Why The Investors in Real Estate Mortgage Investment Conduit (REMIC) Trusts (a.k.a. Mortgage Backed Securities) Are Not Screaming "Securities Fraud!"

By Neil Garfield

Everyone is reporting balance sheets with assets that derive their value on one single false premise: that the trusts that issued the original mortgage bonds owned the loans. They didn't.

This article is not a substitute for an opinion and advice from competent legal counsel --- but the opinion of an attorney who has done no research into securitization and who has not mastered the basics, is no substitute for an opinion of a securitization expert.

Mortgage backed securities were excluded from securities regulation back in 1998 when Congress passed changes in the laws.

The problem is that the "certificates" issued were (a) not certificates, (b) not backed by mortgages because the entity that issued the Mortgage Backed Securities (MBS) (mortgage bonds) --- i.e. the **Real Estate Mortgage Investment Conduit** (REMIC) Trusts --- never acquired the mortgage loans and (c) not issued by an actual "entity" in the legal sense [HINT: A **Trust does not exist in the absence of any property or assets in it**].

And so the Real Estate Mortgage Investment Conduit (REMIC) was a conduit for nothing. [HINT: **It can only be a "conduit" if something went through it**] Hence the MBS were essentially bogus securities subject to regulation and none of the participants in this dance was entitled to preferred tax treatment.

Yet the **SEC** still pretends that bogus certificates masquerading as mortgage backed securities are excluded from regulation.

So people keep asking why the investors are suing and making public claims about bad underwriting when the real problem is that there were no acquisition of Mortgage Loans by the alleged trust, because the money from the sale of the mortgage bonds never made it into the trust.

And everyone knows it, because if the trust had purchased the loans, the Trustee would represent itself as a "**holder in course**" rather than a mere holder.

Instead you find the "Trustee" hiding behind a facade of multiple "**servicers**" and "**attorneys in fact**". That statement --- alleging "**holder in due course**" (HDC) --- if proven would defeat virtually any defense by the maker of the instrument even if there was fraud and theft. There would be no such thing as foreclosure defense if the trusts were "holders in due course" --- **unless of course the maker's signature was forged.**

So far the investors won't take any action because they don't want to --- they are getting paid off or replaced with RE-REMIC without anyone admitting that the original mortgage bonds were and remain worthless.

That is because the managers of those funds are trying to save their jobs and their bonuses.

The government is complicit.

Everyone with power has been convinced that such an admission --- that at the base of all "**securitization**" chains there wasn't anything there --- would cause Western Financial Gang Bankster Armageddon.

That scares everyone sh--less. Because it would mean that NONE of the up-road securities and hedge products were worth anything either.

Everyone is reporting balance sheets with assets that derive their value on one single false premise: "that the trusts that issued the original mortgage bonds owned the loans". **They didn't.**

Banks are essentially arguing in court that the legal presumptions attendant to an assignment creates value. Eventually this will collapse because legal presumptions are not meant to replace the true facts with false representations.

But it will only happen when we reach a critical mass of trial court decisions that conclude the trusts never owned the loans, which in turn will trigger the question "**then who did own the loan**" and the answer will eventually be NOBODY because there never was a loan contract --- **which by definition means that the transaction cannot be called a loan**. The homeowner still owes money and the debt is not secured by a mortgage, **but it isn't a loan**.

You can't force the investors into a deal they explicitly rejected in the offering of the mortgage bonds --- that the trusts would be **ACQUIRING** loans not originating them.

Yet all of the money from investors who bought the bogus Mortgage Backed Securities (MBS) went to the "**Too Big To Fail Players**" and then to originating loans, not acquiring them.

And you can't call it a contract between the investors and the borrowers when neither of them knew of the existence of the other. There was no "loan." Money exchanged hands and there is a liability of the borrower to repay it --- to the party who gave them the money or that party's successor.

What we know for sure is that the Trust was never in that chain.

The mortgage secured the performance under the note. But the note was itself part of the fraud in which the "**borrower**" was prevented from knowing the identity of the lender, the compensation of the parties, and the actual impact on his title.

The merger of the debt into the promissory note never happened because the party named on the promissory note was not the party giving the money. Hence the mortgage should never have been released from the closing table much less recorded.

So if the fund managers admit they were duped, and are considered dumber/more worse off than the Three Stooges, as I have described, then they can kiss their jobs goodbye.

There were plenty of fund managers who Did look into these Mortgage Backed Securities (MBS) and concluded they were just B_ _l Sh_t.

Read more: http://www.certifiedforensicloanauditors.com/articles/09.16/why-the-investors-are-not-screaming-securities-fraud.html#ixzz4LPS1uH2e

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