
NON-JUDICIAL FORECLOSURES

Memorandum of Law

The purpose of this memorandum is to reveal the fraud upon the People committed by mortgages companies and municipalities. Said fraud differs little between the two. The following conspiratorial process is essentially the same in that the home is securitized.

THE FRAUD

The Securitization of Mortgages and Tax Foreclosures has become a common and growing white collar swindle that is illegal primarily because of “Antitrust Law Violations,” consisting of specific violations such as usury, fraud, conspiracy, forgery and robo-signing. When victims are robbed because State and Federal Legislators pass unconstitutional legislation and State Constitutional Courts sanction non-judicial foreclosures by looking the other way, thereby giving the appearance of due process, this constitutes RICO and wars against the Constitution.

Securitization is the financial practice of pooling various types of contractual debt such as residential mortgages, commercial mortgages, auto loans or credit card debt obligations (or other non-debt assets which generate receivables); and, selling their related cash flows to third party investors as securities, which may be described as bonds, pass-through securities or collateralized debt obligations (CDOs). Investors are repaid from the principal and interest cash flows collected from the underlying debt which is redistributed through the capital structure of the new financing. Securities backed by mortgage receivables are called mortgage-backed securities (MBS), while those backed by other types of receivables are asset-backed securities (ABS). It was the private, competitive mortgage securitization that played an important role in the U.S. subprime mortgage crisis.

The process is not as complicated as it might seem at first glance and might be difficult to recognize as a crime. But, it should become clear to the local village, town, city and county courts and the Sheriff once they realize the process these criminal alliances go through to use the Court and the Sheriff to assist in these illegal seizures of homes without their realizing that they became instruments of a robbery.

CLARIFICATION: Were these mortgage companies and municipalities able to legally foreclose on the property, they would do so by filing the foreclosure in the State Court to acquire a judgment; then bring it to the Sheriff for collection. The problem is that they cannot produce proof of claim and fiduciary authority over the property and without these two affidavits, they cannot open a lawful court case to provide “*due process*” necessary for

a lawful seizure of the property “*in rem*.” So the BAR, banks, municipalities and mortgage cartels devised a plan to bypass “*due process*” by lobbying and convincing state legislators, who either consciously conspired, or, because constitutional principles are unbeknownst to them, ignorantly conspired to write unconstitutional “*non-judicial foreclosure statutes*” that proceed “*in rem*”,¹ which is a process to seize properties without due process whereas the party seizing the property has a “sworn proof of claim” and sworn proof of fiduciary authority. Even this can be challenged and thereby must be heard in a court of law.

Such practice without these two affidavits moves the presumption of law from “*innocent until proven guilty*” to “*guilty with no opportunity to defend*.” This turns American Jurisprudence² on its head by removing any opportunity for the victims to be heard. This Provides absolute control to defraud without consequence by nefarious mortgage holders and municipalities which there seems to be no shortage of. As well as de facto courts which allow the non-judicial foreclosure filings without the signature of a judge which secures by oath that justice was served. The “Law of the Land” a/k/a “the Supremacy Clause of the Constitution”³ requires judges’ obedience to “Due Process.”

Amendment V – *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or deprived of life, liberty, or property, without due process of law; and Amendment IV - The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

Congress can make no law that would provide for a statutory construction which would negate the unalienable rights of the People; which is what would be required in order to make a State a “Non-Judicial Foreclosure State.” Therefore, no State can establish “Non-Judicial Foreclosure Laws.” Such Congressional and/or State actions would negate the following unalienable rights protected by the Constitution and expected to be enforced by the Sheriff:

¹ ACTION IN REM. In the civil and common law. An action for a thing; an action for the recovery of a thing possessed by another.

² JURISPRUDENCE: The philosophy of law, or the science which treats of the principles of positive law and legal relations; American Jurisprudence is the written law, constitution and principles every judge must obey.

³ “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and, all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land; and, the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.” – Constitution for the United States of America Article VI

- (1) The unalienable right protected by the 4th Amendment to be secure in their property,
- (2) The unalienable right protected by the 5th Amendment to due process,
- (3) The unalienable right protected by the 7th Amendment to trial by jury, and
- (4) The unalienable right protected by the 7th Amendment to common law courts.

Rights are unalienable⁴ and cannot be transferred.⁵ Any contract that would pass or hand over an unalienable right is null and void. The “Burden of Proof” is on the foreclosing party. All parties to a Non-Judicial Foreclosure cannot prove their case; nor can they prove their right to sell someone’s property without progressing to a Final Judgment in a court of law. Any court that ignores these facts and/or proceeds with a Summary Judgment becomes complicit to the robbery. This violates the victim’s rights under Color of Law, thereby giving a reason to move the Case for Cause to an Article III Federal District Court for both criminal and civil remedy.

After establishing unconstitutional statutes, white-collar criminals, acting under Color of Law, devised the following “*ruse*” to manipulate our judicial system and our County Sheriffs so as to create an appearance of lawful acts while illegally seizing the property of their victims:

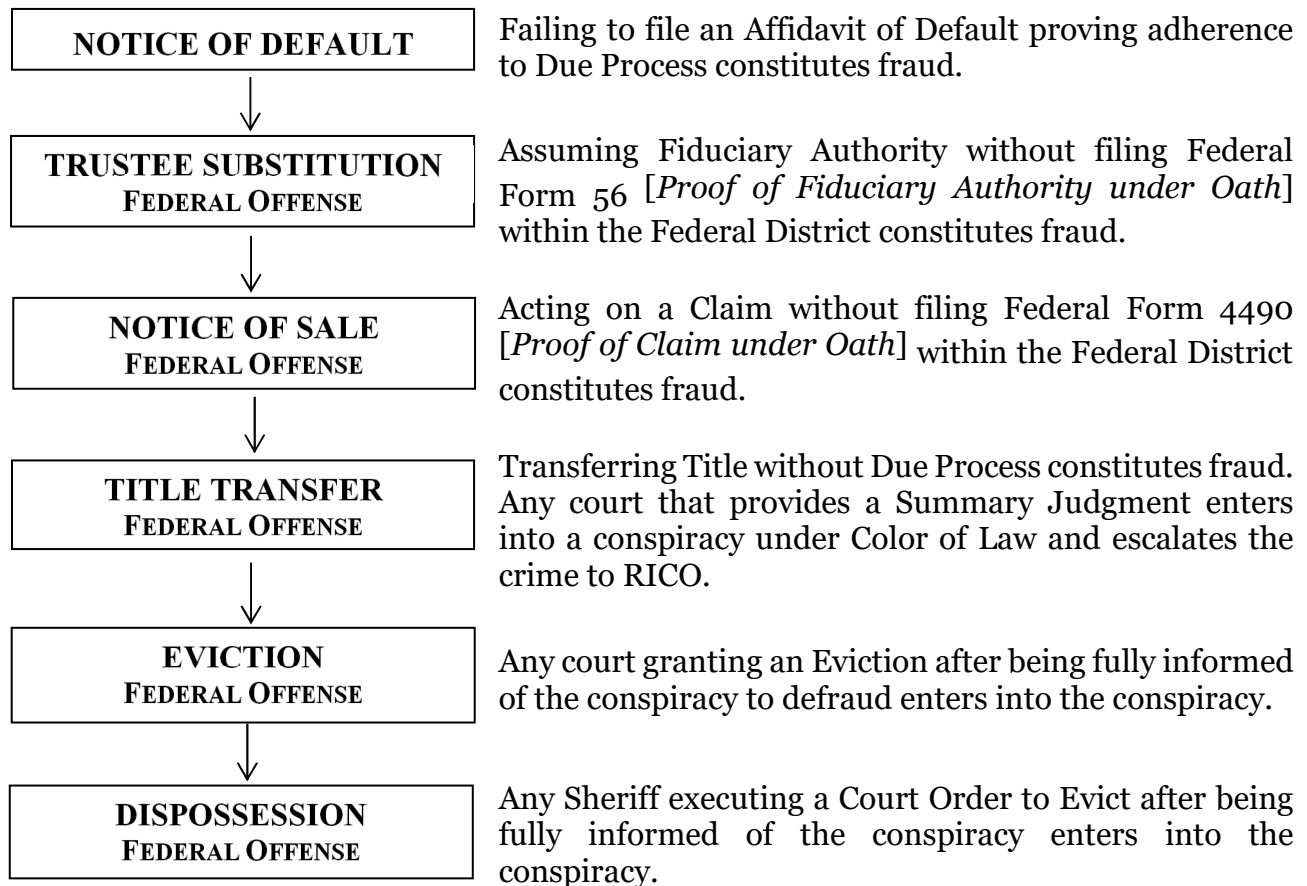
- (1) Give Notice of Default to the victim, “without judicial process”;
- (2) Give Notice of Substitution of Trustee, “without judicial process”;
- (3) Give Notice of Sale, “without judicial process”;
- (4) Commence public auction, “without judicial process”;
- (5) Use aforesaid documents to transfer title, “without judicial process”;
- (6) File fraudulent eviction proceedings acting as “*landlord*” (using the fraudulent title) and calling the owner of the property “*tenant*” who owes back rent in an unsuspecting village, town or city court, “giving the appearance of judicial process”; and
- (7) File the fraudulent judgement with the County Clerk to achieve a fraudulent Eviction Order for execution by the unsuspecting Sheriff.

We the People find it apparent that most of our Constitutional Officers are ignorant as to the Law of the Land as defined in the Constitution for the United States of America, Article VI. Therefore, they are often unable to determine constitutional violations which cause Sheriffs to fall prey to these subverts, in jeopardy of violating their oath and We the People in jeopardy of losing our property and Liberty to tyrants.

⁴ **UNALIENABLE:** Inalienable; incapable of being alienated, that is, sold and transferred. Black’s 4th.

⁵ **TRANSFER:** To convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically to make over the possession or control of (as, to transfer a title to land); sell or give. Chappell v. State, 216 Ind. 666, 25 N.E. 2d 999, 1001.

THE FOLLOWING CHART DETAILS THE RUSE



STATUTORY CRIMES: Under US laws, Securitized Mortgages are illegal primarily because they are fraudulent and constitute specific violations, namely:

- 1) RICO
- 2) Usury
- 3) Fraud
- 4) Conspiracy
- 5) Forgery
- 6) Robo-signing and
- 7) Antitrust law violations

The “*foreclosure crisis*” is a complex, interconnected series of state-sponsored crimes involving the following steps:

- 1) The mortgage or tax burden is created.
- 2) The mortgage is sold to an investor.
- 3) The mortgage or tax burden payments are loaded onto an international PONZI scheme a/k/a “*mortgage securitization.*”

- 4) Compliant judges in state and county courts look the other way, or, provide Summary Proceedings while:
- a. Mortgage companies conceal the fact that the notes and assignments were never delivered to the MBS Trusts [Mortgage-Backed Securities Trusts] while the mortgage companies disseminate false and misleading statements to the investors and the United States Government.
 - b. Mortgage companies pursue foreclosure actions using false and fabricated documents, particularly mortgage assignments. The mortgage companies use Robo-signing on thousands of documents each week with no review or knowledge of the contents of the documents; thus, creating forged mortgage assignments with fraudulent titles in order to proceed with foreclosures.
 - c. Mortgage companies have used these fraudulent mortgage assignments to conceal over 1,400 MBS Trusts, each with mortgages valued over \$1 billion, which are missing critical documents; namely, mortgage assignments which are required to have been delivered to the Trusts at the inception of the Trust.
 - d. Without lawfully executed mortgage assignments, the value of the mortgages and notes held by the Trusts is impaired; effective assignments are necessary for the Trust to foreclose on its assets in the event of mortgage defaults; and the Trusts do not hold good title to the loans and mortgages that investors have been told are secured notes.
 - e. Mortgage assignments are prepared with forged signatures of individuals signing as grantors; and forged signatures of individuals signing as witnesses and Notaries.
 - f. Mortgage assignments are prepared with forged signatures of individuals signing as corporate officers for banks and mortgage companies that have never employed said individuals and corporate officers.
 - g. Mortgage assignments are prepared and signed by individuals as corporate officers of mortgage companies that have been dissolved by bankruptcy years prior to the assignment.
 - h. Mortgage assignments are prepared with purported effective dates unrelated to the date of any actual or attempted transfer; and, in the case of Trusts, with purported effective dates years after the closing date of the Trusts.
 - i. Mortgage assignments are prepared on behalf of grantors who had never themselves acquired ownership of the mortgages and notes by a valid transfer; and, such mortgage assignments include numerous ones where the grantor was identified as *“Bogus Assignee for Intervening Assignments”*.
 - j. Mortgage assignments are notarized by Notaries who never witness the signatures they notarize.
 - k. The MBS Trusts, and their trustees, depositors and servicing companies, further misrepresent to the public the assets of the Trusts; and, issue false statements in their Prospectuses and Certifications of Compliance.

- l. Securitization violates usury laws in that the resulting effective interest rate typically exceeds legally-allowable rates set by State Usury Laws.
- m. All “*True-Sale*”, “*Disguised-Loan*” and “*Assignment*” securitizations are essentially tax-evasion schemes. In the United States, the applicable tax-evasion statute is the United States Internal Revenue Code, Section 7201 which reads as follows: “*Any person [corporation] who willfully attempts in any manner to evade or defeat any tax imposed by this title, or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony; and, upon conviction thereof, shall be fined not more than \$500,000; or, imprisoned not more than 5 years; or, both; together with the costs of prosecution.*”
- n. Securitization undermines the United States Federal Bankruptcy Policy because it is used in lieu of secured financing as a means of avoiding certain Bankruptcy Law Restrictions. The origins of securitization in the United States can be traced directly to efforts by banks and financial institutions to avoid Bankruptcy Law Restrictions.
- o. Securitization constitutes a violation of Federal RICO Section 1341: Mail Fraud, Section 1343: Wire Fraud, Section 1344: Financial Institution Fraud, Section 1957: Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, and Section 1952: Racketeering.

IN CONCLUSION: The Securitization of Mortgages and Tax Foreclosures is a growing white collar swindle that is illegal primarily because of “Antitrust Law Violations”, consisting of specific violations such as usury, fraud, conspiracy, forgery and robo-signing and violates our 4th Amendment right to be secure in our property, 5th Amendment right to due process, 7th Amendment right to trial by jury, and our 7th Amendment right to natural law courts.