a check like cash funds a check, the banker acted like a moneychanger without the bank using or risking one cent of their money to purchase your loan agreement.

The banker got your loan agreement for free, which has the economics similar to stealing. The banker created $100,000 of new money, which has the economics similar to counterfeiting.

Would you agree to have the banker steal your $100,000 loan agreement and use it to create $100,000 of new money and then return the value of the stolen property to you as a loan? Did you agree to be swindled?

The banker knows you would never knowingly be this stupid and that is why he cannot disclose the whole truth in court. The bookkeeping entries prove that the borrower's Loan Agreement funded the loan to the borrower. The bookkeeping entries prove that the banker merely acted like a moneychanger exchanging one kind of currency for another kind of currency and charging you as if there were a loan. If you funded the loan to yourself, why are you paying the banker back the principle and interest?

Bankers understand the difference between money and wealth. Money buys things. If you could counterfeit money, you could buy the whole world and control Congress. Wealth is anything that you can sell. You can sell real estate, cars, gold, silver, and people sell their 40 hours a week for a payroll check. Yes, labor produces wealth. Labor produces gas for your car, food to eat, and homes, cars, and roads. The banker knows that if everyone stopped working, stayed home, and counterfeited money, everyone would starve to death, and no one would have gas for their cars or food to eat. When bankers create new money and lend it to you, you must work for the banker for free to repay the loan or he forecloses and gets your home for free.

The money-creator gets more of your wealth for free with a suit and tie, than a gunman does pointing a gun at your head.

The banker says, "Repay the loan because the bank lent you money". We simply ask one question: "Should the one, who funded the loan, be repaid the money?" Whether they answer YES or NO, the bank must forgive the loan and zero out the debt. That is the one question that they do not want to answer, because the borrower funded the loan, as proven by the bank's own bookkeeping entries.

We are not calling the bankers criminals. We are showing you how intelligent, creative, and deceptive the bankers are in developing this charade.

One of the biggest bankers in America told us that the banker's money controls who is elected to Congress, to the presidency, and elected as judges. This banker even boasted how the bank's loan money and advertising money, controls all major media so as to keep it all a secret. He explained how lawyers, judges, CPAs, and politicians profit from the banking system by keeping this deception on-going and hidden. You lose and they benefit by understanding this secret.

"It is well enough that the people of this nation do not understand our banking and monetary system, for if they did, I believe there would be a revolution before tomorrow morning." - Henry Ford

This secret banking policy allows bankers to create economic booms and busts, makes the stock market fluctuate as they increase and decrease the money supply. You lose in investments as those who understand this secret, transfer your investment money into their pocket. You lose, they win.

Thomas D. Schauf

Appendix -A

Alabama: Armour Fertilizer Works v. Zills, 177 So. 136, 138 (Ala. 1937) ("when the note is secured by a mortgage, such mortgage follows the note").

Arizona: Ariz. Rev. Stat § 33-817 ("The transfer of any contract or contracts secured by a trust deed shall operate as a transfer of the security for such contract or contracts.").

Arkansas: Leach v. First Cmty. Bank, No. CA 07-05, 2007 WL 2852599, at *1 (Ark. App. Ct. Oct. 3, 2007) ("Arkansas has long followed the rule that, in the absence of an agreement or a plain manifestation of a contrary intention, the security of the original mortgage follows the note or renewal thereof.").

California: Cal. Civ. Code § 2936 ("The assignment of a debt secured by mortgage carries with it the security"); In re Staff Mortgage & Invest. Corp., 625 F.2d 281, 284 (9th Cir. 1980) (in California, "[A] deed of trust is a mere incident of the debt it secures and . . . an assignment of the debt 'carries with it the security." (internal quotation omitted)).

Colorado: Carpenter v. Longan, 83 U.S. 271, 275 (1873) (in an appeal from the Supreme Court of Colorado Territory, the United States Supreme Court stated: "The transfer of the note carries with it the security, without any formal assignment or delivery, or even mention of the latter.").

Connecticut: Conn. Gen. Stat. § 49-17 ("When any mortgage is foreclosed by the person entitled to receive the money secured thereby but to whom the legal title to the mortgaged premises has never been conveyed, the title to such premises shall, upon the expiration of the time limited for redemption and on failure of redemption, vest in him in the same manner and to the same extent as such title would have vested in the mortgagee if he had foreclosed, provided the person so foreclosing shall forthwith cause the decree of foreclosure to be recorded in the land records in the town in which the land lies."); In re AMSCO, Inc., 26 B.R. 358, 361 (Bankr. D. Conn. 1982) ("An assignment of the note carries the mortgage with it . . . .").

District of Columbia: Hill v. Hawes, 144 F.2d 511, 513 (D.C. Cir. 1944) (after mortgage note has been cancelled, cancellation of "any mortgage follows as a matter of course and does not require a separate action").

Florida: Capital Investors Co. v. Ex'rs of Estate of Morrison, 484 F.2d 1157, 1163 n.12 (4th Cir. 1973) ("That the mortgage follows the note it secures and derives negotiability, if any, from the note is the rule in Florida where the land under mortgage in this case was located." (citing Daniels v. Katz, 237 So.2d 58, 60 (Fla. App. 1970); Meyerson v. Boyce, 97 So.2d 488, 489 (Fla. App. 1957))); Margiewicz v. Terco Properties, 441 So.2d 1124, 1125 (Fla. Dist. Ct. App. 1983) (when a note secured by a mortgage is assigned, the mortgage follows the note into the hands of the mortgagee).

Illinois: Federal Nat'l Mort. Ass'n v. Kuipers, 314 Ill. App.3d 631, 635, 732 N.E.2d 723, 727 (Ill. Ct. App.2000) ("The assignment of a mortgage note carries with it an equitable assignment of the mortgage by which it was secured. The assignee stands in the shoes of the assignor-mortgagee with regard to the rights and interests under the note and mortgage. . . . [I]n Illinois, the assignment of the mortgage note is sufficient to transfer the underlying mortgage.") (citations omitted).

Indiana: Lagow v. Badollet, 1 Blackf. 416, 1826 WL 1087, at *3 (Ind. 1826) ("a mortgage . . . follows the debt into whose hands soever it may pass").

Iowa: Bremer County Bank v. Eastman, 34 Iowa 392, 1872 WL 254, at *1 (Iowa 1872) ("The transfer of the note, secured by the mortgage, carried the mortgage with it as an incident to the debt, and the indorsee of the note could maintain an action in his own name, to foreclose the mortgage without any assignment thereon whatever.").

Kansas: Kan. Stat. Ann § 58-2323 ("The assignment of any mortgage as herein provided shall carry with it the debt thereby secured."); Bank Western v. Henderson, 255 Kan. 343, 354, 874 P.2d 632, 640 (1994) ("[T]he mortgage follows the note. A perfected claim to the note is equally perfected as to the mortgage.").

Maryland: In re Bird, No. 03-52010-JS, 2007 WL 2684265, at *2-4 (Bankr. D.Md. Sept. 7, 2007) ("The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it . . . .").

Massachusetts: The transfer of a mortgage note, without the express transfer of the mortgage, vests in the note holder an equitable interest in the mortgage (an interest that can be enforced by the note holder) and the mortgage holder is deemed to hold the mortgage in constructive trust for the benefit of the note holder. See Weinberg v. Brother, 263 Mass. 61, 62 (1928); Barnes v. Boardman, 149 Mass. 106, 114 (1889); Morris v. Bacon, 123 Mass. 58, 59 (1877); First Nat'l Bank of Cape Cod v. North Adams Hoosac Savs. Bank, 7 Mass. App. Ct. 790, 796 (1979); see also In re Ivy Properties, Inc., 109 B.R. 10, 14 (Bankr. D. Mass. 1989) ("[U]nder Massachusetts common law the assignment of a debt carries with it the underlying mortgage, without necessity for the granting or recording of a separate mortgage assignment.").Despite the above cited authorities, the Massachusetts Land Court in a recent opinion cast doubt on the "mortgage follows the note" rule:[E]ven a valid transfer of the note does not automatically transfer the mortgage. . . . The holder of the note may have an equitable right to obtain an assignment of the mortgage by filing an action in equity, but that is all it has. . . . The mortgage itself remains with the mortgagee(or, if properly assigned, its assignee) who is deemed to hold the legal title in trust for the purchaser of the debt until the formal assignment of the mortgage to the note holder or, absent such assignment, by order of the court in an action for conveyance of the mortgage. . . . But . . . the right to get something and actually having it are two different things. U.S. Bank Nat'l Ass'n v. Ibanez, Nos. 08 MISC 384283 (KCL), 08 MISC 386755 (KCL), 2009 WL 3297551, at *11 (Mass. Land Ct. Oct. 14, 2009) (citations omitted). The Ibanez case appears to stand in stark contrast to the principles embodied in the UCC. The Ibanez case is currently pending on appeal before the Massachusetts Supreme Judicial Court, that state's highest court.

Michigan: Prime Fin. Serv. v. Vinton, 279 Mich. App. 245, 257, 761 N.W.2d 694, 704 (Mich. Ct. App. 2008) ("the transfer of a note necessarily includes a transfer of the mortgage with it") (citing Ginsberg v. Capitol City Wrecking Co., 300 Mich. 712, 717, 2 N.W.2d 892 (1942)); Jones v. Titus, 208 Mich. 392, 397, 175 N.W. 257, 259 (Mich. 1919) (when a note given with a mortgage was indorsed over to a third party it carried with it the equitable title to the mortgage).

Minnesota: Jackson v. Mortgage Elect. Registration Sys., Inc., 770 N.W.2d 487, 497 (Minn. 2009) ("Absent an agreement to the contrary, an assignment of the promissory note operates as an equitable assignment of the underlying security interest.") (emphasis in original).

Mississippi: Holmes v. McGinty, 44 Miss. 94, 1870 WL 4406, at *4 ("[T]he mortgage . . . follows the debt as an incident, and is a security for whomsoever may be the beneficial owner of it.")
.

Missouri: George v. Surkamp, 76 S.W.2d 368, 371 (Mo. 1934) (when the holder of the promissory note assigns or transfers the note, the deed of trust is also transferred).

Montana: First Nat'l Bank v. Vagg, 65 Mont. 34, 212 P. 509, 511 (Mont. 1922) ("The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while the assignment of the latter alone is a nullity. The mortgage can have no separate existence.") (citations omitted).

Nebraska: In re Union Packing Co., 62 B.R. 96, 100 (Bankr. D. Neb. 1986) (with or without the assignment of the mortgage, the assignee of the promissory note has the right to enforce the mortgage securing the note).

New Hampshire: Southerin v. Mendum, 5 N.H. 420, 1831 WL 1104, at *7 (N.H. 1831) ("When a mortgagee transfers to another person , the debt which is secured by the mortgage, he ceases to have any control over the mortgage. . . . And we are of the opinion, that the interest of the mortgagee passes in all cases with the debt, and that it is not within the statute of frauds, because it is a mere incident to the debt, has no value independent of the debt, and cannot be separated from the debt.").

New Jersey: In re Kennedy Mort. Co., 17 B.R. 957, 966 (Bankr. D. N.J. 1982) ("Anyone interested in acquiring an interest in the mortgage would be obliged to obtain an interest in the debt.").

New York: Mortgage Elec. Registration Sys., Inc. v. Coakley, 41 A.D.3d 674, 838 N.Y.S.2d 622 (App. Div. 2007) ("at the time of the commencement of this action, MERS was the lawful holder of the promissory note (see UCC 3-204[1]; Franzese v. Fidelity N.Y. FSB, 214 A.D.2d 646, 625 N.Y.S.2d 275), and of the mortgage, which passed as an incident to the promissory note (see Payne v. Wilson, 74 N.Y. 348, 354-355; see also Weaver Hardware Co. v. Solomovitz, 235 N.Y. 321, 139 N.E. 353; Matter of Falls, 31 Misc. 658, 660, 66 N.Y.S. 47, aff'd. 66 A. D. 616, 73 N.Y.S. 1134") (emphasis added); Provident Bank v. Community Home Mortgage Corp., 498 F. Supp. 2d 558, 564-65 (E.D.N.Y. 2007) (applying principle that the mortgage follows the note).

North Carolina: Dixie Grocery Co. v. Hoyle, 204 N.C. 109, 167 S.E. 469 (1933) ("The mortgage follows the debt.").

Ohio: U.S. Nat'l Bank Ass'n v. Marcino, 181 Ohio App.3d 328, 337 (2009) ("[T]he negotiation of a note operates as an equitable assignment of the mortgage, even when the mortgage is not assigned or delivered. Kuck v. Sommers (1950), 100 N.E.2d 68, 75, 59 Ohio Abs. 400. Various sections of the Uniform Commercial Code, as adopted in Ohio, support the conclusion that the owner of a promissory note should be recognized as the owner of the related mortgage. . . . Thus, although the recorded assignment is not before us, there is sufficient evidence on the record to establish that appellee is the current owner of the note and mortgage at issue in this case, and, therefore, the real party in interest.") (citations to Ohio's versions of UCC §§ 9-109(a)(3), 9-102(a)(72)(D) and 9-203(g) omitted).

Oklahoma: Zorn v. Van Buskirk, 111 Okla. 211, 239 P. 151 (1925) ("the mortgage follows the note").

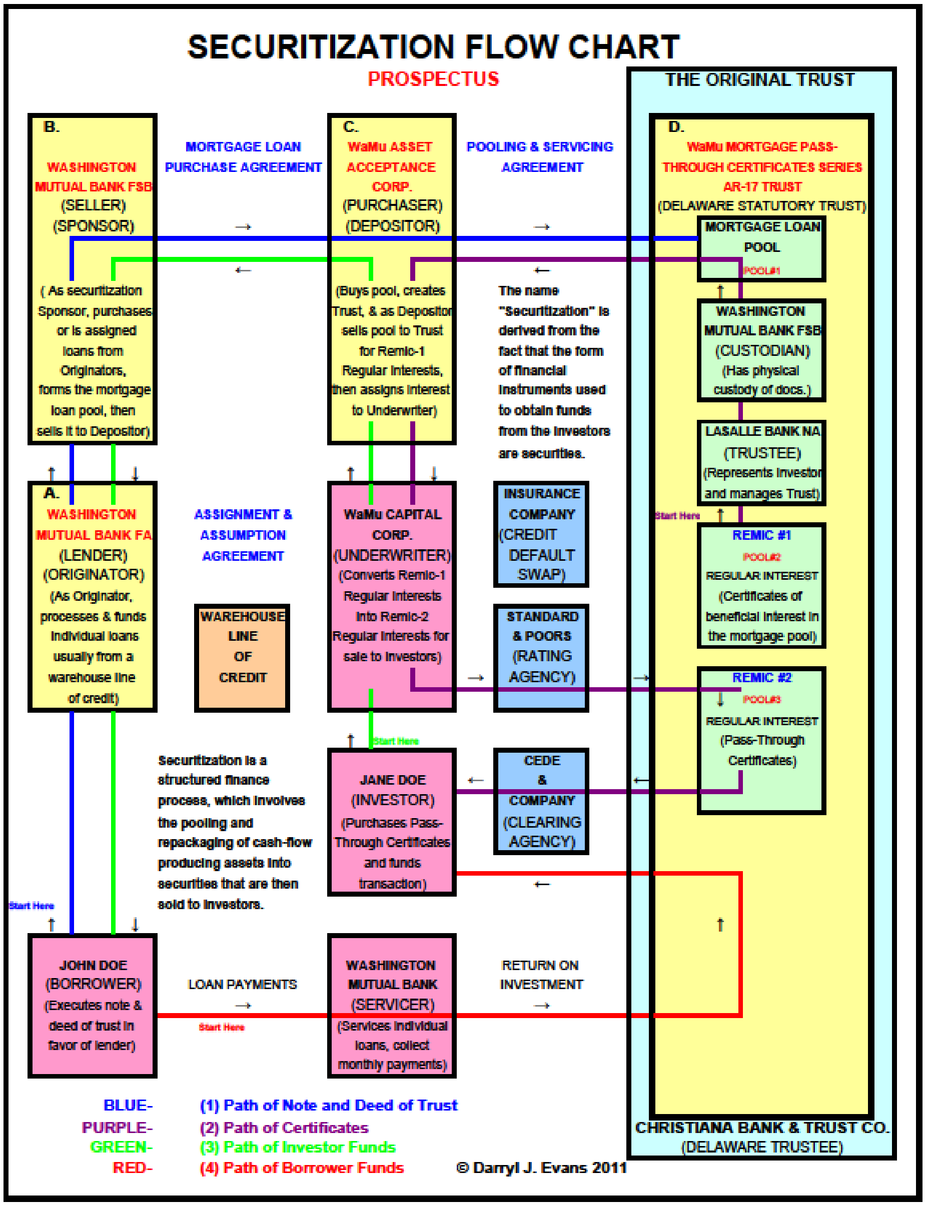
Pennsylvania: In re Miller, No. 99-25616JAD, 2007 WL 81052, at *6 & n.7 (Bankr. W.D. Pa. Jan. 9, 2007) (citing and quoting with approval Gray, Mortgages in Pennsylvania at § 1-3 (1985) ("the mortgage follows the note")).

South Carolina: MidFirst Bank, SSB v. C.W. Haynes & Co., Inc., 893 F. Supp. 1304, 1318 (D. S.C. 1994) ("South Carolina recognizes the 'familiar and uncontroverted proposition' that 'the assignment of a note secured by a mortgage carries with it an assignment of the mortgage.' Hahn v. Smith, 157 S.C. 157, 154 S.E. 112 (1930); Ballou v. Young, 42 S.C. 170, 20 S.E. 84 (1894).").

Texas: Kirby Lumber Corp. v. Williams, 230 F.2d 330, 333 (5th Cir. 1956) (applying Texas law) ("The rule is fully recognized . . . that a mortgage to secure a negotiable promissory note is merely an incident to the debt, and passes by assignment or transfer of the note.")
.
Utah: Smith v. Jarman, 211 P. 962, 966 (Utah 1922) ("The modern doctrine that the mortgage follows the note as an incident was thus long ago recognized by this court . . . .").

Virginia: Yerby v. Lynch, 3 Gratt. 460, 1847 WL 2384, at *8-10 (Va. 1847) ("the mortgage follows the debt").

Virgin Islands: UMLICVP LLC v. Matthias, 234 F. Supp. 2d 520, 523 (D. V.I. 2002) (citing and quoting with approval the "RESTATEMENT (THIRD) OF PR OPER TY, MORTGAGES § 5.4(a) (1997). The comment to this section further explains that '[t]he principle of this subsection, that the mortgage follows the note, ... applies even if the transferee does not know that the obligation is secured by a mortgage.... Recordation of a mortgage assignment is not necessary to the effective transfer of the obligation or the mortgage securing it.' Id. § 5.4 cmt. b (1997). Accordingly, in the Virgin Islands, no separate document specifically assigning and transferring the mortgage which secures a note is required to accompany the assignment of the obligation, because the mortgage automatically follows the note.").


SECURITIZATION FLOW CHART
PROSPECTUS
THE ORIGINAL TRUST
B.
WASHINGTON
MUTUAL BANK FSB
(SELLER)
(SPONSOR)
(As securitization Sponsor, purchases or is assigned loans from Originators, forms the mortgage loan pool, then sells it to Depositor)
MORTGAGE LOAN
PURCHASE AGREEMENT
C.
WaMu ASSET
ACCEPTANCE
CORP.
(PURCHASER)
(DEPOSITOR)
(Buys pool, creates Trust, & as Depositor sells pool to Trust for Remic-1 Regular Interests, then assigns interest to Underwriter)
POOLING & SERVICING
AGREEMENT
The name "Securitization" is derived from the fact that the form of financial instruments used to obtain funds from the investors are securities.
D.
WaMu MORTGAGE PASS-
THROUGH CERTIFICATES SERIES
AR-17 TRUST
(DELAWARE STATUTORY TRUST)
MORTGAGE LOAN
POOL
POOL#1
WASHINGTON
MUTUAL BANK FSB
(CUSTODIAN)
(Has physical custody of docs.)
LASALLE BANK NA
(TRUSTEE)
(Represents Investor and manages Trust)
Start Here
REMIC #1
POOL#2
REGULAR INTEREST
(Certificates of beneficial interest in the mortgage pool)
REMIC #2
POOL#3
REGULAR INTEREST
(Pass-Through Certificates)
A.
WASHINGTON
MUTUAL BANK FA
(LENDER)
(ORIGINATOR)
(As Originator, processes & funds individual loans usually from a warehouse line of credit)
ASSIGNMENT &
ASSUMPTION
AGREEMENT
WAREHOUSE
LINE
OF
CREDIT
WaMu CAPITAL
CORP.
(UNDERWRITER)
(Converts Remic-1 Regular Interests into Remic-2 Regular Interests for sale to investors)
INSURANCE
COMPANY
(CREDIT
DEFAULT
SWAP)
STANDARD
& POORS
(RATING
AGENCY)
Start Here
Securitization is a structured finance process, which involves the pooling and repackaging of cash-flow producing assets into securities that are then sold to investors.
JANE DOE
(INVESTOR)
(Purchases Pass-Through Certificates and funds transaction)
CEDE
&
COMPANY
(CLEARING
AGENCY)
Start Here
JOHN DOE
(BORROWER)
(Executes note & deed of trust in favor of lender)
LOAN PAYMENTS
Start Here
WASHINGTON
MUTUAL BANK
(SERVICER)
(Services individual loans, collect monthly payments)
RETURN ON
INVESTMENT
CHRISTIANA BANK & TRUST CO.
(DELAWARE TRUSTEE)
BLUE- (1) Path of Note and Deed of Trust
PURPLE- (2) Path of Certificates
GREEN- (3) Path of Investor Funds
RED- (4) Path of Borrower Funds
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