UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK

BRET A. EVANS, JUAN A. BEHER and JESSICA PEREZ, on behalf of themselves individually and all others similarly situated,	**Case No. 2:18-cv-05985 (WFK)(SMG)**
Plaintiffs,	**Dated : April 2, 2020**
v.	**CEASE & DESIST ORDER**
SELECT PORTFOLIO SERVICING, INC., Doe Defendants 1-25.	**JURY TRIAL DEMANDED**

TO THE HONORABLE COURT AND ANY AND ALL OTHER PARTIES OF INTEREST

1. Plaintiffs, Bret A. Evans, Juan A. Beher, and Jessica Perez (collectively, "Plaintiffs"), individually and on behalf of all others similarly situated, including Eduardo Vallejo, brought this class action against defendant Select Portfolio Servicing, Inc., ("SPS"), an alleged servicing agent.

2. Defendants have engaged in unlawful activities as well as fraud on the Court and we hereby Demand a Cease and Desist Order against the following Defendants:

SELECT PORTFOLIO SERVICING

[redacted]

SELECT PORTFOLIO SERVICING

[redacted]

RE: Cease & Deist from Reporting and/or Collections

Dear Sirs,

Apparently during the coronavirus pandemic, one of your employees or agents has called on behalf of your company and claimed that I or one of my family members owe a debt under some alleged account number. At this time we would like for you to make a note that we are disputing any such claim and that we do not believe we owe any such debt.

Your continuous calls and such conduct has caused us to suffer humiliation, emotional distress, and physical discomfort. Please take note that these calls have been reported as a violation of 15 USC 1692c of the Fair Debt Collection Practices Act (FDCPA) for the debt harassment and unlawful collection efforts in the attempt of collecting said fraudulent debt.

WE HEREBY DEMAND THAT YOU CEASE AND DESIST all future calls and that you update your records immediately, and remove our names from reporting to any credit bureaus any information regarding us. If action is not taken by you to cease and desist within 7 days from receipt of this letter, we will have no choice but to take appropriate legal action against you including but not limited to filing another complaint in Federal Court against your company under the Fair Debt Collections Practices Act.

/s/ Eduardo Vallejo

Mr. & Mrs.
Eduardo Vallejo

[redacted]

Enclosure: Copy of Cease & Desist Letter

OPPOSITION TO PROOF OF CLAIMS FILED IN FEDERAL BANKRUPTCY COURT

LOAN NUMBERS REDACTED & REMOVED FROM ACTUAL DOCUMENTS BY THE ALLEDGED CREDITORS

DURATION OF LOANS 120 MONTHS SINCE 2005 AND 2007

DEBT PREVIOUSLY PAID OFF, CANCELLED AND DISCHARGED IN CHAPTER 7 BANKRUPCY

Dear Sirs:

My name is Eduardo Vallejo. I recently filed for Chapter 13 protection in the Central Federal Bankruptcy Court of California with the above referenced case number.

I understand from my Attorneys and Auditor that you have not filed a Proof of Claim (POC) on Official Form 410 on which is being investigated by the CFPB, FHA, FANNIE MAE (FNMA), HUD, the FBI, the OCC, and the IRS.

I filed a previous Chapter 7 Bankruptcy many years ago and all debts were discharged including yours. Also, I understand that this debt was original funded by Bank of America (BOA), Option One and was sold to Fannie Mae in 2005. It was also insured by you and sold to FHA/HUD and was paid off. Therefore, the Office of the Inspector General will investigate this.

As you know, to date U.S. Bank and others have paid many fines for these unlawful activities over the years. * (See notes below).

Therefore, based on the above, I would like answers to the following questions in this Qualified Written Request (QWR), which will be used in the above referenced case and a new complaint based on the False Claims Act (FCA):

When were the debts allegedly originated? Who originated them? Were the debts insured? Were the debts paid off by any insurance? Were the debts reflected in your books and accounting? Were payments made to the alleged debts after the alleged closing dates? Were there closing dates? Were the legal documents signed and notarized by your companies? Were the legal documents endorsed to any other party after the debts were originated? Were the promissory notes recorded and/or sold? Were the notes securitized and sold into a Trust? Do you have a copy of the pooling and servicing agreements (PSA)? Why have I not been made a party to the PSA? **Is it true the alleged Trust you refer to in your letters is based in your State?** Were the alleged Deeds of Trusts (DOT) recorded? Who are the alleged Trustees? Do you have any participation in or influence over the alleged Trustees? Were these debts in reality open lines of credit with your Banks, or any other governmental or private Banks? Were the debts paid down by any other party than myself? When was the last payment received on the alleged debts? Have the alleged debts

and/or lines of credit been increased? What are the interest rates? Have the alleged debts and/or lines of credit been closed? Who and when were they closed by? For what reason were the debts and/or lines of credit closed? Who are the parties responsible for paying the alleged debts and/or lines of credit? Were the note and/or line of credit endorsed by a third party as stated in number 8 of the notes? Are there any other parties to whom they were endorsed such as a Federal Bank, Government Sponsored Entity (GSE), and/or other Company and/or Organization? Were the endorsed notes recorded with the SEC? Where the notes sold to public and/or private investors in the form of Trust Certificates? Were the alleged loans/debts/lines of credit modified? When were they modified? Who modified them? Has an audited accounting been done on these alleged loans?

Based on your reply to the above questions of this Qualified Written Request (QWR), we advise you that we intend to seek damages under the following four legal theories: Breach of contract, for any and all wrongfully applied and or refused payments; the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, for the false continuing collection letters in contempt of Court; the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2601 and others.

We have sent all of the above Agencies including the Consumer Financial Protecction Bureau (CFPB), OCC, AG, DA, FHA, HUD, FBI, and the IRS copies of this QWR, with evidence, as well as a copy to our Auditor Mr. Leo Blass (leoblas@gmail.com), and our Attorneys, and await your prompt reply.

Sincerely yours,

/s/ Eduardo Vallejo

Mr. & Mrs.

[redacted]

Cc: Auditor Leo Blas [redacted]

NOTES: (*) Federal Rule 3001 - Proof of Claim**(a)** FORM AND CONTENT. A proof of claim is a written statement setting forth a creditor's claim. A proof of claim shall conform substantially to the appropriate Official Form. **(b)** WHO MAY EXECUTE. A proof of claim shall be executed by the creditor or the creditor's authorized agent except as provided in Rules 3004 and 3005.**(c)** SUPPORTING INFORMATION. **(1)** *Claim Based on a Writing*. Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. **(2)** *Additional Requirements in an Individual Debtor Case; Sanctions for Failure to Comply*. In a case in which the debtor is an individual: **(A)** If, in addition to its principal amount, a claim includes interest, fees, expenses, or other charges incurred before the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim. **(B)** If a security interest is claimed in the debtor's property, a statement of the amount necessary to cure any default as of the date of the petition shall be filed with the proof of claim. **(C)** If a security interest is claimed in property that is the debtor's principal residence, the attachment prescribed by the appropriate Official Form shall be filed with the proof of claim. If an escrow account has been established in connection with the claim, an escrow account statement prepared as of the date the petition was filed and in a form consistent with applicable nonbankruptcy law shall be filed with the attachment to the proof of claim.**(D)** If the holder of a claim fails to provide any information required by this subdivision (c), the court may, after notice and hearing, take either or both of the following actions: **(i)** preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or **(ii)** award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure. **(3)** *Claim Based on an Open-End or Revolving Consumer Credit Agreement*. **(A)** When a claim is based on an open-end or revolving consumer credit agreement-except one for which a security interest is claimed in the debtor's real property-a statement shall be filed with the proof of claim, including all of the following information that applies to the account: **(i)** the name of the entity from whom the creditor purchased the account; **(ii)** the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account; **(iii)** the date of an account holder's last transaction; **(iv)** the date of the last payment on the account; and **(v)** the date on which the account was charged to profit and loss. **(B)** On written request by a party in interest, the holder of a claim based on an open-end or revolving consumer credit agreement shall, within 30 days after the request is sent, provide the requesting party a copy of the writing specified in paragraph (1) of this subdivision. **(d)** EVIDENCE OF PERFECTION OF SECURITY INTEREST. If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected. **(e)** TRANSFERRED CLAIM. **(1)** *Transfer of Claim Other Than for Security Before Proof Filed*. If a claim has been transferred other than for security before proof of the claim has been filed, the proof of claim may be filed only by the transferee or an indenture trustee. **(2)** *Transfer of Claim Other than for Security after Proof Filed*. If a claim other than one based on a publicly traded note, bond, or debenture has been transferred other than for security after the proof of claim has been filed, evidence of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If the alleged transferor files a timely objection and the court finds, after notice and a hearing, that the claim has been transferred other than for security, it shall enter an order substituting the transferee for the transferor. If a timely objection is not filed by the alleged transferor, the transferee shall be substituted for the transferor. **(3)** *Transfer of Claim for Security Before Proof Filed*. If a claim other than one based on a publicly traded note, bond, or debenture has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer. If either the transferor or the transferee files a proof of claim, the clerk shall immediately notify the other by mail of the right to join in the filed claim. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. If the transferor or transferee does not file an agreement regarding its relative rights respecting voting of the claim, payment of dividends thereon, or participation in the administration of the estate, on motion by a

party in interest and after notice and a hearing, the court shall enter such orders respecting these matters as may be appropriate. **(4)** *Transfer of Claim for Security after Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred for security after the proof of claim has been filed, evidence of the terms of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If a timely objection is filed by the alleged transferor, the court, after notice and a hearing, shall determine whether the claim has been transferred for security. If the transferor or transferee does not file an agreement regarding its relative rights respecting voting of the claim, payment of dividends thereon, or participation in the administration of the estate, on motion by a party in interest and after notice and a hearing, the court shall enter such orders respecting these matters as may be appropriate. **(5)** *Service of Objection or Motion; Notice of Hearing.* A copy of an objection filed pursuant to paragraph (2) or (4) or a motion filed pursuant to paragraph (3) or (4) of this subdivision together with a notice of a hearing shall be mailed or otherwise delivered to the transferor or transferee, whichever is appropriate, at least 30 days prior to the hearing. **(f)** EVIDENTIARY EFFECT. A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. **(g)** 1 To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title 11, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain.

U.S. Bank to Pay $200 Million to Resolve Alleged FHA Mortgage ...
www.justice.gov/opa/pr/us-bank-pay-200-million...

U.S. Bank to Pay $200 Million to Resolve Alleged FHA Mortgage Lending Violations. The settlement was the result of a joint investigation conducted by HUD, its Office of Inspector General, the Civil Division of the Department of Justice, and the United States Attorney's Offices for the Northern District of Ohio and the Eastern District of Michigan.

U.S. Bank fined $15 million for bankruptcy filing violations ...

U.S. Bank fined $15 million for bankruptcy filing violations - HousingWire

> The Office of the Comptroller of the Currency announced Tuesday that it is ordering U.S. Bank National Association.

www.housingwire.com/articles/39956-us-bank-fined...

Apr 25, 2017 · The Office of the Comptroller of the Currency announced Tuesday that it is ordering U.S. Bank National Association to pay a civil penalty of $15 million for what it calls "bankruptcy filing

https://fraudstoppers.org/monette-saccameno-v-u-s-bank-n-a-trustee-and-ocwen-loan-servicing-llc-7th-circuit-affirms-582000-punitive-damages-against-ocwen/?

Monette Saccameno v. U.S. Bank N.A., trustee and Ocwen Loan Servicing LLC 7th Circuit Affirms $582,000 Punitive Damages Against Ocwen.

"We are not sure how many human errors a company like Ocwen gets before a jury can reasonably infer a conscious disregard of a person's rights, but we are certain Ocwen passed it," Circuit Judge Amy St. Eve wrote, joined by Circuit Judges William Bauer and Michael Brennan. [e.s.]

There are 62 million completely and hopelessly invalid mortgages in the United States.

The details are below but it is an increasingly evident fact that not one securitized mortgage originated from 2001 to 2008 was properly securitized, making the mortgage (the right to seize a home as collateral for the original loan) a legal nullity.

The short story is that every securitization—including **Fannie Mae** and Freddie Mac securitizations—requires the creation and funding of a securitization trust that must take physical possession and control of the trust property on or before the closing date of the trust. The securitization trustee is the sole and exclusive legal title holder of the thousands of promissory notes, original mortgages and assignments of mortgage. **This transfer of the trust property, the legal *res*, to the trust at or around the loan origination is a necessary condition precedent to a valid securitization.** It is necessary for several reasons.

First, someone must be the "legal" owner of the mortgage loan. Only the legal owner of the loan has the legal right to sell mortgage-backed securities ("MBS") to investors. Second, actual

physical transfer of ownership is necessary because the cash flows that go from the homeowner through the securitization trust to the MBS purchasers are tax exempt. **If the trust does not perfect legal title by taking physical possession of the notes and mortgages, the Internal Revenue Code, specifically 26 U.S.C. § 860G(d)(1), provides for a 100 percent tax penalty on those non-complying cash flows.** Third, the legal ownership of the loans must be "bankruptcy remote" that is, because bankruptcy trustees have the right to reach back and seize assets from bankrupt entities, **the transfer to the trustee must be clean and no prior transferee in the securitization chain of title can have any cognizable interest in the loans.** For this reason, all securitization trusts are "special purpose vehicles" ("SPVs") created for the sole purpose of taking legal title to securitized loans and all securitization trustees represent and certify to the MBS purchasers that the purchase is a "true sale" in accordance with **FASB 140**. But it never happened. It is all a fantasy. No securitization trustee of any securitized mortgage loan originated from 2001 to 2008 ever obtained legal title or FASB 140 "control" of any securitized loan. That is part of the reason **FASB changed Rule 140** on September 15, 2008, on the eve of the financial meltdown.

SECURITIZATION IN A NUTSHELL

The securitization of a mortgage loan involves multiple parties. They are:
(1) the Borrower;
(2) the Original Lender (whomever is across the closing table from the Borrower);
(3) the Original Mortgagee (could be either the Original Lender or a "nominee" for the mortgagee, namely, Mortgage Electronic Registrations Systems, Inc. ("MERS");
(4) the "Servicer" of the loan as identified in the securitization "pooling and servicing agreement" ("PSA") (this is usually a bank or any entity with "servicer" in its name);
(5) the "Sponsor" is an entity identified in the PSA and the first link in the securitization chain of title between the Original Lender and the other parties to the PSA;
(6) the "Depositor" is the second link in the securitization chain of title and the entity between the Sponsor and the securitization Trustee;
(7) the "Trustee" is the sole and exclusive legal title owner of the securitized loan, the entity that must take physical delivery of the securitized notes and mortgages in order for the securitization to be valid, and the entity that issues MBS certificates to the purchasers of the MBS; and
(8) The MBS purchaser. This is the investor who buys MBS in reliance on the representations from the Trustee that the Trustee has valid legal title to the securitized notes and mortgages and who receives tax-exempt income from this investment.

There are three general types of securitizations.

The first is public securitizations. These are registered with the SEC. A typical PSA registered with the SEC is found **here.** The vast majority of public securitizations are governed by New York law. All public securitizations specifically require that the Trustee accept physical delivery of the securitized notes and mortgages prior to the "closing date" of the securitization trust. In the linked securitization, the "Series 2004-B Trust," the definitions show that the closing date was February 26, 2004. Section 11.4 indicates that the Series 2004-B Trust is governed by New York law. Section 2.02 and Exhibit N show that the Trustee certified physical receipt of the notes and mortgages before the closing date.

The second is government-sponsored entity ("GSE") securitizations.

These are in two subcategories: Fannie Mae and Freddie Mac securitizations.

The actual securitization documents for Fannie Mae securitizations are not public. Fannie Mae, however, publishes its securitization forms **here**. For a single-family, fixed rate loan originated prior to June 1, 2007, the following **"Trust Indenture" applies**. According to section 12.04 of the Trust Indenture, Fannie's rights are governed by District of Columbia law. As you can see from the Trust Indenture, Fannie acts as both the "depositor/custodian" (in trust law parlance, the "settlor") and the "trustee." Exhibit C at the end of the Trust Indenture is the "Custodial Agreement." In the Custodial Agreement, Fannie represents, like the public securitization trustees referenced above, that it has received both the original note and fully executed assignments of mortgage prior to the "Issue Date" of the MBS.

Like **Fannie Mae** securitizations, Freddie Mac securitization documents are not public. Also like Fannie Mae, although it takes some navigating, Freddie Mac posts its securitization forms ("Seller/Servicer Guides") **here**. Section 2(d)(3) of the Freddie Mac Seller/Servicer Guides requires that Seller/Servicer of a Freddie Mac deliver a fully executed assignment of mortgage from the Seller to Freddie Mac. Freddie Mac formerly published on its website a search tool that allowed the user to determine the date of the Freddie Mac securitization trust and the date Freddie Mac acquired the mortgage. Here is an **example**. Section 11 of the Freddie Mac **Custodial Agreement** provides that "United States" law, to be construed in accordance with New York law, governs Freddie Mac's legal title to Freddie Mac securitized loans.

Finally, some securitizations are private and not accessible by any means short of litigation. The only available information about private securitizations will be in recorded documents in a foreclosure. An example here would be the "LSF7 NPL VII Trust." This trust is a Bahamas trust with a mailing address located in Dallas, Texas. There is not much additional public information available about private securitizations and their trust documents.

FORCLOSURE FRAUD

Before discussing specifics of the above examples, it is important to provide a little background. The heyday of mortgage loan securitization was from 2001 to 2008. Evidence that securitization (and the private money printing that goes with it) got out of control is shown in the fact that the Federal Reserve stopped tracking **M3 money supply** in 2006, after the **chart started to go parabolic**. What this means is that the private money (a/k/a debt) creation of Federal Reserve banks became untethered in 2006, the height of the housing boom. Unsustainable mortgage loan securitization caused the financial collapse in 2007 and 2008.

The resulting October 2008 bailouts funneled $16 trillion (and probably more) to MBS and MBS-insurance/derivative holders.

Although the October 2008 bailouts satisfied many MBS holders, perhaps multiple times, the bailout banks, Fannie Mae, and Freddie Mac added insult to injury by subsequently attempting to seize the collateral—the homes—**securing the loans that had been satisfied or paid off.** Just imagine that you borrow $100 in a Monopoly game, you fail to pay the $100, the "banker" prints the $100 you owe and gives it to himself, then demands the security you offered for the loan—your house on Park Place. **That is what the October 2008 bailouts enabled.**

The October 2008 bailouts were the proximate cause of the nationwide foreclosure fraud and "robo-signer" scandals. In 2010, Georgetown Professor Adam Levitin **testified to Congress** explaining the depth of the securitization chain of title problem and the potential for destabilization of the banking system. By April of 2011, every major national bank holding or servicing securitized mortgages (as well as MERS) had signed Consent Orders with the Office of the Comptroller of the Currency ("OCC"), **admitting to "unsafe and unsound" banking practices** relating to fraudulent foreclosure practices. These practices included hiring $10-an-hour third party contractors to pose as "Vice Presidents" of national banks in order to sign thousands of fraudulent foreclosure documents. Those April 2011 Orders can be found **here**. In July of 2011, Mortgage Electronic Registration Systems, Inc. ("MERS"), **changed its rules**, specifically Rule

8(e), to specifically require that future foreclosures be in the name of or at the express direction of the "note owner."

Following the April 2011 OCC orders the bailout banks and the Federal Reserve attempted to sweep the securitization problem under the rug by offering an **"Independent Foreclosure Review."** The bailout banks paid $3 billion dollars (between $1000 and $4500 per claim) to the victims of foreclosure. Several banks joined in an additional settlement with state attorneys general in a **"National Mortgage Settlement"** and paid another $2 billion. The average payout on these settlements was between $800 and $4000.

These settlements did nothing to solve the unsolvable problem of invalid securitized mortgages due to the securitization chain of title issues Professor Adam Levitin warned Congress about. Below is a post-mortem of typical foreclosure fraud for all three types of securitized mortgages.

Public Securitization

In the example above, Wells Fargo Bank, N.A, as Trustee of the Series 2004-B Trust, claims to be the sole and exclusive owner of the securitized mortgage. If Wells is in fact the owner, it must have acquired legal title to the loan on or before February 26, 2004**. New York law states that transfers to a trust after the closing date of the trust are void. N.Y. Estates, Trusts and Powers Law §§ 7-1.18, 7-2.4. Glaski v. Bank of America, N.A.**, 218 Cal.Rptr.4th 1079 (2013). See also, **Saldivar v. JPMorgan Chase**, 2013 WL 2452699 (Bky. SD Tex. 6/5/13) (holding that trustee mortgagee's position is void if notes and assignments of mortgage not delivered within 90 day of closing of trust); **Wells Fargo v. Erobobo**, 2013 WL 1831799 (NY Slip Op. 4/29/13) (holding that NY trust law governs securitization and that notes and assignments of mortgage must be physically delivered to trustee within 90 days of closing for trustee to have claim of ownership).

The Internal Revenue Code provides for 100 percent tax penalties for transfers to the trust after the closing date.

So, if Wells Fargo cannot show physical receipt of the note and mortgage prior to February 26, 2004, its claim to the home is void. Similarly, if the only evidence Wells Fargo has of ownership is a document executed after February 26, 2004, its claim is void.

Here is an **example** of such a document. **It is an assignment of mortgage executed on May 26, 2010 ("5/26/10 AOM") by Mary Kist in Dallas County, Texas. It is patently fraudulent. It was executed six years after the Series 2004-B trust closed. Every fraudulent securitized mortgage foreclosure has this smoking gun. There are millions of these recorded throughout the country.**

According to Marie McDonnell of **McDonnell Property Analytics**, Mary Kist is a **robo-signer**. Ms. McDonnell's thorough and pro bono analysis performed for the Essex, Massachusetts Register of Deeds is **here**. Mary Kist, sitting in Dallas Texas, had no factual knowledge of the contents of the 5/26/10 AOM and no legal authority to sign it.

The fact that Wells Fargo had to go to Dallas, Texas to find someone to sign the 5/26/10 AOM when it is headquartered in San Francisco is powerful and dispositive evidence that it did not acquire legal title to the loan prior to February 26, 2004. These fraudulent assignments of mortgage exist in every securitized mortgage foreclosure.

They are always executed years after the closing of the securitization trust and typically by someone who has no idea what they are signing. They are also always executed in a state a long distance from, and outside the subpoena power of, the state in which the foreclosed property is located.

The significance of the too late assignment of mortgage is this. Wells Fargo never acquired "legal title" to the securitized loan. This is an unfixable error.

It also exposes the MBS holders to 100 percent tax penalties.

Because of this, Wells Fargo, according the *Erobobo*, *Salidivar* and *Glaski* cases cited above, does not and cannot have "legal capacity" or legal "standing" to make a claim to the property. In short, the 5/26/10 AOM is irrefutable evidence that the Series 2004-B Trust is a "busted trust" with no identifiable owner of the mortgage.

Fannie Mae Securitization

Fannie Mae's fraud differs from private securitization fraud. Although Fannie Mae is subject to the same trust rules and makes the same representations regarding physical receipt of securitized

notes and mortgages prior to the "Issue Date" of the MBS, Fannie typically comes into record title after the foreclosure.

In a typical Fannie case in Minnesota, an entity like Bank of America will conduct the foreclosure and then deed the property to Fannie Mae.

Attached is a September 7, 2010 quit claim deed ("9/7/10 QCD") from BAC GP, LLC to Fannie Mae relating to my home. As you can see, the "total consideration" for this transfer was "less than $500." Jill Landeros, as "Assistant Secretary" of "BAC Home Loans Servicing, LP" executed the deed in New York. The 9/7/10 QCD claims, without any independent authority, that BAC GP, LLC is the "general partner" of BAC Home Loans Servicing, LP.

If this was done properly in accordance with the Fannie Mae Trust Indenture and Custodial Agreement above, Fannie Mae would have taken legal title to this loan in 2006 and would have in its possession the original note and fully executed assignment of mortgage dated sometime in 2006, the loan origination date and prior to the MBS Issue Date. For the same "busted trust" reasons cited above, because the 9/7/10 QCD is dated four years after last possible closing date of this securitization trust, Fannie Mae does not have legal title to this loan.

Like the above example, the 9/7/10 QCD is powerful evidence that Fannie Mae never obtained legal title to this loan.

There are other nuances relating to Fannie Mae foreclosures, including the application of District of Columbia trust law and the occasional fraudulent assignment of mortgage to Fannie, but generally the above—bailout bank servicer with no right, title or interest in the loan conducts the fraudulent foreclosure and then deeds its interest to Fannie Mae—is how Fannie Mae illegitimately steals homes.

Freddie Mac Securitizations

These are virtually a carbon copy of the Fannie foreclosures above. Here is an example of a Freddie loan that closed on April 25, 2007. The Freddie Mac website shows that Freddie Mac "acquired" this mortgage **on December 27, 2007**.

According to the Freddie website and consistent with New York trust law, this is the Freddie Mac securitization trust "settlement date." Notwithstanding this, Freddie, like Fannie,

usually comes in after a foreclosure via a quit claim deed or assignment of sheriff's certificate of sale. For this loan, Freddie came into title by paying "less than $500" for a deed from Wells Fargo dated April 26, 2012 ("4/26/12 QCD").

According to section 11 of the Freddie Mac Custodial Agreement, the laws of the United States, to be construed consistent with New York law, govern Freddie Mac securitizations.

Since New York law is clear that post-closing transfers are void, any transfer to Freddie Mac after December 27, 2007 is void. So the 4/26/12 QCD to Freddie is void because it is over four years too late.

Private Securitizations

There is not much to say about private securitizations because they are difficult to crack. What is clear, however, is that the same principles above apply.

All securitizations require the creation of a securitization trust and require that the mortgage loans be physically deposited into the trusts prior to the issuance of MBS. If they don't, they are subject to 100 tax penalties and would violate the FASB 140 "true sale" and "control" rule. From this, we can deduce that no one would set up a securitization trust that would allow post-closing transfers to the trust. To do so would expose the MBS holders to 100 percent tax liability and be a violation of accounting rules relating to the transfer of financial assets.

Here is an **assignment of mortgage** for a loan originated on September 25, 2005.

The assignment of mortgage from MERS to "U.S. Bank Trust National Association, as Trustee for the LSF7 NPL VII Trust" is dated October 11, 2011, six years after the original securitization, and was signed by Patricia Seanz in Oklahoma.

The LSF7 NPL VII Trust is a Bahamas trust that does not report to the SEC.

TIP OF THE ICEBERG

The "busted trust" is the root of all securitized mortgage problems. It is the reason why hundreds of $10 an hour minion robo-signers have signed millions of fraudulent and untimely assignments of mortgage and quit claim deeds, the reason for the OCC Orders, the

reason for the $3 billion Independent Foreclosure Review and the reason for the $2 billion National Mortgage Settlement. It will be the reason for decades of quiet title litigation necessary to clean up the mess. This is because a busted trust creates many other irresolvable foreclosure problems.

For example, if the trustee never acquired valid legal title of the debt instrument – the promissory note – and the trustee is the only possible legal owner of the note, how can anyone have the right to appear at a sheriff's sale and bid "debt" due on the "note"? That's just one of probably a half dozen fatal flaws in the foreclosure of a securitized mortgage.

CONCLUSION

Wall Street caused the financial meltdown of 2007 and 2008 by abusing its license to print debt for over a decade, and abusing Main Street in the process.

In October of 2008, Congress and the President capitulated to Wall Street with $16 trillion in securitized mortgage bailouts.

From 2008 to the present, courts have exacerbated the problem by enforcing clearly flawed securitized mortgages. This will be the cause of the next meltdown.