

Are they lying?

Is this is the avenue for “lenders” produce the Note?

“In any event, a photocopy of an original promissory note, authenticated by an otherwise proper affidavit showing that the photocopy is a true and correct copy of the original, may suffice, in lieu of the original, as proper summary judgment evidence of the note. See [Life Ins. Co. of Va. v. Gar-Dal, Inc., 570 S.W.2d 378, 380 \(Tex.1978\).](#)”¹

How much more unfair could it be? Think about this, practically everyone has heard or read that when a mortgage is registered in the MERS eRegistry, it is alleged that a real property mortgage loan is scanned and merged into a transferable record called an eNote, then registered in that computer system.

If this is the case, an alleged copy of the original promissory note was purportedly merged into the transferable. Was the alleged copy of the original promissory note a true and correct copy that was merged into the transferable record? Could a liar create an affidavit that could authenticate the alleged copy of the original promissory note merged into the transferable record? If the transferable record was not authenticated, could the alleged copy of the original promissory note merged into the transferable record be authenticated? Who authenticates the electronic record? Are any of these records true and correct?

So, how is the information contained within the transferable record considered “reliable”? According to *Smith v. State*, “In order for computer data to NOT be considered hearsay, the data must be computer self-generated as part of the computer's internal system (e.g. functions that monitor the status of the system, number of records and et cetera) and not data entered by a person.”

In *Murry v. State* you can find that *computer stored data* is hearsay. “This distinction between computer stored data, which is clearly hearsay, and computer self-generated data, which ... is not hearsay, is in accord with Rule 801, which requires that a statement by [sic] made by a person before it can fall within the definition of hearsay.”²

[C]an a machine, in itself, be a "declarant" and can it make "statements?" The answer to the first question is "no." See *Murray v. State*, 804 SW 2d 279 - Tex: Court of Appeals, 2nd Dist. 1991

¹ [Chance v. CitiMortgage, Inc.](#), 395 SW 3d 311 - Tex: Court of Appeals, 5th Dist. 2013

² [Murray v. State](#), 804 SW 2d 279 - Tex: Court of Appeals, 2nd Dist. 1991

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MERS does not track paper promissory Notes. Note holders track paper promissory Notes. So, where is the original paper promissory note?

Using information from my own personal knowledge, I am aware of a personal property loan that was registered in a book entry system. The personal property loan registered contained information allegedly relating to a real estate mortgage loan. It is not exactly certain why such information was placed from the alleged real estate mortgage loan other than the obvious, to portray the registered loan as a real estate mortgage loan. According to law, someone is misrepresenting the registered loan. The registered loan is not the same as the real estate mortgage loan. By law, it is different. Promissory Notes may possibly be governed by Article 3, Uniform Commercial Code. Registered loans in a book entry system are transferable records, which if they were actual paper promissory Notes, they might be governed by Article 3, but they are not. The registered "Note" in the "book entry system" is an electronic promissory note according to 15 USC 7021 or section § 322.016, Texas Business and Commerce Code.

If the electronic promissory note registered in the book entry system has a value exactly the same as a paper promissory note signed by the real estate mortgage loan borrower, how did the value of the paper promissory note get transferred from the paper promissory note to the electronic promissory note? Are there two obligations?

How does a deed of trust secure to either obligation? If the value of the paper promissory Note was transferred to the electronic promissory note, according to law, the paper promissory Note no longer holds a value because 3.203(d) states that if less than the entire instrument is transferred negotiation does not occur.

If the entire value of the paper promissory Note was transferred to the electronic promissory Note, how does a deed of trust attach to the electronic promissory note?

Did the "originating lender/broker" create a predatory mortgage loan, scan the alleged original mortgage loan documentation and merge it into an electronic record, register it in a book entry system and never forward the original real estate mortgage loan for any further negotiations knowing any subsequent owner, holder, controller of the electronic record can do just as the 5th Court of Appeals cited? Would this be Constitutionally correct? Does this not deprive an individual of his/her rights guaranteed by the Constitutions? Is it criminal?

If MERS eRegistry is not a legal system of record, how could any purported information being provided from such computer system be considered anything other than hearsay? How reliable are copies of copies of copies of transferable

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records, when according to the courts the only individual that could possibly be the declarant of an affidavit to authenticate the copy of the original paper promissory Note would be the individual whom merged the copy of the alleged paper promissory Note into the electronic promissory Note. If this were the case, wouldn't the affidavit would be existing already in the transferable record with a date easily recognizable at the time of a real estate mortgage loan borrower closed on his/her loan since MERS requires the transferable record to be registered shortly after the MERS member closes on a loan?

If the original paper promissory Note was scanned and merged into an electronic promissory Note and registered in a book entry system, how could another party endorse the scanned copy of the alleged original promissory Note and the copy be a true and correct copy?

So, how can a corporate officer of a book entry system receive instructions from the book entry system? The book entry system does not have any employees. The corporation may have employees, but the book entry system does not.

Or why do corporate officers record alleged assignments in public land records when it is declared the assignments are not needed when MERS members transfer "mortgage loans" amongst themselves?

So how can an individual provide an affidavit in regards to a trustee sale if the only information the declarant could possibly review in regards to an alleged foreclosure action are electronic records that are not themselves authenticated?

So, how can a court of law accept hearsay information that comes from a system that its own corporate officer, William Hultman admitted was not a legal system of record?

Don't let the corporation name change fool you. It is the function that is important. The part of MERS that allegedly holds legal title to a deed of trust is the part of MERS that is governed by E-SIGN, UETA. That part is the computer system and electronic agent, nothing else.

Now, if MERS members were using transferable records to enforce against MERS members would the transferable record be considered hearsay? According to E-SIGN, UETA, transferable records are enforceable as between an obligor and Controller who expressly agree to use the transferable record.

So, are they lying?