

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - ESSEX COUNTY

-----X

DEUTSCH BANK NATIONAL TRUST COMPANY, AS
TRUSTEE OF ARGENT SECURITIES, INC., ASSET
BACKED PASS THROUGH CERTIFICATES, SERIES
2004-PW1,

Plaintiff, Index No.
F-20060-08

-against-

PAULETTE DENNIS, et als,
Defendant.

-----X

EXAMINATION BEFORE TRIAL of
LANE A. HOUK, Expert Witness, taken pursuant to
the Civil Practice Law and Rules of Testimony,
and Order, held at the offices of Barrister Reporting
Service, Inc., 88-36 Sutphin Boulevard, Jamaica,
New York, on September 17, 2010 at 12:20 p.m.
before a Notary Public for the State of New York.

BARRISTER REPORTING SERVICE, INC.
120 Broadway
New York, New York 10271
212-732-8066

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S:

FEIN, SUCH, KAHN & SHEPARD, P.C.
Attorneys for Plaintiff
DEUTSCH BANK NATIONAL TRUST COMPANY,
AS TRUSTEE OF ARGENT SECURITIES,
INC., ASSET BACKED PASS THROUGH
CERTIFICATES, SERIES 2004-PW1
7 Century Drive, Suite 201
Parsippany, New Jersey 07054
(973) 538-9300
BY: JOSHUA SEARS, ESQ.
FILE NUMBER: FAHJ001

LAW OFFICES OF FARREL R. DONALD
Attorney for Defendant
PAULETTE DENNIS
242 Fountain Avenue
Brooklyn, New York 11208
(917) 526-6556
BY: FARREL R. DONALD, ESQ.

ALSO PRESENT:
PAULETTE DENNIS - Defendant
SHANNON HOUK

1

2

3

4

5

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that the sealing and filing of the within deposition be waived.

6

7

8

9

10

11

IT IS FURTHER STIPULATED AND AGREED that this deposition may be signed and sworn to before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

1

2 L A N E A. H O U K, having first been duly
3 sworn by a Notary Public of the State of New
4 York, was examined and testified as follows:

5 EXAMINATION BY

6 MR. SEARS:

7 Q. Please state your name for the
8 record.

9 A. Lane A. Houk.

10 Q. What is your address?

11 A. 5668 Fishhawk Crossing Boulevard,
12 #109, Lithia, Florida 33547.

13 MR. SEARS: This is the
14 deposition of Lane Houk who's been
15 offered as an expert witness in the
16 matter of Deutsch Bank National
17 Trust Company, As Trustee Of Argent
18 Securities, Inc., Asset Backed Pass
19 Through Certificates, Series
20 2004-PW1 versus Paulette Dennis.
21 For the record, this is a New Jersey
22 case located in Essex County.

23 This deposition is being held
24 in the State of New York,
25 specifically Jamaica, Queens,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

however, the rules of the court of the state of New Jersey will apply to this deposition, is that correct, Mr. Donald, you have no objection to that, correct?

MR. DONALD: No objections.

MR. SEARS: Okay.

Q. Mr. Houk, you have been deposed before in other cases?

A. No, I haven't.

Q. Okay. In this proceeding I ask the questions, objections to my questions may not be made except for as to the form of the question or if you want to assert a privilege or the right to confidentiality.

If the objection is to the form of my question then Mr. Donald has to tell me what part of that question is objectionable to him so that I may restate the question or amend it.

If there's other objections that Mr. Donald has he may raise at the time of trial if and when your testimony is proffered to the court, so those are the ground rules of today's oral examination.

1 L.A. HOUK

2 So I'm going to begin with please
3 tell me when you became involved in this case?

4 A. If you don't mind, I'll reference my
5 affidavit because I believe I had noted it in my
6 affidavit.

7 Q. Sure.

8 A. It was in March of 2010 I was
9 retained by the defendant and counsel.

10 Q. Okay. And as to your education, did
11 you graduate from high school?

12 A. Yes, I did.

13 Q. Where did you go to high school,
14 where did you graduate from, what state?

15 A. Wisconsin.

16 Q. What was the name of the high
17 school?

18 A. Waukesha South High School.

19 Q. Did you go to college and
20 university?

21 A. Yes, I did, several.

22 Q. Which institutions were those?

23 A. University of Wisconsin, Milwaukee;
24 University of Wisconsin, Waukesha; Valencia
25 Community College, and then I was also in the

L.A. HOUK

1
2 military and I went through some formal education
3 in the military as well.

4 Q. Did you also obtain a degree from
5 one of those higher institutions?

6 A. No.

7 Q. When did you finish your studies at
8 a higher educational institution formally --
9 we'll get into it later, I'll question you, I'll
10 get into about maybe continuing legal education
11 classes, things of that nature, but as to the
12 formal education at a higher institution, when
13 did you stop attending?

14 A. I believe it was 1994.

15 Q. What did you major in when you did
16 go to these schools?

17 A. Science, Associates in Science and
18 then I specialized in nursing.

19 Q. What do you do now for work?

20 A. I own my own company, the National
21 Institute of Consumer Advocacy.

22 Q. And what does that company, what
23 type of work does that company perform, what
24 services?

25 A. Mainly litigation support for

1 L.A. HOUK

2 attorneys representing clients. I also analyze
3 and audit mortgage loan files, mortgage loan
4 documents, foreclosure cases for compliance with
5 state and federal laws, that would be as best the
6 general nature of the business.

7 Q. How long has this business been in
8 operation?

9 A. Since 2002.

10 Q. When you say attorney, you use the
11 word attorney support?

12 A. Litigation support.

13 Q. Litigation support, okay, is that
14 for primarily or all of, one or the other debtors
15 attorneys or lenders attorneys?

16 A. Primarily for debtors attorneys.

17 Q. Have you done work for lender's
18 attorneys as well?

19 A. No, I have not.

20 Q. And what states did you perform that
21 litigation support in?

22 A. It's primarily in Florida, however,
23 I have worked in other states as well, obviously,
24 this case being one in New Jersey. I'm trying to
25 think of if there are other states where I have

1 L.A. HOUK

2 worked with attorneys, but those are the two that
3 I can recall right now that are Florida, New York
4 and New Jersey.

5 Q. What specifically qualifies you,
6 well, what background do you have from a
7 financial standpoint that gives you the ability
8 to do this work for debtors counsel?

9 A. I have nine years of mortgage
10 banking and finance experience which is what I
11 have done for since -- well 2001, 2002 is when I
12 started mortgage banking and finance and --

13 Q. Before you go on can you just go
14 into that a little bit more?

15 A. Sure. I worked as a branch manager
16 for Flag Star Bank which was one of the top five
17 mortgage lenders in the country. I have worked
18 for several large mortgage banking firms as well,
19 Cherry Creek out of Denver, Colorado; Bench Park
20 Mortgage out of Dallas, Texas, in various roles
21 within those organizations.

22 Q. Were you on site with those
23 organizations or off site?

24 A. Well on site would be I was an
25 employee of them in Florida so, you know, I guess

1 L.A. HOUK

2 you are considered on site because it was an
3 official company office wherever I worked out of.

4 Q. I mean, for example, they may have
5 had an office or a home base or headquarters
6 elsewhere, were you in an office or working out
7 of your home?

8 A. No, in an office.

9 Q. And what types of roles in those
10 financial institutions?

11 A. I started off with loan origination
12 in residential finance, and in the later years
13 branch manager where I coordinated all branch
14 operations for the organizations that I worked
15 for.

16 Q. So tell me about the loan
17 origination duties that you had -- I'll rephrase
18 that.

19 Specifically was it quote calling
20 potential clients or borrowers or was it
21 underlying underwriting analysis, just describe
22 for me what duties you performed when you were in
23 loan origination?

24 A. Throughout the whole nine years or
25 in the beginning or what parts?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

Q. Let's start in the beginning.

A. In the beginning it was specifically focused on taking residential loan applications, working with borrowers both in the office and out of the office, originating loans, seeing them through to funding at which point the company that I worked for would fund the loans.

As I progressed in the industry and became branch manager I was more working in the office overseeing several different loan officers at one point, would oversee their origination practices, was in charge of overseeing all compliance with state and federal laws as it pertain to the mortgage origination funding process. Worked with our secondary market and capital market divisions to ensure that the loans were in post, from a post compliance standpoint were ready to be packaged and sold to the secondary market.

Q. Did you work in the underwriting department at all in these institutions?

A. I was not an employee of the underwriting department. I did have a responsibility as branch manager to make sure

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

that the loans that we originated conformed to underwriting standards, underwriting guidelines and worked directly with the underwriters.

Q. You did this type of work until 2002 you said?

A. Until 2007 was when I stopped being a branch manager.

Q. Is it correct for me to say that at that point you left the corporate side of finance?

A. Yes.

Q. And why did you leave?

A. Well there was a lot of flux in the markets at that point and it was just time for me to move on and I transitioned into this area in 2007, 2008.

Q. In your affidavit I think you do mention auditing residential mortgage financial transactions, can you describe or tell me what you mean by auditing?

A. Well I compile a complete set of the loans documents that were part of that mortgage transaction or that loan file. I work with, usually directly with the borrower to obtain a

L.A. HOUK

1
2 copy of everything that they have been, they've
3 received and been given in that file both
4 pre-closing, at closing and post closing, so it's
5 usually kind of three main sets of documents that
6 are compiled and then I just take them, I have
7 kind of developed a methodology, developed a time
8 line of that transaction to understand its
9 history and the nature of that transaction.

10 I usually do several interviews with
11 the borrower to get their narrative of what
12 happened, what they understood, what was maybe
13 verbally disclosed to them and then I go through
14 those documents to audit them for compliance with
15 state and federal laws mainly federal laws but in
16 some cases state as well.

17 Q. Is this, you tell me, is this
18 pre-foreclosure or post foreclosure or which one
19 is it?

20 A. There is no -- it could be pre and
21 it could be post.

22 Q. When do these people do you find do
23 they come to you when they are in financial
24 trouble or why do they approach you for your
25 services?

1 L.A. HOUK

2 A. I can't speak as to why they
3 approach me necessarily.

4 Q. I understand, it's in the past from
5 your personal experience why have they?

6 A. Honestly I get clients that come to
7 me who are not in distress and feel like
8 something happened in their loan that was not
9 right and they are looking for somebody who can,
10 who has the ability to audit their loan or to
11 investigate their loan for issues that they might
12 suspect are present.

13 I do have people that come to me who
14 are in distress, who are going in distress and
15 kind of all phases of that. And obviously I work
16 with several attorneys as well who refer their
17 clients or that case to me for audit and
18 investigation because they are in foreclosure, so
19 I really deal with clients in a broad spectrum.

20 Q. And how did the defendant in this
21 case come to you, how did she find you?

22 A. I don't know how she found me, I
23 just remember getting the phone call and then
24 speaking with her and with Mr. Donald.

25 Q. Did they specify that it was on line

1

L.A. HOUK

2

or through word of mouth or through a print

3

advertisement?

4

A. I don't recall.

5

Q. Do you have a web site that you,
that you are the proprietor of?

6

A. Yes.

7

Q. What's the name of that web site?

8

A. I have two, the company web site is
NIOCA.org, and I also offer a blog and that blog
site is ThePatriotsWar.com.

9

Q. On ThePatriotsWar.com what is the --

10

would you describe yourself as the web master,

11

you edit the blog?

12

A. Yes, I oversee the blog.

13

Q. What topics does that blog cover?

14

A. Foreclosure, Truth and Lending Act,
Recision Rights of Borrowers, various issues
surrounding the foreclosure issue in and around
the country. I'm trying to think if there is
anything else that I might include in what that
blog entails, but I guess that's safe to say
that's the general nature of the blog.

15

I try to provide real-time news as

16

to what's happening in the country, and I'd also

1 L.A. HOUK

2 say that we try to keep our finger on the pulse
3 of what's happening with the financial
4 institutions.

5 Q. And is your work very busy now?

6 A. It is.

7 Q. I'm going to refer to the affidavit
8 that was introduced in opposition to plaintiff's
9 motion for summary judgement, do you have a copy
10 of that?

11 A. I do, I have it in front of me.

12 Q. I just want to go to Paragraph 3
13 where you say that you are qualified with the
14 Florida Bar Association to teach continuing legal
15 education to attorneys and paralegals on
16 foreclosure litigation, will you just describe
17 that to me, do you have a course that you teach?

18 A. Yes, it's course number 2567 with
19 the Florida Bar.

20 Q. Did you have to go through a
21 qualification process or --

22 A. I did.

23 Q. What did that entail with the
24 Florida Bar Association?

25 A. It entailed completing a curriculum

L.A. HOUK

1
2 vitae with my qualifications, my experience and
3 submitting a course outline, and the course is
4 one that I actually developed, so I developed a
5 course outline about the course and submitted the
6 course outline and my curriculum vitae through
7 the Leed (phonetic) County Bar Association which
8 was my local bar that I was working with as part
9 of the foreclosure task force in Leed (phonetic)
10 County and they submitted the course to the
11 Florida Bar.

12 Q. And what does that cover, the
13 foreclosure litigation course?

14 A. Do you mind if I reference the
15 outline?

16 Q. That's fine. Before you go do you
17 have a copy of that?

18 A. I can give it to you, I don't have
19 another copy.

20 MR. DONALD: Counsel can
21 produce that.

22 MR. SEARS: Okay.

23 ** INFORMATION REQUESTED TO BE SUPPLIED:

24 -----

25 A. So there is three sections, Section

L.A. HOUK

1
2 1, and it's six hours and it's a c-r-e course,
3 Section 1 is on foreclosure defense and
4 litigation. Section 2 is on securitization and
5 foreclosure applicability. And Section 3 is on
6 the Truth and Lending Act and Truth and Lending
7 Act Recision.

8 Q. Tell me what you have done to make
9 yourself proficient in the parts of foreclosure
10 litigation, defense litigation, specifically
11 securitization?

12 A. Could you just repeat the question
13 please.

14 Q. Sure. Tell me what education or
15 what background that makes you proficient in
16 foreclosure defense litigation specifically as to
17 the securitization aspect in mortgage banking
18 loans?

19 A. Well in nine years it was my job to
20 have a general understanding of the secondary
21 mortgage market which is really part of the
22 securitization of asset backed securities so I
23 had to have a general understanding of that
24 industry as it related to mortgage lending and
25 banking.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

Since 2007 I have focused on the statutes, the regulations that regulate the asset backed securities market, the regulations that might apply in terms of internal revenue codes to some of the securitization aspects. I have analyzed, you know, I don't have an exact number but literally thousands if not tens of thousands of documents and reviewed them.

I have read several different manuals and keep them as desk top references much like an attorney would, model compliance manual template for mortgage professionals Panna, Baker and Clarence (phonetic), the truth and lending manual, lending manual specifically put out by the national consumer, national law center. I have a 16 volume series.

I was the co-chair of the Leed (phonetic) County Foreclosure Task Force which involved really being heavily involved in the issues surrounding the community on foreclosure situation in Florida and specifically in Leed (phonetic) County. I support my wife in her law practice which is mainly focused on foreclosure defense.

1 L.A. HOUK

2 Q. Has a judge or has a court found you
3 to be an expert in any other cases in which you
4 have provided litigation defense?

5 A. I have no knowledge of that, I know
6 that my affidavits have been used in other cases
7 and they have, they have been, how would I put
8 it, they have been used and read in other
9 foreclosure cases.

10 Q. Have you testified in a foreclosure
11 case before, before a judge?

12 A. I have not.

13 Q. So you haven't, as I understand it,
14 correct me if I'm wrong, that you have not been
15 recognized or deemed to be an expert before?

16 A. I don't have any knowledge of that.

17 Q. And who is paying you to provide
18 support in this case?

19 A. Defendant and defendant's counsel.

20 Q. Have you issued a report in this
21 case aside from the affidavit that you have
22 provided in opposition to the summary judgment
23 motion, have you prepared a report?

24 A. I have not issued a report, I have
25 the research, as you can see I've got a lot here

1 L.A. HOUK

2 that I've done that I've compiled in my research
3 and in the affidavit, I have not as of yet issued
4 a report.

5 MR. SEARS: Let's note for
6 the record that if a report is
7 prepared in advance of trial to be
8 used at trial that plaintiff does
9 reserve its right to recall you,
10 okay. So I'm going to move on now
11 to the specifics of this case.

12 Q. Let's go to Paragraph 7 of that
13 affidavit, it says that you reviewed various
14 documents that were filed at the Securities and
15 Exchange Commission specific to this trust and I
16 just want to know what those documents were that
17 you consulted and reviewed?

18 A. The pooling and servicing agreement
19 dated as of June 1, 2004 for Argent Securities,
20 Inc., Asset Backed Pass Through Certificates,
21 Series 2004-PW1, the form 424B5 prospectus
22 supplement dated as of May 27, 2004, Argent
23 Securities, Inc., Asset Backed Pass Through
24 Certificates, Series 2004-PW1, a few of the form
25 AK registration statements filed with the

1 L.A. HOUK

2 Securities and Exchange Commission for Argent
3 Securities, Inc., Asset Backed Pass Through
4 Certificates, Series 2004-PW1 and there was a
5 term sheet that I did review, but I don't have
6 that with me because it really wasn't really
7 relevant to my affidavit and my analysis.

8 Q. Was there anything else that you
9 reviewed when preparing this affidavit?

10 A. I reviewed the assignment of
11 mortgage dated May 16, 2008 that was filed in the
12 instant case. I also reviewed the copy of the
13 promissory note that was filed in the instant
14 case which beared two endorsements, one from
15 Argent Mortgage Company, LLC to Ameriquest
16 Mortgage Company which was specially endorsed and
17 one from Ameriquest Mortgage Company to blank.

18 Q. Okay.

19 A. Just let me make sure there wasn't
20 anything else because you asked what else did I
21 review so I want to make sure that there wasn't
22 anything else that I didn't review.

23 Q. Sure.

24 A. I did search for the mortgage loan
25 purchase agreement but that was not readily

L.A. HOUK

1
2 accessible.

3 Q. I would just like to make a
4 clarification of that last statement, are you
5 referring to -- I don't think you are referring
6 to the pooling and servicing agreement?

7 A. No, I'm referring to the mortgage
8 loan purchase agreement which is referenced in
9 the pooling and servicing agreement. Then I also
10 searched for the mortgage loan schedule which was
11 referenced in the pooling and servicing agreement
12 but those were not readily accessible, so my
13 recommendation to counsel was maybe that was
14 something that is needed to be retained, obtained
15 through discovery.

16 I also reviewed Section 860 of the
17 internal revenue code as it applies to this
18 pooling and servicing agreement.

19 Q. Was there any treatises that you
20 relied on, legal treatises?

21 A. Can you define what you mean by the
22 word treatise in the context of your question
23 please.

24 Q. Was there any legal documents
25 prepared by other, you know, prepared by an

1 L.A. HOUK

2 expert in any manner in your preparation of the
3 affidavit?

4 A. Well in terms of my research on this
5 case, if I understand your question what you are
6 asking me is have I reviewed anything else or did
7 I use anything else.

8 Q. Yes, I want to know the total of
9 all, I mean it sounds like to me that you have
10 recited a myriad of things but is there anything
11 else to tell me, is this the total of all the
12 sources that you consulted, the information that
13 you reviewed?

14 A. No, so if you want other sources, I
15 have reviewed several internal revenue code
16 bulletins, I couldn't cite them for you which
17 ones they were but I did research some of the
18 internal revenue code bulletins that pertains
19 specifically to real estate mortgage investment
20 conduits and the taxation issues there. I also
21 researched some documents published by the SCC in
22 the federal register.

23 Q. Is there a body or an organization
24 that has given you a certificate or any formal
25 statement of recognition for this type of work?

1 L.A. HOUK

2 A. No.

3 Q. Okay. I assume that you are aware,
4 that you understand that foreclosure defense
5 although the area right now of securitization is
6 very hot it can also --

7 MR. DONALD: Objection.

8 Counsel, is there a question here?

9 MR. SEARS: Yes, okay, thank
10 you.

11 Q. My question is that your support in
12 foreclosure defense litigation is limited to that
13 of securitization and not, for example, a payment
14 dispute?

15 A. That wasn't a question, that was a
16 statement.

17 Q. My question is that your support of
18 foreclosure defense litigation is focused on
19 securitization of residential mortgage
20 securities?

21 A. That still was a statement, that
22 wasn't a question, I still can't understand what
23 your question is.

24 Q. My question is that this is the area
25 of foreclosure defense that you focus on,

L.A. HOUK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

securitization?

A. I'm sorry, that's still not a question, you are making a statement.

Q. Is securitization your primary focus in foreclosure defense?

A. It's one of the focuses, there are several what I'll be deemed primary as it relates to the analysis of a mortgage loan transaction.

Q. Tell me what those are?

A. Analysis of the compliance with state and federal laws that specifically deal with the early disclosures, the final disclosures, the closing documentation, analysis of the servicing of that loan post closing that could involve payment, payments on the accounting of the loan and then another phase of focus depending on the case would be analysis of the foreclosure docket, in other words, all the documents, pleadings, motions, affidavits that are filed in a case that may have, that may be retained for to analyze, spot for issues, make recommendations or in some cases render an affidavit as to my findings depending on what I was hired to do.

1 L.A. HOUK

2 Q. And you reviewed in this case the
3 pleadings -- off the record.

4 (Discussion off the record.)

5 Q. What I'm referring to is Paragraph 8
6 of your affidavit?

7 A. Okay.

8 Q. Is there anything in those documents
9 that -- let me rephrase that. What in those
10 documents led you to the conclusion that you
11 arrived at in this case?

12 A. What conclusion would that be, I'm
13 sorry, is there a specific paragraph in my
14 affidavit that you are referring to?

15 Q. Yes, well it's number 32?

16 A. So if you could repeat your question
17 now that I have read Item 32 in the affidavit.

18 Q. Sure. Was there anything that you
19 found in the pleadings, the affidavits, the
20 motions and the certain exhibits that you
21 referenced that brought you to your, what you
22 found in 32?

23 A. Sure. The styling of the case is
24 Deutsch Bank National Trust Company as Trustee of
25 Argent Securities, Inc., Asset Backed Pass

1 L.A. HOUK

2 Through Certificates, Series 2004-PW1, so that
3 was analyzed, that was part of the, what led me
4 to my conclusion.

5 I analyzed the assignment of
6 mortgage and which also purported to not only
7 assign the mortgage but transfer the note which
8 is the assignment of mortgage dated May 16, 2008
9 which allege that Argent Mortgage Company, LLC
10 assigned the mortgage and transferred the note or
11 as it says here together with the bond note or
12 other obligation therein described, that Argent
13 Mortgage Company, LLC transfer the mortgage and
14 the note to Deutsch Bank National Trust Company
15 as Trustee of Argent Securities, Inc., Asset
16 Backed Pass Through Certificates, Series 2004-PW1
17 on May 16, 2008 and then there are specific
18 clauses, specific provisions in the pooling and
19 servicing agreement that were analyzed and read
20 and researched as it pertain to the assignment of
21 mortgage.

22 I also researched the note or
23 analyzed the note that was filed in the instant
24 case which beared the two endorsements on it, one
25 from Argent Mortgage Company, LLC to Ameriquest

1 L.A. HOUK

2 Mortgage Company and then one from Ameriquest
3 Mortgage Company to blank, and the compilation of
4 the pooling and servicing agreement provisions,
5 the assignment of mortgage and the styling of the
6 case is what led me to my conclusion in Item 32.

7 Q. Tell me what you, for example,
8 Sub Part A of 32 you use the word fraud, what do
9 you mean by fraud?

10 A. That it was possibly and it was a
11 suggestion because I believe there is one of two
12 choices, it's not my job to come to a conclusion
13 on that, Item A was that it is possible that this
14 assignment of mortgage was created by parties not
15 specifically referenced on this assignment of
16 mortgage with the purpose of trying to establish
17 that the plaintiff has the right to foreclose
18 when in fact it may not, so that's what I mean by
19 fraud, it is not an authentic document that
20 accurately represents the intention of the
21 parties referenced on the assignment of mortgage.

22 Q. Let's move to Sub Part B, how do you
23 arrive at the conclusion that the note and the
24 mortgage would be separated because of this
25 assignment?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

A. The pooling, might I reference the pooling and servicing agreement?

Q. That's fine.

A. Okay.

Q. Just let me know where you are at?

A. Article 2, specifically Section 2.03C of the pooling and servicing agreement states that any substitution of a qualified substitute mortgage loans for deleted mortgage loans made pursuant to Section 2.03A in the case of the seller or Section 2.03B in the case of the depositor must be effected prior to the date which is two years after the start-up date for REMIC 1 which stand for Real Estate Mortgage Investment Conduit, so Section 2.03C of the pooling and servicing agreement says that if there is going to even be any substitution of mortgage loans for the loans that were originally included in this trust.

Q. Tell me what you mean by substitution?

A. In other words, there is an original schedule identifying all loans that are going to be included in this trust and deposited into the

1 L.A. HOUK

2 trust by the depositor. If there is going to be
3 a mortgage loan that is going to be substituted
4 because of a repurchase issue because there was
5 an issue found with reference to warranties and
6 the seller, the parties decided that that loan
7 needs to be repurchased out of the trust and
8 therefore a loan will be substituted to replace
9 that loan that was originally in the trust.

10 Q. Was there any indication of this
11 loan is a substituted loan?

12 A. There isn't, what I'm saying is that
13 the specific requirements of internal revenue
14 code Section 860 require that at the latest date
15 that any loan could be substituted in if it
16 wasn't a part of the original loan schedule would
17 be two years from the start-up date of the trust.

18 Q. But you are not sure that that
19 applies to this, right, because you don't know if
20 this is a substituted loan or not?

21 A. Well the assignment of mortgage says
22 that this mortgage and note was transferred to
23 this trust on May 16, 2008.

24 Q. The assignment transferred the
25 mortgage and note to this entity as trustee of

L.A. HOUK

1
2 the loans?

3 MR. DONALD: Objection. Is
4 that a question?

5 Q. Tell me what this assignment, the
6 effect of this assignment, in your opinion what's
7 the effect of this assignment?

8 A. The effect of this assignment is
9 that it says Argent, I'll just read it because
10 it's really it's on the face of the document,
11 Argent Mortgage Company, LLC for and it's located
12 at residential lending but the parties Argent
13 Mortgage Company, LLC for and in consideration of
14 the sum of one dollar and other good and valuable
15 consideration the receipt of where does hereby
16 acknowledge does by these presents assign to
17 Deutsch Bank National Trust Company as Trustee of
18 Argent Securities, Inc., Asset Backed Pass
19 Through Certificates, Series 2004-PW1 a certain
20 mortgage dated March 15, 2004 made by Paulette A.
21 Dennis, unmarried on lands located in the
22 municipality of New York in the County of Essex
23 in the State of New Jersey to secure the payment
24 of the sum of \$126,000.00 which mortgage is
25 recorded in the register clerk's office of the

1 L.A. HOUK

2 County of Essex in mortgage book 9645 at Page 584
3 together with the bond note or other obligation
4 therein described and the money due and to grow
5 due thereon with the interest to have and to hold
6 the same on to the said assignee forever subject
7 only to all the provisions contained in the said
8 mortgage and the bond note or other obligation.

9 Q. So what's the purpose of this, in
10 your opinion what's the purpose of that
11 assignment?

12 A. I can't speak to what the purpose
13 was, I can tell you that what the assignment of
14 mortgage is used for in the industry is to
15 represent and to communicate and to document that
16 a mortgage and sometimes a note when it's
17 referenced in the assigned mortgage have been
18 transferred to another entity there is an
19 assignee and there is an assignor. In this case
20 the assignor is Argent Mortgage Company, LLC and
21 they are saying together with the note it was
22 assigned all the rights, title and interest were
23 assigned to Deutsch Bank National Trust Company
24 as trustee for this trust.

25 Q. And is this to give notice to the

L.A. HOUK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

public?

A. It represents, well according to this I can tell you what the pooling and servicing agreement for this trust requires, I can't tell you if this is to give notice to the public or not.

Q. Okay.

A. If you'd like I can reference the pooling and servicing agreement and tell you what this specific trust requires of the assignment of mortgage when they are drafted.

Q. In your experience if they are going to substitute a loan is it done through an assignment or through an internal exchange of documents?

A. The assignment of mortgage would and is required by the pooling and servicing agreement to be drafted when it's being transferred from one entity to another, so when that transfer is taking place the assignment of mortgage is to be drafted.

Q. Does it say that in this pooling and servicing agreement?

A. It does.

1 L.A. HOUK

2 Q. Reference me to that please?

3 A. It's Article 2, conveyance of the
4 mortgage loans which is going to be the entire
5 section which stipulates as to what needs to be
6 done when a mortgage loan is being conveyed.

7 Q. What page is that on?

8 A. If you've got a printout it's going
9 to reference Page 54, your top right-hand corner,
10 otherwise you can reference Page 71, Article 2
11 Section 2.01.

12 Q. Okay, continue.

13 A. In the first paragraph of Section
14 2.01, conveyance of mortgage loans, it's a fairly
15 large paragraph, but in the middle of the
16 paragraph it says, such assignment includes all
17 interest and principal received by the depositor
18 or the master servicer on or with respect to the
19 mortgage loans and other than the payments of
20 principal and interest due on such mortgage loans
21 on or before the cutoff date the depositor
22 herewith delivers to the trustee an executed copy
23 of the mortgage loan purchase agreement and the
24 trustee on behalf of the certificate holders
25 acknowledges receipt of the same, in connection

L.A. HOUK

1
2 with such transfer and assignment the depositor
3 does hereby deliver to and deposit with the
4 trustee the following documents or instruments
5 with respect to each mortgage loan so transferred
6 and assigned the following documents or
7 instruments and then it gives in parenthesis "a
8 mortgage file," so then it begins to delineate
9 what are all the documents that the depositor is
10 transferring and giving to the trustee in
11 connection with the mortgage file.

12 Q. So is it your opinion that this
13 assignment that you have there in front of you is
14 not in compliance with the terms of this pooling
15 and servicing agreement?

16 A. Yes.

17 Q. If it's not in compliance is there
18 anywhere you can point me in the pooling and
19 servicing agreement who has a right to contest
20 noncompliance?

21 A. No, I can't, I can't point you to
22 any specific place. Do you have a place that you
23 could point me to that you are referencing?

24 Q. I ask the questions.

25 A. Okay.

L.A. HOUK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Is there a place in the pooling and servicing agreement that says a borrower may enforce the terms of the pooling and servicing agreement?

A. I can't speak to that.

Q. Is there a place in the pooling and servicing agreement that specifies who, if anyone, can force alleged noncompliance with the terms?

A. Yes, there is.

Q. What is that?

A. Section 11.10 which would be Page 127.

Q. Okay.

A. I am just giving you an example, I know there are several different places where I have seen that different parties have certain rights but Section 11.10 is an example, it's the section that is entitled third party rights.

Q. Let me find that with you, on my copy what page would that be?

A. It should be Page 127 or Page 175 of the actual pooling and servicing agreement.

Q. Page 127?

1 L.A. HOUK

2 A. You can go to Section 11.10 if our
3 pages aren't matching up.

4 Q. Okay.

5 A. The ~~names~~^{NIMS} insurer shall be deemed to
6 be a third party beneficiary of this agreement to
7 the same extent as if it were a party hereto and
8 it shall have the right to enforce the provisions
9 of this agreement, that's one example.

10 Obviously, there are several laws
11 and regulations that are required under this
12 agreement to be followed and because there are
13 applicable laws that affect the tax status of
14 this trust, so the Internal Revenue Service would
15 be a party that could enforce compliance or could
16 audit for noncompliance.

17 The Securities and Exchange
18 Commission, there are specific securities laws
19 that are referenced in this pooling and servicing
20 agreement, so there are the Securities and
21 Exchange Commission could be a body or a party
22 that could audit for compliance or
23 noncompliance. Certainly the certificate
24 holders in their collectively or individually
25 have a right.

1 L.A. HOUK

2 Q. Okay. Describe, in Paragraph 24 --

3 A. Of the affidavit?

4 Q. Yes.

5 A. Okay.

6 Q. It's your opinion that this
7 assignment if authentic would have -- let me
8 rephrase that.

9 If this assignment is authentic does
10 it have tax ramifications upon the trust?

11 A. In my opinion it does and it could
12 have tax implications on the trustee.

13 Q. Okay.

14 A. I'm not stating that as a legal
15 conclusion, that's for the court to decide, but
16 it is my opinion that if it's authentic it does
17 have tax ramifications for both the trust and the
18 trustee, and or the trustee.

19 Q. Is that tax, precisely what
20 ramifications?

21 A. 100 percent tax on the face value of
22 the asset which in this case would be the
23 mortgage loan.

24 Q. As opposed to a lower tax amount?

25 A. Well I can reference the internal

1 L.A. HOUK

2 revenue code section if you'd like that
3 specifically governs this.

4 Q. My question would pertain to your
5 use of the phrase double taxation in the
6 affidavit?

7 A. Okay. The REMIC is really a special
8 purpose vehicle or sometimes they call it a QSPE,
9 a qualifying special purpose entity. It
10 specifically was designed by Congress to allow
11 the vehicle to not be taxed as that cash flow
12 moves through the vehicle to and distribute to
13 the investor or certificate holders so the cash
14 flow that is received from the mortgage loans
15 that are a part of the pool --

16 Q. Okay, hold on. Before you go any
17 further you said not be taxed so no tax?

18 A. Correct, that is the purpose of a
19 special purpose vehicle is to avoid the double
20 taxation.

21 It's much like setting up a
22 corporation, when income comes into a corporation
23 there are different types of corporate structures
24 that allow for pass through taxation, so it
25 avoids double taxation on the corporate level and

1 L.A. HOUK

2 on the individual level.

3 Same applies with a special purpose
4 entity or a special purpose vehicle, it's
5 designed to be a conduit to have that, to allow
6 that cash flow go through and not be taxed on the
7 corporate side, on the trust side and then also
8 be taxed again when it gets distributed to the
9 certificate holders in their prorated share.
10 However, if a REMIC or a trust were to lose its
11 REMIC status because of an unqualified or
12 prohibited contribution to the trust.

13 Q. Okay. And in your opinion this
14 assignment is a contribution to the trust?

15 A. Or it's a fraudulent document, one
16 of the two, I can't say which one it is but it's
17 my opinion that it's one or the other.

18 Q. And why do you say it would be an
19 unqualified contribution?

20 A. Because the assignment of mortgage
21 clearly states that this happened on May 16,
22 2008. All loans selected for inclusion into this
23 trust were required to be deposited into this
24 trust no later than three months after the
25 start-up day which Section 10, I believe it's

1 L.A. HOUK

2 10.01B of the pooling and servicing agreement,
3 stipulates that the closing date is hereby
4 designated as the start-up day of each trust
5 REMIC within this meaning of Section 860GA9 of
6 the code. The closing date for this trust was on
7 or about June 7, 2004 and so according to
8 internal revenue guidelines all loans selected
9 for inclusion in this trust needed to be
10 deposited into this trust by the depositor within
11 three months of the start-up date which would
12 have been September 7, 2004.

13 The only other option would be that
14 if there was a substituted mortgage loan that
15 needed to be substituted into this trust then
16 they have up until two years from the date which
17 would be June 7, 2006. This assignment of
18 mortgage purports to transfer to the trust the
19 mortgage and the note on May 16, 2008 some two
20 years after the very last day that any mortgage
21 loan could be substituted into this trust.

22 Q. But this --

23 A. Which would be defined as a
24 prohibited contribution to the trust if it's
25 authentic.

1 L.A. HOUK

2 Q. Is this assignment the form of
3 deposit ticket, is it a receipt?

4 A. It's an assignment of mortgage based
5 on the face of the document.

6 Q. Okay. Is there anything more that
7 you would look for, for it to be a contribution
8 into the trust or this is the only thing, that
9 this document will be the only memorialization of
10 a contribution into the trust?

11 A. Repeat the question one more time if
12 you don't mind.

13 Q. If there is going to be a
14 contribution into the trust what memorializes
15 that contribution?

16 A. The physical transfer of the
17 mortgage, the note and all documents that are
18 specifically referenced in the pooling and
19 servicing agreement, mainly Section 2 or Article
20 2 of the pooling and servicing agreement.

21 Q. Can you repeat your answer?

22 A. The physical transfer of the
23 original note, the original mortgage and all
24 other documents referenced that need to be
25 included in the mortgage loan file which are

1 L.A. HOUK

2 referenced in Article 2 of the pooling and
3 servicing agreement.

4 Q. I'm just referring to Paragraph 32
5 in your affidavit which says the note is in fact
6 deposited into the trust, so your opinion is that
7 this assignment is a deposit of this note into
8 the trust?

9 A. I can't speak to that because I
10 don't know what physical transfer happened, if
11 any.

12 Q. In the next Paragraph 33 in your
13 affidavit, I'll read it, it says that Tamara
14 Price, it says specifically has the ability to
15 attach any corporate document such as a corporate
16 resolution which again says that she has the
17 corporate ability to convey mortgage loans, my
18 question is, is a corporate resolution necessary
19 to file an assignment of mortgage with the clerk
20 of the county, with the clerk of Essex County --
21 I will restate the question.

22 If there is no corporate resolution
23 on an assignment does that render it in your
24 opinion ineffective?

25 A. It's possible it could. All

L.A. HOUK

1
2 corporations have specific powers vested in
3 certain officers to accumulate debt on behalf of
4 the corporation, to transfer assets of the
5 corporation and so my point in Paragraph 33 was
6 there is nothing in the record that I could see
7 that evidence that Tamara Price had any corporate
8 authority to transfer an asset of Argent Mortgage
9 Company, LLC to Deutsch Bank National Trust
10 Company as trustee for this specific trust.

11 Q. If you are deemed by the court to be
12 an expert and you testify, what's the subject
13 matter to which you'd be testifying?

14 A. It's confined within the scope of my
15 affidavit.

16 Q. Can you just be more precise in the
17 answer to my question?

18 A. Could you repeat the question
19 please.

20 Q. Sure. If you testify at the trial
21 what's the subject matter to which your testimony
22 will cover?

23 A. Well it's all specifically within
24 the scope of my analysis which is delineated in
25 detail in my affidavit.

1 L.A. HOUK

2 If you want some examples of the
3 subject matter it would be the assignment of
4 mortgage that I analyzed, the pooling and
5 servicing agreement, the note that was filed in
6 the record which I examined, the prospectus
7 supplement which I also examined, some of the
8 facts surrounding the purchase of the assets of
9 Argent Mortgage Company, LLC by Citi Group Inc.,
10 and some of the dates that those, that sale and
11 purchase of Argent Mortgage Company, LLC and
12 their assets took place, possibly some sections
13 of internal revenue codes specifically Section
14 860, Subsection A through G.

15 Q. So it's your opinion then that the
16 named plaintiff in this action cannot enforce
17 this obligation?

18 A. That would be a legal conclusion and
19 I can't and I won't speak to a legal conclusion
20 here in this deposition.

21 Q. Okay.

22 A. It's not my place.

23 Q. What is the conclusion, tell me the
24 conclusion of your review and analyzation of this
25 loan?

L.A. HOUK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A. My opinion is stated in my affidavit.

Q. Okay.

A. My opinion is that the assignment of mortgage either, is either a fraud on the court, in other words, it does not accurately reflect the intention of the parties, and that it was created outside the knowledge of people that have the actual power to act on behalf of the corporation.

Q. How do you know that?

A. No, I don't know that. I'm saying it's either that or if it accurately reflects the intention of the parties, it accurately reflects that the mortgage and the note were physically transferred to this trust then it represents a major breach in the provisions of the pooling and servicing agreement and subjects this trust and or the trustee to tax ramifications, and it should be reported to the IRS and the Securities and Exchange Commission for noncompliance. So it's one of my opinions that it's one or the other.

Q. Okay. So I think --

1 L.A. HOUK

2 A. Let me qualify that, unless there is
3 subsequent documentation, I think I noted that in
4 my affidavit, unless there's further
5 documentation that's produced, okay, that I
6 haven't been able to examine.

7 Q. But it is not your opinion that this
8 pooling and servicing agreement would supersede
9 the uniform commercial code?

10 A. Repeat the question again please.

11 Q. It's not your opinion that this
12 pooling and servicing agreement, the terms of
13 this pooling and servicing agreement supersede
14 the uniform commercial code?

15 A. I can't speak to that, that wasn't
16 in the scope of my analysis in this affidavit.

17 Q. Okay. Also it's not your opinion
18 that the terms of this pooling and servicing
19 agreement would supersede New Jersey State law?

20 A. I can't speak to that as well, that
21 would be for a judge to decide so it's really not
22 my -- I didn't speak to that in my affidavit so
23 I'm also not going to say whether it's my opinion
24 or not. I'm just not speaking to those issues
25 because that was outside the scope of my analysis

L.A. HOUK

1
2 in my affidavit.

3 Q. Do you know if this borrower resides
4 on the property or not?

5 A. It's my understanding that she --
6 well actually I don't know, I haven't, I don't
7 think we discussed that.

8 Q. So in your support of foreclosure
9 defense litigation is it limited to borrowers or
10 does it also extend to real estate investors?

11 A. Well if there's a mortgage loan
12 involved there's always a borrower.

13 Q. You are correct, what I mean is a
14 borrower that uses that premises, that property
15 as their residence and primary residence?

16 A. Is it limited to that?

17 Q. Or is it also of real estate
18 investors, people who purchase property as
19 investment?

20 A. And the question is, I'm sorry again
21 is.

22 Q. Who do you provide your litigation
23 support to?

24 A. It's not limited to one certain
25 borrower or another.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

Q. So you do provide litigation support to those who purchase real estate for domestic purposes?

A. I could and I have, yes.

Q. In any of the previous cases that you have been involved in providing foreclosure defense litigation for borrowers, have you found instances where the transfer of the note was proper?

A. Let me say this to qualify there are many cases where I'm not hired to analyze the transfer of the note.

Q. What were you hired to do?

A. To audit their loan for compliance with state and federal lending laws, and that's in that scope in many cases, so there are many cases where I am not hired for that specific purpose to analyze the assignment of mortgage or the transfer of a mortgage and note, so in those cases I can't speak to that.

Q. I'll ask another question.

Have you found in any of the cases that you have provided support of whatever scope, have you found that the transfer and the

L.A. HOUK

1
2 obligation has been proper?

3 A. I've found instances where it appear
4 to be proper, again, it wasn't my job to reach a
5 conclusion on that, but I have audited cases
6 where it appear to be proper, yes.

7 Q. How many, what percentage of your
8 cases would you estimate it was proper?

9 A. I couldn't, every case is uniquely
10 different.

11 Q. What percentage of all the cases
12 that you've done would you estimate that it was
13 proper?

14 A. I couldn't, I couldn't give you a
15 number because I have never sat down and said,
16 well, I've analyzed this many cases, I've just
17 never gone through the mathematical calculation
18 to come to a number where I could put out a
19 percentage today that would accurately reflect
20 the facts.

21 MR. SEARS: Okay, I don't
22 have any further questions at this
23 time, okay.

24 MR. DONALD: I just have a
25 couple of questions, I don't want to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

keep you here too much longer.

EXAMINATION BY

MR. DONALD:

Q. Mr. Houk, you said that you had an opportunity to examine the note in question with this litigation?

A. I did.

Q. Did you notice that there were, if there were any endorsements on the note?

A. I did, I noticed that there were two endorsements on the note that I inspected.

Q. What endorsements did you see on the note specifically?

A. And if you don't mind I'll pull it out again just to make sure, but my recollection is that there was an endorsement from Argent Mortgage Company, LLC specially endorsed to Ameriquest Mortgage Company and then there was a second endorsement from Ameriquest Mortgage Company to blank, in other words, it was a blank endorsement from Ameriquest Mortgage Company.

Q. The endorsement from Argent to Ameriquest, in layman's terms what would an endorsement like that appearing on the note mean?

1 L.A. HOUK

2 A. What it would mean?

3 Q. Yes.

4 A. It would mean that that note was
5 negotiated and transferred from one entity to
6 another or from one person to another if it's an
7 individual.

8 Q. So would it be fair to say in this
9 case that that endorsement purports transfer from
10 Argent to Ameriquest?

11 A. Yes, it would.

12 Q. You said there was also another
13 endorsement from Ameriquest to blank?

14 A. That's correct.

15 Q. What would that endorsement purport
16 to be?

17 A. That the note was transferred again
18 to an entity, but as it's common in the
19 securitization industry or the secondary mortgage
20 market most often times the pooling and servicing
21 agreements require that the depositor endorse the
22 note in blank, in other words, it's not
23 specifically payable to an entity or a person,
24 it's endorsed in blank and so it would render the
25 note basically a bear, a bear instrument so that

1 L.A. HOUK

2 the holder of that instrument would be in this
3 case the trust and that's what was required by
4 the pooling and servicing agreement was that the
5 note be endorsed in blank. However, with this
6 endorsement the pooling and servicing agreement
7 requires that the depositor transfer the note to
8 the trustee for the benefit of the certificate
9 holders and there is no evidence of this note
10 that that happened.

11 Q. And who would the depositor be in
12 this case?

13 A. It was Argent Securities, Inc., I
14 believe but let me just verify. It's actually in
15 my affidavit in the chain, I developed a visual
16 map and that was Exhibit A of my affidavit. The
17 depositor is Argent Securities, Inc., which is
18 obviously a completely different entity than
19 Argent Mortgage Company, LLC and also different
20 than Ameriquest Mortgage Company.

21 Q. The fact that the depositor is a
22 completely different entity, does that present a
23 problem in this case or with respect to this
24 assignment?

25 A. In my opinion it does. The styling

L.A. HOUK

1
2 of this case represents that Deutsch Bank is
3 acting as trustee for the certificate holders of
4 this trust and the trustee is obligated to abide
5 by all provisions within the pooling and
6 servicing agreement which is the operative
7 document, and Article 2 of the pooling and
8 servicing agreement is very, very specific and
9 there is another article I will reference in a
10 second but it's very specific that it's the
11 depositor who delivers, assigns, transfers, sets
12 over and conveys to the trustee all, you know,
13 without recourse all rights, title and interest
14 of the depositor including any security interest
15 therein into the mortgage loans so it's very,
16 very clear that the depositor is the entity,
17 Argent Securities, Inc. is the entity that is to
18 convey the mortgage loans to the trustee for the
19 benefit of the certificate holders.

20 And also Section 11.09 of the
21 pooling and servicing agreement says it is the
22 express intent of the parties hereto that the
23 conveyance of the mortgage loans by the depositor
24 to the trustee be and be construed as a sale of
25 the mortgage loans by the depositor and not a

L.A. HOUK

1
2 pledge of the mortgage loans by the depositor to
3 secure debt or other obligation of the depositor
4 or the seller, so there are several provisions
5 within this pooling and servicing agreement that
6 stipulate that it is the depositor that is to
7 convey the mortgage loans to the trustee and no
8 other entity; and in this case both the note does
9 not conform to that and the assignment of
10 mortgage dated May 16, 2008 does not reflect
11 that.

12 Q. Okay. So if I am to understand this
13 properly, you have on the note itself endorsement
14 from Argent to Ameriquest and then from
15 Ameriquest to blank, okay, and am I also correct
16 in understanding that the assignment of mortgage
17 is from Argent Mortgage, LLC to Deutsch Bank?

18 A. That's correct.

19 Q. My question here is why doesn't the
20 transfers that are on the note match up with the
21 transfers that are on the assignment?

22 A. That's a very good question. They
23 don't match up and that presents an issue of fact
24 that, you know, needs to be resolved but they
25 don't, neither the assignment of mortgage in this

L.A. HOUK

1
2 case nor the note filed in the instant case
3 accurately represent the provisions of the
4 pooling and servicing agreement which clearly
5 stipulate that the conveyance of mortgage loans
6 is to go from the originator, in this case Argent
7 Mortgage Company, LLC., to Ameriquest Mortgage
8 Company who is the seller in this trust to the
9 depositor Argent Securities, Inc., and then to
10 the trustee for the benefit of the certificate
11 holders.

12 There is also another issue that I
13 found was that even the language within the
14 assignment of mortgage does not conform to the
15 provisions of the pooling and servicing agreement
16 in that the section, there is very specific
17 language in the pooling and servicing agreement
18 which require the assignment of mortgage to have
19 language in it and it's Article 2, Section
20 2.016.

21 Mr. Sears, if you want it's Page 72
22 of the pooling and servicing agreement. It says
23 each -- it's the second to last paragraph on that
24 page, it says, each assignments referred to in
25 Section 2.013 and 4 above and shall execute each

L.A. HOUK

1
2 original assignment referred to in Section 2.013
3 above in the following form: and then in
4 quotation marks it says, "Deutsch Bank National
5 Trust Company as Trustee under the applicable
6 agreement," end quote.

7 The assignment of mortgage filed in
8 the instant case does not contain that exact
9 language, so that's also what led me to a
10 conclusion that this assignment of mortgage is
11 possibly not a authentic document.

12 Q. I want to ask you, does the fact
13 that the transfers that are on the note and the
14 transfers that are on the assignment, the fact
15 that they don't match up, does that present any
16 special problems?

17 A. It could, it could, this is not a
18 legal conclusion but it could have the effect
19 that the note and the mortgage were split, in
20 other words, the note went one direction and the
21 mortgage went another direction in different
22 chains, in different, to different entities at
23 different times, and it could have the effect of
24 splitting the note from the mortgage thereby
25 rendering the note an unsecured obligation and

1 L.A. HOUK

2 the person holding or the person or entity
3 holding the mortgage could be deemed to be
4 holding a document that is a legal nullity
5 because a mortgage without a note is, has been
6 deemed by several courts to be a nullity.

7 Q. All right, getting away from the
8 particular facts of this case I want to ask you a
9 question about your research into the
10 securitization process or the time you have spent
11 on these types of cases, do you know how many
12 hours in total you have spent either doing
13 research into this area at asset (phonetic)
14 Securities, Securitization, or time you have
15 spent analyzing documents in these particular
16 types of cases?

17 A. Obviously I don't have a punch clock
18 so it's several hundred, anywhere from 40 to 80
19 hours a week for the last going on three years,
20 two and a half years.

21 There are weeks that I put in, you
22 know, 60, 70, 80 hours in this line of work and
23 then there are some weeks that are less hectic
24 where it's 30 to 40. But when I've sat down and
25 tried to calculate, it's well over 800 if not over

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

L.A. HOUK

a thousand hours in time spent researching,
reading, analyzing, auditing.

MR. DONALD: I have no
further questions for this witness.

MR. SEARS: I will conclude
this deposition. Thank you.

(TIME NOTED: 1:40 P.M.)

LANE A. HOUK

Subscribed and sworn to before me
this _____ day of _____, 2010.

Notary Public

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE:

EXAMINATIONS CONDUCTED:

By Mr. Sears

4

By Mr. Donald

52

INFORMATION REQUESTED

17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK)

SS:

COUNTY OF NASSAU)

I, CHARMAINE ROGERS, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That the foregoing proceedings were taken down by me in shorthand and thereafter transcribed under my direction and supervision, and that the within transcript is a true record of such proceedings.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of Oct, 2010.

Charmaine Rogers

CHARMAINE ROGERS