



Forensic Professionals Group USA, Inc.

Mortgage Analysis as a Part of a Credible Defense against Foreclosure – All Courts – All States

TM www.fpg-usa.com ph: [REDACTED] [REDACTED] fax: 305-[REDACTED] [REDACTED]

FORENSIC LENDER DISCOVERYsm SECURITIZED LOAN AUDIT REPORT

Borrower: [REDACTED]

Subject Property Address: [REDACTED]

Borrower's Attorney: [REDACTED], Esq. [REDACTED] Bar#: [REDACTED]

General Counsel of [REDACTED] [REDACTED] [REDACTED] [REDACTED]

INTRODUCTORY STATEMENT

FPG-USA is an independent third party mortgage analysis firm hired to perform loan compliance analysis for the borrower. Our book Winning Against Foreclosure is an authoritative source on pooled mortgage backed assets sold to investors. Our area of expertise is reflected in our patent protected TILA-RESPA-HOEPA Lender Compliance Analysissm and Forensic Lender Discoverysm audit examination and reporting systems.

Expert's Information, Qualifications and Availability: Our senior forensic loan audit expert, Richard Kahn is available to the court on a conference call basis. Mr. Kahn has personally reviewed this case and is the supervising mortgage analyst signing off on this report. Mr. Kahn is the author of our book and co-inventor of our patent protected systems. He has had a professional career in mortgage analysis, residential and commercial real estate, mortgage backed securities and lender financing that has spanned more than thirty years and billions of dollars in equity and mortgages. He has experience in County, State and Federal Courts from Circuit to Supreme and District to Appeals including Bankruptcy. Mr. Kahn is FPG-USA's qualifying expert witness on all FPG-USA issuances. Mr. Kahn has held licenses in

26 securities, real estate brokerage and mortgage lending. Mr. Kahn's resume is online at <http://www.fpg->
27 [usa.com/RK_Resume.cfm](http://www.fpg-usa.com/RK_Resume.cfm)

28

29 **Submitted under [REDACTED] Rules of Evidence:**

30 [REDACTED] This report contains relevant evidence to make the existence of facts and consequences known to
31 the court that do not appear to be currently evidenced. (Rule [REDACTED] The contents are conditioned on
32 relevant undisputable written facts in a form considered to support fulfillment of the findings. (Rule [REDACTED]
33 Specialized mortgage analysis knowledge presented is designed to assist the Trier of fact to understand
34 the evidence and determine the material issues. (Rule [REDACTED] Upon written request, a [REDACTED]
35 [REDACTED] of the expert's book Winning Against Foreclosure will be [REDACTED] to the
36 Judge for her/his personal use in the case and interviewing the expert. The book is available to the
37 public on Amazon.com [REDACTED]

38

39 **Procedural Steps Taken:**

40 **A. Analyze the securitized mortgage backed securities transaction documents**

41 including but not limited to sworn Securities and Exchange Commission ("SEC")
42 filings, affidavits and reports; sworn Prospectus and Pooling Agreement Filings;
43 Management and Accounting reports and other publicly available information. In this
44 case, these specifically include several hundred pages of SEC filed documents drawn
45 to the account of the analyst [REDACTED] obtained, held for reference and available
46 to the Court upon written request:

- 47 1. Various [REDACTED] Documents From [REDACTED] as referenced below in the Statement of
48 Facts Considered in the Case.
- 49 2. SEC Filing: [REDACTED] Trust [REDACTED] Prospectus · Rule [REDACTED] Filed On
50 11/30/07 5:31pm ET · SEC File [REDACTED]-07 · Accession Number [REDACTED] [REDACTED] 137
51 pages.
- 52 3. SEC Filing: [REDACTED] Trust · [REDACTED] · For 7/13/07 · [REDACTED] Filed On 7/13/07
53 4:07pm ET · SEC File [REDACTED]-07 · Accession Number [REDACTED]-8 127 pages
- 54 4. FPG Research Report Confirming Loan is Included in the pool
- 55 5. SEC [REDACTED]_Mar2008_Attestations [REDACTED]-QS4 Trust including 26 separate
56 Attestation Reports and Assessments of compliance, and Servicer Compliance Statements;
57 including but not limited to reports by :
- 58 a. Securitization participants: Residential Funding, GMAC Mortgage, Homecomings
59 Financial, National City Mortgage, Regulus Group, Wachovia Mortgage, First
60 American Real Estate Solutions, Servicing Criteria of Zc Sterling, Deutsche Bank,
61 Wells Fargo Bank;
- 62 b. Price Waterhouse Coopers, Ernst & Young, KPMG,
- 63 6. SEC Filing [REDACTED] [REDACTED] [REDACTED] 2007-[REDACTED] Trust; Annual Report, 116 pages
- 64 7. 17 SEC Filings [REDACTED] Trust [REDACTED]-7-8 including [REDACTED] (Current Reports
65 [3]) ; [REDACTED] (Annual Report [1]); [REDACTED] (Notice of Suspension of Duty to File Reports [1]);
66 [REDACTED] (Periodic Distribution Reports by Asset-Backed Issuers [12]), 42485 (Prospectuses –
67 Rule [REDACTED]), [REDACTED] (Free Writing Prospectuses – Rule [REDACTED]) [3], [REDACTED]
68 (Attestation Reports on Assessments of Compliance with Asset-Backed Securities [10]; [REDACTED]
69 [REDACTED] (Certification per Sarbanes-Oxley Act Section 302 [1]); [REDACTED] (Material Contracts [2]);

70 [REDACTED] (Miscellaneous Exhibits including Press Releases [113]); [REDACTED] (Opinion of Legality
71 [1]); [REDACTED] (Opinion of Tax Matters [1]); [REDACTED] (Reports of Compliance with Servicing
72 Criteria for Asset-Backed Securities [10]); [REDACTED] (Servicer Compliance Statements for
73 Asset-Backed Securities [4]); and [REDACTED] (Voting Trust Agreement [1]).

74 8. SEC Assignment and Assumption Agreements [REDACTED] Trust, 10 pages.

75 9. SEC Filing: Pooling and Servicing Agreement

76 10. SEC Filing: Final Prospectus Dec2007 [REDACTED] Trust, 106 pages.

77

78 **Additional Documentation in the Case supplied by the parties:**

79 (1) Certified copy of Promissory Note for loan no. [REDACTED]

80 (2) Certified copy of Deed of Trust for loan no. [REDACTED]

81 (3) Affidavit from the MERS corporate secretary, with the following attachments

82 a. Certified copy of [REDACTED] Funding's application to be a member of MERS

83 b, Certified copy of the [REDACTED] MERS corporate resolution to appoint assistant
84 secretaries and Vice-presidents

85 c. Certified copies of schedules listing [REDACTED] Funding employees who are authorized

86 MERS assistant secretaries and vice-presidents, as of [REDACTED] 2007 and September

87 [REDACTED] 2008

88 d. MIN summary for loan no. [REDACTED]

89

90 **B. Investigate and provide relevant evidence and facts to prove or disprove**

91 **allegations of material fact with ready capable determination by resort to sources**

92 whose accuracy cannot be questioned or subject to dispute. Reported as Issues of
93 Toxicity evidenced by undisputable written evidence as herein referred:

94

95 1. Absent evidence to the contrary, according to the evidence reviewed, the court appears not to
96 have jurisdiction in this case. The party attempting to foreclose is not the current owner of the
97 mortgage deed of trust and the note. (b) Funding, claiming to be the owner of the Trust Deed in
98 the instant case is the current sub-Servicer, not the current Owner of the Mortgage as evidenced over
99 numerous official SEC Filings documents and Attestations.

100 a. Ref: SEC (b) for (b) '07 Section (b) (b) (b) Owners pg (b) Sect: (b)
101 Pg (b) "Prior to due presentation of a Certificate for registration of transfer, the Company, the
102 Master Servicer, the Trustee, any Certificate Insurer, the Certificate Registrar and any agent of
103 the Company, the Master Servicer, the Trustee, any Certificate Insurer or the Certificate
104 Registrar may treat the Person in whose name any Certificate is registered as the owner of such
105 Certificate for the purpose of receiving distributions pursuant to Section (b) and for all other
106 purposes whatsoever, except as and to the extent provided in the definition of
107 "Certificateholder," and neither the Company, the Master Servicer, the Trustee, any Certificate
108 Insurer, the Certificate Registrar nor any agent of the Company, the Master Servicer, the
109 Trustee, any Certificate Insurer or the Certificate Registrar shall be affected by notice to the
110 contrary except as provided in Section (b)"

111 b. **The owners are the Certificate Holders (Investors) represented by their Trustee.** Ref: SEC
112 (b) for (b) '07 Section (b) further enumerated in (b) (b) and (b) the Trust pg (b)
113 Sect: (b) Mortgage Loans; pg (b) "The Trustee acknowledges the assignment to it of
114 the Uncertificated REMIC I Regular Interests and, concurrently therewith and in exchange

115 *therefor, pursuant to the written request of the Company executed by an officer of the Company,*
116 *the Trustee has executed and caused to be authenticated and delivered to or upon the order of*
117 *the Company, all Classes of Certificates (other than the Class R-I Certificates and the Class P*
118 *Certificates) in authorized denominations, which evidence the ownership in the entire REMIC*
119 *II.”*

120 c. **“There is no contractual relationship between servicer and Trustee or Certificateholders”**

121 Sect [REDACTED]

122 2. **The mortgage deed of trust being presented for examination** (Certified copy of Deed of Trust for

123 loan no. [REDACTED] **has been paid in full.**

124 a. **All mortgage loans in the pool have been purchased pursuant to PSA Sections [REDACTED]**

125 Conveyance [REDACTED] Pg [REDACTED] [REDACTED] Trustee pg [REDACTED]

126 • **“Section [REDACTED] Conveyance [REDACTED]**

127 *The Company, concurrently with the execution and delivery hereof, does hereby assign to*
128 *the Trustee for the benefit of the Certificateholders without recourse all the right, title*
129 *and interest of the Company in and to the Mortgage Loans, including all interest and*
130 *principal received on or with respect to the Mortgage Loans after the Cut-off Date (other*
131 *than payments of principal and interest due on the Mortgage Loans in the month of the*
132 *Cut-off Date).”*

133 • **“Section [REDACTED] Acceptance [REDACTED] The Trustee acknowledges receipt”**

134

135 b. **New loan number assigned in subsequent sales process:** It is pertinent to note that the
136 submitted mortgage deed of trust with loan number loan no. [REDACTED] presented, the new
137 investor loan number assigned is properly reflected on the exhibit in this case entitles MINS

138 Summary. This loan number is [REDACTED] and is properly reflected and evidenced in writing
139 within the SEC filings as the subject loan¹.

140
141 **c. SEC Filed: Confirmed Sales. There have been three confirmed, undisputable and**
142 **attested sales since the Mortgage Deed of Trust presented for review in this case. These**
143 **sales are evidenced in the [REDACTED] in the SEC Filed Prospectus, page [REDACTED]**

- 144 • Mortgage Loan Sellers [REDACTED] Funding is not identified specifically in the SEC
145 Filed documentation reviewed, but the specific loan is ¹ included in the pool. This is
146 confirmation [REDACTED] Funding may be included in “Mortgage Loan Sellers”.

147 CONFIRMED SALE TO

- 148 • [REDACTED] Company LLC, (Sponsor and Master Servicer)

149 CONFIRMED SALE TO

- 150 • [REDACTED] Inc. (Depositor)

151 CONFIRMED SALE TO

- 152 • [REDACTED] Bank Trust Company [REDACTED] (Trustee)(Owner of mortgage loans on behalf
153 of issuing entity for the benefit of the certificates [investors])

154 The sales took place on or around [REDACTED]/2007 ²

155
156 3. The MERS issues.

157 a. **MERS is never a “holder of the note”**. At this point in time, MERS has been widely held across the
158 United States court systems on the appellate level not to be a ‘holder of the note’. MERS is the

¹ FPG Research Report Confirming Loan is Included in the pool; [REDACTED] Series 2007-[REDACTED] Trust • [REDACTED] • For [REDACTED]/07 • [REDACTED]
Filed On [REDACTED] 3/07 4:07pm ET • SEC File [REDACTED]-07 • Accession Number [REDACTED]-7-

² [REDACTED] Series 2007-[REDACTED] Trust • [REDACTED] • For [REDACTED]/07 • [REDACTED] Filed On [REDACTED] 07 4:07pm ET • SEC File [REDACTED]-07 •
Accession Number [REDACTED]-8

159 Mortgage Electronic Registration System created by the banking system to facilitate loan “servicing”.
160 MERS has been banned in some states, for example Florida, from conducting foreclosures in the name
161 of MERS³ and has imposed \$10,000 per violation sanctions on its members from doing so. MERS has
162 been held to be an entity that obscures true ownership. The District of [REDACTED] has recently centralized
163 MERS litigation on eight cases from Nevada, California and Arizona⁴. A recent non-judicial process
164 appellate level District Court and Bankruptcy Court case in [REDACTED] affirms that MERS cannot come
165 forward with evidence of standing.⁵ In pertinent part:

166 *“In the context of a motion for relief from stay, the movant, MERS in this case, bears the burden*
167 *of proving it is a real party in interest. In re [REDACTED] 407 B.R. [REDACTED] 400 ([REDACTED] Idaho*
168 *2009)(citing In re [REDACTED] 393 B.R. [REDACTED] (Bankr. D. [REDACTED] 2008)(“To have standing to seek*
169 *relief from the automatic stay, [movant] was required to establish that it is a party in interest*
170 *and that its rights are not those of another entity”)). Initially, a movant seeking relief from stay*
171 *may rely upon its motion. Id. However, if a trustee or debtor objects based upon standing, the*
172 *movant must come forward with evidence of standing. Id.; [REDACTED] 402 [REDACTED] at [REDACTED] (requiring*
173 *movant at least demonstrate who presently holds the note at issue or the source of movant’s*
174 *authority).*

175 *Instead of presenting the evidence to the Bankruptcy Court, MERS attempted to withdraw the*
176 *Motion from the Bankruptcy Court’s consideration, citing the failure of a MERS Certifying*
177 *Officer to demonstrate that a member was in physical possession of the promissory note at the*

³ MERS Rules, Section 8: “In the State of Florida, the authority to conduct foreclosures in the name of MERS granted to a Member’s Certifying Officers under Paragraph Three of the Member’s MERS Corporate Resolution is revoked. Effective June 1, 2006, the Member shall be sanctioned \$10,000.00 per violation for commencing a foreclosure in Florida in the name of MERS.”

⁴ UNITED STATES JUDICIAL PANEL on MULTIDISTRICT LITIGATION IN RE: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (MERS) LITIGATION [REDACTED] No. [REDACTED] TRANSFER ORDER [REDACTED] 2009 (United States Judicial Panel on Multi District Litigation)

⁵ UNITED STATES DISTRICT COURT DISTRICT OF NEVADA; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Appellant, v. LISA [REDACTED] E [REDACTED] BANKRUPTCY TRUSTEE, et al., Appellees. Dist. Ct. Case No. [REDACTED]-CV-[REDACTED]-KJD-[REDACTED] Bankr. Ct. Case No. [REDACTED]-S-[REDACTED] ORDER

178 *time the motion was filed.1 The only evidence provided by MERS was a declaration that MERS*
179 *had been identified as a beneficiary in the deed of trust and that it had been named nominee for*
180 *the original lender. Since MERS provided no evidence that it was the agent or nominee for the*
181 *current owner of the beneficial interest in the note, it has failed to meet its burden of establishing*
182 *that it is a real party in interest with standing. Accordingly, the order of the Bankruptcy Court*
183 *must be affirmed.”*

184 MERS own Rules are clear that [REDACTED] foreclosures conducted in its name by a Member must include
185 the Member holding the current properly endorsed note, in blank, with permission allowance by the
186 Investor (true owner) so that MERS can be designated by the true owner as the note holder. ⁶ Clearly
187 that is not the case here. Absent that, MERS claims of owning a note have been held in some cases to be
188 a “sham and/or a frivolous pleading” ⁷, subsequent to which all claims of the sort were banned in Florida
189 and MERS amended their Rules as previously stated⁸.

190

191 **b) There is no dispute that [REDACTED] Funding may be a Member of MERS** to facilitate servicing
192 loans. [REDACTED] Funding is a loan Servicer as the MIN [REDACTED] properly notes. Neither [REDACTED]
193 Funding or MERS are owner holders of the note, which has been evidenced in this section above.

194

195 4. NOTE issues.

⁶ MERS Rules Rule 8 Section 2

⁷ IN THE CIRCUIT COURT OF THE 11 TH JUDICIAL CIRCUIT IN AND FOR MIAMIDADE COUNTY, FLORIDA;
GENERAL JURISDICTION DIVISION
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., CASE NO.: 05-[REDACTED] CA [REDACTED] CA [REDACTED] 05-[REDACTED]
CA [REDACTED] 05-[REDACTED] CA [REDACTED] Plaintiff(s), VS. [REDACTED] ET AL., Defendant(s).

⁸ MERS Rules, Section [REDACTED] “In the State of Florida, the authority to conduct foreclosures in the name of MERS granted to a Member’s Certifying Officers under Paragraph Three of the Member’s MERS Corporate Resolution is revoked. Effective June 1, 2006, the Member shall be sanctioned \$10,000.00 per violation for commencing a foreclosure in Florida in the name of MERS.”

196 The note presented is the original note, does not bear any assignments or endorsements and no allonge
197 (attachment with same) for the purpose is permanently attached as required at law. If this is being
198 presented as the current note, it is critically defective and in so being would be required to be
199 repurchased by [REDACTED] Funding in accordance with the SEC [REDACTED] We are prepared to make
200 declarations of undisputed written evidence to this effect should the non-owner entity attempting to
201 foreclose make legal claims to the note being presented as being the current original. We are in
202 possession of the contact information of the entity the SEC Filings show as the holder of the actual note
203 and no reference has yet been evidenced to a claim of this nature.

204

205

TILA RESCISSION

206 **The borrower has performed a Truth in Lending Act compliance examination.** In cases where
207 Rescission, also known as Cancellation of the loan are involved, judges and courts of the land up to and
208 including the Supreme Court of the United States have categorically affirmed the right of a borrower to
209 cancel upon meeting prescribed criteria, and the requirement of judges and courts to abide by the TILA.

210

211 U.S. Supreme Court, affirming [REDACTED] v. [REDACTED] U.S. [REDACTED]

212 [REDACTED] U.S. [REDACTED]

213 *“The enactment and expansion of [REDACTED] has significance beyond the express creation of a*
214 *good-faith immunity. [REDACTED] That statutory provision signals an unmistakable congressional decision*
215 *to treat administrative rulemaking and interpretation [REDACTED] U.S. [REDACTED] under TILA as*
216 *authoritative. Moreover, language in the legislative history evinces a decided preference for*
217 *resolving interpretive issues by uniform administrative decision, rather than piecemeal through*
218 *litigation. [REDACTED] See S. [REDACTED] No. [REDACTED] supra, at [REDACTED] Cong. Rec. [REDACTED] (remarks of*

219 *Rep. ██████████ 121 Cong. Rec. ██████████ (remarks of Rep. ██████████ Courts should honor*
220 *that congressional choice. Thus, while not abdicating their ultimate judicial responsibility to*
221 *determine the law, cf. generally SEC v. ██████████ Corp., ██████████ U.S. ██████████ judges ought*
222 *to refrain from substituting their own interstitial lawmaking for that of the Federal Reserve, so*
223 *long as the latter's lawmaking is not irrational.”*

224

225 We are of the impression through the borrower’s attorney that they have made TILA Rescission and
226 Tender offer claims which have not been responded to by the party seeking to foreclose.

227

228 The TILA issue is mentioned in the following context for consideration and begs the following question.
229 Is the servicer attempting to foreclose, even though they are not the owner or holder of the note,
230 understanding the borrower is intent upon cancelling the loan per TILA and their evidentiary findings
231 report showing violations? Foreclosure or other sale under the TILA would extinguish the borrower’s
232 ability to exercise their TILA rights. The servicer may be interested in taking this bold step to protect
233 their own interests:

234

235 Assignee's Liability: An assignee is liable for statutory damages for violations by failure to
236 disclosure TILA requirements by its predecessors and its own violation if it fails to respond
237 properly to a rescission notice. ██████████ v. ██████████ Mortg., ██████████ F.3d ██████████ (1 st Cir. ██████████ ("if
238 a creditor does not respond to a rescission request within twenty days, the debtor may file suit in
239 any court to enforce the rescission right). See also U.S.C. § ██████████

240

241 Rescission Process: The consumer must send a written notice to the creditor to trigger
242 the rescission process. When the notice of rescission has been mailed, the notice is
243 considered given. Reg. Z. §§ 226.██████████ 226.██████████).

244 When the consumer rescinds, the security interest automatically becomes void. The
245 consumer is relieved of any obligation to pay any finance charge or any other charge.
246 U.S.C. § 1635(██████████) Reg. Z. §§ 226.██████████ Rescission voids the mortgage
247 and is a complete defense to foreclosure. ██████████ v. ██████████ Inc., 342
248 So.2d ██████████ 2d D.C.A. ██████████ See ██████████ v. ██████████ Bank, ██████████ So.2d ██████████
249 4th D.C.A. ██████████

250
251 The creditor has twenty days from receipt of the consumer's rescission notice to return
252 any money or property given to anyone and to take appropriate and necessary action
253 to reflect the termination of the security interest. U.S.C. § 1635(██████████) Reg. Z. §§ 226.
254 ██████████ 226.██████████

255
256 After the creditor has complied with the preceding mandate, the consumer tenders back to the creditor
257 any money or property received. U.S.C. § 1635(██████████) Reg. Z. §§ 226.██████████ 226.██████████

258
259 Congress did not intend for creditors to escape liability for merely technical violations, that even
260 minor or technical violations impose liability upon the creditors. ██████████ v. ██████████
261 ██████████ Co., 713 F.2d ██████████ (4th Cir. ██████████) See also, ██████████ v. ██████████ Mortg. Co.,
262 ██████████ W.L. ██████████ (N.D. ██████████)

263

264 A lawsuit for violation of TILA may be based upon a lenders failure to comply with disclosure
265 requirements. U.S.C. §§ [REDACTED] Most of TILA violations involve the creditor's failure to
266 charge the correct amount, failure to disclose all the material terms, or failure to provide
267 necessary forms or documents required by the Act.

268
269 A creditor may also violate TILA by engaging in fraudulent, misleading, and deceptive practices
270 that conceal the TILA violation occurring at the time of closing. Often consumers do not
271 discover any violation until after they have paid excessive charges imposed by their creditors.
272 Consumers who later learn of the creditor's TILA violations can allege an equitable tolling of the
273 statute of limitations. When the consumer has an extended right to rescind or pursue other
274 statutory remedies because a violation occurs, the statute of limitations for all the damages the
275 consumers seek extends to three years from the date the violation is revealed. [REDACTED] v. [REDACTED]
276 [REDACTED] Co., 215 F.R.D. [REDACTED] (D. Mass. [REDACTED])

277
278 **C. Provide opinion and inference on the ultimate issue(s) not intended to be**
279 **objectionable because it includes issues to be decided by the Trier of fact.**

280
281 There are significant issues of toxicity in this case.

282 **Raised:**

- 283 • the court does not have jurisdiction in the case.
- 284 • the mortgage was actually paid in full.
- 285 • the original lender trying to foreclose actually sold the mortgage and is not the “Master Servicer”
286 with the rights to foreclosure on behalf of the real owner.

- 287 • the current owner of the note is someone other than the entity foreclosing.
- 288 • MERS has had similar cases dismissed for similar reasons in other courts.
- 289 • The Servicer attempting to foreclose has willfully and with knowledge beforehand, previously made
- 290 material misrepresentations in this case to the court.
- 291 • TILA loan cancellation under extended rights of rescission

292

293 We have **not raised** the following issues which are noted on this case as likely material issues to be
294 raised in the next stages of our processes of forensic lender discovery.

- 295 • The loan losses were insured and perhaps collected on.
- 296 • The loan was sold for tremendous profits, potentially many times the face amount of the mortgage
- 297 and this fact has not only been kept from the court, it has been intentionally hidden.
- 298 • False affidavits have been submitted to the court, perpetrating misrepresentation and fraud.
- 299 • The investor owning this mortgage was already reimbursed for the loss and paid off for all or part of
- 300 this particular mortgage.
- 301 • The lender/servicer has not divulged that the extent to which it will receive proceeds from the sale of
- 302 foreclosure and clearly identify amounts the true investor owner will receive.
- 303 • This Lender has made misrepresentations that when taken in the context of laws, acts and a
- 304 regulation of Congressional mandate to protect the borrower consumer has lied and in so doing has
- 305 committed fraud upon the court.

306

307 Considering the toxicity of ownership evidenced in Section B above, it would appear the party
308 attempting to foreclose as the current holder of the properly transferred original note, properly endorsed
309 as required at law, is not that party so entitled.

310

311 Certain facts are undisputable by their written nature as federal SEC filings. We have seen the written
312 evidence. We see the mortgage deed of trust note specifically listed in the SEC Filings. We know who
313 the owners are. We know the parties designated to hold the current original note. We know MERS is not
314 the holder of the note and never were and we see no claims to that effect in the documents provided.

315

316 It is my opinion that the sole Trier of facts, the Judge in this case, expects party's bringing actions,
317 especially actions to alienate a homeowner from their property and in essence, put them on the street, be
318 open and truthful to the facts. As a mortgage analyst, unfortunately we catch lenders and servicers
319 mocking the court and in effect, winding up with a home their mortgage obligation was already paid in
320 full on. To make matters worse, the investor who purchased the mortgage has in all too many cases, not
321 been the beneficiary of the foreclose sale. The property is absorbed into the servicer's Real Estate
322 Owned inventory and sold later for additional and substantial profits.

323

324 There are material issues in this case that do not concern mere technicalities, such as was notice posted
325 four weeks in advance, or whether a sign was placed on the home for two weeks. When a lender gave a
326 loan and the borrower is not paying the lender is entitled to foreclose in due process.

327

328 The securitization process is very confusing. I recommend the borrower's attorney provide an [REDACTED]
329 version of my book to the Judge for their interest ([REDACTED] written permission) in
330 the matter. It is readily apparent that this transaction meets the type of transaction detailed in my book.
331 Loan servicers are known to take property away from both a borrower and the investor that bought the
332 mortgage, without express permission and documentation from the investor. A court of equity might not

333 want to permit this to happen without allowing time and due process to reveal the pertinent material
334 facts.

335

336 My firm stands ready to perform our mortgage analysis services in a professional third party manner to
337 uncover the real facts of securitized transactions and TILA violations. I personally am available with
338 reasonable advance notice of one day or so, to speak with the Judge and any parties the Judge wishes to
339 include on the issues presented in this evidentiary findings report. I will be on personal vacation from
340 December 24th, 2009 through January 5th, 2010. It would be my pleasure and honor to answer any
341 questions and provide any research and investigation the Judge may have on any issue within my area of
342 expertise. Judges understand the financial constraints of borrowers in foreclosure and so does my firm.
343 In this regard we make ourselves available via conference call or phone call at a nominal rate. We also
344 provide net meeting facilities at no charge, whereby a Judge may use their computer to log into a net
345 meeting provider and observe documentation we have on our side, without the burden of having to sort
346 through the many hundreds and often thousands of pages of documentation in securitized mortgage
347 backed transactions.

348 My personal contact information is:

349 Private business phone: [REDACTED]

350 Cell phone: [REDACTED]

351 Personal email: [REDACTED]@[fpg-usa.com](mailto:[REDACTED]@fpg-usa.com) (will not have email access 12/24/2009 through 1/5/2010)

352 **Sincerely,**

353

354 **Richard M. Kahn**

355 Senior Forensic Loan Audit Expert