

A Few Facts about MERS

1. MERS is incorporated within the State of Delaware.
2. MERS was first incorporated in Delaware in 1999.
3. The total number of shares of common stock authorized by MERS' articles of incorporation is 1,000.
4. The total number of shares of MERS common stock actually issued is 1,000.
5. MERS is a wholly owned subsidiary of MERSCorp, Inc.
6. MERS' principal place of business at 1595 Spring Hill Road, Suite 310, Vienna, Virginia 22182
7. MERS' national data center is located in Plano, Texas.
8. MERS' serves as a "nominee" of mortgages and deeds of trust recorded in all fifty states.
9. Over 50 million loans have been registered on the MERS system.
(UPDATE 9/11/2011: 70 MILLION American Mortgages)
10. MERS' federal tax identification number is "541927784".
11. MERS does not take applications for, underwrite or negotiate mortgage loans.
12. MERS does not make or originate mortgage loans to consumers.
13. MERS does not extend any credit to consumers.
14. MERS has no role in the *origination* or *original funding* of the mortgages or deeds of trust for which it serves as "nominee".
15. MERS does not service mortgage loans.
16. MERS does not sell mortgage loans.
17. MERS is not an investor who acquires mortgage loans on the secondary market.
18. MERS does not ever *receive* or *process* mortgage applications.
19. MERS simply holds mortgage liens in a nominee capacity and through its electronic registry, tracks changes in the ownership of mortgage loans and servicing rights related thereto.
20. MERS© System is not a vehicle for creating or transferring beneficial interests in mortgage loans.
21. MERS is not named as a beneficiary of the alleged promissory note.
22. MERS is never the *owner* of the promissory note for which it seeks foreclosure.
23. MERS has no legal or beneficial interest in the promissory note underlying the security instrument for which it serves as "nominee".

24. MERS has no legal or beneficial interest in the loan instrument underlying the security instrument for which it serves as “nominee”
25. MERS has no legal or beneficial interest in the mortgage indebtedness underlying the security instrument for which it serves as “nominee”.
26. MERS has no interest at all in the promissory note evidencing the mortgage indebtedness.
27. MERS is not a *party* to the alleged mortgage indebtedness underlying the security instrument for which it serves as “nominee”.
28. MERS has no financial or other interest in whether or not a mortgage loan is *repaid*.
29. MERS is not the *owner* of the promissory note secured by the mortgage and has no rights to the payments made by the debtor on such promissory note.
30. MERS does not make or acquire promissory notes or debt instruments of any nature and therefore cannot be said to be acquiring mortgage loans.
31. MERS has no interest in the *notes* secured by mortgages or the mortgage servicing rights related thereto.
32. MERS does not acquire any interest (legal or beneficial) in the loan instrument (i.e., the promissory note or other debt instrument).
33. MERS has no rights whatsoever to any payments made on account of such mortgage loans, to any servicing rights related to such mortgage loans, or to any mortgaged properties securing such mortgage loans.
34. The note owner appoints MERS to be its agent to only hold the *mortgage lien interest*, not to hold any interest in the note.
35. MERS does not hold any interest (legal or beneficial) in the *promissory notes* that are secured by such mortgages or in any servicing rights associated with the mortgage loan.
36. The debtor on the note owes *no obligation to MERS* and does not pay MERS on the note.
37. MERS is not entitled to receive any of the payments associated with the alleged mortgage indebtedness.
38. MERS is not entitled to receive any of the *interest revenue* associated with mortgage indebtedness for which it serves as “nominee”.
39. *Interest revenue* related to the mortgage indebtedness for which MERS serves as “nominee” is never reflected within MERS’ bookkeeping or accounting records nor does such interest influence MERS’ earnings.
40. Mortgage indebtedness for which MERS serves as the serves as “nominee” is not reflected as an *asset* on MERS’ financial statements.
41. Failure to collect the outstanding balance of a mortgage loan will not result in an *accounting loss* by MERS.

42. When a foreclosure is completed, MERS never actually retains or enjoys the use of any of the proceeds from a sale of the foreclosed property, but rather would remit such proceeds to the *true party at interest*.
43. MERS is not actually *at risk* as to the payment or nonpayment of the mortgages or deeds of trust for which it serves as “nominee”.
44. MERS has *no pecuniary interest* in the promissory notes or the mortgage indebtedness for which it serves as “nominee”.
45. MERS is not personally aggrieved by any alleged default of a promissory note for which it serves as “nominee”.
46. There exists *no real controversy* between MERS and any mortgagor alleged to be in default.
47. MERS has never suffered any *injury* by arising out of any alleged default of a promissory note for which it serves as “nominee”.
48. MERS holds the mortgage lien as nominee for the owner of the promissory note.
49. MERS, in a nominee capacity for lenders, merely acquires legal title to the security instrument (i.e., the deed of trust or mortgage that secures the loan).
50. MERS simply holds legal title to mortgages and deeds of trust as a nominee for the owner of the promissory note.
51. MERS immobilizes the mortgage lien while transfers of the promissory notes and servicing rights continue to occur.
52. The investor continues to *own* and *hold* the promissory note, but under the MERS® System, the servicing entity only holds contractual servicing rights and MERS holds legal title to the mortgage as nominee for the benefit of the investor (or *owner* and *holder* of the note) and not for itself.
53. In effect, the mortgage lien becomes immobilized by MERS continuing to hold the mortgage lien when the note is sold from one investor to another via an endorsement and delivery of the note or the transfer of servicing rights from one MERS member to another MERS member via a purchase and sale agreement which is a non-recordable contract right.
54. Legal title to the mortgage or deed of trust remains in MERS after such transfers and is tracked by MERS in its electronic registry.
55. MERS holds legal title to the mortgage for the benefit of the *owner* of the note.
56. The *beneficial interest* in the mortgage (or person or entity whose interest is secured by the mortgage) runs to the owner and holder of the promissory note and/or servicing rights thereunder.
57. MERS has no interest at all in the promissory note evidencing the mortgage loan.

58. MERS does not acquire an interest in promissory notes or debt instruments of any nature.
59. The *beneficial interest* in the mortgage (or the person or entity whose interest is secured by the mortgage) runs to the *owner* and *holder* of the promissory note (NOT MERS).

MERS as Holder

60. MERS is never the *holder* of a promissory note in the ordinary course of business.
61. MERS is not a *custodian* of promissory notes underlying the security instrument for which it serves as “nominee”.
62. MERS does not even maintain *copies* of promissory notes underlying the security instrument for which it serves as “nominee”.
63. Sometimes when an investor or servicer desires to foreclose, the servicer obtains the promissory note from the custodian holding the note on behalf of the mortgage investor and places that note in the hands of a servicer employee who has been appointed as an officer (vice president and assistant secretary) of MERS by corporate resolution.
64. When a promissory note is placed in the hands of a servicer employee who is also an MERS officer, MERS asserts that this transfer of custody into the hands of this nominal officer (without any transfer of ownership or beneficial interest) renders MERS the *holder*.
65. No consideration or compensation is exchanged between the *owner* of the promissory note and MERS in consideration of this transfer in *custody*.
66. Even when the promissory note is physically placed in the hands of the servicer’s employee who is a nominal MERS officer, MERS has *no actual authority* to control the foreclosure or the legal actions undertaken in its name.
67. MERS will never willingly reveal the identity of the *owner* of the promissory note unless ordered to do so by the court.
68. MERS will never willingly reveal the identity of the prior *holders* of the promissory note unless ordered to do so by the court.
69. Since the transfer in custody of the promissory note is not for consideration, this transfer of custody is not reflected in any contemporaneous accounting records.
70. MERS is never a *holder in due course* when the transfer of custody occurs after default.
71. MERS is never the *holder* when the promissory note is shown to be *lost* or *stolen*.

MERS' Role in Mortgage Servicing

72. MERS does not *service* mortgage loans.
73. MERS is not the owner of the *servicing rights* relating to the mortgage loan and MERS does not service loans.
74. MERS does not collect mortgage payments.
75. MERS does not hold escrows for taxes and insurance.
76. MERS does not provide any servicing functions on mortgage loans, whatsoever.
77. Those rights are typically held by the servicer of the loan, who may or may not also be the holder of the note.

MERS' Rights To Control the Foreclosure

78. MERS must all times comply with the instructions of the *holder* of the mortgage loan promissory notes.
79. MERS only acts when directed to by its members and for the sole benefit of the owners and holders of the promissory notes secured by the mortgage instruments naming MERS as nominee owner.
80. **MERS' members employ and pay the attorneys bringing foreclosure actions in MERS' name.**

MERS' Access To or Control over Records or Documents

81. MERS has never maintained archival copies of any mortgage application for which it serves as "nominee".
82. In its regular course of business, MERS as a corporation does not maintain physical possession or custody of promissory notes, deeds of trust or other mortgage security instruments on behalf of its principals.
83. **MERS as a corporation has no archive or repository of the promissory notes secured by deeds of trust or other mortgage security instruments for which it serves as nominee.**
84. MERS as a corporation is not a *custodian* of the promissory notes secured by deeds of trust or other mortgage security instruments for which it serves as *nominee*.
85. MERS as a corporation has no archive or repository of the deeds of trust or other mortgage security instruments for which it serves as *nominee*.
86. In its regular course of business, MERS as a corporation does not routinely receive or archive *copies* of the promissory notes secured by the mortgage security instruments for which it serves as *nominee*.
87. In its regular course of business, MERS as a corporation does not routinely receive or archive *copies* of the mortgage security instruments for which it serves as *nominee*.

88. **Copies of the instruments attached to MERS' petitions or complaints so not come from MERS' corporate files or archives.**
89. In its regular course of business, MERS as a corporation does not input the promissory note or mortgage security instrument ownership registration data for new mortgages for which it serves as *nominee*, but rather the registration information for such mortgages are entered by the "member" mortgage lenders, investors and/or servicers originating, purchasing, and/or selling such mortgages or mortgage servicing rights.
90. MERS does not maintain a central corporate archive of demands, notices, claims, appointments, releases, assignments, or other files, documents and/or communications relating to collections efforts undertaken by MERS officers appointed by corporate resolution and acting under its authority.

Management and Supervision

91. In preparing affidavits and certifications, officers of MERS, including Vice Presidents and Assistant Secretaries, making representations under MERS' authority and on MERS' behalf, are not primarily relying upon books of account, documents, records or files within MERS' corporate supervision, custody or control.
92. Officers of MERS preparing affidavits and certifications, including Vice Presidents and Assistant Secretaries, and otherwise making representations under MERS' authority and on MERS' behalf, do not routinely furnish *copies* of these affidavits or certifications to MERS for corporate retention or archival.
93. Officers of MERS preparing affidavits and certifications, including Vice Presidents and Assistant Secretaries, and otherwise making representations under MERS' authority and on MERS' behalf are not working under the supervision or direction of senior MERS officers or employees, but rather are supervised by personnel employed by mortgage investors or mortgage servicers.

This should be a pretty good start for those of you faced with a foreclosure in which MERS is falsely asserting that it is the *owner* of the promissory note. Whether MERS is or was ever the holder is a FACT QUESTION which can be determined only by ascertaining the *chain of custody* of the promissory note. When the promissory note is lost, missing or stolen, MERS is NOT the *holder*.
By William A. Roper, Jr. Excerpted from the MSFraud Forum thread "Facts about MERS / MERS Unmasked"