

**MORTGAGE SERVICING COMPANIES
PREPARING " REPLACEMENT" MORTGAGE ASSIGNMENTS**

By Lynn E. Szymoniak, Esq., Ed. Fraud Digest, May 6, 2010

CALIFORNIA – ORANGE COUNTY
Carrington Mortgage Services, LLC
Tom Croft and others

CALIFORNIA – SAN DIEGO COUNTY
Chase Home Finance

FLORIDA - BROWARD COUNTY
Patricia Arango, Caryn Graham and others
Law Offices of Marshal Watson

FLORIDA – BROWARD COUNTY
Cheryl Samons, Beth Cerni and others
Law Offices of David Stern

FLORIDA - DUVAL COUNTY
Lender Processing Services
Valerie Broom, Margaret Dalton, Michele Halyard, Michael Hunt, Joseph Kaminsky, Kathy Smith, Coleman Stokes and others

FLORIDA- HILLSBOROUGH COUNTY
Florida Default Law Group or Law Offices of Daniel Consuegra

FLORIDA - PALM BEACH COUNTY
Ocwen Loan Servicing
Scott Anderson, Oscar Taveras, Doris Chapman, Jonathan Burgess, Laura Buxton and others

FLORIDA - PINELLAS COUNTY
Nationwide Title Clearing
Bryan Bly, Vilma Castro, Dhurato Doko, Jessica Fretwell and others

GEORGIA – FULTON COUNTY
Lender Processing Services
Linda Green, Korell Harp, Jessice Ohde, Linda Thoresen, Tywanna Thomas, Cheryl Thomas, Christie Baldwin and others

MINNESOTA -DAKOTA COUNTY
Lender Processing Services

Liquenda Allotey, Topeka Love, Christine Anderson, Christine Allen, Eric Tate
OHIO – FRANKLIN COUNTY
Chase Home Finance
Christina Trowbridge, Whitney Cook and others

PENNSYLVANIA – ALLEGHANY COUNTY
Home Loan Services, Inc.

PENNSYLVANIA – MONTGOMERY COUNTY
GMAC (and Homecomings Financial)
Jeffrey Stephan, John Kerr and others

SOUTH CAROLINA – YORK COUNTY
America's Servicing Company
John Kennerty, China Brown and others

TEXAS - COLLIN COUNTY
BAC Home Loan Servicing, f/k/a Countrywide Home Loans Servicing, LP

TEXAS - DALLAS COUNTY (COPPELL, TX)
American Home Mortgage Servicing

TEXAS - HARRIS COUNTY
Litton Loan Servicing, LP
Marti Noriega, Denise Bailey, Diane Dixon and others

TEXAS - TARRANT COUNTY
Saxon Mortgage Services

TEXAS - TRAVIS COUNTY
IndyMac Bank Home Loan Servicing
Brian Burnett, Kristen Kemp, Suchan Murray, Chamagne Williams and others

TEXAS - WILLIAMSON COUNTY
IndyMac Bank (years after IndyMac Bank, F.S.B. ceased to exist, many of the
signers will sign as officers of IndyMac Bank, F.S.B. (the entity that *should have*
made the assignment to the trust years earlier)
Erica A. Johnson-Seck, Dennis Kirkpatrick, Eric Friedman and others

UTAH
SALT LAKE COUNTY
Select Portfolio Servicing
Luisa Alfonso, Bill Koch and others

Many mortgage-backed securitized trusts are missing critical documents needed to foreclose – i.e., the mortgage assignment. An excellent discussion of this is found in the decision of Massachusetts Land Court Judge Keith Long reaffirming a 2009 ruling (*Ibanez*) that invalidated foreclosures on two properties because the lenders did not hold clear title to the properties at the time of the foreclosure sale. Mortgage assignments were a key issue in *Ibanez*, a case that involved ineffective assignments to the Trust. Judge Long noted:

...the plaintiffs' own securitization documents *required* mortgage assignments to be made to the plaintiffs in recordable form for *each and every loan* at the time the plaintiffs acquired them. Surely, compliance with this requirement would (and certainly *should*) have been a priority for an entity issuing securities dependent on recoveries from loans, such as these, known from the start to have a higher than normal risk of delinquency and default. *U.S. BANK, N.A. v. Antonio Ibanez, et al.*, Commonwealth of Massachusetts, Land Court Dept., 08 MISC 384283 (KCL).

This *Ibanez* decision and many others deal with the issue of mortgage assignments prepared years after the closing date of the trust, usually when the Trustee or mortgage servicer has realized that the Trust does not have the assignment needed to foreclose or has a defective assignment – such as one issued in blank, unsigned and undated.

Many trusts and servicers try to replace the missing assignments, often with assignments executed within a few months of the foreclosure – and in many cases even after the foreclosure is filed or the home is sold (in non-judicial foreclosure states). The date and place of the Assignment often reveals whether the Assignment is actually a “replacement” – issued years after the Trust closed, and even years after the original lender supposedly making the Assignment disappeared into bankruptcy.

The servicer rarely identifies itself and discloses that this is an attempt to replace a missing assignment. It is, therefore, very useful to know that Mortgage Assignments notarized in the counties above are more often than not replacement Assignments prepared by or on behalf of the Trusts – by the servicers for the Trust or document preparation companies working for the servicers, or even law firm employees working for the Trust.

Please send corrections/additions to szymoniak@mac.com.