

Your Mortgage Documents Might be Fake!

 deadlyclear.com/2013/08/18/your-mortgage-documents-might-be-fake

August 18, 2013



Ya think, maybe? MERS alleges to have registered 71 million mortgages. There were likely another 15-20 million “non-MERS” mortgages...

Lynn Szymoniak in Salon:

BY DAVID DAYEN

Prepare to be outraged. Newly obtained filings from this Florida woman’s lawsuit uncover horrifying scheme (Update)

If you know about foreclosure fraud, the mass fabrication of mortgage documents in state courts by banks attempting to foreclose on homeowners, you may have one nagging question: Why did banks have to resort to this illegal scheme? Was it just cheaper to mock up the documents than to provide the real ones? Did banks figure they simply had enough power over regulators, politicians and the courts to get away with it? (They were probably right about that one.)

This Assignment of Mortgage is made without recourse against Assignor.

IN WITNESS WHEREOF, Assignor has caused these presents to be executed this
17 day of September, 2009.

Mortgage Electronic Registration Systems, Inc., as Nominee for Wachovia Mortgage Corporation

By: Bethany Hood By: Rick Wilken, VP

(CORPORATE SEAL)

STATE OF HI
COUNTY OF DANE

I HEREBY CERTIFY, That on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments of the above referenced

Watch Video At: <https://youtu.be/oCVFZqPpZBA>

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Continued from Salon:

A newly unsealed lawsuit, which banks settled in 2012 for \$95 million, actually offers a different reason, providing a key answer to one of the persistent riddles of the financial crisis and its aftermath. The lawsuit states that banks resorted to fake documents because they could not legally establish true ownership of the loans when trying to foreclose.

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Fabricated for recordation 3 years too late.

STATE OF HAWAII
BUREAU OF CONVEYANCES
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900 Fort Street Mall, Suite 305
Honolulu, HI 96813

This document consists of 2 pages

5305 HANA HWY
HANA, HI 96713
(7090.24007)

MIN No.
TMK (2) 1-4-003-004-0000
Order No. 3494893

Sand Canyon was out of business as of April 30, 2008

ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, Sand Canyon Corporation, a California Corporation, does hereby transfer without recourse to Wells Fargo Bank, N.A., a National Association as Trustee for Soundview Home Loan Trust 2007-OPT2, Asset-Backed Certificates, Series 2007-OPT2, whose address is, C/O American Home Mortgage Servicing, Inc., 6591 Irvine Center Drive, Mail-Stop DA-AM, Irvine, CA 92618, all of its right, title and interest in and to that certain mortgage recorded on 05/02/07 in the Bureau of Conveyances, State of Hawaii, Regular System document number 2007-078678

The Trust Closing Date was July 10, 2007

This reality, which banks did not contest but instead settled out of court, means that tens of millions of mortgages in America *still* lack a legitimate chain of ownership, with implications far into the future. And if Congress, supported by the Obama administration, goes back to the same housing finance system, with the same corrupt private entities who broke the nation's private property system back in business packaging mortgages, then shame on all of us.

The 2011 lawsuit was filed in U.S. District Court in both North and South Carolina, by a white-collar fraud specialist named Lynn Szymoniak, on behalf of the federal government, 17 states and three cities. Twenty-eight banks, mortgage servicers and document processing companies are named in the lawsuit, including mega-banks like JPMorgan Chase, Wells Fargo, Citi and Bank of America.

Szymoniak, who fell into foreclosure herself in 2009, researched her own mortgage documents and found massive fraud (for example, one document claimed that Deutsche Bank, listed as the owner of her mortgage, acquired ownership in October 2008, four months *after* they first filed for foreclosure). She eventually examined tens of thousands of documents, enough to piece together the entire scheme.

A mortgage has two parts: the promissory note (the IOU from the borrower to the lender) and the mortgage, which creates the lien on the home in case of default. During the housing bubble, banks bought loans from originators, and then (in a process known as securitization) enacted a series of transactions that would eventually pool thousands of mortgages into bonds, sold all over the world to public pension funds, state and municipal governments and other investors. A trustee would pool the loans and sell the securities to investors, and the investors would get an annual percentage yield on their money.

In order for the securitization to work, banks purchasing the mortgages had to physically convey the promissory note and the mortgage into the trust. The note had to be endorsed (the way an individual would endorse a check), and handed over to a document custodian for the trust, with a "mortgage assignment" confirming the transfer of ownership. And this had to be done before a 90-day cutoff date, with no grace period beyond that.



Report On Fraudulent & Forged Assignments Of Mortgages & Deeds In U.S. Foreclosures

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Georgetown Law professor Adam Levitin spelled this out in testimony before Congress in 2010: “If mortgages were not properly transferred in the securitization process, then mortgage-backed securities would in fact not be backed by any mortgages whatsoever.”

The lawsuit alleges that these notes, as well as the mortgage assignments, were “never delivered to the mortgage-backed securities trusts,” and that the trustees lied to the SEC and investors about this. As a result, the trusts could not establish ownership of the loan when they went to foreclose, forcing the production of a stream of false documents, signed by “robo-signers,” employees using a bevy of corporate titles for companies that never employed them, to sign documents about which they had little or no knowledge.

Many documents were forged (the suit provides evidence of the signature of one robo-signer, Linda Green, written eight different ways), some were signed by “officers” of companies that went bankrupt years earlier, and dozens of assignments listed as the owner of the loan “Bogus Assignee for Intervening Assignments,” clearly a template that was never changed. One defendant in the case, Lender Processing Services, created masses of false documents on behalf of the banks, often using fake corporate officer titles and forged signatures. This was all done to establish standing to foreclose in courts, which the banks otherwise could not.

Szymoniak stated in her lawsuit that, “Defendants used fraudulent mortgage assignments to conceal that over 1400 MBS trusts, each with mortgages valued at over \$1 billion, are missing critical documents,” meaning that at least \$1.4 trillion in mortgage-backed securities are, in fact, non-mortgage-backed securities. Because of the strict laws governing of these kinds of securitizations, there’s no way to make the assignments after the fact. Activists have a name for this: “securitization FAIL.”



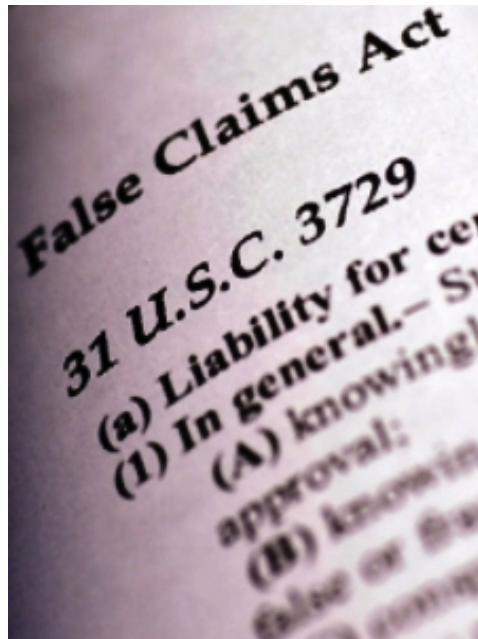
One smoking gun piece of evidence in the lawsuit concerns a mortgage assignment dated Feb. 9, 2009, after the foreclosure of the mortgage in question was completed. According to the suit, “A typewritten note on the right hand side of the document states: ‘This Assignment of Mortgage was inadvertently not recorded prior to the Final Judgment of Foreclosure... but is now being recorded to clear title.’”

This admission confirms that the mortgage assignment was not made before the closing date of the trust, invalidating ownership. The suit further argued that “the act of fabricating the assignments is evidence that the MBS Trust did not own the notes and/or the mortgage liens for some assets claimed to be in the pool.”

The federal government, states and cities joined the lawsuit under 25 counts of the federal False Claims Act and state-based versions of the law. All of them bought mortgage-backed securities from banks that never conveyed the mortgages or notes to the trusts. The plaintiffs argued that, considering that trustees and servicers had to spend lots of money forging and fabricating documents to establish ownership, they were materially harmed by the subsequent impaired value of the securities. Also, these investors (which includes the Treasury Department and the Federal Reserve) paid for the transfer of mortgages to the trusts, yet they were never actually transferred.

Finally, the lawsuit argues that the federal government was harmed by “payments made on mortgage guarantees to Defendants lacking valid notes and assignments of mortgages who were not entitled to demand or receive said payments.”

Despite Szymoniak seeking a trial by jury, the government intervened in the case, and settled part of it at the beginning of 2012, extracting \$95 million from the five biggest banks in the suit (Wells Fargo, Bank of America, JPMorgan Chase, Citi and GMAC/Ally Bank). Szymoniak herself was awarded \$18 million. But the underlying evidence was never revealed until the case was unsealed last Thursday.



Now that it's unsealed, Szymoniak, as the named plaintiff, can go forward and prove the case. Along with her legal team (which includes the law firm of Grant & Eisenhoffer, which has recovered more money under the False Claims Act than any firm in the country), Szymoniak can pursue discovery and go to trial against the rest of the named defendants, including HSBC, the Bank of New York Mellon, Deutsche Bank and US Bank.

The expenses of the case, previously borne by the government, now are borne by Szymoniak and her team, but the percentages of recovery funds are also higher. "I'm really glad I was part of collecting this money for the government, and I'm looking forward to going through discovery and collecting the rest of it," Szymoniak told Salon. [\[Read more on Salon\]](#)

Big thanks to Shelley for highlighting this post and video – and kudos to Lynn for all the good work she does.