

The Intangible Obligation

As many courts opine citing *Carpenter v Longan* it is readily apparent that the Security Instrument does not, cannot, and will not follow an Intangible Obligation (Electronic Transferable Record) as written into many Security Instrument(s) as noted by similar verbiage: “The Note “or” *an interest in the Note along with this Security Instrument.*” Uniform Commercial Code Article 9 along with Revised Article 9 allow for transferable records as well as Section 16 of UETA and ESIGN which allow for electronic signing of transferable records. However, none allow for lawful conversion from paper to an electronic digitized file format. In addition, 15 USC §7003 excludes items governed by Uniform Commercial Code Articles 3 & 9.

There is nothing illegal with the owner of a Note (Tangible Obligation) who has rights to enforce the Note (Tangible Obligation) to pledge or sale the payment stream as an Intangible Obligation (Electronic Transferable Record) or as a paper Intangible Obligation. The payment stream is the monies allowed to be collected from an obligor’s Note and it is this payment stream that secures the Intangible Obligation not the Security Instrument. Hence, deception has been introduced into the Securities Market where such Intangible Obligation has been offered up to the securities market.

It is an Intangible Obligation (Electronic Transferable Record) that rating agencies commonly review and where Credit Default Obligations are applied to increase a rating grade. The payment streams derived from

Intangible Obligation(s) are combined with other Intangible Obligation(s) thusly creating as this writer shall call it, a Master Intangible Obligation. This Master Intangible Obligation being of an intangible form can be divided into many different subset Intangible Obligation(s) such as commonly found in the various Tranches of a Security Investment Vehicle commonly labeled as “Principal Only” or “Interest Only”, where the security for each is the partial interest in the payment stream. To allegedly protect the Security Investment Vehicle(s), Credit Default Swaps were purchased to supplement the payment stream if the Intangible Obligation came into default. The named Loss Payee involving these Credit Default Swaps is contract dependent; maybe it’s the investors, maybe not. Notice to the Obligor of the Intangible Obligation that default has occurred in regards to the Intangible Obligation is not notice of default to the Obligor of a Tangible Obligation.

A Tangible Obligation Note Owner/Holder with rights to enforce the Tangible Obligation cannot assign the Security Instrument away from the Tangible Obligation. Neither can an agent for the Tangible Obligation Note Owner/Holder assign the security instrument away from the Tangible Obligation. Evidence of this attempt to assign the Security Instrument away from the Tangible Obligation appears in the Security Instrument which is within the electronic records of most all securitization documents. Commonly found in the Security Investment Vehicle under the section alleging conveying the Secured Mortgage Loans (Tangible Obligation) is the method and means to exchange the Mortgage Pool for the Trust Certificates.

Mortgage Electronic Registration System (MERS) possibly could be surrogate Mortgagee as an agent for both the Tangible and an Intangible Obligation whereas agency relationship for the Intangible Obligation is tracked within the MERS Registry but agency relationship for the Tangible Obligation is dependent upon the identities being noted on the face of the Tangible Obligation. (Chain of Indorsement(s) at minimum is required to assign agency rights to a subsequent purchaser.)

Fact, the security does follow the obligation, but confusion is deliberately brought forth into the courts and the definition of which obligation and which security follows which obligation is most often not correctly presented to the courts. Alas, there appears to be courts that could care less as to what the argument is and in such instances it maybe possible that Civil Rights guaranteed by the Constitution have trampled on. 42 USC §1983

A factor this writer has not seen the courts opine upon. Wherefore if the full value of the Tangible Obligator has been assigned by the Owner/Holder of the Tangible Obligation to an Intangible Obligation owned by another, what “value” or rights is the Owner/Holder of the Tangible Obligation entitled too under the Tangible Obligation?

What duties are owed by Owner/Holder of the Tangible Obligation to the Owner/Holder of the Intangible Obligation?

More questions arise than there are answers...

