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Subject: RE: [nacba] Property Inspection Fees

Chase would not be the holder of the mortgage note. The holder would actually be a Trustee for a securitized mortgaged-backed trust. Chase would probably be a sub-Servicer for the Master Servicer for the Trust. The role of the Servicer is determined by what is known as "The Pooling and Servicing Agreement." The "Master Servicer" is the actual owner of the right to perform servicing, and in some cases may actually perform the servicing itself, but normally does so through a sub-Servicer. The sub-Servicer actually does the "grunt" work of servicing the loans that have been pooled to form the trust. Wall Street Investors then buy various classes of "certificates of ownership" in the trust (like stock) and this is where the funding for all of this comes from.

There are also default Servicers, specialty Servicers, and secondary Servicers. The Master Servicer is always the party responsible for the acts of all of these other Servicers and must pay them and advance all corporate funds required to service the loans. Because the mortgage industry treats servicing as a commodity (Known as MSR's or "Mortgage Servicing Rights"), with servicing "rights" being bought and sold much like the ownership of the loan pools, you always need to separate the ownership rights of servicing from the actual work of servicing. Master Servicers own the right to the income stream that servicing provides, while sub-servicers do the actual work. Rating services (Moody's, Fitch, etc) actually rate the Servicers by type, and have separate ratings for masters, defaults, primary, and specialty Servicers.

All of this may explain why I defend every MFRS in a Chapter 13 case with a Motion to Dismiss for failure to prosecute the action in the name of the "real party in interest" and/or for failure to "join a necessary party." I argue that the Trustee for the trust is actually the RPI and that in any event the Master Servicer and the Trustee are necessary parties.

Since many Master Servicers have securitized and sold their rights to service loan pools, because they needed the infusion of cash, they have suffered a substantial reduction in net operating income. When they securitized these rights, much like when you get a second mortgage on your home, you eventually have to start making the installment payments and this hurts the cash flow. When the loan proceeds from securitizing the servicing rights are all gone, what do you do? My theory is that you start loading up junk fees and expenses on the mortgagors, who are making the monthly payments or paying off the loans with refinanced loans. It is very easy to "load up" a payoff on a refi with all sorts of junk fees because normally no one is looking-they just want the new loan, the lower rate, with the lower payment, and the $20,000.00 to pay down some credit cards. Many of the Servicers refer to this as "fee flipping." Every time a loan flips thru a refi, the Servicer receives a large shot of extra cash.

The originator of the mortgage (who may or may not have been Chase) bundled thousands of mortgage loans together and either Fannie or Freddie bought the bundle on the secondary market and immediately transferred the "pool of loans" to a mortgaged-backed trust. This is referred to as securitization because the collateral for the trust is the mortgage notes and the stream of income from the mortgage payments. Each trust is rated based on the average credit rating and credit score of the mortgagors (A+ and 750 Fico to C and 620 Fico). For lower rated trusts, the loan pools are sometimes "enhanced" by additional securities such as bonds, guarantees, cash, reserves, etc.

The web address for Fannie Mane is www.fanniemae.com and the web address for Freddie Mac is www.freddiemac.com. Fannie and Freddie were both created by Congressional authorization but they are actually owned by shareholders and the shares a traded on the Big Board. The real security for the investors in the mortgage pools is that the underling pool obligations are in fact guaranteed by Fannie and Freddie. Since Fannie and Freddie guarantees are backed by the "full faith and credit" of the United States Treasury, the pools are as safe an investment as US Treasury Bonds. The sub-prime mortgage industry would not be able to operate without the "government" guarantees of Fannie and Freddie. This is why the Wall Street investors are not frightened by the various types of sub-prime products on the market today. If the sub-prime pools failed, then Washington would have to bail them out just like the S&L scandals of the late 80's. It is both ironic and a paradox that the United States Government enacts laws to protect consumers on the one hand (such as HOEPA) but enables the sub-prime lenders to operate through Fannie and Freddie on the other.

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