UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

IN RE:
SALLY W STRACHAN aka
SALLY WHEELAHAN STRACHAN
DEBTOR

CASE NO: 10-04790-MAM-7

MOTION TO RECONSIDER ALTER OR AMEND JUDGMENT CONDITIONALLY LIFTING AUTOMATIC STAY

COMES NOW the Debtor, by and through counsel, and respectfully moves the Court to Reconsider, Alter or Amend the Court's Order/Judgment conditionally allowing the Automatic Stay to be lifted on behalf of Chase Home Finance, LLC ("Creditor") on the following grounds:

1. The MERS assignment to Chase Home Finance was executed after the Petition in this case was filed and was therefore a violation of the automatic stay of Section 362 since MERS and Chase attempted to perfect a security interest post petition. As counsel for Debtor pointed out to the Court in the hearing on the Motion to Lift Stay conducted on December 14, 2010, the date of the assignment from MERs to Creditor is November 2, 2010 but the debtor filed her initial petition on October 13, 2010. Accordingly, the Creditor violated the automatic stay by perfecting its interest in the mortgage/security agreement after the filing of the petition, which is a clear violation of the automatic stay provided by Section 362. In effect, the purported assignment from MERs to Chase on November 2, 2010 was an attempt to perfect a security interest post automatic stay in violation of Section 362. This was raised on Section 3 of Debtor's Objection to Chase's motion for relief from stay. Moreover, under Section 362(d) only "a party in interest" may move to lift the automatic stay. This should be read as a party in interest as of the date of the petition and the assignment by MERS two weeks after the petition was filed in this case was an impermissible attempt to change parties in interest post petition.

2. The Court's reliance on Crum, 2009 WL 2986655 is misplaced in that the debtor in Crum did not make his note separation arguments at trial and raised them for the first time on appeal. In contrast, counsel for Debtor made his arguments at the hearing on this matter. MERS admits that it has no right whatsoever to payments made by the Debtor on the promissory note (which, unlike Crum, was admitted into evidence). The Court in Crum acknowledged the debtor's argument tht the note was a negotiable instrument and the note was not properly acquired via negotiation pursuant to the UCC, but unfortunately for the debtor in Crum, she did not raise that argument at trial and the note was not included in the record. In this case counsel for debtor made this very argument in his Objection and the Note was part of the record because the parties stipulated that the Chase proof of claim containing the note would be

Defendant's/Creditor's Exhibits 1 through 3. Accordingly, it is clear that ownership of the note and the mortgage has been bifurcated and the only person with the right and standing to lift the automatic stay is the person/entity entitled to payments on the note. As will be seen in Section 4 below, it is not at all clear who holds the note in this case as both JP Morgan and Chase Home Finance have each received an assignment of the note, JP Morgan received the assignment from Renassant bank through an undated stamped endorsement and Chase Home Finance received an assignment of the note from MERS as part of the mortgage assignment (See and compare the note and mortgage in Creditor's proof of claim in this case). See In Re Sheridan, 2009 WL 631355 (Bankr Idaho March 12, 2009). Like this case, the key question was not answered by the note and mortgage- who was the holder of the note at the time of the motion for relief from stay? The court noted that other movants for stay relief have argued that the holder of a note secured by a mortgage

> "obtains the benefit of the deed of trust even in the absence of an assignment of the deed of the deed of trust, on the theory that the security for the debt follows the debt. Under this theory, it would appear that *when the bankruptcy intervenes*, and somewhat like a game of musical chairs, the then-current holder of the note is the only creditor with a pecuniary interest and standing sufficient to pursue payment and relief from stay. " Id at 5 (footnote omitted) (emphasis supplied).

See also Restatement (Third) of Property: Mortgages Section 5.4(b)(1997) where "a transfer of a mortgage also transfers the obligation the mortgage secures unless the parties agree otherwise." Seabury v Hemley, 174 Ala. 116,121, 56 So. 530, 531 (1911). In Crum, the debtor made the argument for the first time on appeal that the note she executed was a "negotiable instrument" and the assignee did not properly acquire the note through negotiation. The Crum court did not reach this argument because it was not raised at trial.

In this case, the proof of claim filed by Creditor shows an *undated* assignment of the note from Renassant Bank to JP Morgan Chase Bank, N.A., then after the Debtor's petition was filed, the proof of claim shows a purported assignment from MERS to Chase Home Finance dated November 2, 2010 (more than two weeks after this case was filed). Therefore, in addition to the fact that there has been a separation of the owner of the note and the security instrument, the effort to tie them back together was done post petition in violation of the automatic stay. However, even if MERs had issued the assignment of the mortgage before the petition was filed, this act would have been ineffective to transfer ownership of the mortgage to Chase Home Finance because (1) the purported attempt to join the note and mortgage is undated, (2) the purported attempt to rejoin the note and mortgage still left the note and mortgage bifurcated in that Chase Home Finance allegedly holds the mortgage and JP Morgan Chase holds the Note, thus, under the authority of Seabury, Sheridan and the Restatement, only JP Morgan Chase has standing to move to lift the stay. Accordingly, this Court's suggestion that Creditor show a relationship between the two corporations will not remedy this situation unless JP Morgan Chase either (a) transfers/assigns the Note to Chase Home Finance or (b) the current motion is dismissed and refiled by JP Morgan Chase . As clearly stated by the

Missouri Court of Appeals in Bellistri v Ocwen Loan Servicing, LLC, 284 SW3d 619 (MO Ct. App 2009) the assignee of the mortgage alone (in our case Chase Home Finance) has no standing to foreclose once the note and mortgage have been separated in a MERs transaction and only the note holder must be permitted to do so (in our case JP Morgan):

> "In the event that the note and the deed of trust are split, the note, as a practical matter becomes unsecured. The practical effect of splitting the deed of trust from the promissory note is to make it impossible for the holder of the note to foreclose, unless the holder of the deed of trust is the agent of the holder of the note. Without the agency relationship, the person holding only the note lacks the power to foreclose in the event of default. The person holding only the deed of trust will never experience default because only the holder of the note is entitled to payment of the underlying obligation. The mortgage loan becomes ineffectual when the note holder did not also hold the deed of trust." Id at 623.

Equally as important, in this Case MERS attempted to transfer the Note to Chase Home Finance. The "Assignment of Mortgage" attached as an exhibit to Chase's proof of claim provides in the last sentence of the first paragraph that MERS assigns the Note to Chase. The language provides: "together with the debt thereby secured, the note therein describeb, and all interest of the undersigned, in and to the lands and property conveyed by the mortgage." (See the Assignment of Mortgage attached as part of Creditor's proof of claim admitted into evidence by agreement in the hearing in this case-first paragraph). MERS never had any right, title or interest in and to the Note and nothing in the documents in the case shows that it did. As the Bellistri Court stated, MERS has no power to transfer the note:

> "When it assigned the deed of trust, MERS attempted to transfer to Ocwen the deed of trust 'together with any and all notes and obligations therein described or referred to, the debt respectively secured thereby and all sums of money due'....There is no evidence...that MERS held the promissory note or that BNC gave MERs the authority to transfer the promissory note. MERS could not transfer the promissory note; therefore, the language in the assignment of the deed of trust purporting to transfer the note is ineffective. MERS never held the promissory note, thus its assignment of the deed of trust to Ocwen separate from the note had no force." Id. at 623-24

More and more courts are recognizing that MERS has no authority to act on its own, for instance to attempt to transfer the mortgage from Renassant Bank to Chase Finance and that specific recorded directions from the lender are required (in this case Renassant would have to have recorded a document authorizing MERS to assign the mortgage to Chase (not forgetting that Section 362 prevents MERS from assigning the mortgage to Chase post petition and in violation of the stay). In MERS v Southwest Homes of Arkansas, Inc., 301 SW 3d 1 (Ark 2009), MERS showed its schizophrenia by arguing that it was a necessary party because it held legal title to the property. In rejecting this argument for reasons not germane to this case, the Supreme Court of Arkansas made it clear that MERS can not act on its own because it:

> "specifically reject[ed] the notion that MERS may act on its own, independent of the direction of the specific lender who holds the repayment interest in the security instrument at the time MERS purports to act. "[A]n agent is authorized to do, and to do only, what is reasonable for him to infer that the principal desires him to do in the light of the facts as he knows or should know them at the time he acts.....Permitting an agent, such as MERS purports to be, to step in and act without a recorded lender directing its action would wreak havoc on notice in this state." Id at 4-5.

Accordingly, a mere instrument showing that JP Morgan and Chase Home Finance are related entities is not sufficient to cure the defects in standing and real party in interest issues in this case. First, as counsel to debtor pointed out to this Court during oral argument, counsel for Creditor stated that MERS had been directed by Chase to execute the assignment and the undersigned counsel to debtor noted to the Court that this alleged direction should be in writing and recorded. At the very least then, the following would be necessary to comply with generally accepted caselaw:

(a) JP Morgan would have needed to issue written instructions to MERS that it had acquired the note and provided that its purported affiliate, Chase, would be the servicing agent;

(b) JP Morgan would have needed to have produced a clear servicing agreement between JP Morgan and Chase, including, without limitation, transferring the power of sale from MERS to Chase; and

(c) This would all have had to be done PRIOR to the date the petition in this case was filed. Any attempt to clean up the documents post petition is a violation of the automatic stay. Chase is not without a remedy. This is a chapter 7 case and the mortgage survives a discharge. If this Court were to grant the relief requested by Debtor, Chase may attempt to foreclose after the discharge and this case is closed. Of course, as this Court knows, Debtor with his sister are attempting to gain a HAMP modification to allow them to retain their home.

3. JP Morgan and not Chase Home Servicing is the Real Party in Interest. Section 362(a) of the Bankruptcy Code requires that stay relief be requested by a "party in interest" for cause, and the Bankruptcy Rules incorporate Federal Rule of Civil Procedure 17(a) which also requires that an action be brought in the name of the real party in interest. While "party in interest" is not defined in the Code, a party must at least have a pecuniary interest in the outcome. In re Sheridan, supra at 2. The only party with a pecuniary interest is the holder of the note (JP Morgan) and not the servicer (Chase Home Finance). In Sheridan, one of the cases cited held that the Code, Rules, local rules and case law required that a motion be brought by a party in interest with a pecuniary interest in the case and

> "in connection with secured debts, by the entity that is entitled to payment from the debtor and to enforce security for such payment. That entity is the real party in interest. It must bring the motion, or, if the motion is filed by a servicer or nominee or other agent with claimed authority to bring the motion, the motion must identify and be prosecuted in the name of the real party in interest. "Id at 4.

Accordingly, the motion should have been filed by JP Morgan who is clearly (well not so clearly as can be seen in 4 below) the holder of the note while Chase may or may not be the holder of the mortgage (as counsel for debtor has made the argument that MERS has no authority to assign the mortgage to Chase Home Finance without a written directive from JP Morgan). This can not be cured post petition except by a dismissal of the current motion and the re-filing of the motion by JP Morgan. Even then there are problems of the bifurcated note and mortgage because MERS is without authority (post petition or prepetition) to assign the mortgage to JP Morgan- leaving MERS as an indispensible party in this particular action. This is because, as of the petition date, the note was held allegedly by JP Morgan and the mortgage was held by MERS. As counsel for Debtor can show if requested by this Court, MERS cannot be a party in this Court for a number of reasons, including, without limitation, it is not qualified to do business in Alabama. There would also be the true problem that would still exist: the note has been impermissibly split from the mortgage which is not allowed by Alabama law. See Crum. Like the Court stated in Bellistri, supra, "[w]ithout the agency relationship, the person holding only the note lacks the power to foreclose...and [t]he person holding only the deed of trust will never experience default because only the holder of the note is entitled to payment." 284 SW 3d at 623.

4. Respectfully, this Court did not address the arguments set forth in Debtor's objection which both flow from all of the foregoing and the increasing understanding being gained about the operation of MERS from Courts across the Country. If the documents are closely examined, the note in this case is held by both Chase Home Finance and JP Morgan Chase because of the confused nature of MERS (see the Assignment of Mortgage attached as part of the proof of claim of Chase which also contains an assignment of the Note to Chase Home Finance and see Exhibit A to the proof of claim which contains an endorsement of the Note without recourse and undated from Renassant Bank to JP Morgan Chase). According to the documents in the proof of claim alone, it appears that the Note was at the same time owned by both Renassant Bank and MERS. After the flurry of assignments, the Note was then held by both JP Chase and Chase Home Finance, one getting the assignment from Renassant and other from MERS. There have been a number of recent cases that more clearly define the role of MERS in the entire securitization/clearing house scheme. Notwithstanding Crum and the Relka cases cited by this Court, MERS had no authority to transfer the mortgage from Renassant Bank to Chase; this could only have been accomplished by Renassant and only prior to the filing of the debtor's petition to avoid the problem of perfecting a security interest post petition. This is because it is becoming ever clearer that, whatever the legal status of MERs, it has no authority to assign the underlying mortgage.

The legal status of MERS has been compared to the God of Roman Mythology, Janus, who had two faces. See, Peterson, Christopher L., "*Two Faces: Demystifying the Mortgage Electronic Registration System's Land Title Theory," Working draft*- Forthcoming Real Property, Trusts and Estate Law Journal, 9/29/10 (a copy of which can be obtained through Google and a copy of which can be emailed to the Court and

opposing counsel upon request)(supplementing an earlier published article-Christopher L. Peterson, *Foreclosure, Subprime Mortgage Lending, and the MERS System,* 78 U. of Cincinnati Law Review 1359 (2010)). In examining the language of a MERS mortgage which grants MERS an interest "solely as nominee for Lender and Lender's successors and assigns" when compared with other language in the typical MERS mortgage (including the one in this case) providing that MERS has, as the "mortgagee" the full right and power "to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this security instrument," it is clear that MERS is trying to walk a tight rope of legal gray area. The Court should notice that, from this language quoted in this paragraph (which is verbatim from the mortgage allegedly now held by Chase Home Finance), MERS has the right to release and cancel and foreclose but, not the power to assign the Lender's interest to another lender or servicer as MERS did in this case two weeks after the petition was signed.

It goes without saying that this passage is confusing. On one hand MERS purports to be acting as a nominee (not defined-but which many courts find is a type of agency). On the other hand, it is also claiming to be an actual mortgagee, which is to say an owner of the real property right to foreclose upon the security interest. It is axiomatic that a company cannot be both an agent and a principal with respect to the same right. Restatement (Third) of Agency Law, Sections 1.01, 1.02. The undersigned counsel has read numerous cases where both lawyers and judges take differing and sometimes inconsistent positions on the legal status of MERS, depending on what issue is at hand. Each description has its problems. If MERS is an agent, how then can it have the authority to list itself as mortgagee under state land title acts, and, as in this case, how can it assign the underlying mortgage to companies like Chase Home Finance. This is the argument the undersigned counsel made to this Court, i.e. that MERS has no authority as nominee to execute and deliver the mortgage assignment made a part of Creditor's proof of claim in this case, especially two weeks after the petition was filed. Conversely, if MERS is actually a mortgagee, then while it may have authority to record mortgages in its own name, both MERS and any institution investing in MERS-recorded mortgages run afoul of longstanding precedent on the inseparability of promissory notes and mortgages. See Crum. In this very case MERS is acting like a true mortgagee in assigning the mortgage to Chase but when that assignment is called into question, MERS claims it is not a necessary party because it is only a nominee. See also In re Bird, 2007 WL 2684265 (Bkrtcy. D.MD. 2007)("The note and mortgage are inseparable, the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while an assignment of the latter alone is a nullity....It is equally absurd to assume that such bifurcation was intended because such a bifurcation of the note from the deed of trust would render the debt unsecured."); In re Leisure Time Sports, Inc. 194 B.R. 859, 861 (9th Cir. 1996) (stating that "[a] security interest cannot exist, much less be transferred, independent from the obligation which it secures" and that, "[i]f the debt is not transferred, neither is the security interest"); In re BNT Terminals, Inc. 125 B.R. 963 (Bankr. N.D Ill. 1990)("An assignment of a mortgage without a transfer of the underlying note is a nullity....It is axiomatic that any attempt to assign the mortgage without transfer of the debt will not pass the mortagee's interest to the assignee.").

But that is exactly what happened in this case-the note was separated from the mortgage. From all we know, and as the records as they existed on the date of the petition of this debtor provided, JP Morgan held the note (though it must be remembered that the endorsement of the note from Renassant Bank to JP Morgan was a stamped endorsement not dated) and MERS held the mortgage- a classic bifurcation. The creditor/Chase Home Finance, attempted to correct this AFTER the petition was filed by quickly filing an assignment from MERS not only of the mortgage, but the note as well to, Chase Home Finance. THUS NOW WE HAVE THE OWNERSHIP OF THE NOTE IN BOTH CHASE HOME FINANCE AND JP MORGAN CHASE.

Debtor suggests that the only way this could have been corrected and the automatic stay lifted in this case would have been for Renassant Bank to transfer both the note and mortgage to JP Morgan prior to the filing of the bankruptcy petition and the motion to lift stay should have been filed by JP Morgan, with appropriate reference to any servicing agreement allowing Chase Home Finance to act as the foreclosure agent. This, in turn, would have required MERS to assign its right to foreclose and its nominee status (but not the actual mortgage and note) to Chase Home Finance. Debtor suggests that this situation can not be rectified in this forum without both violating the automatic stay and running afoul of the classic common law of prohibition on bifurcation of the note and mortgage. This is a chapter 7 case, and, upon discharge and case closure, Chase or JP Morgan (it remains to be seen which one) may foreclose this mortgage because its/their lien survives the bankruptcy. Accordingly, if this Court requires lenders to strictly comply with the common law principles described above, the position of Chase/JP Morgan will not be irreparably harmed. There is no evidence that the property is depreciating in value or that it is not insured. In fact, Debtor is attempting to retain her home through a HAMP modification and she was not even notified of this possibility until after she filed the petition.

Debtor respectfully suggests that Crum supports debtor's position because there has been a bifurcation of the note and mortgage. If this is the case, no relief may be had by Chase Home Finance in this context. If this Court holds that no bifurcation has occurred, then by definition, this Court must find that MERS is not a true mortgagee and is only some type of agent, in which case it had no authority to assign the underlying mortgage to Chase Home Finance. And, regardless of how one comes out on this confused nature of MERS, this case has the added problem of conflicting note assignments and the consequent dual note ownership. The note was endorsed by Renassant to JP Morgan on an undated stamp affixed to the note itself, while the note was also transferred from MERS to Chase Home Finance as part of the purported mortgage assignment.

5. Depositions of MERS Officers have indicated that MERS does not comply with Delaware law and allows employees of lenders to name themselves as officers of MERS for the purposes of assigning documents. This Court is referred to the deposition of R.K. Arnold, Henderson v MERSCORP,

INC. et. al, CV-08-900805.00, in the Circuit Court of Montgomery County, Alabama, September 25, 2009 (counsel for debtor could not obtain a certified copy of this deposition in time to file this motion but can provide an email copy to the Court or opposing counsel if requested. It is available on the web through a Google search of RK Arnold Deposition). Excerpts from this deposition show that the corporate structure of MERS is so unorthodox as to arguably be considered fraudulent. Because MERS (called MERS 3) has no employees per se, it's parent corporation, MERSCORP, INC farms out the MERS 3 identity to employees of mortgage servicers, originators, debt collectors, and foreclosure law firms. (Pages 196-198 of Arnold Deposition attached to this Motion as Exhibit 1). Instead, MERS invites (or until discovered, use to invite) financial companies to enter names of their own employees into a MERS webpage which then automatically creates/created boilerplate "corporate resolutions" that purport[ed] to name the employees of the other companies as "certifying officers" of MERS. (See MERS, Corporate Resolution Request Form, www.mersinc.org/MersProducts/forms/crrf/crrf.aspx as it existed on April 6, 2009-since taken down but viewable at various web history engines)(see also deposition of Secretary and Treasurer of MERSCPORP, Inc, William C. Hultman (also available by Google search using "deposition of William C Hultman).

WHEREFORE, debtor respectfully requests this Court to reconsider, alter or amend its ruling on the Motion to Lift Automatic Stay filed by Chase Home Finance in accordance with the facts, matters and arguments set forth herein. The Debtor respectfully suggests that such reconsideration, alteration or amendment could consist, inter alia, of the following:

(a) That the execution and delivery of the assignment of mortgage from MERS to Chase Home Finance was ineffective to confer upon Chase Home Finance "party in interest" status sufficient for purposes of section 362(d) of the Bankruptcy Code because: (i) it was done post petition and therefore constituted a violation of the automatic stay of Section 362 and, as such, is void, (ii) MERS, as nominee or agent only, had no power or authority to assign the mortgage (and had no power to also attempt to assign the underlying note) to Chase Home Finance, (iii) if MERS had ostensible authority to make such assignment, then MERS was a mortgagee and, as such, the note and mortgage were bifurcated/split and neither MERS nor its assigns of the mortgage had any right or power to foreclose on the mortgage because they held no pecuniary interest in the note;

(b) That the note appears to be held by both JP Morgan and Chase Home Finance and the current motion must be dismissed and re-filed by the correct party in interest if the same may be done without violating the automatic stay;

(c) That given the incoherent structure of MERS and the manner in which documents were executed by or on behalf of MERS, and if this Court rejects the position

of debtor represented in (a) and (b) directly above, the Court should require an affidavit demonstrating that (i) JP Morgan gave written authority to MERS to assign the mortgage to Chase Home Finance prior to the date of the petition in this case; (ii) Chase Home Finance has a debt servicing or other appropriate relationship with JP Morgan which would entitle it to service and foreclose the notes and mortgages held by JP Morgan and (iii) the note and mortgage are held by one entity or other evidence complying with Alabama law that the note and mortgage are sufficiently tied together to allow Chase Home Finance to constitute a party in interest under Section 362(d) in form sufficient to satisfy this Court; and

(d) That the Court fashion such other order/orders as it may deem just and appropriate.

Dated December 29, 2010

/s/ Ronald F. Suber
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CERTIFICATE OF SERVICE

I do hereby certify that on the 29th day of December 2010 I caused a copy of the foregoing document to be served upon the Trustee, J.C. McAleer, III, by the ECF system and by mailing a copy of the foregoing by first class mail to Steven J. Shaw at PO Box 307, Huntsville, AL 35804.

/s/ Ronald F. Suber

Exhibit 1

IN THE CIRCUIT COURT

FOR

MONTGOMERY COUNTY, ALABAMA

DEBRA A. HENDERSON,

Plaintiff,

vs. CIVIL ACTION NO.

CV-08-900805.00

MERSCORP, INC., et al.,

Defendants.

* * * * * * * * * * * * * * *

VIDEO DEPOSITION OF R.K. ARNOLD,

taken pursuant to stipulation and agreement before Tracye Sadler Blackwell, Certified Court Reporter and Commissioner for the State of Alabama at Large, in the Offices of The American Association for Justice, 777 6th Street, NW, Suite 200, Washington, D.C., on September 25, 2009, commencing at approximately 10:10 a.m.

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ALSO PRESENT:
Mr. Fred Walker, Videographer

made by resolution a certifying officer for GMAC, somewhere there would be a button you could push and print that information off?

A. Well, I'm sure it's more complicated than that.

Q. But it's available in your computer system; right?

A. We know who the certifying officers are.

Q. And do you know what the total number of certifying officers are as of today?

A. Again, you're asking me?

Q. Well --

A. MERS knows.

Q. Sure. And -- but as CEO have you been privy to that information? Have you seen that number?

A. Oh, I've -- you know, I hear that number.

Q. Yeah. But -- and I'm not trying to hold you to anything specific. I'm just trying to get a ballpark. Do you not have a ballpark of how many people that is?

A. Thousands.

Q. Thousands. And you said that certain

transactions that were required to be entered on the MERS system, you would have a record of the number of those transactions that were effected by your certifying officers; right?

A. Well, we know how many changes in records take place.

Q. As a result of actions by certifying officers?

A. Not necessarily by certifying officers.

Q. Okay. I guess that's what I'm trying to get at. Is there any way that MERS tracks or attempts to track the actions of those persons it has designated as certifying officers?

A. Well, they have limited authority. And we're comfortable with them operating in the name of MERS under that limited authority.

Q. And I don't want to oversimplify this. But the reason that you're comfortable with that is, is that your membership agreement provides an indemnity running to MERS from

the member for those types of acts; right?

MR. BROCHIN: Object to the form.

A. That's one thing that gives us comfort.

Q. Right. And the other reason that you feel comfortable, I would presume, or another reason is, is because, what you indicated, that the servicer is actually really acting in his own stead. He's just using your name?

MR. BROCHIN: Object to the form.

A. As mortgagee.

Q. Right. As an incident to the work that these servicers do, you're familiar with them filing documents related to both foreclosures and bankruptcies where mortgagors -- borrowers have filed bankruptcy because they couldn't make their mortgage payment?

A. That's another category of authority.

Q. Right. And they file documents in bankruptcy court called proofs of claim in the name of MERS?

A. Yes.