

ORIGINAL

APPELLANT'S OPPOSITION RESPONDENT'S [FINAL] BRIEF
THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

Ziraili M Elbey, a/k/a/ Ziraili Mohassan El Bey, WKFC Living
Trust Under Trust Agreement dated June 4, 2010 by and
through its Trustee Wellesley K. Clayton, American Home
Mortgage Servicing, Inc.

Appellant

s/b/m to Option One Mortgage Corporation,
Defendants,

Of Whom Ziraili M. Elbey is the Appellant.

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SC Court of Appeals

FINAL REPLY BRIEF OF APPELLANT

March 12, 2015

By: Ziraili M. Elbey
Ziraili M Elbey, 'In Propria Persona'
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Appellant, settlor, creditor, borrower, holder, real party of interest, owner of Deed of Trust, is in opposition counsel's [Final] Brief for Respondent as 1) failure to prove lawful standing, 2) failure to prove the bank is the holder of note and mortgage, 3) failure to prove the bank owns the note, 4) failure to state Appellant's Note converted into a STOCK and became a Mortgage-Backed Security under South Carolina code of law, 5) failure to prove Appellant owes H & R Block Bank, FSB any financial obligation. Lancaster Court of Common Pleas failure to include Appellant's written Transcript of Testimony and Clerk of Court to provide Appellant's pleadings prior to "Original Foreclosure", e.g. Motion to Dismiss and Counterclaims. (R. p. 92), (R. pp. 89-91), (R. p. 117-119)

STATEMENT OF ISSUES ON APPEAL

- 1 DID THE LOWER COURT ERR IN GRANTING, NOT CHALLENGING, RESPONDENT/PLAINTIFF'S, H & R BLOCK BANK, FSB, JURISDICTION and STANDING TO FILE A LAWSUIT ACTION IN THE STATE OF SOUTH CAROLINA?
- 2 BECAUSE APPELLANT WAS DENIED DUE PROCESS TO RAISE AFFIRMATIVES DEFENSES TO INCLUDE RULE 12(b)(6) and FED RULE 17(a) WAS PRESERVED ON RECORD.

Therefore, as above issues and arguments on appeal are already presented in Appellant's final brief March 04, 2015 to this court; Appellant further expresses Opposition to Respondent's final brief as it failure to explain the Respondent's prove standing and proof as holder and ownership of Appellant's loan and mortgage, by way of a "Ponzi scheme" (R. pp. 288-310) (hereafter refers as "scheme"), (R. pp. 311, lines 1-25) Respondent, H & R Block Bank, FSB, debt collector, financial conspirator, part of a bank "scheme" on January 14, 2011 filed wrongful, initial foreclosure

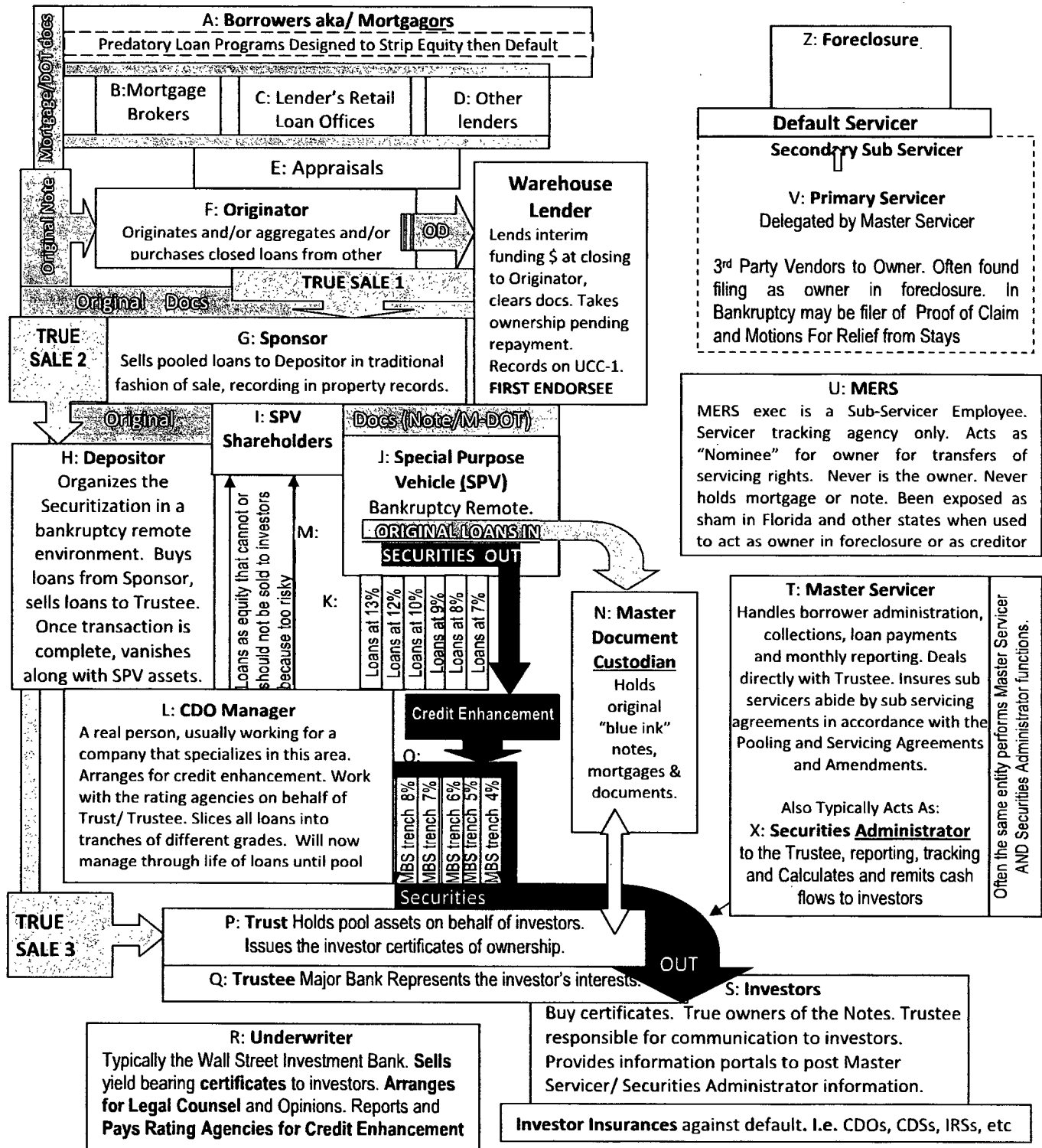
COMPLAINT that failed to state sufficient facts under SCRPC 12(b)(6). In South Carolina, the lender must sue the borrower and prove the lender is entitled to foreclose. The homeowner can make the lender prove the default occurred, prove the amount owing, and raise other claims and defenses. Further, evidence found of Option One Mortgage-Back Securities, forged documents, forged mortgage and loan documents sited in South Carolina District Court US and Szymoniak v. MERS et al under seal pursuant to 31 U.S.C. Sec 3730(b)(2) now released in an amended Complaint C.A. No. 10-CV-01465-JFA. (R. p. 143), (US Szymoniak v. MERS et al supported by South Carolina Attorney General excerpts attached)

I. APPELLANT'S OPPOSITION TO COUNSEL ALLEGATIONS IN INITIAL COMPLAINT THAT H & R BLOCK BANK IS HOLDER, OWNS THE NOTE & MORTGAGE, *PRESENTED*** FRAUDULENT, COUNTERFEIT COPIES of MORTGAGE & NOTE now CONVERTED MORTGAGE & NOTE as a STOCK in "ORIGINAL JUDGMENT", AUGUST 22, 2012 (R. pp. 117-119), (R. pp.432-436).**

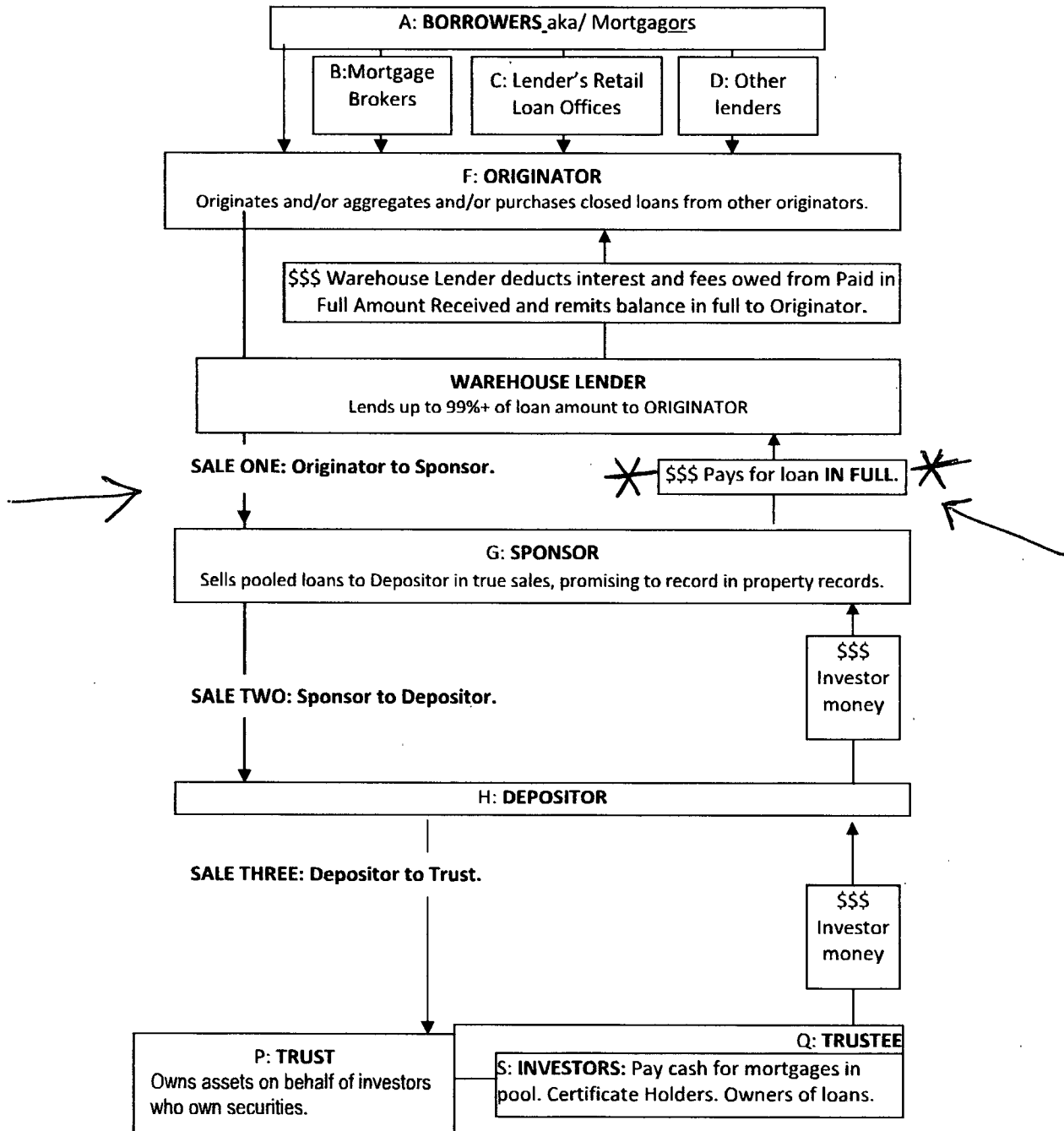
In light of Option One Mortgage Corporation, the original lender in this case, the Appellant loan was securitized March 29, 2006, meaning pooled with hundreds millions of the other loans and sold in the secondary market as a **Mortgage Backed Security** (R. p. 303, line 20-22) to heretofore undisclosed investor. (R. pp.303-302, lines 1-32) Beginning in approximately 2004, the era of mortgage selling the **Note and creating its form**, most mortgage notes (notes secured by a mortgage) were sold to third parties, usually called **Depositors**. These **Depositors** bought loans from *originators*, pooled loans together, and sold the pools to form **securitized trusts**. The agreements

governing almost every securitized trust required that the notes that were sold to the **depositor**, and made part of the trust loan pool, be both endorsed and delivered to the trustee or the document custodian for the trust. In this "scheme" the banks threw their underwriting guidelines out the window in the name of bank greed. (R. p. 311, line 20-25) *South Carolina 9th Circuit- Case# 2011-CP-10-1060 in DEUTSCHE BANK VS HEINRICH, Judgment order, dated July 31, 2013, and US and Szymoniak v. MERS et al filed in the US District Court in the District of South Carolina amended Complaint C.A. No. 10-CV-01465-JFA describes the "scheme" in detail on forged instruments, assignments and Mortgage-Back Securities.. (R. p. 143), (R. pp.65-70). Over 85% of the housing loans have been securitized to date. The banks knew that these loans were destined for Wall Street, and that they were not going to keep the loans. It was a perfect set up for the biggest financial meltdown in history of mankind. So take a look at this "scheme" that securitizes the Note (heretofore as Promissory Note) process and how it relates to Appellant's loan and bank fraud. (R. pp. 288-310, line 1-44), (R. pp. 125-127) Appellant in her COUNTERCLAIMS (R. pp. 350-352, line 1-25), (R. p.353, line 1-18), (R. p. 355, line 1-25) and **MOTION TO DISMISS**, (R. pp. 65-72) which was ignored by the Lancaster Court of Common Pleas, filed May 21, 2012 **prior to** Respondent's Motion for Summary Judgment and "**Original Judgment**", August 22, 2012. (R. pp. 65-70, line 1-25) –(R. pp. 356-368) Respondent's Transcript of Testimony for Foreclosure Case was never mentioned or included in the final transcript. Appellant under medical recovery submitted a Notice of Absence From The Final Hearing (August 22, 2012) to be included as a written Transcript of Testimony for final hearing. It was not included. It was stamped by court dated, August 20, 2012, again, not included in the Transcript. **Why not?** (R. pp. 89-*

PROJECTED UNDISCLOSED SECURITIZATION MODEL OF ELBEYS LOAN



Projected Undisclosed Subsequent Sale Summary of ELBEYs Loan



92); Mr. Dangerfield with B & S asked the Court to dismiss Appellant's Motion to Dismiss, Counterclaims and other pleadings, prior to "**Original Judgment**" (R. p. 364, line 10-21) Appellant would asked this Appellate Court that the Court require compliance with requirements of pleading and proof in **INITIAL COMPLAINT**.

A. THE POOLING AND SERVICING AGREEMENT PROCESS

Once Appellant's loan, is closed, it quickly gets put into a Pooling and Servicing Agreement as indicated in the FORSENIC AUDIT prepared for Appellant's mortgage and loan titled, "FORENSIC LENDER DISCOVERY – LOAN SECURITIZATION AUDIT REPORT for borrower. (R. pp. 288-310, line 1-44), (R. pp. 65-70, line 1-25) This agreement was then registered on the Securities and Exchange Commission (SEC) as a (REMIC) Trust. REMIC stands for *Real Estate Mortgage Investment Conduit*. See Appellant's loan model page (R. p. 306, line TRUE SALE 3, P:Trust), And, Appellant's loan model page (R. p. 308, line F. SALE ONE) See in that same box that Appellant's loan was paid IN FULL. Even though the REMIC is a Trust and the Appellant's loan is in this REMIC Trust, **the Trustee does not have the power to manage the assets of the Trust**. Once this REMIC which Appellant's loan is put into the Pooling and Servicing Agreement, it then gets converted into a security that is traded on Wall Street. This will make more sense later when I explain the relationship between an investor, a shareholder and a REMIC.

B. THE CHANGING OF THE STATE OF THE NEGOTIABLE INSTRUMENT

First we need to discover who is the **real and beneficial party in interest**. A loan is a **negotiable instrument**. There are specific laws governing negotiable instruments called the Uniform Commercial Code. The UCC states that in order for a

bank to enforce and foreclose on a property, it is subject to the claimant being a real party in interest. If the loan has been sold, then the bank can no longer claim that they are the real party of interest. Once a loan is closed it gets put into a pooling and servicing agreement along with many other loans. This is then registered with the Securities and Exchange Commission (SEC) as a **REMIC Trust**. REMIC stands for Real Estate Mortgage Investment Conduit. Once a REMIC is formed it then gets **converted into a security that is traded on Wall Street**. Appellant's loan and all the other loans in the REMIC are now owned by thousands of shareholders around the world. Furthermore, Appellant's **loan has changed**. **Appellant's loan has been converted into a stock**. Once it is traded as a stock it is forever a stock and regulated by the SEC. **When the Promissory Note got converted into a stock the Promissory Note no longer exists.**

C. THE REAL PARTY OF INTEREST

To prevent accounting fraud, various governing bodies created **Financial Accounting Standards** (FAS). (R. p. 125), (R. pp.323-325, line 1-39) FAS 140 (R. pp. 125-127) was created to govern the sale and securitization of a **negotiable instrument**. It reads like this: a transaction can only be recognized as a sale if it is sold at arm's length. (LENDERS/BANKS/CORPORATIONS cannot sell an asset to itself, e.g. ENRON). It also says that once an asset is sold, the **seller forever loses the ability to control the asset**. If Appellant's lender sold her loan to a REMIC, they forever lost their right to enforce or otherwise foreclose on your property. **The banks are no longer the real party of interest**. According to IRS tax codes, **the real party of interest has to pay taxes on their earnings**. To avoid paying double taxes, banks put these loans into

special purpose vehicles (SPV) covered by the IRS code 860) Not only that the Appellant's loan has been sold (REMIC), but once a loan has been converted into a **STOCK**, it is no longer a loan. Now, if both the loan and the stock exist at the same time, that is known as **double dipping**. Double dipping is a form of securities fraud. A *negotiable instrument* can only be in one of two states when it undergoes securitization, **not both at the same time.** (R. p.108), (R.p.127)

II. **APPELLANT'S OPPOSITION TO COUNSEL ALLEGED THAT**
RESPONDENT, H & R BLOCK BANK HAD STANDING AT THE TIME OF
"INITIAL COMPLAINT" FILED JANUARY 14, 2011 and at the time of
"ORIGINAL JUDGMENT", AUGUST 22, 2012

While it is true that **standing** to foreclose can be demonstrated by the filing of the original note [Appellant's Note had been converted to a STOCK] with a special endorsement in favor of the plaintiff, ***this does not alter the rule that A party's standing is determined at the time the lawsuit was filed.*** Stated another way, the plaintiff's **lack of standing** at the inception of the case is not a defect that may be cured By the acquisition of standing after the case is filed. Thus, a party is not permitted to establish the right to maintain an action retroactively by acquiring standing to file a lawsuit after The fact. Counsel in their **initial Complaint** January 14, 2011 failure to state sufficient facts under SCRPC 12(b)(6), and Federal Rule of Civil Procedure 17(a)(1) which

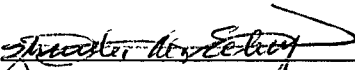
requires the “[a]n action must be prosecuted in the name of the real party of interest.” See Jacobson, 402 B.R. 359, 365-66 (Bankr. W.E. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr C.D. Cal. 2008) One of the primary question in this case is whether the Special Referee for the S.C. Court of Common Pleas err in granting, and not challenging H & R Block Bank, FSB **standing and jurisdiction to file a lawsuit action** (Fed Rule 17(a)(1), at the time the initial **Complaint** was filed against Appellant in the State of South Carolina jurisdictional or whether it merely affects the bank’s capacity to sue under S.C. Code Ann § 33-15-102, (R. p.265, line 1-25). Further, The **Supreme Court** has made it clear that the burden of establishing **standing** rests on the Respondent. At each stage of the litigation—from the initial pleading stage, through summary judgment, and trial—the Respondent must carry that burden. **Standing** must exist on the date the **COMPLAINT** is filed and throughout The litigation. Moreover, **standing** cannot be conferred by agreement and can be challenged at any time in the litigation, including on appeal, by the Appellant or, in some circumstances, by the court sua sponte. Finally, Respondent must demonstrate **standing** for each claim and each request for relief. There is no “supplemental” **standing: standing** to assert one claim does not create **standing**

to assert claims arising from the same nucleus of operative facts.

In sum, when Appellant's loan went into default, the REMIC wrote it off, plus, again, loan paid by insurance company. Once an asset is written off, the shareholders receive tax credit from the IRS. This means that the Appellant's note is settled and as in diagram paid-in-full (R. p.307). The Appellant's Note is gone. The Appellant's Note changed to a **STOCK**, a Mortgage-Backed Security. The Mortgage and Note were separated (Bifurcated). *Carpenter v. Logan*, 83 U.S., 16 Wall 271, 21 L.Ed. 313 (1872), clearly supports the notion that Respondent must own the **NOTE and the MORTGAGE** to foreclose on the property. Again, Appellant's Note and Mortgage were separated (bifurcated) in 2006. (R. p.291, line 13) (R. p. 311, line 20-25) and **South Carolina 9th Circuit- Case# 2011-CP-10-1060 in DEUTSCHE BANK VS HEINRICH**, final Judgment order, (R. pp. 311-314), dated July 31, 2013 and further order states, " the **Complaint** requires that ownership of a real loan be present at the time the Complaint is filed then the Court's jurisdiction has never been invoked. The Court has no choice. And the reason for this is that it is very well-settled that you bring a matter to court that must be an actual controversy and a plea for relief that can be legally granted. The fabrication as described in US and Szymoniak v. MERS et al. filed in the US District of South Carolina amended Complaint C.A. No. 10-CV-01465-JFA of forged instruments converted into Mortgage-Backed Securities, forged Assignments for the express purpose of the lawsuit is not only lacking in credibility it is clothed in impossibility." (R. p. 312 line 1-15), (R. p. 313, line 1-6 (R. p. 143). Counsel for the Respondent, servicer were knowledgeable that the Note was converted to a REMIC and have already violated the law in double dipping. Brock and Scott, PLLC counsel for the Respondent failed provide admission, discovery or

disclose any of the above to Appellant or to the Lancaster Court of Common Pleas prior the "Original Foreclosure". Federal Rule of Civil Procedure 17(a)(1) which requires the "[a]n action must be prosecuted in the name of the **real party of interest.**" Plaintiff dismissal pursuant to Rule 17(a) and Rule 12 (b) SCRCF is appropriate.

March 12, 2015

By: 
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INSERT OF LYNN E. SZYMONIAK (R. P.142)

**UNITED STATES DISTRICT COURT DISTRICT OF SOUTH
CAROLINA**

C.A. No. 10-CV-01465-JFA

SECOND AMENDED COMPLAINT

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

UNITED STATES OF AMERICA,
the States of CALIFORNIA,
DELAWARE, FLORIDA, HAWAII, ILLINOIS
INDIANA, MASSACHUSETTS, MINNESOTA
MONTANA, NEVADA, NEW HAMPSHIRE
NEW JERSEY, NEW MEXICO, NEW YORK
NORTH CAROLINA,
RHODE ISLAND, VIRGINIA,
the DISTRICT OF COLUMBIA,
the CITY of CHICAGO, and
the CITY of NEW YORK

Plaintiffs,
Ex rel.

LYNN E. SZYMONIAK,

Plaintiff-Relator,

v.

AMERICAN HOME MORTGAGE SERVICING,
INC.;
SAXON MORTGAGE SERVICES, INC.;
LENDER PROCESSING SERVICES, INC.;
DOCX, LLC;
CITIMORTGAGE, INC., f/k/a
CITI RESIDENTIAL LENDING, INC., f/k/a
AMC MORTGAGE SERVICES, INC.;
WELLS FARGO HOME MORTGAGE d/b/a
AMERICA'S SERVICING COMPANY,
BANK OF AMERICA CORPORATION,
as successor-in-interest to Lasalle Bank;
THE BANK OF NEW YORK MELLON;
CORPORATION;
CITIBANK, NATIONAL ASSOCIATION;
DEUTSCHE BANK NATIONAL TRUST
COMPANY;
DEUTSCHE BANK TRUST COMPANY
AMERICAS;
HSBC USA, NATIONAL ASSOCIATION;
J.P. MORGAN CHASE BANK, NATIONAL
ASSOCIATION;

**FILED UNDER SEAL pursuant to
31 U.S.C. § 3730(b)(2)
C.A. No.10-cv-01465-JFA
SECOND AMENDED
COMPLAINT**

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Plaintiff/Relator Lynn E. Szymoniak ("Relator"), by and through her attorneys, Richard A. Harpootlian P.A., Grant & Eisenhofer P.A., and Janet, Jenner & Suggs, LLC, files this amended complaint against Defendants and alleges as follows:

I. INTRODUCTION

1. According to the U.S. Securities and Exchange Commission ("SEC"): "Mortgage-backed securities ["MBS"] are debt obligations that represent claims to the cash flows from pools of mortgage loans, most commonly on residential property. Mortgage loans are purchased from banks, mortgage companies, and other originators and then assembled into pools by a governmental, quasi-governmental, or private entity. The entity then issues securities that represent claims on the principal and interest payments made by borrowers on the loans in the pool, a process known as securitization." SEC, "Mortgage-Backed Securities" (June 25, 2007) (<http://www.sec.gov/answers/mortgagesecurities.htm>).

2. The defendants named herein are: (i) trustees which controlled the MBS trusts whose assets consisted of pools of residential mortgages in South Carolina and ~~throughout the United States~~, and (ii) the mortgage servicing companies that managed the day-to-day operations of the payment processing and foreclosure proceedings at the direction of the trustee banks.

3. The defendants concealed that the notes and the assignments were never delivered to the MBS trusts and disseminated false and misleading statements to the investors, including the U.S. government and the States of California, Delaware, Florida, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Virginia, District of Columbia, the City of Chicago and the City of New York.

II. JURISDICTION AND VENUE

9. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 31 U.S.C. § 3732 and supplemental jurisdiction over the counts related to the State False Claim Act pursuant to 28 U.S.C. § 1367.

10. This Court has personal jurisdiction over the Defendants pursuant to subject matter jurisdiction over this action pursuant to 31 U.S.C. § 3732(a) because Defendants transact the business that is the subject matter of this lawsuit in the District of ~~* South Carolina~~ and numerous acts proscribed by 31 U.S.C. § 3729 occurred in the District of South Carolina.

11. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a) because Defendants transact the business that is the subject matter of this lawsuit in the District of

~~* South Carolina~~ and numerous acts proscribed by 31 U.S.C. § 3729 occurred in the ~~* District of South Carolina.~~

III. PARTIES

A. Relator

12. Relator Lynn E. Szymoniak brings this action on behalf of herself and the federal government pursuant to 31 U.S.C. §§ 3729-3733 and on behalf of the States of California, Delaware, Florida, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Virginia, District of Columbia, pursuant to their respective State False Claims Acts as indicated herein, and the City of Chicago and the City of New York pursuant to the respective False Claims Acts as indicated herein.

WELLS FARGO's corporate headquarters is located at 101 North Phillips Avenue, Sioux Falls, South Dakota.

29. The defendants AHMS, SAXON, LPS, DOCX, AMC/CITI AND WELLS/ASC, are collectively referred to herein as the "Mortgage Foreclosure Servicing Defendants." The defendants BA, BONY, CITIBANK, DBNTC, DBTCA, HSBC, CHASE, U.S. BANK, and WELLS FARGO, are collectively referred to herein as the "Trustee Bank Defendants." All of the defendants are collectively referred to herein as the "Defendants."

IV. BACKGROUND

A. Real Estate Sale, Mortgage Finance and Foreclosure Procedures

30. This case began with Relator's purchase of a home in Florida financed with a mortgage followed by a subsequent foreclosure case based on forged documents.

Relator's investigations revealed that Defendants' practices in a specific case occurred in ~~numerous other cases, and tainted foreclosures in South Carolina and nationwide.~~

31. Generally, to finance the purchase and sale of real estate, the buyer borrows money from a bank or mortgage company. The procedure to loan money to a person to buy a home, and record the loan as a lien against the home, relies on a promissory note secured by a mortgage. The note and mortgage are signed by the buyer of the home, who is the borrower, and by an officer of the bank or mortgage company which originates the loan, *i.e.*, the lender.

32. The lender records the mortgage as a lien against the property by filing a copy with the county recorder's office in the county in which the property is located. Any assignment of a note and mortgage from the lender to a purchaser is attested simply by the signatures of the parties involved, which are often notarized or witnessed.

70. Notes and mortgages on homes located in South Carolina are identified as assets in the prospectus of the MBS trusts controlled by the Trustee Bank Defendants.

The prospectus specifies the location by state of the homes subject to the notes and mortgages acquired by the trusts and includes properties for which foreclosures with forged assignments are pending. For example, South Carolina properties are included in a MBS created in 2004, entitled "American Home Mortgage Investment Trust 2004-4", among the forged assignments, with defendant BONY as the trustee. A review of the

* ~~prospectus further shows that this MBS contains a total of 341 South Carolina homes.~~ *
with a principal aggregate value of \$52 million, as illustrated in Table 1, below. All of these filings, including the forging of mortgage assignments to the American Home Mortgage Investment Trust 2004-4, show that Defendants' fraudulent practices spread widely in South Carolina.

* ~~Table 1. South Carolina Homes Controlled by Defendant BONY in the American Home Mortgage Investment Trust 2004-4~~ *

<i>Group No.</i>	<i>No. Mortgages in S.C.</i>	<i>Principal Value</i>
Group I	27	\$6,925,746.82
Group II	56	\$8,264,377.00
Group III	12	\$8,802,181.56
Group IV	91	\$12,874,666.42
Group V	6	\$2,984,900.00
Group VI	77	\$9,159,103.53
Group VII	72	\$3,249,689.06
TOTAL	341	\$52,260,664.39

Source: Prospectus of American Home Mortgage Investment Trust 2004-4, Prospectus Supplement dated December 17, 2004, tables entitled, "Geographic distribution of the mortgage properties," entries for S.C.: Group I, at 4; Group II, at 12; Group III, at 23; Group IV, at 32; Group V, at 42; Group VI, at 64; and Group VII, at 72, SEC Form 424B5 (filed Dec. 22, 2004).

*** D. Defendants' Role in the Foreclosure Actions in the South Carolina Courts and Defendants' Filing of Forged Mortgage Assignments in South Carolina, and Across the United States, Worsening the Foreclosure Problem ***

78. The Defendants' illegal activities, conducted in South Carolina and elsewhere, play a significant role in making the foreclosure problem worse in South Carolina, and the United States.

79. The Mortgage Foreclosure Servicing Defendants (*e.g.*, WELLS/ASC, AHMS, SAXON and AMC/CITI) are significant participants in foreclosure actions in the South Carolina courts.

80. Defendant WELLS/ASC primarily services loans for investors, including loans that were packaged into securities and sold by lenders into the secondary market. WELLS/ASC services residential mortgages from across country from its corporate headquarters in Fort Mill, South Carolina, particularly loans that are bundled into MBS trusts and have defendant WELLS FARGO as the trustee. The activity of WELLS/ASC in South Carolina residential foreclosures is so intense that "Wells Fargo Home Mortgage" is named as a party in approximately 700 bankruptcy cases filed in South Carolina as of April 25, 2010, according to court dockets.

81. Likewise, defendant AHMS primarily services loans that are packaged into MBS trusts and have defendant DBNTC as the trustee. Defendant DBNTC is one of the most active plaintiffs in foreclosure cases in South Carolina, and throughout the United States. Defendant DBNTC has such a large presence in the South Carolina mortgage market that it is named as a party in approximately 400 bankruptcy cases filed in South Carolina as of April 25, 2010, according to court dockets.

nationwide, and has directed their attorneys to file forged documents in those foreclosure cases. More than 100 forged mortgage assignments were prepared by LPS and recorded in South Carolina for the purposes of foreclosure.

86. In the 2009 Annual Report, Form 10-K filed with the SEC on February 23, 2010, LPS represents that its services are used by a majority of the 50 largest banks in the United States. Its technology solutions include its mortgage processing system which processes over 50% of all residential mortgages by dollar volume. Its outsourcing services include the “default management services which are used by mortgage lenders and servicers to reduce the expense of managing defaulted loans....”

87. In the 2009 Annual Report, LPS states in 2009, its two largest customers, defendants WELLS FARGO and CHASE, each accounted for more than 10% of LPS’ aggregate revenue and more than 10% of the revenue from each of the Technology, Data and Analytics and Loan Transaction Services segments. LPS Annual Report for 2009, SEC Form 10-K (filed Feb. 23, 2010), at 5, available at <http://www.sec.gov/Archives/edgar/data/1429775/000095012310015599/g22183e10vk.htm>.

VI. DEFENDANTS’ ACTS VIOLATE THE FALSE CLAIMS ACT

88. Defendants created mortgage-backed securities lacking lawful assignments of the notes and mortgage to the trusts, and then forged the missing assignments by having employees or agents of defendant LPS, on behalf of all the other Defendants, sign using false corporate officer titles, false dates of assignment, and forged signatures.

*** Appellant's MBS ***


10	OOMLT_05-4 [a/k/a WELLS FARGO: Option One Mort. Loan Trust, Series 2005-4]	\$15,151,774 (at 12)
11	OOMLT_05-5 [a/k/a WELLS FARGO: Option One Mort. Loan Trust, Series 2005-5]	\$5,866,603 (at 12)
12	OOMLT_06-3 [a/k/a WELLS FARGO: Option One Mort. Loan Trust, Series 2006-3]	\$23,500,000 (at 12)
13	SAST_06-3 [a/k/a DEUTSCHE BANK: Saxon Asset Securities Trust 2006-3]	\$111,000,000 (at 14)
14	SAIL_04-8 [a/k/a LASALLE BANK: Securitized Asset Investment Loan Trust, 2004-8]	\$10,256,786 (at 14)
15	WAMU_07_HE3 [a/k/a CITIBANK: WAMU Series 2007-HE3 Trust]	\$12,000,000 (at 15)

Source: Federal Reserve Bank of New York Web site, Maiden Lane Transactions, "Holdings of Maiden Lane II LLC as of March 31, 2010" (<http://www.newyorkfed.org/markets/maidenlane.html>).

208. In total, the ML LLC and ML II LLC entities own \$2.639 billion (\$2.069 billion ML LLC + \$570 million ML II LLC) of MBS including missing assignments or use forged assignments, as shown in Tables 2 and 3 above.

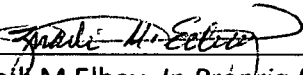
C. MBS Purchases by Treasury Financing of Public-Private Partnership Funds.

209. In addition to the purchases above, to purchase non-agency RMBS, and other securities, on March 23, 2009, the U.S. Treasury, in conjunction with the Federal Deposit Insurance Corporation and the Federal Reserve Bank, announced the creation of the Public-Private Investment Partnership ("PPIP") of 2009, as a part of the government's Financial Stability Plan. Under the PPIP, the Treasury provides equity and debt financing to newly-formed public-private investment funds ("PPIFs") established by fund managers with investors for the purpose of purchasing legacy securities from financial

Certificate by Appellant

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 12, 2015

By: 
Zirath M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

Brock & Scott, PLLC
3800 Fernandina Rd., Ste 110
Columbia, South Carolina, 29210
Counsel for Respondent
803-454-3340

George B. Milam, New Counsel for Respondent
1800 Baity Hill Dr., Apt 126
Chapel Hill, NC 27514

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MAR 13 2015
SC Court of Appeals

Certificate of Service

State of South Carolina Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

Ziraili M Elbey, a/k/a/ Ziraili Mohassan El Bey, WKFC Living Trust Under Trust Agreement dated June 4, 2010 by and through its Trustee Wellesley K. Clayton and American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation, Defendants,

Appellant

Of Whom Ziraili M. Elbey is the Appellant.

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SC Court of Appeals

PROOF OF SERVICE

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd., Ste 110, Columbia, South Carolina, 29210, George B. Milam, New Counsel for Respondent 1800 Baity Hill Dr., Apt 126, Chapel Hill, NC 27514 received a copy of the **APPELLANT'S OPPOSITION RESPONDENT'S [FINAL] BRIEF** by depositing a copy of it in the U.S. Mail, postage prepaid, on March 12, 2015 addressed to above counsel listed and this Appellate Court.

March 12, 2015

By: Ziraili M. Elbey
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
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Ziraili M Elbey

9789 Charlotte Highway, #400-191, Ft. Mill, SC 29707

February 12, 2015

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MAR 13 2015

SC Court of Appeals

Jenny Abbott Ketchings, Clerk of Court
The SC Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: H & R Block, FSB v. Ziraili M Elbey

Appellate Case 2013-002373 – Opposition to Respondent's Final Brief

Dear Ms. Ketchings:

Enclosed please find an original copy of Appellant's Final Brief, Cover sheet, along with an additional fifteen (15) copies of Appellant's Opposition to Respondent's Final Brief, regard the above-captioned matter. Upon receipt, kindly file the original and stamp and return the conformed copies to the attention in the self-addressed pre-paid envelope provided for your convenience. Please feel free to contact this writer should you have any questions.

Thank you for your assistance in this matter.

Very truly yours,

By: 
Ziraili M Elbey, 'In Propria Persona'
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

Enclosure

Cc: File

Brock & Scott, PLLC

George B. Milam, New Attorney for H & R Block Bank, FSB