“THE GREAT BANKSTER HOME FORECLOSURE CONN GAME” - THE MORTGAGE SECURITIZATION PROCESS

By now, you should know that we are in the middle of a global economic depression that was caused by the collapse of the American housing market. What you probably don’t know is the all the events that led to the housing bubble collapse and the massive fraud committed by banks. Approximately 7.0 million American families have been foreclosed on, and evicted from their homes by the “**Banksters**” since 2007.

This article hopes to help you connect the dots; specifically, how it relates to foreclosure and how banks are committing fraud every single day by stealing homes from everyday people like you and me.

Until now, this information was reserved only for the top echelon bankers. Bankers don’t want you to have this information.

If more people knew about this fraud, then our banker friends would be in jail (too big to fail, too big to jail). We are currently faced with ghost towns all over the United States where entire subdivisions have been foreclosed. Many communities have collapsed as a result of this Depression, just read current news articles about Detroit and Flint, Michigan.

At the same time, we have thousands and thousands of families living in tent cities because they have nowhere else to go.

The worst part is this is only the beginning. It is projected that 2015 and 2016 will be even more devastating in terms of the number of foreclosures that are projected to take place as many of the adjustable mortgages are nearing the end of their romance period. Tragically, over 85% of foreclosures have been and are being done fraudulently due to ignorance.

We want to educate you so you can arm yourself with knowledge to defend your home. This article was written because we got tired of banks getting away with murder.

We decided to research this topic and expose bank fraud in a manner that the average person can understand. Too often, this sort of information is buried under too much technical jargon, legalese, double speak and mountains of noise.

Even if you are in good standing, this article is something you should know about. Who knows, you could be one of the people who might lose their jobs in the coming months as the global economic Depression, collapse of the dollar, and the U.S. economy worsens.

If you are one of those people trying to negotiate with your banks to do a loan modification, you must read this article. This is especially important if you are one of those people who have an upside down loan where you owe more than your house is worth.

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This article applies to all home loans, whether it is a first, second or a Home Equity Line of Credit (HELOC). It applies whether you are in a judicial or non-judicial State.
I am going to show you where the fraud begins.

STAGE 1: THE POOLING AND SERVICING AGREEMENT PROCESS

Once a loan is closed, it quickly gets put into a **Pooling and Servicing Agreement**. This is then registered on the SEC as a **REMIC Trust**.

REMIC stands for **Real Estate Mortgage Investment Conduit** a.k.a. a **Special Purpose Vehicle (SPV)**.

It is known as a Special Purpose Vehicle for the purpose of tax exemption purposes. I will explain why this is important in **Stage 3**.

They appoint a master servicer of the **REMIC** and a Trustee to manage the Trust. Normally, the Trustee of the Trust has the power and responsibility to administer the assets of the Trust. The Trustee is not the holder in due course of the Mortgage Loan.

For example, back in the Feudal Lord days, these Lords would create Trusts to put their assets (such as their land, their castle, and so on) into. In the event something happened to the Lord, the Trustee had the power to manage the estate/trust.

However, in the case of a **REMIC**, the Trustee **does not have** the power to manage the assets of the Trust.

We will discuss in Stage 3 how this is different.

Once this **REMIC** is formed, it then gets converted into a security (stock or Trust units – that is equity, as opposed to debt) that is traded on Wall Street.

This will make more sense later when I explain the relationship between an investor, a shareholder and a REMIC.

STAGE 2: THE CHANGING OF THE STATE OF THE NEGOTIABLE INSTRUMENT

Imagine if you will, that your loan is a carrot. It gets thrown in with thousands of other carrots into a giant juicing machine/blender/or food processor called a **REMIC**.

At the end of the process, you get gallons and gallons of carrot juice. This juice is then sold to hundreds of people via Wall St. and the Stock Exchanges – stock shares or trust units.

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This is what happens to your Mortgage Loan when it gets **SECURITIZED**. Your loan is now owned by thousands of shareholders all over the world.

Furthermore, the state of the Mortgage Loan is changed. Your loan has been converted into a stock. **This is REALLY REALLY important**.

PLEASE SPEND A MOMENT TO UNDERSTAND THIS. RE-READ THIS SECTION SEVERAL TIMES SO IT SINKS IN.

Your loan is no more. It is now and forever a stock/equity security. In other words, you cannot make a carrot from carrot juice – "**What's done can never be undone**."

Once a Mortgage loan has been securitized, it forever loses its security (i.e., the Deed of Trust, or the ability for the bank to foreclose on your house).

This will be explained in **Stage 3.**

This is exactly why I say that over 85% of foreclosures are done fraudulently.

A Mortgage Loan is what's called a negotiable instrument.

There are specific laws governing negotiable instruments called the **Uniform Commercial Code** ("**UCC**").

Specifically, the right for a bank to enforce and foreclose on a property is subject to the claimant being a "**real party of interest**".

If the Mortgage Loan has been sold, then the bank can no longer claim that they are a "**real party of interest**". Not only that, once a Mortgage Loan has been converted into a stock, it is no longer a loan. **If both the loan and the stock exist at the same time, that is known as "double dipping."**

Double dipping is a form of securities fraud.

A negotiable instrument can only be in one of two states when it undergoes securitization, not both at the same time. Its either debt or equity securities (stock shares or trust units).

It can either be a loan (and treated and governed as such) or a stock (and treated and governed as such). **Once it is traded as a stock, it is forever a stock.**

If it is treated as a stock, and it is regulated by the SEC as a stock.

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On your Deed of Trust or Mortgage, it has language that says something like **"This Deed of Trust secures a Promissory Note."**

Listen, when that Mortgage Loan/ promissory note got converted into a stock...that promissory note no longer exists. If a Trust was created to secure a promissory note, and that promissory note is destroyed...then that Trust is invalid.

The Trust secures nothing. The **Deed of Trust** is what your lender uses to give them the right to foreclose on your house. If the **Deed of Trust** is invalid, then the lender loses their right to foreclose on your home.

STAGE 3: REAL PARTIES OF INTEREST

Let's talk about accounting rules, specific ally the rule governing a sale. To prevent accounting fraud, various governing bodies created Financial Accounting Standards (FAS).

As you know, accounting is a very important area that needs to be regulated tightly to prevent companies from "cooking the books".

Specifically, FAS 140 was created to govern the sale and securitization of a negotiable instrument. Look it up. Google FAS 140.

One of the things about FAS 140 is the rule governing a sale. A transaction can only be recognized as a sale if it is sold to a party at arm's length . In other words, you cannot sell an asset to yourself (this is what Enron did to hide their losses).

Also, it says, (and I am paraphrasing) that once an asset is sold, the seller forever loses the ability to control the asset. To illustrate this point, imagine if I were to sell you a brand new laptop. You took the laptop, and smashed it to a million bits with a sledgehammer.

Because I sold the laptop to you, I have no say whatsoever about what you do with the laptop**. It is yours. This is really important to understand.**

Once an asset has been sold, the seller forever loses control of the asset. What that means is, **if your lender sold your loan to a REMIC**, then **they forever lose their ability to enforce, control or otherwise foreclose on your property.**

Put simply, they are no longer the real party of interest. They are just a loan servicer.

So Who Are the Real and Beneficial Parties of Interest?

Before we can properly answer this question, we have to discuss IRS tax codes. You see, the real party of interest has to pay taxes on their earnings.

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In other words, if your bank owns your Mortgage Loan, they have to pay tax on the interest earned from that note.

If a REMIC owns your Mortgage Loan, then the REMIC has a tax liability. To avoid the problem of double taxation, banks put these loans into **Special Purpose Vehicles** (**"**SPVs") - REMICS so they don't get taxed on them.

This is covered under Internal Revenue Code Section 860.

This way, only the shareholders are taxed. This means, only the shareholders are the real parties of interest. In the previous section, I discussed the powers of the Trustee. Because of this special IRS rule, the Trustee is not the "**real and beneficial party of interest"** because the **REMIC does not own the Mortgage Loans, the shareholders do**; therefore, **they cannot enforce the promissory note.**

In other words, **"they can't have their cake and eat it too".**

They can either accept double taxation and let the REMIC hold the centralized power, or they can distribute the tax liabilities to the shareholders, in which case they have also distributed the parties of interest.

The bank chose to have a distributed party of interest scheme to avoid paying taxes twice. There is nothing wrong with this. But now they have **a real pickle**.

If no one entity is a "real and beneficial party of interest", then each and every shareholder/trust unit holder of the REMIC is the "**real and beneficial party of interest**". **So the question is ...who has the right to foreclose?**

THE ANSWER IS...NO ONE.

The Case of Double Taxation

Corporations have known for years about double taxation. This means, at a corporate level, at the end of the year, they take all the revenue, and subtract the expenses; what's left are the profits/or taxable income.

These profits are then taxed. The corporation also has shareholders. The corporation typically distributes dividends to their shareholders. Once the shareholders receive their dividends, this is considered to be income to the shareholders. This is also taxed.

In other words, profits are taxed twice – once at the corporation level – tax on income, and once by the individual shareholder as - tax on dividend income.

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If the thousands of shareholders each own a tiny part of your Mortgage Loan /promissory note, can any one of them foreclose on your house?

No!

A promissory note is only enforceable in its whole entirety. That is the nature of the fraud being perpetrated before the American public and on investors worldwide.

REMIC, INVESTORS AND SHAREHOLDERS EXPLAINED

There is a lot of confusion around the concept of securities conversion, specifically around the various parties involved, such as the investor and the shareholder.

This chapter explains in greater detail how each of these entities tie in together.

To illustrate the point, let’s use another analogy.

Let's say I am Steve Jobs of Apple Computer in the late 1970s.

I come to you asking for $1,000 to invest in my little company called Apple. Part of Apple's assets is the intellectual property and design of the Apple computer.

Ten years later, we go public - issue publicly traded common stock. Because you were my initial investor, your initial shares are now worth a lot of money. We then convert your percentage of ownership as an investor into publicly tradable common stock.

Imagine, however, if immediately after I go public, I create another company and assign the intellectual property and design of the Apple computer to this new company.

Is that illegal?

The answer is Yes!

That’s commonly known as bait and switch. You cannot register one thing with the SEC and market the stock... and then after the money is transferred, switch out the asset.

How this relates to a **REMIC** is this: there are two pseudo government entities called Fannie Mae and Freddie Mac (these are actually privately owned companies).

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These two giants fund or invest in most of the REMICs created for the purpose of securitization – converted to equity securities – stock/trust units.

They are the investors or shareholders.

Once the REMIC gets converted into stock, Freddie and Fannie get very rich because they are the majority shareholders of these publicly traded stocks. When a REMIC is formed, its assets (your loan plus thousands of other people's loans) are declared a permanent fixture to the REMIC.

This is like that intellectual property of Apple computer. This is registered with the SEC. It is public information. In other words, once an asset is registered and traded as part of the security, you can't just switch it out because it has become a permanent fixture of the traded asset.

The conclusion want you to take away here is that an asset declared in an SEC filing is permanently attached.

This is a permanent conversion.

This means there is no doubt that your Mortgage Loan/promissory note is no more.

Let's take a case of double existence to illustrate the point. Let's say we have the stock traded on Wall Street (that supposedly contain s the Mortgage Loan).

Next, we take the Mortgage Loan/promissory note and we assign it to another bank, who takes it and securitizes it again.

If this situation were to happen, the same Mortgage Loan would be traded twice on Wall Street.

In other words, the second set of investors got duped. They bought a 'lemon". They basically bought a forgery. **This is securities fraud.**

Legally it cannot happen.

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CONCLUSION

So let 's summarize our points.

Since over 85% of loans have been securitized, we now know that banks **are not** the real parties of interest in any foreclosure transactions. **Neither are the investors of the REMIC**.

No one can foreclose on your home!

When a loan goes into default, it gets written off by the REMIC. Once an asset is written off, it gets tax credits from the IRS, via filing of the annual income tax return.

This means the Mortgage Loan is settled.

The Mortgage Loan is gone.

The only way a bank can collect from you is if they buy it back from the open market as an unsecured debt, similar to credit card debt, just like a debt collector would.

Remember, the debt has been written off. Tax credit has been given to the shareholders and the REMIC.

It is no more.

So, essentially, these banks are picking up the promissory note for pennies on the dollar and through deceit, they try to reattach the converted loan to the dead Trust/Mortgage. They then take these documents and "represent them to the world" as if they are the "**real parties of interest**". They bring these documents into court, deceiving the court and their own legal counsel (who, for the most part, are ignorant of this scheme – these players have been "hoodwinked" too).

This is how banks steal your house, and the houses of millions of American families around the country. This means, if you are facing foreclosure, you need to learn the truth about your Mortgage Loan and learn how to fight for your rights. This means that if you have lost your home due to foreclosure, you might have been a victim of fraud and be entitled to punitive damages of up to **3 times the value of your Mortgage Loan**. This is why I want to share this article with you so you know you've been conned.

Know of someone threatened with a foreclosure process, call Ronald J. Adams, CPA, CVA, ABV, CBA, BCA, CFF, FVS, GCMA – we can help them stay in their homes and may even be able to settle/ discharge their Mortgage Loan. E-mail adams.r@foxboro-consulting.com ; or call us at (774) 719-2236. **Mr. Adams is a certified public accountant (CPA) and he is certified in financial forensics (CFF).**

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YOU HAVE A RIGHT TO BE ANGRY.

YOU SHOULD BE!

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