

1 11. I express the following opinions that are offered within a reasonable degree
2 of factual certainty and financial probability based upon my review of numerous cases
3 with the same or similar language in the MORTGAGE and NOTE as the present case,
4 my knowledge in relation to other similar cases with which I am personally familiar,
5 and the contents of the documents referred to above.

6 A. Pursuant to the document, the MORTGAGE was dated on April 19,
7 2004. (Macomb County recorded document #???????)

8 a. Pursuant to the MORTGAGE, the MORTGAGE was given an
9 alias of “**Security Instrument**” to be used as its new name
10 through out the document.

11 b. Pursuant to the MORTGAGE, QUICKEN LOANS INC. was
12 given an alias of “**Lender**” to be used as its new name through
13 out the document.

14 c. Pursuant to the MORTGAGE, “**MERS**” is Mortgage
15 Electronic Registration Systems, Inc. MERS is a separate
16 corporation that is acting solely as a nominee for Lender and
17 Lender’s successors and assigns. **MERS is the mortgagee**
18 **under this Security Instrument.**

19 d. Pursuant to the MORTGAGE, the name “Borrower” was issued
20 to YOUR NAME HERE YOUR WIFES NAME HERE A
21 MARRIED COUPLE as an alias.

22 e. It is my belief the creation of an alias to confuse and/or defraud
23 any party may be considered a criminal act, especially when
24 that alias is used to conceal facts, defraud a party, and/or to
25 unlawfully convert property.
26
27
28

- 1 f. I do not know YOUR NAME HERE YOUR WIFES NAME
2 HERE A MARRIED COUPLE are nor how they pertain to
3 Your name here and your wifes name here.
4
5 g. After reviewing the MORTGAGE dated April 19, 2004 I have
6 found no evidence that Your name here and your wife's name
7 here was ever lent the sum of \$190,000.00 by QUICKEN
8 LOANS INC.
9
10 h. Furthermore, pursuant to the MORTGAGE I have found no
11 evidence that Your name here and your wife's name here have
12 ever borrowed anything from QUICKEN LOANS INC.
13
14 i. In addition, pursuant to the MORTGAGE, I have found no
15 verbiage that indicates QUICKEN LOANS INC. ever lent Your
16 name here and your wifes name here anything, including
17 without limitations, the sum of \$190,000.00.
18
19 j. It is my opinion, based on the MORTGAGE, that Your name
20 here and your wifes name here did not receive the sum of
21 \$190,000.00 from QUICKEN LOANS INC. and that the
22 MORTGAGE was written to confuse Your name here and your
23 wifes name here into believing they did by creating an alias of
24 YOUR NAME HERE YOUR WIFES NAME HERE A
25 MARRIED COUPLE as Borrower and QUICKEN LOANS
26 INC. an alias of Lender.
27
28 k. Furthermore, on page 2 paragraph (G) the MORTGAGE gives
a new definition of the word loan. It states, "(G) "Loan" means
the debt evidenced by the Note..."

B. I have reviewed the NOTE dated April 19, 2004.

- a. On page one of the NOTE, it states,

1 "1. BORROWER'S PROMISE TO PAY

2 In return for a loan that I have received, I promise to pay
3 U.S. \$ 190,000.00 (this amount is called "Principal"),
4 plus interest, to the order of Lender, Lender is QUICKEN
5 LOANS INC.

6 b. Pursuant to the NOTE, nowhere does it say that Your name
7 here and your wife's name here is BORROWER. It is therefore
8 not clear who BORROWER is and what it and/or they have to
9 do with Your name here and your wife's name here.

10 c. After careful review of the words,

11 "1. BORROWER'S PROMISE TO PAY

12 In return for a loan that I have received, I promise to pay
13 U.S. \$ 190,000.00 (this amount is called "Principal"),
14 plus interest, to the order of Lender, Lender is QUICKEN
15 LOANS INC. it is clear that the words "In return for a loan that
16 I have received," were written in the past tense. Have received
17 indicates that BORROWER (whoever he is), is agreeing to pay
18 QUICKEN LOANS INC. \$190,000.00 for some loan
19 BORROWER received somewhere in the past, not necessarily
20 from QUICKEN LOANS INC.

21 d. Therefore, pursuant to the NOTE, I find no evidence that Your
22 name here and your wifes name here were ever lent the sum of
23 \$190,000.00 by QUICKEN LOANS INC. and therefore, could
24 not be in default of any loan to QUICKEN LOANS INC.

25 e. Furthermore, it is my opinion that since the MORTGAGE has
26 the word (Seal) after the signature line on page 14, the
27 MORTGAGE MUST have a SEAL affixed or it is invalid.
28

1 f. In addition, it is my opinion that since **the NOTE** has the word
2 (Seal) after the signature line on page 3, **the NOTE** **MUST** have
3 a SEAL affixed or it is invalid.

4 g. In American law "Signed, sealed and delivered" is still a
5 requirement. Signed, *your signature*, sealed, *your seal*,
6 delivered, *received by the other party*.

7 Black's Sixth.

8 **Seal.** An impression upon wax, wafer, or some other tenacious
9 substance capable of being impressed. In current practice, a
10 particular sign (*e.g. L.S.*) or the word "seal" is **made in lieu of an**
11 **actual seal** to attest the execution of the instrument.

12 **Private seal.** The seal (however made) of a private person or
13 corporation, as distinguished from a seal employed by a state or
14 government or any of its bureaus or departments.

15 **Public seal.** A seal belonging to and used by one of the bureaus or
16 departments of government, for authenticating or attesting
17 documents, process, or records. An impression made of some
18 device, by means of a piece of metal or other hard substance, kept
19 and used by public authority. *See also State seal.*

20 **Sealed.** Authenticated by a seal; executed by the affixing of a seal.

21 h. After carefully reviewing the signature line on page **14** of the
22 **MORTGAGE** and page **3** of the **NOTE** the documents do not
23 appear to have a seal.

24 **Therefore, it is my opinion;**

25 The **MORTGAGE** and **NOTE** are both invalid and unenforceable
26 documents.

27 C. **NOTICE OF INTENT TO ACCELERATE:** I reviewed the Notice of
28 Intent to Accelerate dated **November 19, 2009**. The document purported that
BAC Home Loans Servicing, L.P. was the servicer on behalf of the holder of the
promissory note. Bank of America's address was listed at the top of the page.

- 1 a. I was not provided with an Assignment assigning any rights to
2 the **MORTGAGE** from MERS or **Quicken Loans Inc.** to **BAC**
3 **Home Loans Servicing, L.P.** and therefore believe none exists.
4
5 b. I was not provided with an Assignment assigning any rights to
6 the **MORTGAGE** from MERS or Quicken Loans Inc. to Bank
7 of America and therefore believe none exists.
8
9 c. In addition, a review of MERS Servicer ID website
10 <https://www.mers-servicerid.org/sis/> using the MIN #
11 **10000000000000000000** listed on page 1 of the **MORTGAGE**
12 indicates that the Investor is Fannie Mae and the Servicer is
13 **BAC Home Loans Servicing, L.P.** (See: Exhibit A)
14
15 d. I was not provided with an Assignment assigning any rights to
16 the **MORTGAGE** from MERS or **Quicken Loans Inc.** to **Fannie**
17 **Mae** and therefore believe none exists.
18
19 e. In any event, there have been a number of recent cases which
20 have determined that MERS as a Nominee does not actually
21 hold the **MORTGAGE**.

22 Pursuant to *Carpenter v Longan (1872)*, which has
23 never been overturned, the **MORTGAGE** and the **NOTE** must
24 never be apart in order for the **MORTGAGE** to be valid.

25 If MERS never held the **NOTE**, MERS could not have
26 lawfully assigned the **MORTGAGE**. The United States
27 Bankruptcy Court for the Eastern District of California has
28 issued a ruling dated May 20, 2010 in the matter of In Re:
Walker, Case No. 10-21656-E-11 which found that MERS
could not, as a matter of law, have transferred the note to
Citibank from the original lender, Bayrock Mortgage Corp. The

1 Court's opinion is headlined stating that MERS and Citibank
2 are not the real parties in interest.

3 The court found that MERS acted "only as a nominee"
4 for Bayrock under the Deed of Trust and there was no evidence
5 that the note was transferred. The opinion also provides that
6 "several courts have acknowledged that MERS is not the owner
7 of the underlying note and therefore could not transfer the note,
8 the beneficial interest in the deed of trust, or foreclose on the
9 property secured by the deed", citing the well-known cases of
10 In Re Vargas (California Bankruptcy Court), Landmark v.
11 Kesler (Kansas decision as to lack of authority of MERS),
12 LaSalle Bank v. Lamy (New York), and In Re Foreclosure
13 Cases (the "Boyko" decision from Ohio Federal Court).
14

15 **The opinion states:** "Since no evidence of MERS'
16 ownership of the underlying note has been offered, and other
17 courts have concluded that MERS does not own the underlying
18 notes, this court is convinced that MERS had no interest it
19 could transfer to Citibank. Since MERS did not own the
20 underlying note, it could not transfer the beneficial interest of
21 the Deed of Trust to another. Any attempt to transfer the
22 beneficial interest of a trust deed without ownership of the
23 underlying note is void under most state laws."
24

- 25 f. Furthermore, MERS own website states that they are not, and
26 were not, the true beneficiary thereby nullifying any possible
27 nomination to **BAC Home Loans Servicing, L.P., Bank of**
28 **America or Fannie Mae.**

See: Excerpt from the Mortgage Electronic Registration
Systems, Inc. website:

1 “Normally, where the name of the grantee under the Trustee’s
2 Deed upon Sale is different than the name of the foreclosing
3 entity, the Trustee’s Deed upon Sale states that the
4 "Grantee was not the foreclosing beneficiary." This
5 designation triggers the imposition of transfer taxes on the sale.
6 It is important to note that in a MERS foreclosure sale, even
7 where the property reverts, the name of the grantee will
8 be different than the name of the entity foreclosing.
9 Nonetheless, the Trustee’s Deed upon Sale should state that
10 "The Grantee was the foreclosing beneficiary." This is because
11 MERS merely holds title as nominee for the true beneficiary; it
12 is the true beneficiary that has actually foreclosed and acquired
13 title”

- 14 g. In any event, pursuant to 12 U.S.C. § 226.39 (a)(1) a “servicer
15 of a mortgage loan shall not be treated as the owner of the
16 obligation if the servicer holds title to the loan or it is assigned
17 to the servicer solely for the administrative convenience of the
18 servicer in servicing the obligation.” (See Exhibit B)

19 **Therefore, it is my opinion:**

20 Pursuant to 12 U.S.C. § 226.39 (a)(1) a servicer has no right to
21 foreclose on a property. Since MERS Servicer ID has disclosed
22 that **BAC Home Loans Servicing, LP** is ONLY the Servicer,
23 **BAC Home Loans Servicing, LP** has no lawful right to
24 foreclose. Furthermore, pursuant to the documents I have
25 examined, no entity has obtained the lawful right to effectuate a
26 foreclosure on the **Your Names here** real property located at
27 **Your address here.**

- 28 D. I have reviewed two letters dated **September 13, 2010** from Trott & Trott,
P.C. purporting to be a debt collector attempting to collect a debt.

- 1 a. The letters state “Trott & Trott, P.C. represents BAC Home Loans
2 Servicing, L.P. which is the creditor to which your mortgage debt
3 is owed or the servicing agent for the creditor to which the debt is
4 owed.”
- 5 b. Such a claim has created a peculiar situation that I cannot verify
6 or deny pursuant to the documents I have received.
- 7 c. If BAC Home Loans Servicing, L.P.’s counsel is “a debt
8 collector attempting to collect a debt” it appears they are then
9 claiming to be both a debt collector and BAC Home Loans
10 Servicing, L.P.’s counsel in the same matter. It is my opinion
11 that at issue is the claims are by law mutually exclusive.
- 12 d. I have discovered nothing in law that allows an attorney to
13 claim to be a debt collector for the TRUE CREDITOR and/or
14 the TRUE HOLDER IN DUE COURSE outside the court and
15 then come into court and refuse to state on and for the record
16 their same client is the TRUE CREDITOR and/or the TRUE
17 HOLDER IN DUE COURSE.
- 18 e. It appears that BAC Home Loans Servicing, L.P.’s counsel
19 either lied to the Your Names here in the letter stating they are
20 “a debt collector attempting to collect a debt” or BAC Home
21 Loans Servicing, L.P.’s counsel does not truly represent BAC
22 Home Loans Servicing, L.P. This conduct is known in law as
23 “perjury by inconsistent statements” and is actionable in most
24 states as a felony.
- 25 f. The criminal aspects of inconsistent statements by BAC Home
26 Loans Servicing, L.P.’s counsel notwithstanding, it is my belief
27 pursuant to the documents supplied to me, that a Court may
28

1 need to conduct a ratification of commencement before
2 proceeding to establish who the Real Party in Interest is in any
3 future foreclosure matter.

- 4 g. If BAC Home Loans Servicing, L.P.'s counsel is claiming to be
5 collecting a debt for a CREDITOR, yet BAC Home Loans
6 Servicing, L.P.'s counsel will not claim that BAC Home Loans
7 Servicing, L.P. is the TRUE CREDITOR and/or the TRUE
8 HOLDER IN DUE COURSE, common sense may cause one to
9 believe that perhaps BAC Home Loans Servicing, L.P.'s
10 counsel may not truly be BAC Home Loans Servicing, L.P.'s
11 counsel and is in actuality a business partner with BAC Home
12 Loans Servicing, L.P.
13

14 **12. CONCLUSION:**

15 After, reviewing the documents provided to me by the Your Names here, it
16 is my opinion that an unlawful conversion of their real property may occur and
17 therefore, BAC Home Loans Servicing, LP and/or their counsel should stop the
18 pending foreclosure action immediately and compensate the Your Names here for
19 their damages.
20

21 FURTHER AFFIANT SAYETH NAUGHT.

22 _____
23 Cynthia J. Cantrell

24 SUBSCRIBED AND SWORN TO before me, the undersigned notary
25 public, this _____ day of October, 2010.
26

27 _____
28 Notary Public