Why You Should Never Make an Admission to a Contract of Indebtedness

We understand the operating documents of the Pooling and Servicing Agreement and if the security evidence by the mortgage security instrument, conveyed with the tangible note negotiation, before the cut off data of the REMIC.

We are absolutely familiar with how you would sit down and break down a true sale from party A from party B to convey the security and to maintain the fiduciary duty under the Common Law Deed of Trust to release and reconvey, release and reconvey, to maintain clear and marketable title.

So, we know the foundation under the UCC for that.

Then, we also understand the underlying arguments that the banks and their attorneys use against people making securitization foreclosure defence arguments, which may have done a proper statement of fact as to what's required to accomplish a true sale between all these parties and maintain perfection over the lien.

However the banks and their attorneys are going to succeed by not having a Chain of Title, by stating that they negotiated the note in Bearer Form under Article UCC 3205 Sub section B with no payee named as a bearer instrument.

This essentially gives them a purported temporary perfection of the original holder, while they physically transfer the instrument, by daisy chain, which doesn't require for them to maintain a Chain of Title, until the instrument is specially endorsed.

This is how the banks and their attorneys beat almost everybody from New York to California on standing, and whether or not they had a secured interest over the lien; because nobody has a the way to argue against whether or not they made the instrument of bearer paper and physically negotiated it, because they weren't required to maintain a Chain of Title in that aspect.

So that's how the banks and their attorneys are able to win nine times out of ten. Because what they're saying is that in the negotiation under 3205 B, the security followed the note, whenever the custodian of record received the instrument prior to the cut-off date, making the note and the security securing trust property before the cut-off date.

That's how the banks and their attorneys are able to beat you.

So let's reverse engineer this, let's take that note all the way back to the closing, and reverse the whole concept and transaction.

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What you have to be able to show is that you have one purported transaction, concealing the realistic transaction.

Did the lien's beneficial interest maintain perfection, and was it therefore eligible to be negotiated with the note in that capacity, as statutorily required?

However what that would require that you were the actual creditor and that you actually made that note as a *maker issuer*, for the purposes of being the beneficiary of the debt that was created.

This is what the banks and their attorneys want you to believe in the matter of equity:

1. That your signature was as a maker issuer and therefore created value to the instrument
2. You negotiated with the party that you sat down at closing with
3. They accepted the instrument by negotiation
4. They were a federal reserved depository institution that could accept article three instruments by deposit
5. They gave you consideration in the form of cash, not *Ultra Vires,* for your promise to pay instrument executing an underlying indebtedness contract

Well in an IRC 1031 Like Kind Exchange, Table Funded Securitized Mortgage Loan Transaction that didn't happen. That did not happen; that negotiation, acceptance and consideration is not what a table funded securitization transaction is!

So the money is not created from your signature, negotiated and then the note negotiated between state to state physically, that doesn't happen in a table funded transaction. Rather it's in direct reverse engineer - the money was created from the sale of the certificates and the special deposit, special purpose vehicle on Wall Street.

They take the certificate holders funds to the securities to special deposit the pool of assets. That pool of assets is used in the SPV alternative investment opportunity through the warehouse line of credit, and that's what the sponsor bank is using as the table funding credit in the transaction itself.

So yes, we would have some arguments like robo-signing and the improper negotiation, transfer, and delivery of the mortgage loan contract all the way through the securitization scheme, as part of the material defects found in the transactional scheme itself - but what we don't want to do is provide any language as an admission to you being the account debtor.

You also want to make sure you understand what is meant by using terms like the "alleged debt", because you're going to piss the Judge off, really badly; a lot of people do it. Because, they don't know how to speak to the transaction as it relates to what that means.

So let me give you the perspective that the Judge is going to have. The Judge is only looking at the intent of the contract. So all the little details, the semantics of this right now, the first thing the Judge is going to do, is look at it from a cursory equity standpoint.

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Q: Did you intend to get a home
A: Yes

Q: Are you in a home?
A: Yes

Q: Okay, so you're in the collateral.
A: Yes

Q: Okay and did you intend whenever you went to go get the home to get an obligation or a loan associated to that.
A: Yes

Okay, yes that's obvious or else you wouldn't be in the collateral

Q: Okay so you're in the collateral - an obligation exists - and you also pledged a lien to encumber your property to secure that obligation, so that if you couldn't perform on the contractual payment obligation the holder of the obligation would have the lien to enforce, do a foreclosure sale to enforce an ultimate means of collection.
A: Yes.

Okay. So just looking at the intent of the contract, you are in the collateral, you know that you signed something at the closing- there's an obligation – and it's in default.

The institutions claiming to be the holder of that obligation and to be the secured party of record via an assignment of the security instrument perfected in public record.

Are there any other parties that are involved in this transaction?

No!

And if some other financial institution was holding an obligation and saw that deed of trust or signed with a deed of trust recorded on public record, they would immediately file to acquire the title and they would be there defending their right to the obligation and the collateral itself.

So because there's no other financial institution showing up claiming to be the holder and to having a subsequent assignment of deed of trust or mortgage recorded for enforcing through a foreclosure action - than nine times out of ten - the Judge is going to give the party holding the obligation the benefit of the doubt as a matter of the intent of the contract.

So, in terms of the intent of the contract, this is where it becomes so viable for you to understand, what your capacity into the transaction is.

When the judge ask you:

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> *"Did you sign the note - in the effort to get the collateral?"*
>
> *Your answer is "Yes." - But you need to be able to specify the answer to yes as "well yes your honour but I'm not the account debtor. I signed into this transaction as an accommodation party or guarantor. The party that I signed as a guarantor for, made available the obligation through a securitization transaction without my knowledge and purportedly negotiated the security evidence by the deed of trust/mortgage lien that I pledged to them, uniquely, to secure these receivables in this transaction as well.*
>
> *What I need to know your honour is does my lien secure the tangible contractual obligation or does it secure the receivables?"*

The answer to the receivables is no. You cannot attach article 9 to the UCC receivables (securities) to enforce a lien on real property. A lien on real property under revised article nine is not secured by a lien on real property, so article nine does not fit the common law argument that the transfer of an obligation carries the beneficial interest of the lien and the lien itself.

Here is the lie that the banks almost always defeat homeowners with.

> *"Here's a copy of the note your honour, the security follows the obligation we all know that."*

Yes, that's accurate, under common law and U.S. Supreme Court. *Carpenter v. Longan* (1872) the note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while an assignment of the latter alone is a nullity.

Furthermore under revised article 9 of the Uniform Commercial Code (UCC) the banks do not necessarily have to record each transfer of the mortgage loan contract in public records; all they have to do is, in essence, be in possession of the note and they can claim rights to enforce it.

Therefore you need to be able to be able to explain (and prove) how your capacity is to the obligation. "Your honour I am not the account debtor. I was a guarantor to this party. I am not a guarantor to everybody else that claims to be the holder of the obligation"

And it's their capacity of an accommodated party to the certificate holders on Wall Street. They're not the real creditors. Their job is to put the certificate holders into funds associated to your payment string.

All of this is predicated on laying the proper order of operations, in line with statutory capacities, that clearly part and parcel and separate the root question of: Does revised article nine and liens on real property secured defaulted receivables in a securitization transaction?

That's your root question.

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You just have to be able to have it all put in the proper sequence in statutory capacities, as it relates to your state, and what took place in order to defend the lien itself the property.

How have you been harmed?

In pre-foreclosure it's not so much that you've actually been harmed, it's whether or not they have clean hands in the transaction. So this, at its root is an Equitable Estoppel issue. In the like kind exchange transactional scheme there is a senior secured party and a junior secured party – the originator of the loan (named on the note as the lender) is the senior secured party, and the trustee for the REMIC trust is the junior secured party.

But it's one transactional scheme, its one organism, so you have to be able to show that they - in the race of diligence - that the junior secured party made sure that the originator recorded that underlying security of trust, so they could perform the rest of the transaction. But ten years later upon default of the receivables, to cause an assignment of the beneficial interest of evidence about your underlying security instrument, that security instrument doesn't maintain perfection from now, until infinity. You can lose perfection over that lien.

So, having the proper capacity, order of operations, and then statement of facts of how they lost perfection, and to show that it is inequitable for the holder of the receivables to attempt to cause an assignment of the underlying security instrument, because they were only negotiated the receivables, with unclean hands. That's what you have to show that they don't have an equitable claim to.

Hypothecation is a third party pledging collateral on your behalf. So, let's say for instance, if you pledged the real property to the originator party on the ten thirty one exchange transaction scheme you specifically gave legal title to that party. Not to the trustee under that instrument, and the beneficiary of the security instrument. The beneficiary of the security instrument then in turn pledged a separate and subsequent value - which is the proceeds of the real property.

Let me give you an example. Consider a wheat field. The land is the real property, but the Wheat and the Harvest are the proceeds of the real property.

In this securitization transaction the original secured party is granting the proceeds, the actual required collateral to the real property and hypothecating that proceed as the payment intangible, which is the transferable record on the obligation.

So, you have to be able to show that it's under revised article nine; it does not apply to liens on real property. It may apply to title loans, student loans, and unsecured obligations, but it does not apply to liens on real property.

Remember, it's either you sold the contract in its entirety to a successor and interest through a true sale; or you sold the underlying tangible value of the contract.

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Remember when people paid off their loans and they received their notes and their deed back, and they would have deed burning parties?

That doesn't happen anymore because that transactional scheme where that was your note, that you made and negotiated with a bank that could accept it, deposit it, and give you real money for a loan so you could purchase the property. That's the savings and loan model.

In that transaction the bank you contracted with actually risked giving you real money, and was going to hold that thirty year instrument until its full rate of return. Its portfolio division wanted to buy that obligation and they underwrote you as your credit worthiness and they gave you the loan. You had skin in the game, you qualified financially and they were willing to take a risk on you. That was a real contract between you and the bank.

But what happened with the securitization bubble is they lifted the Glass–Steagall Act and the Gramm Bliley Leach Act and they made way for this transactional scheme were they could divert the risk of creating the money, which was done by lying and cheating the certificate holders through a perspective supplement which was pre-fabricated on the yield spread of those securities, under the nineteen thirty three, thirty four Security and Exchange act.

So they went to Standards & Poor's and they got all those credit enhancements and they pre-sold those securities. Well that's what the special deposit is for the REMIC trust, the trust vehicle; the special purpose vehicle. So, through special deposit, they generated those funds with the sale of the securities, that's what makes the credit swaps available for the sponsor bank, to work with the originator to the table fund transaction.

Once you're able to understand the blue print of the transaction and then you set the order of operations in place, and then you couch the interested parties, and then couch their capacity, and then what are they negotiating and what's its statutory intangible interest, and what governs that, and once you set the mouse trap in place, and it can follow the order of operation it's not that complicated.

To get to the root question you just have to be able to see all of that and to be able to understand the root question.

The root question is "in what capacity did you sign the note (as maker/issuer) or as an (accommodation party/guarantor)?

If your loan was part of a table funded securitized transaction where the note and mortgage were converted into a mortgage backed security and sold to a Wall Street trust then you signed the note as a guarantor; and therefore the security instrument (mortgage/deed of trust) is void.

To discover if your mortgage loan contract was securitized, or to determine if you have legal standing for a potential cause of action against your lender or loan servicer register for a free mortgage fraud analysis and get the facts and evidence you need to gain the legal remedy that the law entitles you to (and that you deserve) at: http://www.fraudstoppers.org/

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