CONFIDENTIAL REPORT:

HOME OWNERS CAN WIN FORECLOSURES

Involving Mortgage Securitizations into Private Label REMIC Trusts

And the Secret Way Park Place Affidavits Defeat the Banks & Servicers at Summary Judgment

Plus: Foreclosure Court Strategy

Most Information Not Available on the Internet

-- This Report is Primarily for U.S. Home Owners Living in Judicial Foreclosure States. --

Twenty two states have judicial foreclosure and 28 states do not. Colorado uses both.)

By Dan F. Schramm

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Park Place Securities, Inc. is incorporated in Florida. It is registered as a foreign corporation and has a Certificate of Authority in the State of New York (the REMIC trusts are generally under New York law), the State of Indiana, Colorado and other states ongoing. This gives us standing to appear in courts of these states and in these states we are the only Park Place Securities, Inc. that there is or will ever be.

Disclaimer: This report is general legal information and opinion of the author. It is not legal advice for your individual situation. This report does not establish any legal or representational relationship between us and you. This report is general advice and an explanation of how things work and what you might be able to do to affect a REMIC foreclosure. We always recommend consulting with a qualified attorney. If you are proceeding pro se we recommend you use all sources of information available to you and make your own determinations for what is best in your individual legal situation.

Disclaimer: We do not offer legal representation. We do offer evidence to use in court in the form of affidavits, depositions, and direct trial testimony. We may also offer amicus curie briefs to the court, totally independent of your legal representation or pro se status, in cases of interest to us. In cases affecting our rights, the rights of REMIC certificate investors, and the rights of the Depositor of Park Place REMIC trusts we reserve the right to intervene in any court proceedings at any time before final judgment in any and all states in which we have corporate standing. If intervention is denied, we have the right to immediate appeal and the foreclosure action will be abated until the court of appeals rules on our intervention appeal.

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HOW THIS ALL WORKS:

If your home loan and mortgage is from 2000 to 2007 (perhaps earlier) chances are it was sold into a REMIC (Real Estate Mortgage Investment Conduit) trust. (You probably have already lost your home to foreclosure if your securitization pre-dates 2004. There are exceptions to every generalization of course.)

That means your home loan has been securitized or is part of a securitization. These are also called Mortgage Backed Securities (MBS). An MBS encompasses more than just REMIC trusts, so it is more a generic identifier. They are also called RMBS for “Real Estate Mortgage Backed Securities”.

MBS also applies to securitization of multi-family, commercial properties such as shopping malls and hotel rooms. Other assets have also been securitized over the years.

REMIC trusts normally contain single family homes as a majority of the assets. Generally they are limited to buildings with up to 4 residences. A two story duplex or a side by side are good examples of something other than a single family home that is common in a REMIC trust. Multiple homes/buildings can also be contained on the same plated piece of property.

This all started in 1986 with the Tax Reform Act when the U.S. Congress permitted a new type of investment security called a REMIC trust certificate. REMIC activity really took off during 2003-2005. Banks and loan companies holding mortgage promissory notes no longer had to wait 30 years to collect on their home loans. They could sell their loans to a trust sponsor and get their money right away.

Ultimately, this fueled a mad dash to create all the home loans possible which in turn fueled an economic boom in construction and other real estate related businesses. It also fueled the lowering of credit standards -- sub-prime mortgages -- and the gross inflation of home appraisals. Most of these loans had low payments for the first few years and then radically jumped, at just the time the economy was slowing. Wall Street had an insatiable appetite for REMIC trust securities which they sold – primarily to institutional investors – all over the world, until it all came crashing down in 2008.

Under the REMIC trust agreement and contract, called the Pooling and Servicing Agreement (PSA) every party had specific obligations and duties. Greed and human nature being what it is; many of these obligations were never fulfilled. Now – and since 2008 -- everyone in the industry has been scrambling to cover their butts.

Let's go back to explaining how REMIC trusts are supposed to work and how they work in reality.

Usually the loan originator and the REMIC trust sponsor were related businesses; however they were legally separate corporations. In the Park Place trusts, Argent Mortgage (the loan originator), Ameriquest (the trust sponsor) and Park Place (the depositor) were separate corporations but all owned by ACC Holdings, Inc. ACC is now long gone.

The biggest problem with these trusts is that the government allowed the trust certificates to be sold before any of the notes and mortgages were actually deposited into the trust. The banks and others were so busy selling their loans and selling securities, they seldom bothered to follow their obligations and fiduciary duties under the trust prospectus, and the contract/trust agreement called the Pooling and Servicing Agreement (PSA). This fact can help you.

This special report will help anyone having their home foreclosed by a bank as Trustee for a private label REMIC trust. There are about 10,000 private label REMIC trusts, most created by big mortgage firms and banks, with some created by other financial entities such as GMAC (General Motors Acceptance Corporation.)

The majority of REMIC trusts were created with the involvement of Ginnie Mae and Federal Housing and VA Administration government guaranteed mortgage loans; or Freddie Mac and Fannie Mae (government formed) publicly traded corporations owned by their shareholders. The problems with private label trusts discussed in this book generally do not apply in that case, but most of the strategy to fight REMIC foreclosures will apply and this book will still be a very valuable resource. Freddie and Fannie are also guilty of the illegal practices carried out by the banks creating and administering private label trusts.

I am sometimes asked about the difference between a REIT trust and a REMIC trust and this is a good time to explain. Even federal bankruptcy judges have failed to understand the difference. This has become a subject of confusion, because the rules are different. A REIT can accept promissory notes endorsed in blank, while a REMIC can not (at least in New York and most REMIC trusts are under New York law.) A REIT is a “Real Estate Investment Trust”. The REIT is an actual corporate entity. It is a business corporation with all the rights of any other corporation.

On the other hand, a REMIC is not. A REMIC has no corporate powers. It is a Special Purpose Vehicle (SPV) which is completely passive. It is a pass-through entity. It can’t conduct business. It can’t take on debts. It can’t own physical property or even cash. It can only hold promissory notes and mortgages.

When you see something like “Park Place Securities, Inc. WCW1-2005” that means that Park Place Securities is the Depositor. The SPV is “WCW1-2005”. The “2005” is also the year the trust closed, and generally they all close around the middle of the year. Under REMIC rules and the PSA, all property must be deposited into the SPV within a 3 month window of the closing date.

No Depositor of a REMIC trust has ever stepped forward to give advice in fighting a Bank claiming rights under a REMIC Trust. Many Depositors ceased to exist in violation of the trust contract (PSA). The ones still existing are shell corporations with hired officers and a minimal board of directors with costs paid administratively by an agent based upon a contract executed at the time the trust was formed. In other words, nobody is really in charge and it is virtually impossible for there to be anyone with standing and personal knowledge that will affect us.

Typically, the Depositor of a private label REMIC trust is owned by the Sponsor mortgage company of the trust. Although most Sponsors are mortgage lenders or banks, some other companies got into the act including GMAC. There was a related GMAC Bank that went into bankruptcy.

Up until the time the Depositor deposits the property into the trust vehicle it is a shell that has not engaged in any business operations. It can have no possible liabilities. The key purpose of the (true) sale from the Sponsor to the Depositor is to make the trust assets bankruptcy remote.

The Depositor is the key player in the REMIC trust and the one in our view best suited to put a stop to the fraudulent mortgage transfers. Few have recognized the significance and power of the Depositor and nobody has argued it in a meaningful way to a foreclosure court. The role of the Depositor after the trust is formed has been completely ignored by everyone. Other than Park Place, no other Depositor has appeared in court or assisted in a foreclosure case. This is the key to our new and exclusive strategy.

One very important point is that no Trustee has paid a dime for anything in the trust. The last actual holder in due course was the Depositor. The PSA says