

DOERS ALERT: U.S. BANK NATIONAL USES FRAUD AND DECEIT TO EVICT A HAWAII FAMILY – WHILE MAUI, HAWAII COURTS FAIL TO ACT

 deadlyclear.com/2012/05/11/doers-alert-u-s-bank-national-uses-fraud-and-deceit-to-evict-a-hawaii-family-while-maui-hawaii-courts-fail-to-act

May 11, 2012



Joe and Grace Barroga have been fighting foreclosure and a fraudulent assignment of mortgage since last year when they discovered a fraudulent, robo-signed Mortgage Electronic Registration Systems, Inc. assignment of mortgage made in 2009 by U.S. Bank National as Trustee for RFMSI Series 2006-SA4 Trust – a GMAC securitized loan trust. The Barrogas, like millions of other “responsible” homeowners, fell prey to for the defective Obama HAMP program that allowed banks to default good homeowners that asked for a modification. They are scheduled for eviction on **Monday, May 14th**.

Pursuant to the Trust controlling documents, GMAC, the original lender, **NEVER** timely or properly assigned the mortgage in the Hawaii

ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to
 U.S BANK NATIONAL ASSOCIATION AS TRUSTEE FOR RFMSI 2006SA4 A WISCONSIN
 CORPORATION
 Whose address is P.O. Box 8390 Fort Washington, PA. 19034
 all beneficial interest under that certain mortgage dated July 27, 2006, executed by
 JOSEFINO BARROGA AND GRACE BARROGA, HUSBAND AND WIFE, AS TENANTS BY THE
 ENTIRETY, trustor,
 and recorded in Bureau of Conveyances in Land Court Document Instrument No. 2006-142615 on August 04, 2006
 in Transfer Certificate Title No. XX, page XX, of Official Records in the County Recorder's office of MAUI County,
 HAWAII describing land therein as

COMPLETELY DESCRIBED IN SAID MORTGAGE

together with the note or notes therein described or referred to, the money due and to become due thereon with
 interest, and all rights accrued or to accrue under said Mortgage.

Dated: June 9, 2009 Date the Assignment was executed

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,
 INC. SOLELY AS NOMINEE FOR GMAC MORTGAGE
 CORPORATION

Lorrie Womack Asst. Sec. Alleged Robo-signer

State of California
 County of San Diego Date of Notarization

On August 20, 2009 before me, Julie Hanshaw,
 a Notary Public in and for said State, personally appeared Lorrie Womack, who proved to me on the basis of
 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
 his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
 executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the
 foregoing paragraph is true and correct.
 WITNESS my hand and official seal.

Signature: Julie Hanshaw Alleged Robo-signer

(Seal)
 JULIE HANSHAW
 COMM. # 1650057
 NOTARY PUBLIC - CALIFORNIA
 SAN DIEGO COUNTY
 My Comm. Exp. March 7, 2010

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Bureau of Conveyances.

The Barrogas have applied for a Stay until their hearing scheduled for August 22, 2012 – but the Second Circuit Court on Maui has been in a state of fluctuation since the retirement of Judge Raffetto earlier this month and has failed to acknowledge the pleading and even rule on it so, if necessary, a timely appeal to the Intermediate Court of Appeals could be heard.

Possibly deliberate indifference (more on those reasons coming up in a post on judicial disclosure statements on Deadly Clear).

According to the Barroga's Honolulu attorney, "Under New York Trust Law ***every sale, conveyance or other act of the trustee in contravention of the trust...is void.***" New York Estates, Powers and Trusts § 7-2.4. The Pooling and Servicing Agreement is the governing document for the trust and is has a particular cut off date. Any assignment in contravention of the cut-off date is void."

Marie McDonnell, who authored the forensics report in Ibanez another U.S. Bank National bad act in Massachusetts – another mortgage lien state like Hawaii, investigated the Barroga case and found on page 13 of Securitization Analysis and Foreclosure Forensics™ Documenting the Gaps in the Chain of Title (see full report [here](#)):

- (9) According to Section 2.01 of the PSA, all loans to be included in the REMIC Trust are to be transferred into it by a Special Purchase Entity known as the *Depositor* who in this case was Residential Funding Mortgage Securities I, Inc. Thus, there should be an assignment of the Mortgage from Residential Funding Mortgage Securities I, Inc. to U.S Bank National Association as Trustee for the RFMSI Series 2006-SA4 Trust. However, no such assignment is in evidence.
- (10) Additionally, there should be a series of antecedent assignments that move the subject Mortgage step-by-step into the Trust Fund as follows:
- i. from the *Lender* (GMAC Mortgage Corporation) to the *Originator* (GMAC Mortgage, LLC);
 - ii. from the *Originator* to the *Sponsor* (Residential Funding Company, LLC);
 - iii. from the *Sponsor* to the *Depositor* (Residential Funding Mortgage Securities I, Inc.); and, as noted above,
 - iv. from the *Depositor* to the Trustee for the *Issuing Entity* (U.S. Bank National Association as Trustee for RFMSI Series 2006-SA4 Trust).
- (11) Again, no such assignments are in evidence. The only assignment on record is the purported assignment executed by Lorrie Womack ("Womack") in her alleged capacity as Assistant Secretary of Mortgage Electronic Registration Systems, Inc., Solely as Nominee for GMAC Mortgage Corporation to U.S. Bank National Association as Trustee for RFMSI 2006SA4 (sic) a Wisconsin Corporation (sic).
- (12) Womack's assignment does not comport with the requirements of the Trust's governing documents and for the reasons more particularly described below, this assignment is invalid. (See Exhibit C. – Assignment of Mortgage, 06/09/2009)

There is very little doubt that the U.S. Bank National Assignment of Mortgage was fraudulently obtained. Shadow banking has advanced to the forefront on the Hawaii judiciary radar – see Judge Seabright's decision in Deutsche Bank v. Williams. Banks apparently failed to assign mortgages for their own enrichment behind the curtain of securitization.

This case is especially heinous. Attorney Phillips has asked the opposing counsel at



Hawaii's infamous foreclosure mill law firm of Leu & Okuda to stipulate to a stay in the action until the hearing, but apparently their client U.S. Bank National, who is using the questionable assignment of mortgage to foreclose, will not agree.

Last week, Grace Barroga, understandably under a great deal of stress, **miscarried their third child**. The loss of her pregnancy came in the middle of pressure from the local eviction processor, Chris Williams of “Evictions-R-Us” (yeah, really) to evict them **this coming Monday, May 14th 2012**.

When these banks use these fraudulent assignments to foreclose they continue on through to a non-judicial foreclosure (until Hawaii Act 48 was passed) and then quit-claim the property into their name.



Marie McDonnell
McDonnell Property
Analytics, Inc.

The Assignment of Mortgage is the “breeder” document that they use says Marie McDonnell, see report at page 16:

“(28) Translating this concept into the realm of foreclosure fraud, a phony assignment of mortgage is the most frequently used “breeder document” because it grants a title interest in the underlying real property to the fraudster, and serves as the basis for obtaining other documents necessary to extinguish the property owner’s rights and transfer full legal and equitable title as well as possession to the fraudster.

(29) In the instant case, the June 9, 2009 Assignment of Mortgage executed by Lorrie Womack is the “breeder document” from which all other documents necessary to complete the foreclosure, sale, and transfer of the Barrogas’ Property to U.S. Bank National Association as Trustee for the RFMSI Series 2006-SA4 Trust arise.”



There is no earthly reason why the U.S. Bank National cannot agree to wait until there is a hearing on August 22, 2012.

We need DOERS from Hawaii and around the world to make calls and send emails to U.S. Bank National and GMAC and tell them this is WRONG and not to evict the Barroga family until they've had their due process. And then we need to contact our Hawaii Legislators, starting with Senator Roz Baker for Kihei and tell them to speak to the Chief Justice and find out why this case has been ignored by the Second Circuit courts on Maui.

Even if it's over the weekend leave them a message.

The Barroga loan number is: 594941403.

The address is: 569 PAPAU ST., KIHEI, HI 96753

U.S. Bank National Association operates as a bank which offers loans and depository services. U.S. Bank National Association was formerly known as Firststar Bank, National Association and it changed its name to U.S. Bank National Association in August, 2001. The bank was founded in 1863 and is based in Cincinnati, Ohio. U.S. Bank National Association operates as a subsidiary of U.S. Bancorp.

Donald W. Solie

U.S. Bank National Account Services, LLC

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GMAC Mortgage, LLC is an indirect, wholly owned subsidiary of Ally Financial Inc.

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Thank you DOERS for all you do! Your help is what is saving families.

This isn't the first bus ride downtown for U.S. Bank National. The Office of the Comptroller of the Currency made these findings one year ago:

MEMORANDUM ON THE EFFECT OF THE CONSENT ORDER EXERCISING JURISDICTION OVER US BANK BY THE OFFICE OF THE COMPTROLLER

1. On April 7, 2011, the Office of the Comptroller of the Currency, concluding an investigation in which it issued its administrative findings issued a “consent Order” # AA-EC-11-18 (attached hereto).

2. SPECIFIC FINDINGS OF FACT BY FEDERAL AGENCY (OCC): PARAGRAPH 2 OF CONSENT ORDER, PAGE 1. (DETAILS OF THESE FINDINGS ARE FOUND BELOW, ALONG WITH THE REQUIREMENTS FOR CORRECTION)

2.1. **“THE BANK filed or caused to be filed in state and federal courts affidavits executed by its employees making various assertions, such as the amount of the principal and interest due or the fees and expenses chargeable to the borrower, in which the affiant represented that the assertions in the affidavit were made based on personal knowledge or based on a review by the affiant of the relevant books and records, when, in many cases, they were not based on such personal knowledge or review of the relevant books and records; (e.s.) Paragraph 2 (a)**

2.2. **“THE BANK filed or caused to be filed in state and federal courts, or in local land records offices, numerous affidavits that were not properly notarized, including those not signed or affirmed in the presence of a notary; Paragraph 2 (b)**

2.3. **“THE BANK failed to devote to its foreclosure processes adequate oversight, internal controls, policies, and procedures, compliance risk management, internal audit, third party management, and training; and (paragraph 2 (c)**

2.4. **“THE BANK failed to sufficiently oversee outside counsel and other third-party providers handling foreclosure-related services.”**

So, Maui County, Hawaii Second Circuit Court – what is wrong with you?!

We’re connecting the dots, people with above average intelligence are realizing, just like Judge Seabright, that there are huge schemes behind the scenes of an everyday mortgage that the borrower never intended to participate in... and eventually we’ll know whether the application for a mortgage started the securitization process before the borrower signed the note making them securities with no disclosure, how many insurance policies were attached to the loans and when (we never agreed to be over insured which would give someone the incentive to “off” us)... it’s coming soon – to a court room near you...