

## They claim, You argue

Peace be with you.

I was starting to write another article in the “Alvie Explains” series, but I came to a realization during that writing, that I am going about it in the wrong way. It is apparent that most simply do not understand this MERS / GSE mess. People seem to not understand what *intangible* and *tangible* are, or the difference, when it come to understanding *intangible* security instruments used for real property mortgages?

So here is what I came up with to help you understand the difference, hopefully. These are the “things” MERS claimed in response to the Williamson County audit, which many unwittingly argue about.

1. Every MERS deed of Trust is recorded in the County land records and the appropriate fees are paid.
2. MERS has operated continuously in Texas for 15 years and is recognized in the land statutes.
3. MERS does not foreclose
4. No one has ever wrongfully lost his or her home due to MERS being named as beneficiary [or mortgagee] in a deed of trust [or mortgage]
5. There is no “cloud on title” by using MERS; title companies accept and support MERS.
6. MERS provides transparency

Your arguments are?

1. ?

First of all, every one of those responses from MERS are correct, in a sense. If you argue, you are thinking one way, and MERS was speaking another. It reminds me of the Note going one direction and the deed of trust going another direction, like with MERS.

- 1. Every MERS deed of Trust is recorded in the County land records and the appropriate fees are paid.**
  - a. Although there is no way to possibly prove this, many MERS deed of trust are recorded and someone paid the fees. It can be proven by research in public records.*
  - b. Although the MERS Deed of Trust are recorded, that does not mean that the MERS Deed of Trust is a lawful contract in compliance with applicable laws.*

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### **2. MERS has operated continuously in Texas for 15 years and is recognized in the land statutes**

- a. *With this admission, one might ask how MERS, and electronic promissory note registration system was lawfully doing business? E-SIGN and UETA were enacted in 2000. 15 years previous to 2013? (2013-15=1998)*
- b. *MERS was not recognized in Texas land statutes until 2007. [G. Tommy Bastian mentioned this in the Meeting Of The Task Force On Judicial Foreclosure Rules, November 7, 2007<sup>1</sup>, “MR. BASTIAN: Yeah. It is the book entry that's referenced in 51.001 as the book -- the book entry system. That's what MERS is.*
- c. *Bonus question: Do you know how many sections or definitions were in Chapter 51 prior to 2003?*

### **3. MERS does not foreclose**

- a. *MERS is involved in electronic transactions. MERS only forwards electronic record of “Notice of Default<sup>2</sup>”, or ‘Notice of Servicing Termination” per the various MERS Electronic Tracking Agreements.*

### **4. No one has ever wrongfully lost his or her home due to MERS being named as beneficiary [or mortgagee] in a deed of trust [or mortgage]**

- a. *Word art – “no” “one”. Does that mean not anyone has ever lost his or her home due to MERS or does that mean no one, as in a singular form, because many have lost a home wrongfully, due to MERS members actions.*

**Or**

- b. *Does that mean not anyone has ever lost his or her home due to MERS, because personal property mortgage are registered in the MERS system, and not a real property mortgage. Foreclosing on a personal property security note is not the same as foreclosing upon a real property mortgage.*

### **5. There is no “cloud on title” by using MERS; title companies accept and support MERS.**

- a. *There is no cloud on title. Covenant 16 removes MERS or GSE’s wording, such as covenant 20, or MERS wording, from the security instrument, mainly because those “wordings” conflict with applicable laws. This removal of MERS or GSE wording provides the only parties to the security instrument, as listed in the recorded MERS deed of trust. With this removal of MERS, GSE wording, it is a logical impossibility to record an eligible subsequent security instrument assignment.*

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<sup>1</sup> <http://www.supreme.courts.state.tx.us/jfrtf/pdf/110707transcript.pdf>

<sup>2</sup> Exhibit “C”

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- b. *Although title companies have accepted and support MERS, that does not make MERS legal in regards to real property, tangible transactions. Maybe the world should look at "investment securities", like in the Texas Business and Commerce Code since MERS is responding to a Texas county.*

### 6. MERS provides transparency

- a. *MERS provides transparency for MERS members, GSE's, the IRS, the Securities and Exchange Commission, and Wall Street.*
- b. *MERS is not transparent in public records.*
- c. *MERS is not transparent in Secretary of State UCC-1 records.*

And has it come across any one's *gray matter* that MERS and its members are using almost ALL the UCC codes to confuse you, and not just Articles 3 & 9?

MERS is a computer, an intangible electronic registration system for unlawful electronic promissory notes. Just like this intangible input, it is worthless when it come to erasing any one word or multiple words in it, because it cannot be done. I own the authoritative copy you are reading. It has no monetary value what so ever. Neither does an eNote registered in the MERS eRegistry.

If you live in Texas, stick to understanding Article 3<sup>3</sup> for the *tangible* note, and section §192<sup>4</sup> for the security instrument. That is not legal advice, it is letting you realize the *tangible* note has governing laws and the *tangible* security instrument<sup>5</sup> has governing laws once the security instrument is recorded. And they "did" record it.

*"HONORABLE BRUCE PRIDDY: And what the -- happens is they just execute a document like Mr. Barrett says doesn't exist. They just create one for the most part sometimes, and the servicer signs it themselves saying that it's been transferred to whatever entity they name as the applicant. I think we can avoid a lot of problems if we specifically allow the servicer standing under Rule 736, because I think it's -- we don't specifically allow the servicer to proceed, and I think if we tie in with the Property Code provision that the servicer can proceed with foreclosure if certain circumstances are met, if we tie into that in the rule I think we'll avoid a lot of these problems."*<sup>6</sup>

The MERS system could have worked in a lawful manner, but the MERS members who created that *beast*, became greedy and that is how MERS received the attention it has.

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<sup>3</sup> Uniform Commercial Code

<sup>4</sup> Texas Local Government Code

<sup>5</sup> Deed of Trust

<sup>6</sup> Page 28, <http://www.supreme.courts.state.tx.us/jfrtf/pdf/110707transcript.pdf>

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Now realize there is a 600+ *trillion* dollar “*payment intangible*” debt because of that greed. Who pays for that debt? You have been, and will continue if you don’t wake up. So will your children.

Think “Tangible”, think “Paper”

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**EXHIBIT C**

[ELECTRONIC TRACKING AGREEMENT]  
GESTATION AGREEMENT][  
[ELECTRONIC TRACKING AGREEMENT]  
[WHOLE LOAN SALE AGREEMENT]  
[LETTERHEAD]

**NOTICE OF SERVICING TERMINATION EVENT**

\_\_\_\_\_, \_\_\_\_\_  
Attention: Sharon M. Horstkamp  
MERSCORP Holdings, Inc.  
1818 Library Street, Suite 300  
Reston, Virginia 20190  
Ladies and Gentlemen:

Please be advised that this Notice of Servicing Termination Event is being issued pursuant to Section 4(b) of that certain Electronic Tracking Agreement (the "Electronic Tracking Agreement"), dated as of \_\_\_\_\_, by and among (the "Purchaser"), the [SELLER] (the "Seller"), MERSCORP Holdings, Inc. (the "Electronic Agent") and Mortgage Electronic Registration Systems, Inc. ("MERS"). A Servicing Termination Event has occurred with respect to the Mortgage Loans listed on the attached Schedule 1 (including the mortgage identification numbers). Accordingly, the Electronic Agent shall not accept instructions from the Seller, the Servicer, any subservicer and from no party other than the Purchaser with respect to such Mortgage Loans, until otherwise notified by the Purchaser.

Any terms used herein and not otherwise defined shall have such meaning specified in the Electronic Tracking Agreement.

By: \_\_\_\_\_

Title: \_\_\_\_\_

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**EXHIBIT C**

**[ELECTRONIC TRACKING AGREEMENT]  
[WAREHOUSE LENDER]  
NOTICE OF DEFAULT**

\_\_\_\_\_ , \_\_\_\_\_

Attention: Sharon M. Horstkamp  
MERSCORP Holdings, Inc.  
1818 Library Street, Suite 300  
Reston, Virginia 20190  
Ladies and Gentlemen:

Please be advised that this Notice of Default is being issued pursuant to Section 4(b) of that certain Electronic Tracking Agreement (the “Electronic Tracking Agreement”), dated as of \_\_\_\_\_, 200\_, by and among (the “Lender”), the (the “Borrower”), MERSCORP Holdings, Inc. (the “Electronic Agent”) and Mortgage Electronic Registration Systems, Inc. (“MERS”). The Affected Loans are listed on the attached Schedule 1 (including the mortgage identification numbers). Accordingly, the Electronic Agent shall not accept instructions from the Borrower, the Servicer, any subservicer and from no party other than the Lender with respect to such Mortgage Loans, until otherwise notified by the Lender.

Any terms used herein and not otherwise defined shall have such meaning specified in the Electronic Tracking Agreement.

By: \_\_\_\_\_

Title: \_\_\_\_\_