

*CONFIDENTIAL BOOK:*

# **HOME OWNERS CAN WIN FORECLOSURES**

*Involving Mortgage Securitizations into Private Label REMIC Trusts*

**A Complete Foreclosure Law School  
in a Book for the Pro Se Practitioner.**

***Plus: We Provide Evidence for Your Case.  
Nobody Else Can Produce Evidence for Foreclosure Defense.***

***-- 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. Some use 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), Indiana, Colorado, North Carolina 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.*

*NOTE: This book:, Home Owners Can Win Foreclosures is copyright 2014 and 2015 by Dan F. Schramm and Park Place Securities, Inc. The techniques in this book are trade secrets. None of the exact techniques for winning at foreclosure trial are on the internet or are in any published case law. A handful of people have gotten close but didn't make the right argument because they didn't fully understand REMIC trusts. Few have mastered how to make the courts recognize and consider these arguments.*

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Disclaimer: This book 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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## About the Author

Dan F. Schramm is the CEO of Blue Planet Offices, Inc. in Key West, FL. He has lived in Key West for 15 years at the time this book was written and previously in Milwaukee, Wisconsin. Blue Planet is the only professional registered agent in Monroe County and represents (floridacorporate.com) more than 35 other corporations and LLC's (corporate-file.com). Blue Planet rents audio/video equipment (tvkeywest.com) and operates its own printing plant. Blue Planet also provides a free telephone directory (33040.mobi) and other community websites.

Blue Planet has five divisions, all registered with the Florida Secretary of State. The largest is Blue Planet Security Corporation which manufactures and markets a number of personal security products including stainless steel cables (blueoffices.com), high security luggage tags (securebag-tag.com) and key tags (secure-keys.com), tag systems for public schools and other institutions (secure-key.com) property recovery systems, a kit to etch your vehicle VIN numbers into the glass (securevin.com) and a number of similar products and services.

I have 40 years of extensive pro se experience in state and federal courts, mostly as the plaintiff though a couple of times as a defendant.

A friend facing foreclosure asked for some help as both her hired attorneys were ineffective and withdrew. It was then that I began looking into foreclosure law and how REMIC trusts work. This case is referenced in the book as "my friend's case" or "the sample case".

This research began an extensive journey of learning, which ultimately resulted in the creation of Park Place Securities, Inc., the creation of the web sites and finally the writing of this book.

As of April 2015 this case is still on-going after 3.5 years and we are using it as a show trial to test out concepts in this book, but how far that will go is unknown. More information is available in a news feed and blog on our site.



## 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 and shopping malls. 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 1978 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 were so busy selling the 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.

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 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 the Trustee is the owner of the trust contents, but the Trustee never owns the trust contents in any other type of trust. The Trustee has never purchased them.

They are only hired to administer the trust for the beneficiaries and the Trustee is never a beneficiary. The investors don't own the contents of the trust either. They are only entitled to the income stream. Typically the Depositor is owned by the Sponsor Bank, who is the one that pockets all the money. The fundamental weakness in the process is that the Originator, Sponsor and Depositor all can have the same corporate parent.

When the REMIC trust is formed, the Depositor signs over all rights to the Trustee. The Trustee holds all the legal rights, but only for the benefit of the investors of the trust until such time as the SPV terminates. The Trustee has many fiduciary duties.

The denomination of the security certificates sold to investors varies from trust to trust. Some have certificates in multiples of \$1,000 and some have a minimum certificate size of \$25,000 though it can be increased in \$1,000 increments.

A REMIC trust must be formed by a number of distinct steps and operated according to strict rules.

(1) The Loan Originator sells the loan promissory notes to the trust Sponsor. (The mortgages automatically follow the notes.) There are representations, warranties and covenants made in regards to the quality of the loans and there is usually a buy-back agreement.

(2) The Sponsor sells the loans it has purchased from one or more Originators to the Depositor pursuant to an Assignment, Assumption and Recognition Agreement (AARA). The notes must be negotiated (sold) and accepted each step of the way. The Sponsor is also the Loan Servicer until the loans are deposited into the trust. (The new Servicer is named in the PSA.)

(3) The Depositor then deposits the loans and related paperwork into the Trust vehicle (SPV), conveying all of its rights including the AARA and MLSA to the Trust as per the PSA. (The Depositor sells them to the Trust SPV.)

(4) The Trustee Bank issues the security certificates to the Depositor.

(5) The Depositor and Underwriter work to price and sell the certificates to investors. It is the Depositor that makes all the trust filings to the SEC.

(6) The Master Servicer collects the mortgage payments and forwards these to the Trustee after deducting its commission, typically 16 percent.

(7) The Trustee administers the Trust, making payments to the investors from the principal mortgage payments and interest.

(8) The PSA specifies a Document Custodian which is other than the Trustee to provide some checks and balances.

(9) Some Trusts have Trust Oversight Managers or Trust Administrators.

The representations and warranties that were made with respect to the mortgage loans are material terms of the MLSA (Mortgage Loan Sale and Interim

Servicing Agreement), the AARA (Assignment, Assumption and Recognition Agreement) and the PSA and those representations and warranties, therefore, are inextricably intertwined with the likelihood that the Certificateholders will be paid.

The MLSA sets forth a series of enforceable representations (the “loan originator” representations), warranties and covenants concerning the mortgages and a lack of misrepresentation and fraud, with the mortgage loan schedule, servicing practices, compliance with state and federal law in loan origination and servicing, **fair consideration and reasonably equivalent value is received for the loans**, and that none of the documents contained an untrue statement of fact or omits to state a fact necessary to make the statements contained therein not misleading. (Remember the **bold** phrase. It is important later.)

By signing the PSA (and the related documents) each party to the agreement specifies that it has carried out the fiduciary duties and obligations it has agreed to and will continue to do so until the trust is terminated.

The PSA specifies the Depositor, the Master Servicer, the Trustee, the Underwriter, and the Document Custodian, along with all the other details of how the trust will operate and the investors will be paid. This is supplanted by the other documents mentioned including the Prospectus, Supplements and Registration Statement. The Master Loan Schedule is not filed with the SEC.

Park Place Securities, Inc. was the Depositor in 12 REMIC trusts of which Wells Fargo Bank N.A. is the Trustee. They include (in no particular order)



WCW1 (2005) \$2.3 Billion, WCW2 (2005) \$1.79 Billion, WCW3 (2005), MCW1 (2004), WHQ1 (2005) \$1.95 Billion, WHQ2 (2004), WHQ3 (2005) \$1.93 Billion, WHQ4 (2005), WLL1 (2005) \$825 Million and WCH1 (2005) \$1.84 Billion.

The Park Place trusts contained well over \$10 Billion Dollars in residential real estate at the time they were created.

The property Title or Deed of Trust and the caption of any foreclosure action will read something like: "Wells Fargo N.A. as trustee for Park Place Securities, Inc. 2005-WCW1 trust asset-backed securities."

Although we focus upon Park Place and its role, the information largely applies to all Depositors in all private label REMIC trusts as the Pooling and Servicing Agreements are all very similar if not identical. Some trusts are formed under Delaware law, but the vast majority were formed under New York law.

The significant difference for home owners is that New York law does not permit promissory notes deposited into a REMIC trust to be endorsed in blank. The PSA contracts uniformly say that the notes can be specifically endorsed or endorsed in blank. That part of the contract though is overruled by New York law.

The original Park Place was a Delaware shell corporation owned by Ameriquest Mortgage. Ameriquest was purchased by Citigroup (City Residential Lending) and shut down. The original Park Place has totally violated the Pooling and Servicing Agreement and cannot make any legal claims under the PSA. It no longer has any standing.

The Depositor was required to remain in good corporate standing in every state in which the Trust owned property. It never did that. It was supposed to maintain a Home Office and only did that for 3 months in California. Its corporate existence in CA was revoked. The Trustee is supposed to notify the investors of any change in the home office by notifying each representative. Each tranche is supposed to have a representative.

This would probably be a good time to explain what a tranche is, though we are going sideways a bit in the discussion, but you will see I do that from time to time as there is just so much to cover and I am trying to do that in a logical manner for building up the reader's knowledge.

A tranche is best compared to classes of stock in a corporation. A corporation (that did not take a sub-chapter "S" election with the IRS) can issue multiple classes of stock. Everyone has probably heard of common stock and preferred stock. These types of stock generally have different rights. Preferred stock can't be voted but has superior rights for dividends and at liquidation.

A corporation (what is called a "C" corporation) can have as many classes of stock as the Board of Directors elects to have, all with different benefits, rights and cost.

The securities certificates in a tranche however are very different than a class of stock in one major respect. A share of stock in a corporation is actually an ownership interest in the assets of the corporation. (But you can't convert it to an actual physical asset.)

The security certificates issued in any tranche provide the investors no ownership interest in the underlying assets (the promissory notes and mortgages) held by the trust. The securities entitle the owners ONLY to the income stream generated by mortgage payments and interest, all controlled and distributed by the Trustee. They are also entitled to the foreclosure income which the Servicer is supposed to pay to the Trustee for distribution to the investors.

One would think that a REMIC trust is one giant pool of income that would go to all the security owners equally, but that is not the case. Each tranche has different characteristics. First, they all pay off at a different time. Each tranche has a credit rating based on the credit worthiness of the loans that are in it. Thus the securities in the tranches with the best loans that pay off the soonest are the most expensive to purchase. These tranches are typically the ones that had insurance and were paid off when defaults reached particular levels. Each tranche is paid off in turn. The loans, as mentioned, are not in a giant pool, they are specifically held by each tranche for the investors in that tranche.

The above facts are why you will hear arguments that the loans in a REMIC trust are already paid off. This is true for top-rated tranches that had insurance. The argument is made that it does not matter who or how the loan got paid off.

Insurance and other things like credit default swaps (which are too complicated to try to explain here and beyond the scope of this book) was provided by private insurance like AIG (bailed out by the taxpayers) and Freddie