

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA
CIVIL DIVISION

DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS TRUSTEE
OF ARGENT MORTGAGE
SECURITIES, INC. ASSET-BACKED
PASS-THROUGH CERTIFICATES.
SERIES 2006-MI, UNDER THE
POOLING AND SERVICING
AGREEMENT DATED AS OF JUNE 1,
2006, WITHOUT RECOURSE,

Index No. 07-34426 CA32

Plaintiff,

vs.

YOLANDA A. KENNY, et al.,

Defendants.

AFFIDAVIT OF LYNN E. SZYMONIAK, ESQ.,
AS DEFENDANTS' EXPERT

STATE OF FLORIDA
COUNTY OF PALM BEACH

LYNN E. SZYMONIAK, Esq., having been duly sworn, deposes and states that if sworn as a witness she can testify competently to the facts stated in this affidavit, based upon her personal knowledge:

1. I am an adult citizen of the United States, and have resided in Palm Beach County, Florida since 1979.

2. I am an attorney and was admitted to the Florida Bar in 1980. My business address is: The Szymoniak Firm, P.A., The Metropolitan, PH2-05, 403 S. Sapodilla Avenue, West Palm Beach, Florida 33401. Telephone: (561) 630-6928. I have practiced law in Palm Beach County for 31 years. I am a graduate of Bryn Mawr College in Bryn Mawr, Pennsylvania, and Villanova Law School in Villanova, Pennsylvania.

3. For the past twenty years, my practice has primarily been in cases involving white-collar crime allegations, particularly, in representing major insurance companies in claims that they have been defrauded by large policyholders.

4. In the last ten years, I have also served as an expert witness in civil and criminal cases. In criminal cases, I have served as an expert witness for the United States of America and the State of California. I have testified at trial in four federal court cases including two in Jacksonville, Florida, where the allegations involved false and fabricated documents including fabricated insurance policies and certificates of insurance. The two Jacksonville cases were United States v. Thomas King, Case No. 3:05-cr-52-J-99MMH, Middle District of Florida, Jacksonville Division and United States v. Donald Touchet, et al., Case No. 3:2007cr00090, Middle District of Florida, Jacksonville Division. My designation as an expert and the use of my testimony were affirmed in an 11th Circuit opinion, United States v. Robert D. Jennings, Case No. 08-13434 (11th Cir. Jan. 5, 2010). I also submitted

an expert opinion for the government in a New York Northern District federal case that ended in a guilty plea: United States v. James Kernan, Case No. 5:2008cr00061. I have also been designated an expert on insurance regulatory matters in Florida and testified at trial in April, 2010, in a federal criminal trial involving financial guaranty insurance, United States v. Michael Zapetis, et al., Case No. 8:2006cr00026, Middle District of Florida, Tampa Division. This case also resulted in a guilty verdict. On July 19, 2010, I testified in a criminal insurance fraud trial in Charleston, South Carolina, that also ended in a guilty verdict, United States v. Robert Kohn, Case No. 2:2009cr01127. I have also worked as a consultant/expert for the South Carolina Department of Consumer Affairs and the South Carolina Department of Insurance. I also submitted an expert opinion in a California state case involving fraudulent insurance practices and documents that resulted in a guilty plea in March, 2010, the People of the State of California v. Mitchell Zogob, Orange County, California. I have testified as an expert in a foreclosure case in Harris County, Texas.

5. I have written several articles on mortgage foreclosures and residential mortgage-backed securitized trusts, including the following: "An Officer of Too Many Banks," *Fraud Digest*, January 14, 2010; "Too Many Jobs," *Fraud Digest*, January 19, 2010; "Mortgage Assignments As Evidence of Fraud," *Fraud Digest*, February 9, 2010; "Inroads on Foreclosure Fraud by Mortgage Servicers" *Fraud Digest*, April 7, 2010; "Mass-Produced Affidavits Filed by Foreclosure Firms," *Fraud Digest*, April 13, 2010; "How Lender Processing Services, Inc. Solves Deutsche Bank's Missing Paperwork Problem in Foreclosures," *Fraud Digest*, April

16, 2010 and "The Real Employers of the Signers of Mortgage Assignments to Trusts," *Fraud Digest*, May 14, 2010.

6. I was formerly a Certified Fraud Examiner, and have had nine hours training by the National Association of Certified Fraud Examiners in identifying forged and fabricated documents, in a course taught by retired agents of the FBI.

7. I have examined over 5,000 Mortgage Assignments and I am familiar with such documents, and how they are properly prepared and signed.

8. I have examined a copy of two Mortgage Assignments filed in this matter, copies of which are attached hereto as Exhibits A and B. In my opinion, these Assignments are fraudulent for the reasons set forth below in paragraphs 9 through 20.

9. The first Assignment (Exhibit A) was dated October 31, 2007. The Assignee was Argent Mortgage Company, LLC by Citi Residential Lending, Inc. as Attorney-In-Fact, and signed by Kelly Rader who is identified as "Authorized Agent." The grantee was the plaintiff herein, Deutsche Bank National Trust Company, as Trustee of Argent Mortgage Securities, Inc., Asset-Backed Pass-Through Certificates, Series 2006M-1. The effective date on this Assignment was left blank. This Assignment was recorded on December 1, 2007.

10. The second Assignment (Exhibit B) is titled "Corrective Assignment of Mortgage." This Assignment was dated December 17, 2008, but notarized on December 17, 2007, one year BEFORE it was signed. A

sentence is included on this Assignment saying that it is to be effective on July 1, 2006. The Assignee was Argent Mortgage Company, LLC by Citi Residential Lending, Inc. as Attorney-In-Fact, and signed by Debbie Lee who is identified as "Authorized Agent." The grantee was the plaintiff herein, Deutsche Bank National Trust Company, as Trustee of Argent Mortgage Securities, Inc., Asset-Backed Pass-Through Certificates, Series 2006M-1. This Assignment was recorded on May 12, 2009.

11. The first Assignment is defective because it fails to set forth an essential term, the date on which the Assignment purportedly took place. This date is especially critical in transfers of real property so that subsequent purchasers may determine whether there is an unbroken chain-of-title and because of tax consequences of transfers of real property. This date is also essential where the assignment is made to a mortgage-backed trust because such trusts have strict rules regarding the date on which all such transfers must be made.

12. This action was filed on October 18, 2007. Using either the date that Assignment A was notarized, October 31, 2007, or the date that this Assignment was recorded, December 1, 2007, it is certain that the plaintiff in this matter, Deutsche Bank National Trust Company, as Trustee of Argent Mortgage Securities, Inc., Asset-Backed Pass-Through Certificates, Series 2006M-1, did not have standing to bring this action at the time it was filed.

13. This issue of standing is of critical importance in foreclosure cases. On February 11, 2010, the Florida Supreme Court addressed this problem by amending the Florida rules of Civil Procedure as

recommended by the Supreme Court's Task Force on Residential Mortgage Foreclosure Cases. Rule 1.110(b) was amended to require verification of mortgage foreclosure complaints involving residential real property. According to the Court, the primary purposes of this amendment was: (1) to provide incentive for the plaintiff to appropriately investigate and verify its ownership of the note or right to enforce the note and ensure that the allegations in the complaint are accurate; (2) to conserve judicial resources that are currently being wasted on inappropriately pleaded "lost note" counts and inconsistent allegations; (3) to prevent the wasting of judicial resources and harm to defendants resulting from suits brought by plaintiffs not entitled to enforce the note; and (4) to give trial courts greater authority to sanction plaintiffs who make false allegations.

14. The second Assignment is defective because of the discrepancy in the dates. A signature dated in 2008 cannot possibly have been notarized in 2007. In my opinion, this is a plain - and poorly done - attempt to provide a document that would somehow confer standing on the Trustee/Plaintiff.

15. I have also examined the Note submitted in this case, a copy of which is attached as Exhibit C. This note is signed by Sam Marzouk who is identified as the President of Argent Mortgage Company, LLC. I have searched the records of Argent Mortgage Company, LLC in the Division of Corporations, Florida Secretary of State, and determined that Sam Mazouk was not listed as an officer of the corporation until 2008. The endorsed note therefore also could not have been

transferred to the trust by the closing date of the trust as required by the trust documents.

16. I am familiar with the mortgage securitization process and I have written several articles regarding mortgage securitization. The trust referenced on the Assignment in this case would have had a closing date or cut-off date, the final date when properties could have been added to the trust under the terms of the Pooling and Servicing Agreement that governed the trust, is June 28, 2006.

17. In the rush to securitize residential mortgages, many securities companies did not secure the essential paperwork. In particular, many trusts have missing Mortgage Assignments. This is true even though the trust documents set forth plainly that such Assignments shall have been delivered to the Trust by the loan originators by a set closing date. In the present case, Argent Mortgage Company (the originator) should have delivered a signed and dated Assignment to the Trust Depositor, then in turn the Depositor should have delivered a signed and dated Assignment to the securities company/underwriter, who should have in turn delivered a signed and dated Assignment to the trustee for Argent Mortgage Securities, Inc. Asset-Backed Pass-Through Certificates, Series 2006-M1 Trust **by June 28, 2006.** Mortgage-backed trusts are not allowed under their own rules to acquire non-performing loans after the closing date of the trust and add such loans to the trust. Mortgage-backed trusts contain very specific provisions regarding conveyances of mortgages, notes and Assignments and most often even include the form that each document custodian must sign attesting to the delivery and acceptance of such documents. Trusts must comply with these rules

regarding acquiring the mortgages therein by the closing date of the Trust or risk losing their tax-exempt status under the IRS REMIC Rules.

18. Mortgage-backed trusts are not allowed under their own rules to acquire non-performing loans after the closing date of the trust and add such loans to the trust. These rules are in place to protect the investors in the trust.

19. The failure of certain mortgage-backed securitized trusts to produce Assignments has been noted by several Courts, including 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:

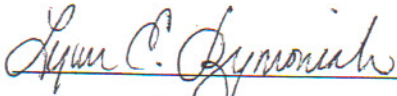
...the plaintiffs' own securitization documents *required* mortgage assignments to be made to the plaintiffs in recordable form for *each and every loan* at the time the plaintiffs acquired them. Surely, compliance with this requirement would (and certainly *should*) have been a priority for an entity 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 (KCL). See, *U.S. BANK, N.A. v. Antonio Ibanez, et al.*, Commonwealth of Massachusetts, Land Court Dept., 08 MISC 384283 (KCL).

20. In thousands of Assignments I have examined, new "replacement" Assignments have been prepared and presented to Courts without any disclosure to the Court or to the Homeowner/Defendants that the original Assignments were lost. Very frequently, mortgage

assignments for Argent Mortgage Securities Trusts cannot be produced and Assignments from Citi Residential Lending, Inc. are filed to replace the missing assignments.

21. For all of the reasons set forth above, it is my opinion that the Assignments and the endorsed Note submitted herein are fraudulent.

FURTHER AFFIANT SAYETH NOT.

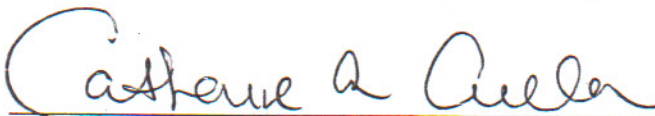


LYNN E. SZYMONIAK, ESQ.

COUNTY OF PALM BEACH
STATE OF FLORIDA

Before Me, the undersigned authority, on this 13th day of December, 2010, personally appeared LYNN E. SZYMONIAK, known to me to be the person whose name is subscribed to the foregoing Affidavit, and acknowledged that she executed the same for the purposes therein contained.

In witness whereof, I here unto set my hand and official seal.



CATHERINE A. CULLEN



CATHERINE A. CULLEN
MY COMMISSION # DD 996164
EXPIRES: June 2, 2014
Bonded Thru Budget Notary Services