No. 47501-4-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGON

ALBERTO & VICTORIA AVALO
Appellants in this Appeal

v.

DEUTSCHE BANK TRUST COMPANY
AMERICAS AS INDENTURE TRUSTEE FOR
THE REGISTERED HOLDERS OF SAXON
ASSET SECURITIES TRUST 2005-1
MORTGAGE LOAN ASSET BACKED NOTES,
SERIES 2005-1,
Respondent to this Appeal

APPELLANTS' SECOND AMENDED BRIEF

Respectfully Submitted:

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Puyallup, WA 98373
253-988-0231

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I. ASSIGNMENTS OF ERROR & ISSUES

The trial court erred by granting summary judgment when Plaintiff failed to meet the burden of proof.

ISSUE: The Appellate Court is asked to determine whether or not the Plaintiff has met the burden of proof required as a prerequisite to granting summary judgment.

The trial court erred by granting summary judgment when there is a clear showing that numerous issues of material fact were (are) in dispute.

ISSUE: The Appellate Court is asked to determine whether or not there are material facts in dispute.

The trial court erred by proceeding with summary judgment while Defendant was ready to proceed with its discovery.

ISSUE: The Appellate Court is asked to determine whether or not the Defendant has a due process right to be allowed to proceed with discovery when discovery has been prepared and presented to the opposing party.

Pursuant to CR 56, the trial court was in error when it allowed a sworn statement made by someone who lacked personal knowledge of the facts being attested to as if it was a sworn statement made by someone with

personal knowledge of the facts being attested to. Any sworn statement that fails to meet the requirements of 56(e) is allowed in error.

ISSUE: The Appellate Court is asked to determine whether or not summary judgement is appropriate when the sworn statement offered in support is made by someone without firsthand personal knowledge of the facts being attested to.

The trial court erred when it failed to require the Plaintiff to essentially start their motion and notice process over when the Plaintiff was in violation of Rule 54(e), which requires that "[T]he attorney of record for the prevailing party shall prepare and present a proposed form of order or judgment not later than 15 days after the entry of the verdict or decision..." The trial court granted the Summary Judgment on February 13, 2015 and the first Motion for Judgment was not filed until May 4, 2015.

ISSUE: The Appellate Court is asked to determine whether or not the trial court should have allowed the matter to proceeded as if Rule 54(e) had not been violated when Rule 54(e) had, in fact, been violated.

II. STATEMENT OF THE CASE AND FACTS

This appeal is taken from the decision of the Superior Court of Washington, in and for Pierce County under Case no. 14-2-07188-0.

The nature of the case below was the Complaint of DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES, SERIES 2005-1, the Plaintiff, filed against Defendants Albert and Victoria Avalo in the Washington State Superior Court in and for the County of Pierce on March 24, 2014. The case represented a mortgage foreclosure action against the Avalo's concerning their property located at 2215 29th Avenue Court SW, Puyallup, WA 98373 and included an assortment of alleged mortgage documents in the Plaintiff's possession [Page 34].

Defendants were served with the Summons and Complaint on April 1, 2014. Pursuant to (CR 4(a)(2) and CR 12(a)(1) Defendants had 20 days, exclusive of the day of service, to provide their Answer. Defendants provided their Answer to the Plaintiff by placing said Answer with the US Postal Service, Certified Mail, with tracking capability to ensure its timely arrival. The following week, on April 24 2014, the Defendants' Answer was filed with the Court. [Page 34].

The Plaintiff in the action was, on that same day, prematurely

proceeding with its claim, stating that Defendants had defaulted and it (Plaintiff) should be awarded an assessment of damages as if the Plaintiff had never received Defendants' Answer. See RCW 4.28.290. Assessment of damages without answer. The record additionally shows an Order of Default (April 24, 2014) followed by a Motion to Vacate (April 29, 2014) and an Order to Vacate (April 30, 2014) in light of the fact that Defendants did provide a timely Answer to the Complaint.

In August 2014, the Plaintiff's servicer Ocwen sent Defendant an offer to modify which Defendants said they would accept with conditions, including providing Defendants with an offer whose deadline for acceptance had not yet passed as this one had by one full month. The Plaintiff's servicer Ocwen never responded. In September 2014, Defendant provided written notice to Plaintiff's servicer Ocwen and Plaintiff's counsel that they (the Avalo's) were about to leave the state on a family emergency [Defendant Alberto Avalo's father in Texas was gravely ill and ended up passing away in November]. Neither Plaintiff's servicer Ocwen nor Plaintiff's counsel responded.

Concerning Defendants' Answer to Plaintiff's Complaint: in thirteen separate locations in its 27-page Answer, the Defendants, answering pro se, raised the issue of standing, specifically denying the Plaintiff had standing to bring the action. Said Answer contained arguments

as to why that position was made, including but not limited to the fact that the Plaintiff did not offer a single firsthand witness, competent to testify to facts alleged in the Complaint.

Concerning discovery conducted by the Plaintiff: the record shows the Plaintiff initiated discovery to which Defendants answered. Said answers were filed on July 8, 2014. Contained within the Defendants' answers to discovery were several more denials that the Plaintiff had standing to bring their lawsuit against the Defendants. A further discussion of specific instances of Defendants' challenging standing in their answer to discovery is found in the Arguments portion of this brief, "A. Burden of Proof on Summary Judgment", on Page 9.

Concerning Defendants' Opposition for Plaintiff's Motion for Summary Judgment: On November 25 2014, Plaintiff filed their Motion for Summary Judgment [Motion for Summary Judgment noted on Page 34]. This was done only days after Defendants gave notice to Respondent's law firm, reminding them that Defendants had been, for the nearly three months prior, and would be, for several weeks more, out of the state while dealing with the complicated estate of a recently deceased parent (Defendant Alberto Avalo's father), and would largely be without Internet access until their return near Christmas (2014). This was a follow up to the written notice Defendants provided prior to leaving the state again in early

September 2014. (The Defendants had also spent most of the spring of 2014 in Texas with the ailing father.) These facts were reiterated in open court at the February 13, 2015 summary judgment hearing without rebuttal from opposing counsel and appear in the transcript for that hearing. See Transcript for Summary Judgment Hearing on February 13, 2015, Page 8 starting at Line 8.

Defendants first learned that the Motion for Summary Judgement had been filed upon their return from Texas *just prior to Christmas 2014*, a month after the motion had been filed against them. Defendants hastily wrote and, on January 14, 2015, filed an Objection to Summary Judgment, noting that Defendants' Answer had vigorously argued that Plaintiff's Complaint and support material showed that Plaintiff lacked standing on several counts. Defendants' Objection also stated that Defendants had not yet had the opportunity to conduct any discovery as they had been out of the state for much of the intervening year since the Complaint was filed, a fact that the Plaintiff well knew. On February 9, 2015, Appellant filed an Amended Objection that included, as an exhibit, a Chain of Title Analysis & Mortgage Fraud Investigation that Defendants paid a licensed, experienced firm to perform, the results of which included a 5-page affidavit by the man who conducted the investigation. This material was included in Defendants' Objection because it shows exactly what the Defendants had

been alleging; namely, that there are substantive issues of fact in dispute, that there are problems with the "proof" the Plaintiff has offered that are serious enough to bring Plaintiff's standing into serious question; problems that must be resolved before a summary judgment in favor of the Plaintiff would be appropriate; problems that discovery may well resolve. See EX 1.

February 12, 2015, Plaintiff filed its response to Defendant's Objection. [See Page 34].

Concerning discovery conducted by Defendants: Defendants were out of the state attending to a family health crisis for most of the spring, summer and fall of 2014. This is a fact not in dispute. On February 13, 2015, the Court refused to allow Defendants' discovery to go forward, even though they had prepared and provided it to the Plaintiff as quickly as they were able to do so upon their return to Washington State.

The record shows Defendants then filed a Motion for Relief from Judgment on February 23, 2015. [See Page 35] That Motion was heard by the Court on March 27, 2015 [See Page 35] and was not granted.

On May 4, 2015, the Plaintiff filed a Motion for Judgment. [See Page 35] and on May 27, 2015 that Motion was heard by the Court. [See Page 35] On June 1, 2015 an Order Denying the Motion was entered. [See Page 35].

In August of 2015 Plaintiff, without providing notice to Defendant in violation of CR 54(f)(2), attempted to obtain an ex parte judge's sign-off on a Motion for Entry of Judgment and Decree of Foreclosure.

When this initially failed, Plaintiff filed a Motion for Reconsideration on August 28, 2015 [See Page 35], which was granted. However, the Motion and the Order was vacated by the Court three days later on August 31, 2015 [See Page 35] and no new motion for entry of judgment was filed.

On September 9, 2015, the Plaintiff filed both a second Motion for Reconsideration of its, as yet, unfiled new Motion for Entry of Judgment and Decree of Foreclosure AND a Motion to Vacate Judgment and Decree of Foreclosure [See Page 35].

The finder of fact should note at this point that NO new motion for entry of judgment and decree of foreclosure had yet been filed by the Plaintiff at this point (or at any point since the May 4, 2015 filing).

On September 25, 2015, the Court ordered Final Judgment of Foreclosure, Plaintiff also filed several documents purporting to show that Plaintiff was entitled to bring such an action against Appellants. [See Page 35].

On October 7, 2015, Defendants filed a Motion to Stay all Proceedings Pending Appeal [See Page 35]. The Court denied that motion

[See Page 35].

On October 16, 2015, a Notice of Sale was filed regarding Appellants' property [see Page 35] and on November 20, 2015 the Court Signs Order Denying Defendants' Motion to Stay.

Defendants now bring this matter to this Court for immediate reversal of the lower Court's non-final order. Defendants also request that the case be remanded, upon reversal by this Court, for further proceedings in the lower Court as to the merits of the action brought against them by the Plaintiff. Additionally, Defendants request that the Honorable Court affirm Defendants' right to conduct discovery in this matter as per prior decisions that relate to discovery being indispensably tied to the right to due process.

III. ARGUMENT

A. Burden of Proof on Summary Judgment

A trial court's granting or dismissing motions for summary judgment claims under CR 56 is reviewed by this Court *de novo*, taking all inferences in the record in favor of the non-moving party. *Hayden v. Mutual of Enumclaw Insurance Co.*, 141 Wn.2d 55, 1 P.3d 1167 (2000); *Schroeder v. Excelsior Management Group, LLC*, 117 Wn.2d 94, 297 P.3d 677 (2013) (hereinafter "*Schroeder*") (citing *Dreiling v. Jain*, 151 Wn.2d 900, 93 P.3d 861 (2004); *Hauber v. Yakima County*, 147 Wn.2d 655, 56 P.3d 559 (2002);

Bavand v. OneWest Bank, FSB, 176 Wn.App 475, 485, 309 P.3d 636 (2013 (hereinafter "*Bavand*"). Summary judgment is only appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Balise v. Underwood*, 62 Wn.2d 195, 381 P2d 966 (1963); *Schroeder; Herring v. Texaco, Inc.*, 161 Wn.2d 189, 165 P.3d 4 (2007); *Bavand*, at page 485.

The initial burden on summary judgment is on the moving party to prove that no material issue is genuinely in dispute. *CR 56.* Sworn statements on summary judgment must be (1) made on personal knowledge, (2) setting forth facts as would be admissible in evidence and (3) showing affirmatively that the affiant is competent to testify to the matter stated in the sworn statement. *Snohomish County v. Rugg*, 115 Wn.App. 218, 61 P.3d 1184 (2002); *Blomster v. Nordstrom*, 103 Wn.App. 252, II P.3d 883 (2000); *Lilly v. Lynch*, 88 Wn.App. 306, 945 P.2d 727 (1997).

In reviewing the evidence submitted on summary judgment, facts asserted by the non-moving party and supported by affidavits or other appropriate evidentiary materials must be taken as true. *State ex rei Bond v. State*, 62 Wn.2d 487, 383 P.2d 288 (1963); *Reid v. Pierce Co.*, 136 Wn.2d 195,961 P.2d 333 (1998). The transcript of the February 13, 2015 summary judgment hearing shows Plaintiff's counsel even admits Defendants have

raised "several" issues of fact in the case. See Page 12, Line 19, discussed more in-depth later.

Summary judgment is appropriate if reasonable persons can reach only one conclusion from all of the evidence, viewed in a light most favorable to the non-moving party. *Shows v. Pemperton*, 73 Wn.App. 107, 868 P.2d 164 (1994; *Doherty v. Municipality of Metro*, 83 Wn.App. 464, 921 P.2d 1098 (1996); *Goad v. Hambridge*, 85 Wn.App. 98, 931 P.2d 200 (1997). When there is contradictory evidence, or the moving parties' evidence is impeached, an issue of credibility is presented and the Court should not resolve issues of credibility on Summary Judgment, but should reserve the issue of credibility for trial. *Balise v. Underwood*, supra. Based upon the foregoing and the evidence presented to the trial court, there are numerous issues of material fact in dispute (if not undisputed in Appellants' favor).

As pro se litigants, the Avalo's are, themselves, untrained in the law and not experts in court procedure, which partially explains why their document in opposition to summary judgment did not delve into specific issues of fact in dispute. The Appellants had already been doing nothing but disputing issues of fact up until this point in the case. They disputed issues of fact in their Answer, especially those that asserted standing. See their Answer Page 2 at Line 19; Page 3 at Line 23; Page 4 at Line 2; Page 8 at

Lines 18, 25, and 29; Page 16 at Line 9; and Count V – Lack of Standing beginning at the bottom of Page 17, continuing to Page 20, Line 5; and Page 22 at Line 13. And they answered discovery in a way that made clear the issues of fact in dispute. For examples of this, see Defendants' Answer to Admissions Request Page 3 beginning at Line 13 through remainder of that page; a dispute of funds distribution and the treatment of the note beginning at the bottom of Page 4, continuing to the middle of Page 6. But the most substantive reason the opposition document did not contain any in-depth discussion of issues of fact in dispute was that the Defendants were relying on their exhibits to accomplish that. The language of the opposition said so. See Page 3 of Defendants' Amended Opposition, #6 (at Line 26). Here, Defendants assert, "Defendant has conducted the forensic audit it ordered done on January 12, 2015 the results of which are attached." The same is included herein as EX 1.

The audit (called a Chain of Title Analysis & Mortgage Fraud Investigation), conducted by experts in the field of investigations of individual mortgage transactions (see Page 1 of 5 of the Affidavit of Joseph Esquivel following the 42-Page Chain of Title Analysis), reveals numerous material issues of fact in dispute, as does the Affidavit that follows it.

The Plaintiff appears to believe that anyone who happens to be in possession of the note has the equitable right of "noteholder status" and

therefore the right to foreclose... whether or not the note came into its holder's possession legitimately. See the following exchange between Plaintiff's counsel and the Court at the February 13, 2015 summary judgment hearing, beginning at Page 11 at Line 14:

MS. OWENS: "The Bain case that I quoted is very, very clear. I have the original note right here."

THE COURT: "That was my other question is, is your client the holder of the note? And if you're the holder of the note, I think that the argument made by the Avalos fails."

MS. OWENS: --- [moving down to Line 23] --- "...And so with that, the Bain case and the Washington law and the UCC laws are very clear. The security follows the note, we're the holder of the note."

The Defendants disagree with this position. Foreclosure is an equitable remedy (see 158 Wn. 2d. 523 Nov. 2006 Sorenson v. Pyeatt) and equity does not allow a party to foreclose on a note merely because they have come into possession of it. The claim that "the mortgage follows the note" to the exclusion of all other considerations i.e. fraud, egregious errors, including flaws found on the public record that constitute incontrovertible breaks in the chain of title, etc. is incorrect under Washington law. Under Washington law, the lien follows the secured party of record. See West's RCWA 62A.9A-514. The equitable right of "holder status" must be proven

with evidence of a legitimate delivery. See West's RCWA 65.08.070. Therefore, intention does not override the requirements of the law. Hence, the error in granting summary judgment merely because the Plaintiff asserts that they possess the note.

It is a cornerstone and long held concept within US law that when the rights to the tangible paper note and the rights to the security instrument are separated, the security instrument, because it can have no separate existence, cannot survive and becomes a nullity. In Carpenter v. Longan 16 Wall 271,83 U.S. 271, 274, 21 L.Ed. 313 (1872), *the U.S. Supreme Court stated "The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while assignment of the latter alone is a nullity... The mortgage can have no separate existence. When the note is paid the mortgage expires. It cannot survive for a moment the debt which the note represents. This dependent and incidental relation is the controlling consideration..."*

Staying on the topic of issues of fact, the fact finder turns again to the transcript of the February 13, 2015 summary judgment hearing where Plaintiff's counsel admitted the Defendants had raised several issues of fact well before the Motion for Summary Judgment was filed. In the following excerpt of the transcript, Plaintiff's counsel is describing a point in the late summer of 2014 when the Avalo's and Ocwen were extremely close to an

agreed-upon modification. Ocwen had sent the Avalo's a modification offer whose deadline for acceptance was July of 2014, a full month past. The Avalo's had stated that they still had some unresolved issues that they wanted to be answered, but stated in the end they would likely agree to the modification if Ocwen would send an offer whose deadline for acceptance was not already expired:

MS. OWENS: (Page 12 at Line 19) "She [Mrs. Avalo] made several issues of fact where my clients were not under the belief that she [Mrs. Avalo] would be accepting the loan modification." [This was Ocwen's apparent rationale for not sending (not ever sending) the Avalo's a modification offer that had an unexpired deadline.]

Here, at a hearing for Plaintiff's Motion for Summary Judgment, Plaintiff's counsel admits that, well after litigation was under way, Defendant Avalo was raising issues of fact and that Defendant Avalo was conveying those issues to whoever would listen. Those issues were clearly spelled out in the Defendants' Answer to the suit and in their answers to discovery requests and further brought to light in the Chain of Title Analysis Defendants ordered on their property (see EX 1), and in the premise of the Defendants' discovery requests (see EX 3) [*both of which were made part of the record as they prominently appear in the transcript of the case, specifically that of the February 13, 2015 summary judgment hearing.*]

In spite of this, less than one minute after opposing counsel admitted Defendant Avalo had issues of fact that Mrs. Avalo felt had to be dealt with in order to feel fully comfortable with ending litigation and entering into a modification, the Court ignored counsel's admission, saying the following...

THE COURT: (Page 13 at Line 12) "Okay. I do not believe there is any issues of fact on the core issues in this case. On that basis, I'm granting summary judgment."

B. Discovery Not Allow to Proceed

It is a maxim of law that discovery is a part of due process. Plaintiff served Appellants with discovery requests, to which Defendants answered. Said answers were filed on July 8, 2014. However, Defendant served the Plaintiff with discovery requests, but the trial court did not require the Plaintiff to answer those requests prior to granting Summary Judgment on February 13, 2015. The transcript shows that the trial court judge affirmed the Defendants had a right to appeal her denial of discovery.

The right of discovery and the rules of discovery are integral to the civil justice system. Quote from JOHN DOE v. BLOOD CENTER, 117 Wn.2d 772, P.2d 370:

> "The court rules recognize and implement the right of access. The discovery rules, specifically CR 26 and its companion rules,

> CR 27-37, grant a broad right of discovery which is subject to the relatively narrow restrictions of CR 26(c). This broad right of discovery is necessary to ensure access to the party seeking the discovery. It is common legal knowledge that extensive discovery is necessary to effectively pursue either a plaintiff's claim or a defendant's defense. Thus, the right of access as previously discussed is a general principle, implicated whenever a party seeks discovery. It justifies the limited nature of the exceptions to broad discovery found in CR 26(c)."

The transcripts of the case show the following as relates to discovery:

The trial Court ruled, in the first hearing for Summary Judgment on January 16, 2015, that the Plaintiff's motion for summary judgement would not be heard without Appellants first having an opportunity to conduct discovery. Defendant's had just returned from several months out of state and were just then ordering a Chain of Title Analysis and they needed time to concluded their work on discovery. The hearing on Respondent's Motion for Summary Judgement was thereby moved back several weeks to February 13, 2015 in order to facilitate Defendants being given the ability to finish preparing their discovery requests and to serve said requests to the Plaintiff. In that timeframe and Appellants' discovery requests were served on the Plaintiff and a working copy of which was provided to the Court prior to the hearing.

Additionally, the results of the Chain of Title Analysis were obtained by the Defendants prior to the summary judgment hearing and thereby the Defendants filed their Amended Opposition to the Motion for Summary Judgment, including the detailed results of that analysis along with a sworn statement made by the investigator who completed the analysis. See EX 1; the material included in exhibit form with Defendant's Opposition to Summary Judgment, filed in the case and working copies were expedited to the judge and opposing counsel. NOTE: The firm that conducted the analysis specializes in exactly this kind of work and the man representing the firm who completed the examination furnished and included a signed, sworn statement attesting to the accuracy of his findings as well as to his expertise and qualifications to present the information in this format as well as his qualifications to personally appear to testify as an expert witness if called upon. See EX 1 and exhibits to Defendant's Opposition to Summary Judgment (shown on the record as "OBJECTIONS/OPPOSITION"), entered into the record on January 14, 2015.

Defendants believe and hereby state that this analysis, if proven accurate as it was attested to, shows that the Plaintiff did not have standing to bring its lawsuit against the Defendants because it showed, among other things, at least two major breaks in the chain of title; breaks that certain

specific questions in Defendants' discovery would be asking the Plaintiff to explain or to justify from a showable, known legal theory, with documents to substantiate such explanations or justifications.

The discovery requests also included questions that go to the heart of the nature of the transaction and the roles and presumed rights of the other parties involved.

Returning to the transcript of the February 13, 2015 summary judgment hearing, Page 11, beginning at Line 1:

THE COURT: "On a summary judgment, you're under the burden to show what you think those documents [documents requested in discovery] would show that might develop an issue of fact in order to resist summary judgment. All I saw was the request for production, not an argument as to what those documents might show."

However, what the Court and the Plaintiff's counsel either missed or purposely glossed over was the fact that the exhaustive results of the Chain of Title Analysis that the Defendants had conducted on their transaction and that were, in exhibit form, made part of their Amended Opposition. This provided the court with a very detailed explanation as to not only what the issues of fact in the case were (are), but explained what might be shown by the documents requested in discovery.

In the few moments prior to the above-shown statement, the Court

and the Plaintiff's counsel had an exchange where the above-described substantive investigative work was characterized in some very bizarre ways by both the Court and the Plaintiff's counsel.

Returning to the transcript of the February 13, 2015 summary judgment hearing, Page 6, beginning at Line 24:

THE COURT: "This is the first time I have seen anything like this."

MS. OWENS: [top of Page 7] "Your Honor, unfortunately, my office is aware of these types of web sites and this type of forensic audit-type things; and to be completely honest, Your Honor, mostly they're scams... [skipping to stay on point] ... Unfortunately, a lot of people do fall for these, but the laws of the State of Washington are completely clear on this case."

Only moments before, Ms. Owens had admitted that she had not yet laid eyes on any of the material she was opining about.

In spite of the Motion for Summary Judgment hearing being ostensibly a platform for a fair hearing of facts, this outlandish, off-base generalized characterizing of material she said she had not reviewed was, nonetheless, apparently taken by the Court as if it was coming from an opposing expert witness qualified to make such a statement, instead of from a member of the opposing counsel who had just stated that she had not even seen the material before that moment and, thereby, admitted to be

completely ignorant of its contents. Appellants argue that the trial court committed an error by accepting the Plaintiff's counsel's statement on the matter because she had no personal knowledge whatsoever, she was not speaking to any ascertainable facts in evidence in the case and she was not sworn in as a witness. See Coburn v. Seda, 101 Wn.2d 270, 276-77, 677 P.2d 173 (1984), Anderson v. Breda, 103 Wn.2d 901, 905, 700 P.2d 737 (1985), and Adcox v. Children's Orthopedic Hospital Medical Center, 123 Wn.2d 15, 31, 864 P.2d 921 (1993). Thus, more credibility wrongly was assigned to the unsworn testimony of counsel, who lacked any firsthand knowledge of that which she spoke, than the sworn statement submitted by the Appellants. See Welfare of Charles Ross 45 Wn. 2d, 654 (1954), Hutchings v. Dept. of L&I, 24 Wn. 2d 711 (1946).

The hearing proceeded from that point as if the Defendants had brought forth no discovery at all; Defendants' discovery was treated as a complete nullity; irrelevant to the proceedings. From the transcript of the same February 13, 2015 summary judgment hearing at Page 10, starting on Line 24: THE COURT: "I did not read anything in the responsive documents that would suggest discovery what the discovery would produce."

With due respect to the trial court's opinion, the mortgage analysis – something the Court admits to have not seen "anything like this" –

definitively shows what discovery would produce.

Notwithstanding the Court's remarks about reviewing Defendants' discovery requests, the Court did not issue a formal ruling pertaining to the Defendants' discovery. Nor did the Court so much as ask the Plaintiff if they formally objected to Defendants' discovery. The Defendants' discovery requests were simply dispensed with; an act the Defendants argue to have been an abuse of discretion. The burden of establishing entitlement to nondisclosure rests with the party resisting discovery, *Anderson*, 103 Wn.2d at 905, which the Plaintiff did not do on its own.

Defendants believe and so state that their discovery requests, and the way their discovery would be responded to by the Plaintiff, represented a quintessential element of the Defendants' defense. Defendants believe and so state that if their discovery were to be ordered responded to, Plaintiff's truthful responses would show that the Plaintiff has not met the burden of proof to support a Motion for Summary Judgment.

Defendants emphatically stated in their Answer to Plaintiff's Complaint that the Plaintiff lacked standing to bring their lawsuit in the first place. Defendants repeated that position multiple times in their answer(s) to the Plaintiff's discovery requests.

Appellate courts ordinarily review discovery rulings for abuse of discretion. *E.g.*, *T.S. v. Boy Scouts of Am.*, 157 Wn.2d 416, 423, 138 P.3d

1053 (2006). However, the interpretation of statutes and judicial decisions constitute issues of law subject to de novo review. *See In re Pers. Restraint of Cruze*,169 Wn.2d 422, 426, 237 P.3d 274 (2010); *State v. Drum*, 168 Wn.2d 23, 31, 225 P.3d 237 (2010).

The Plaintiff did not object to the Defendants' discovery request pursuant to Rule 26(1). Further, the Plaintiff did not make motion for a Protective Order against discovery pursuant to Rule 26(c).

Finally, CR 56(c) states, in part, that the "judgment sought shall be rendered forthwith *if* the pleadings, depositions, *answers to interrogatories*, and *admissions on file*, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." [emphasis added]

Appellants argue that, by error or by abuse of discretion, the trial court wrongly disallowed the discovery process from going forward.

C. Insufficiency of Declaration of Nicole Boutin

In her Declaration of April 21, 2015, Ms. Boutin states that she is "familiar with business records maintained by Ocwen Loan Servicing, LLC," (herein after "Ocwen"). She further stated that, based on her familiarity of Ocwen's business records, she believes that the business records submitted into the record can be relied upon as accurate in spite of

CR 56(e)'s requirement that declarations accompanying records purported to have been made at or near the time of the events and acts recorded be made by an individual *with personal knowledge*. Ms. Boutin cannot possibly know to be true the facts she is declaring as such. She apparently did not create any of the documents herself, nor is it apparent that she was involved in the creation, custody or maintenance of these records. Her conclusory statement of "personal knowledge" simply does not meet the requirements of *CR 56(e). Blomster v. Nordstrom, Inc.*, 103 Wn.App. supra; Editorial Commentary to CR 56 (citing *Antonio v. Barnes*, 464 F2d 584, 585 (4th Cir. 1972).

By her affidavit, Ms. Boutin suggest that she is some sort of record custodian for Ocwen, without so stating or otherwise establishing her qualifications. Ms. Boutin statements regarding her purported knowledge of the records of Ocwen fail to comply with *ER 80ER 803(a)(6)* and *RCW 5.45.020.* Ms. Boutin never states she is records custodian for Ocwen, only that he is "familiar with Ocwen's record-keeping practices". That is not the sort of personal knowledge required under *CR 56(e).* Many of the records Ms. Boutin relies upon were necessarily created by third parties, such as Saxon, the FDIC or Deutsche – not Ocwen. Ms. Boutin does not indicate how the records she refers to – whether records of Ocwen, Deutsche or Saxon – were prepared or kept. She provides no explanation as to the basis

of her knowledge of the same or how the records were transferred to Ocwen. Indeed, there is absolutely no basis upon which to rely on any of the statements contained in Ms. Boutin Declaration, as there has been no showing of how Ocwen obtained information regarding Defendant's note, the basis of the purported accounting for the debt, or the maintenance of the records. *See State v. Mason*, 31 Wn.App. 680, 644 P.2d 710 (1982). Simply put, there was no factual basis upon which to gauge the reliability of Ms. Boutin affidavit at summary judgment. Where personal knowledge is lacking, Ms. Boutin's Declaration should have been given no consideration by the trial court on summary judgment. *See Loss v. DeBord*, 67 Wn.2d 318, 407 P.2d 421 (1965). Further, if this declaration is indicative of the sum and substance of the Plaintiff's case, vis-à-vis witness testimony in support of their claim, the issue of lack of standing loudly reasserts itself here.

D. Violation of CR 54(e)

The record indicates that Rule 54(e), which requires that "[T]he attorney of record for the prevailing party shall prepare and present a proposed form of order or judgment not later than 15 days after the entry of the verdict or decision..." In the instant matter, the record shows that the trial court granted the Summary Judgment on February 13, 2015 and the first Motion for Judgment was not filed until May 4, 2015.

CR 81 states "these rules shall govern all civil proceedings." In 99 Wn.2d 225, Labor and Industries v. Kennewick, the court opined that the application of Rule 54(e) "... promotes uniformity and certainty." With Defendants' discovery (due process) disallowed by the trial court, while allowing sworn statements that do not conform to the rule's requirements, followed by the violation of rule 54(e), Defendants have seen a lot of uniformity.

IV. CONCLUSION

The Appellate Court is asked to determine, among other things, whether there are material facts in dispute that should have been litigated prior to summary judgment. Avalo's ask the finder of fact to consider that in August of 2014 the parties were so very close to agreeing upon a modification (the Avalo's needed only to sign off on an appropriately dated modification offer and litigation would end). However, no further offer would be forthcoming. This, as the Plaintiff's counsel openly admitted, was due to the fact that Defendants were raising "issues of fact."

Based on the foregoing arguments and analysis, the trial court had numerous genuine issues of material fact in dispute when it entered Summary Judgment and denied Defendants' the opportunity to proceed with discovery.

On Motion for Summary Judgment, the trial court's first order of business should have been to determine the identity of the true and lawful owner and holder of the subject obligation, assuming it could be done. Based on the evidence it had before it, the trial court could not have done so. Saxon Mortgage, Inc. was the initial party shown as "Lender" on the subject note. However, the Plaintiff provided no credible evidence of a legitimate transfer on December 22, 2004, which is when the Respondent claims the obligation was transferred to "undisclosed investors" of the Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset Backed Notes 2005-1.

The finder of fact could go on to inspect the Assignment of Deed of Trust recorded under Pierce County recording number 200805150453, also an ostensible transfer to the above-named trust, this time in 2008, but that document contains at least four flags of fraud or errors sufficient to render the document void, including a wrong date (by years, not days or months) and a lack of an authorizing person's signature (a blank space, not merely an intelligible autograph without a printed name). See EX 2. Issues like these are brought to light in the detailed and credible results of the Chain of Title Analysis (& Mortgage Fraud Investigation) the Defendants had done on the specific subject mortgage transaction. These issues are further addressed in Defendants' discovery request which the trial court disallowed.

Defendants' discovery documents were made part of the record of the case when the court made characterizations of it and discussed it on record. Additionally, both the court and the Plaintiff's counsel openly discussed it on the record as shown by the transcripts of the February 13, 2015 summary judgment hearing.

In reviewing the transcripts, and the thrust of statements made by both the Court and by opposing counsel, a fact finder untrained in the law could be led to believe the burden of proof was put on the Defendants to prove summary judgment would be inappropriate when the opposite is the case. Defendants argue that the Plaintiff's reliance upon, and repeating, the canard that the Defendants raised no issues of fact that were in dispute is a red herring.

Another issue that was brought to light, as the finder of fact reviews the transcripts of the several hearings, was the trial court's lack of familiarity with foreclosure issues. First example: "This is the first time I have ever seen something like this" (February 13, 2015, Page 6 at Line 24) referring to the Chain of Title Analysis & Mortgage Fraud Investigation conducted on the Defendants' mortgage transaction, which included an affidavit of the expert who prepared the analysis. Second example: "I considered these arguments at the time of the original hearing on February

13th..." (March 27, 2015, Page 12 at Line 3), while a careful review of the February 13th hearing shows that, in fact, that statement was not accurate.

Defendant also witnessed the trial court's lack of familiarity with procedure to the point of apparent confusion at times. The finder of fact will find that the following quotes from the May 29, 2015 hearing are indicative of almost the totality of the entire hearing. At Page 6, Line 9: THE COURT, uncertain as to procedure, asking opposing counsel what should be done: "Do you read RAP 7 to allow me to enter a judgment at this point after a notice of appeal has been filed?" and again at Page 7, Line 20, seeking the advice of opposing counsel, THE COURT asks, "Where does a judgment or order fall within those exceptions?" and again at Page 8, Line 10: "Order on summary judgment was entered?" and again at Line 15: "And so now what you're trying to do is just get a judgment, a money judgment?"

And finally, a careful review of the transcripts of all of the hearings in this matter indicates the topic of the Plaintiff's willingness to continue to engage in modification discussions with the homeowners occurred only one time. That one time was at the tail end of the February 13, 2015 hearing. See Page 13, beginning at Line 5:

THE COURT: "With that said however, you also said and I want Ms. Avalo to hear this, that your client is not opposed to continue to

negotiate with the Avalos to try to resolve this so that so that you can keep the property" to which MS. OWENS responded: "Absolutely."

Following this were several months of fruitless attempts on the part of the Defendants to get a response from servicer Ocwen. No negotiation has occurred, but not for lack of good faith effort on the part of the Defendants.

In light of the above, we turn to the transcript of the September 25, 2015 Motion Hearing to consider the following inexplicable statement made by the trial court. See Page 7, starting at Line 11:

THE COURT: "Mine is not the position to give legal advice and so you're welcome to do whatever you think is legally appropriate. You're welcome to negotiate with one another if you'd like to."

MS. AVALO: "Okay."

THE COURT: "*But my understanding is the lender is not willing to do anything at this point* and therefore I'm going to sign the order and you have appeal rights." [emphasis added]

With absolutely nothing in the record indicating that "the lender is not willing to do anything at this point", the Defendants argue that the finder of fact is led to conclude that the trial court and the Plaintiff engaged in ex parte contact prior to this hearing. How else could the trial court gain this "understanding"?

Returning to the question of Plaintiff's standing to bring suit, the Plaintiff has not provided any credible evidence showing if, when, or how the entity known as Deutsche Bank Trust Company Americas, whether acting *as Indenture Trustee* for an investment trust entity or in its own capacity, ever acquired any authority to initiate lawsuits against anyone. This is where New York state law becomes a factor. Since the trust entity the Plaintiff is ostensibly suing on behalf of apparently claims its situs in the State of New York, the trust entity was created under that state's laws, not in Washington State, under its laws. Therefore, where the Honorable Court opines on this topic during the February 13, 2015 summary judgement hearing (see transcript on Page 4, at Line 8), and where Miss Owen's also does so (see Page 7, beginning at Line 7), Defendants respectfully argue that both are simply incorrect. See 90 Wn. 2d 680, O'Brien v. Shearson Hayden Stone:

> "Prior to the American Law Institutes adoption of Section 203, this court long ago adopted the rule that "the parties to a contract may make the same with reference to the laws of any state or country and have their contractual rights governed thereby, provided only that such laws have a real and not a mere fictitious connection with the subject-matter of the transaction." Crawford v. Seattle, R. & S. RY., 86 Wash. 628, 635, 150 P. 1155 (1915). Since the majority holds

> that the state of New York has a substantial relationship to the securities margin contract, the New York law would govern under the rule just quoted if the rate of interest charged were lawful under New York law."

See also Gamer v. Dupont Walston, Inc., 65 Cal. App. 3d 280, 286, 135 Cal. Rptr. 230 (1976).

Irrespective of the above, the Plaintiff has yet to cite any applicable portion of the trust document it purports to act on behalf of, nor from governing state law of the trust's situs, affirming that this trustee (the Plaintiff) possesses the authority to launch litigation. Absent the Plaintiff's showing – directly from its authorizing documentation (that the Defendants asked for in discovery) – the question of the extent and limitations of this trustee's authority to act is of integral importance, as the question goes to standing, which the Defendants argued in their Answer to the Complaint, and the answer to that question must be ascertained.

All other issues aside, only when the true and lawful owner of the obligation can be identified, if such information can even be determined, could the trial court evaluate the efficacy of the Plaintiff's claims about its compliance with its fiduciary duties of good faith to the Defendants, which would necessarily need to be established prior to considering the Plaintiff's claims about the Defendants' alleged breach of contract.

Defendants ask and request that this action be remanded to the trial court for further proceedings on the issues raised herein. In so doing, Defendants ask and request that this Honorable Court immediately reverse the order that granted Respondent's Motion for Summary Judgment, order the lower court to allow Appellants' discovery requests to proceed, vacate the Final Judgment and Order of Sale, and order the Plaintiff to require their servicer Ocwen to negotiate for modification in good faith.

RESPECTFULLY SUBMITTED this 25th day of January 2016.

Alberto Avalo

Victoria L. Avalo

Victoria L. Avalo
2215 29th Ave. St. SW
Puyallup, WA 98373
253-988-0231

INDEX OF KEY FILINGS
of DEFENDANTS and PLAINTIFF

Summons and Complaint Filed on 03/24/2014

Summons and Complaint Received by Defendants on 04/06/2014

Defendants' Answer Sent to Plaintiff and Filed on 04/24/2014

Plaintiff Files Motion for Default on 04/24/2014

Plaintiff Files Declaration for Default on 04/24/2014

Plaintiff Files Order of Default on 04/24/2014

Plaintiff Files Sworn Statement in Support on 04/29/2014

Plaintiff Pays Ex Parte Presentation Fee on 04/29/2014

Plaintiff Files Motion to Vacate Default on 4/29/2014

Court Signs Order Vacating Default of Defendants Alberto and Victoria Avalo on 04/29/2014

Defendants File Answer to Plaintiff's Request for Admissions on 07/08/2014

Plaintiff Files Motion for Summary Judgment on 11/25/2014

Defendants File their Objections/Opposition to Motion for Summary Judgement on 01/14/2015

Defendants File their Amended Objections/Opposition to Motion for Summary Judgment on 02/09/2015

Plaintiff Files its Response to Defendants Objections/Opposition on 02/12/2015

Court Signs Order Granting Summary Judgement on 02/13/2015

Defendants File Motion for Relief from Judgment on 02/23/2015

Plaintiff Files Response to Defendants' Motion for Relief on 03/12/2015

Court Signs Order Denying Relief on 03/27/2015

Defendants File Motion to Stay All Proceedings Pending Appeal on 04/24/2015

Defendants File Notice of Appeal on 04/24/2015

Plaintiffs File Motion for Judgement on 05/04/2015

Defendants File their Response to Plaintiff's Motion for Judgment on 05/18/2015

Plaintiff Files its Objections/Opposition to Defendant's Motion to Stay on 05/18/2015

Court Signs Order Denying Motion to Stay on 06/01/2015

Plaintiff Presents, Ex Parte, a Motion for Entry of Judgment and Decree of Foreclosure in August 2015, Which is Denied

Plaintiff Files Motion for Reconsideration of its unfiled Motion for Entry of Judgment and Decree of Foreclosure on 08/28/2015

Plaintiff's Motion for Reconsideration of its unfiled Motion for Entry of Judgment and Decree of Foreclosure is Granted Ex Parte on or About 08/28/2015

Court Vacates Decree of Foreclosure on 08/31/2015

Plaintiff Files 2nd Motion for Reconsideration of its unfiled Motion for Entry of Judgment and Decree of Foreclosure 09/08/2015

Plaintiff Files Motion to Vacate Judgment and Decree of Foreclosure on 09/08/2015

Court Signs Order Vacating Ex-Parte-Obtained, Unfiled Judgment and Decree of Foreclosure 09/25/2015

Plaintiff Files Judgment and Decree of Foreclosure on 09/25/2015

Defendant Files Motion to Stay All Proceedings Pending Defendants' Appeal on 10/07/2015

Plaintiff Files Praecipe on 10/16/2015

Plaintiff Files Order of Sale on 10/16/2015

Plaintiff Files Response to Defendants' Motion to Stay on 10/26/2015

Court Signs Order Denying Defendants' Motion to Stay on 11/20/2015

Sheriff's Return on Writ of Execution Cancelled on 12/14/2015

CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I now and have been at all times mentioned herein a resident of the State of Washington, over the age of eighteen years, not a party to this action and I am competent to testify herein.

2. That on January _____, 2016, I caused a copy of the foregoing APPELLANTS' SECOND AMENDED BRIEF to be served to the following in the manner indicated:

Houser & Allison
9600 SW Oak St. #570
Portland, OR 97223

_____ Facsimile
_____ Messenger
__X__ U.S. 1st Class Mail

James Aitkins

EXHIBITS

EX 1

MORTGAGE COMPLIANCE INVESTIGATORS

CHAIN OF TITLE ANALYSIS & MORTGAGE FRAUD INVESTIGATION

Prepared For:
Alberto E. & Victoria L. Avalo

Real Property Located at:
8009 102nd Street Court East
Puyallup, WA 98371

Prepared By:
Mortgage Compliance Investigators
7901 Cameron Rd #317
Austin, TX 78759
Private Investigation License # A18306

DISCLAIMER: NOTHING IN THIS DOCUMENT SHALL BE CONSTRUED AS LEGAL ADVICE. THIS MATERIAL IS FOR EDUCATIONAL PURPOSES ONLY, AND IS TO BE USED FOR SELF-HELP AND AT READERS' INDIVIDUAL DISCRETION.

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SECTION 1: CONVEYANCE OF A SECURITIZED MORTGAGE LOAN

Elements of a Mortgage Loan Instrument and how they are governed:

A. **Promissory Note (Tangible)** = A "writing" in tangible form, signed, unconditional, and identifying an indebtedness or unsecured promise by one party (the Maker or Promisor) to another *drawer* (the Payee or Promisee or Tangible Obligee) that commits the maker (Debtor or Tangible Obligor) to pay a specified sum on demand, or on a fixed or a determinable date. If the Paper Promissory Note is to be a "Secured" indebtedness, the Security Instrument is also identified within the Paper Promissory Note. The Paper Promissory Note is governed by Uniform Commercial Code Article 3 or the State equivalent. *A signature on The Paper Promissory Note is NOT governed by the ESIGN Act – 15 USC §7003 – which clearly excludes items governed by Uniform Commercial Code (UCC) Article 3 or the State equivalent, and as such the indebtedness can be only in paper tangible form.*

B. **Security Instrument (Tangible)** = A "writing" in tangible form to memorialize Obligor's or Debtor's Pledging of an asset or property as an alternate method to secure payment to a Tangible Obligation if in accordance with all applicable laws of local jurisdiction.

C. **Security Interest (Pledging of tangible alternate Real Property Rights for Payment)** = An Interest constituting a lien or claim created by a security agreement (Mortgage or Deed of Trust), or by the operation of law, that if valid and enforceable provides the alternate means to fulfill value of an intangible financial obligation between the Tangible Obligee and Tangible Obligor. Thus, if such Security Interest (Mortgage or Deed of Trust) is no longer valid or enforceable in accordance to local laws of jurisdiction then the Tangible UCC 3 Note is no longer secured by such Security Interest.

D. **Promissory Note (Intangible "eNote" / Intangible Payment Obligation)** = An electronic transferrable record (created during securitization) and signed in accordance with ESIGN Act that commits the maker (Account Debtor or Intangible Obligor) to pay a specified sum on demand in accordance with a contract NOT governed by UCC Article 3 to an Intangible Obligee. Transferrable records are governed by UCC Article 8 and the Security Interests securing transferrable records are governed by UCC Article 9.

E. **Security Interest (Intangible to UCC Article 8 "eNote")** = Intangible Obligations (created during securitization by an Account Debtor) are routinely swapped for another Intangible Obligation (Certificates), and as being a Transferable Record such transaction would fall under governance of UCC 8. For this Certificate Intangible to be secured by an Intangible Account Debtor's Personal Property, the negotiation of the Intangible Obligation must be in compliance with UCC 8 as it applies to Transferable Records. As to the Personal Property securing the Transferable Record, UCC 9 would provide governing law.

SECTION 1: CONVEYANCE OF A SECURITIZED MORTGAGE LOAN (cont'd)

Mortgage Loan Instrument or Personal Property – What really got securitized?

We begin with the mortgage loan originator. Immediately after closing, the mortgage loan originator has taken possession of many documents of which only two (2) are required to be followed through to the securitization process. These two (2) documents are the *Paper Tangible Promissory Note* and the *Paper Tangible Security Instrument* (Mortgage, Deed of Trust, or Security Deed). The Promissory Note and the Mortgage (or Deed of Trust or Security Deed) together can be considered one tangible instrument. With a perfected Tangible lien of record securing a Tangible Promissory Note, this would then be in compliance to all applicable laws. As such, intangible and tangible laws apply granting the mortgage loan originator legal and equitable rights to the Note (tangible and intangible) as Holder in Due Course that would have legal and equitable rights to the security securing if the Note and security (tangible and intangible) are in compliance to all applicable law.

Assuming originating lender has complied with all applicable laws in origination of the mortgage loan; the originating lender could and routinely does offer up the mortgage loan to securitization by selling the payment stream interest to an Account Debtor (Sponsor/Seller) who then in accordance to an intangible contract swaps the intangible payment stream for certificates which are sold to investors. Such swap in legal parlance is considered to be a "True Sale".

The "unknown fact" is that the monetary value contained within the Tangible Obligation, and the Security Instrument securing it, were offered for sale in the secondary market as an UCC Article 8 note (eNote/Transferable Record usually tracked on a national database [book entry system]), the book entry system tracks who is the UCC8 Intangible Obligee with rights to the UCC 9 security interest. Although, the electronic book entry system does not track who has a vested legal interest in the tangible security instrument that is reserved by statutory law governed by local laws of jurisdiction.

The instrument is an Intangible Obligation. Thus, a second (non- UCC Article 3) instrument was created. The existence of the (non- UCC Article 3) Intangible instrument is dependent upon the existence of the UCC Article 3 Tangible instrument. To provide a security interest to allow for an alternate method to collect value for the (UCC Article 8) Intangible instrument, the maker of the (UCC Article 8) Intangible instrument pledged as collateral the *"Electronic Mortgage Loan Package", evidenced by the* UCC Article 3 Tangible instrument and its underlying security interest (instrument).

What should have happened:

For the UCC Article 8 Intangible Obligee (Trust) to have a perfected and continuous alternate method to collect via alternate tangible such as a true sale of real property (Alternate method of value for the Tangible Payment Stream); the UCC Article 8 transferable record Intangible Obligee (Trust) would need to have been assigned rights to the Tangible Security Instrument in accordance to laws of local jurisdiction securing the UCC Article 3 obligation in order to be in compliance with state and federal law.

A Tangible Paper Promissory note denotes two distinguishing values, one of legal rights contained within which is routinely stripped out as an intangible obligation thus leaving the second value to be only the value of paper and ink being that of tangible property without legal rights but limited to that of being of personal property of the party that stripped the rights value (legal and monetary).

Thus, a Tangible Obligee may or may not be a holder in due course of a secured UCC 3 Instrument, whereas when distinct and separate laws applying to the tangible security instrument have not been followed, even if Tangible Obligee was entitled to enforce the UCC 3 Instrument does not mean that the Tangible Obligee is a party entitled to enforce security instrument [party to enforce the tangible note and the tangible security instrument].

When an Intangible claim (Payment Stream) or lien created by an Intangible security agreement extends to the Tangible Note and the Tangible Security Instrument, such actions must be in compliance with all applicable law. Signatures on Intangible Security Interest, Tangible Note and the Tangible Security Interest (Security Instrument) are not governed by Uniform Commercial Code Article 9 or State equivalent. The collection rights are governed under UCC 9 but the transfer of an intangible is governed under UCC 8; therefore negotiation of the Article 8 Instrument cannot be negotiated with an electronic signature attempting to effect transfer and thus the Security Interest falling under UCC 9 is also not transferred.

Legal guidance for signatures under ESIGN Act – 15 USC §7003 – clearly excludes instruments governed by the Uniform Commercial Code Article 3, 8, & 9 or the State equivalent so the Intangible Claim cannot be negotiated electronically. The Tangible Personal Property Security Interest (Tangible Note and continuously assigned perfection of the Tangible Security securing the Tangible Note) can only be pledged as an intangible interest in the payment stream as a UCC8 instrument. As such the Intangible Payment Obligation can only be negotiated in paper form. The Intangible Security Interest cannot be sold as an electronic transferable record.

What Did Happen: Outside Applicable Law

To provide a security interest to allow for an alternate method to collect value (Payment Stream) for the (UCC Article 8) Intangible instrument, the maker of the (UCC Article 8) Intangible instrument pledged as collateral the "Electronic Mortgage Loan Package", evidenced by the UCC Article 3 Tangible instrument and its underlying security interest (instrument). This "Electronic Mortgage Loan Package" is simply an intangible interest in personal property (Intangible Payment Obligation). As future legal actions were unanticipated, the paper documents were either placed in storage (Custodial and Non-Custodial Custody) or deliberately destroyed.

It's important to understand Standard Operating Procedure in regards to the conveyance of a securitized mortgage loan; specifically the conversion of a Tangible Mortgage Loan Instrument into an Intangible, electronic "eNote" Form, which is typical in this new world of Electronic Securitization. Illusion of legality is the key to this scheme.

Upon the loan closing, the paper Promissory Note and the Security Instrument are scanned into an electronic digitized graphics package. The data from both sets of documents is converted to an electronic data file and paired with the electronic version of the Promissory Note and Security Instrument, along with all other closing documents which is called a "Mortgage Loan Package". Where this "Electronic Mortgage Loan Package" is routinely addressed as the "Mortgage Loan Package", it is nothing more than an interest in the [monetary] Intangible Payment Obligation, whose source of funding is captured by the

payments made regarding the Tangible Promissory Note Obligation. The "Electronic Digitized Mortgage Loan Package" is now falsely represented as the legal "Mortgage Loan Package".

The electronic version of the Warranty Deed may have been electronically submitted to be filed in Public Records by a third-party submitter as approved by the state; as the Warranty Deed contains the information that transfers the title (legal and equitable) of the property from the Seller to the Buyer (Homeowner). Title to the property is required to offer the property as security in the Security Instrument as collateral for the paper Promissory Note. The Warranty Deed is required to be filed in Public Records. The Warranty Deed is not governed under the Uniform Commercial Code or State equivalent and would be allowable under ESIGN Act to be filed in electronic form.

The electronic version of the Security Instrument is then electronically filed in Public Records. If the Obligee attempts to apply UCC Article 9 laws of perfection to support legal claims within the Security Instrument, then this filing would be unlawful. If the Obligee uses the laws of local jurisdiction to support perfection, then the filing would be lawful.

Conveyance of an "eNote":

If Mortgage Electronic Registration Systems (hereinafter "MERS") is involved, registration on the MERS system is required, and when this registration occurs, an 18-digit Mortgage Identification Number "MIN" is created. The first seven (7) digits identify the registering lender and the last digit is a checksum number. If the "Electronic Mortgage Loan Package" is registered in the MERS Registry, there is no physical transfer of the "Electronic Mortgage Loan Package". The MERS Registry is updated as to who has control and ownership rights of the electronic digitized file identified as a non-lawful and intangible form of the electronic Promissory Note "eNote".

The First Electronic Sale / Assignment (Investment Vehicle as Example, Fannie/Freddie Similar) occurs when The "Loan Originator" (Assignor, Tangible Obligee) offers the "Electronic Mortgage Loan Package" to a perspective buyer (Intangible Obligor) to offset a prearranged line-of-credit by intangible obligee (Lender). In this scenario, Recipient (Assignee, Seller/Securitizer) of the Investment Vehicle, Intangible Obligee) of the "Electronic Mortgage Loan Package" has already conditionally agreed to accept the (conveyance) as a tender of funds has already occurred leaving only taking control of the "Electronic Mortgage Loan Package" as a transferable record, unbeknownst that it is a transaction not supported by law.

There are counties that identify on the face of the instrument that the instrument was submitted for recording in electronic form from the submitter, where the submitter has received from an intangible obligee an instrument that is to be recorded. If a "Notice of Assignment" reflecting this "electronic negotiation" is NOT filed in Public Records, as such a filing would be unlawful. There is no law that requires notice to be filed of Public Records upon the selling or purchasing of an electronic Promissory Note "eNote". As such, an "eNote" would only apply to personal property (Article 8 Intangible payment obligation) and not real property (Article 3 negotiable instruments), in order to be in compliance with UCC Article 9, ESIGN Act and UETA.

The First Transfer of Personal Property (Payment Intangible) differs from the first Electronic Sale as the Intangible Obligation (Payment Stream, rights to future payments, or beneficial interest) has been bifurcated from the Tangible Obligation (Paper Promissory Note), and in accordance to UCC Article 3-3203(d), rights to enforce the Tangible Obligation have not been negotiated to the Intangible Obligor

(Seller/Securitizer), the only rights conveyed are rights to simply hold and possess the Tangible Paper Obligation.

The Second Electronic Sale / Assignment happens when the "Seller/Securitizer of the Investment Vehicle," (Assignor/Intangible Obligor), sells/assigns the "Electronic Mortgage Loan Package" to the Buyer (Depositor of the Investment Vehicle / Subsequent Intangible Obligor). The recipient (Assignee, Depositor of the Investment Vehicle / Subsequent Intangible Obligor) of the "Electronic Mortgage Loan Package" under the terms of the trust accepts the transfer and takes control of the "Electronic Mortgage Loan Package".

The Third Electronic Sale / an Assignment happens when the "Depositor of the Investment Vehicle" (Assignor) sells/assigns the electronic loan package to the Trustee of the Investment Vehicle. The recipient (Assignee, Depositor of the Investment Vehicle) then takes control of the "Electronic Mortgage Loan Package". The "Depositor of the Investment Vehicle", in compliance with the Investment Trust's documents, takes control of the Investment Trust's Electronic Certificates in exchange for selling/assigning the "Electronic Mortgage Loan Package".

It is not uncommon to find in Public Records a "Notice of Assignment" filed reflecting a transfer of lien rights from the Original Assignor (Tangible Obligee) to a 3rd subsequent Intangible Assignee (Subsequent Intangible Obligor) of the Intangible Obligation, usually the Trustee or Mortgage Servicer). In this scenario the perfection of lien rights (Perfected Chain of Title) does not match the match the "Chain of Negotiation" of the Paper Promissory Note shown by indorsements, and, as such, proves the Paper Promissory Note is no longer secured by the Security Instrument as the Security Instrument has become a "Nullity" by operation of law. These filings in public records are fraud upon public records.

As an illusion, to allegedly provide a security interest to allow for an alternate method to collect value for the (UCC Article 8) Intangible instrument, the maker of the (UCC Article 8) Intangible instrument pledged as collateral the "Electronic Mortgage Loan Package", evidenced by a digitized copy of an UCC Article 3 Tangible instrument and its underlying security interest (instrument), not perfected of record in the intangible purchaser's name. To further the account debtor's deception, claims are made that Account Debtor was executing a true sale of the tangible note and it's security to the purchaser of the intangible obligation, this is a legal impossibility Intangible purchaser never obtained legal rights to alternate tangible method of payment.

Security Interest to an alleged Account Debtor (rights to collect Future Payments pledged by the Account Debtor), which was to have been secured by the Payment Stream from the Tangible Obligation; where an alternate method to receive value was done via a properly attached and perfected real property security interest, could not have taken place legally under the current governing laws without having been in written tangible paper form. Real property Security Interests are governed by local laws of jurisdiction. UCC Article 9 governance for attachment and perfection of security rights to the intangible obligation is limited to personal property security interests such as goods and services.

A Tangible Obligor or Account Debtor may or may not be a holder in due course of an UCC 3 Instrument, where distinct and separate laws apply to the tangible security instrument have not been followed, even if Tangible Obligor/Account Debtor was entitled to enforce the UCC 3 Instrument does not mean that the Tangible Obligor is a party entitled to enforce security instrument (party to enforce the tangible note and the tangible security instrument). The trust has been conveyed a transferable record, leaving a Tangible paper UCC Article 3 Note **LESS** the rights securing it, as would have existed if the Security Instrument securing the UCC Article 3 Tangible Note had been assigned in accordance to laws of local jurisdiction.

Furthermore, by NOT assigning the Security Instrument securing the UCC Article 3 Tangible Note in accordance to local laws of jurisdiction, the UCC 8 Intangible Obligee has taken possession of an "Electronic Mortgage Loan Package" lacking legal rights to the tangible security instrument. Pursuant to local laws of jurisdiction, without the UCC Article 8 transferable record and the Intangible Obligee perfecting of record, (the tangible rights that are found in the Tangible Security Instrument include the power of sale) the UCC 8 transferable record Intangible Obligee is NOT a Perfected Tangible Obligee.

It is important to understand that UCC Article 9 does not distinguish a difference between negotiable UCC Article 3 (Tangible Negotiable Instruments) and non-negotiable (Intangible non-Article 3 instrument such as an eNote or Transferable Record), as transferable record instruments are governed by UCC Article 8; which is also exclusion of ESIGN Act and UETA. UCC Article 9 governance is limited to personal property security interests, such as goods and services. Personal property Security Interests are governed by UCC Article 9. Within the current process of securitizing real property mortgage instruments, it is not uncommon to notice an improper use of applying UCC Article 9 laws to real property security interests in Note transactions where such UCC 8 Transferable record Intangible Promissory Note transactions are in fact non-negotiable transactions.

This system of securitization has a serious legal flaw as it provides that the Account Debtor (Intangible Obligor) and the Debtor (Tangible Obligor) have to be one in the same which is a logistical and legal impossibility. As the Intangible Obligee is not perfected of record to the Tangible Mortgage (Tangible Security securing the Tangible Article 3 Note) and not having the Tangible Article 3 instrument negotiated from Tangible Obligee to Intangible Obligee as provided under UCC 3, the Intangible Obligee has no real property securing an Obligation created by the Account Debtor. Whereas UCC 3 allows proving up an Article 3 Tangible Instrument, such law does not extend to the Tangible Security that once secured the Tangible Article 3 Note made payable to the Originating Tangible Obligee.

NON-Holder-in-Due-Course Alleges Default: *(Trustee/Mortgage Servicer)*

- **The Mortgage Servicer or the Trustee of the INTANGIBLE Investment Vehicle** declares default.
- Numerous actions of fraud are readily identifiable.
- As noted in the four (4) electronic negotiations of the electronic loan package to securitization, there is a lack of supporting law to allow electronic negotiation. Only the Holder of the "Paper Promissory Note" entitled in the indebtedness has a right to collect payments.
- Lost Note Affidavits based on Electronic Records are Hearsay
- Introduction of fraud into the Securities Market
- Fraudulent creation of assignments in attempt to transfer lien rights from Originator to 3rd or 4th subsequent purchaser bypassing 1st and 2nd purchasers resulting in fraudulent filing in public records.
- **Reader note: Specific details of client's unique transaction history found in the Chain of Title Analysis and Mortgage Fraud Investigation will determine if a violation has occurred.**

SECTION 2: MORTGAGE LOAN TRANSACTION HISTORY

Mortgage Loan Details:

BORROWER(S)	Alberto E. & Victoria L. Avalo
SUBJECT ADDRESS	8009 102nd Street Court East Puyallup, WA 98371
MORTGAGE LENDER	Saxon Mortgage Inc.
MORTGAGE TRUSTEE	Chicago Title
TITLE COMPANY	Chicago Title
CLOSING DATE	December 22, 2004
ORIGINAL LOAN AMOUNT	$388,218
ORIGINAL INTEREST RATE	7.800%
TYPE OF LOAN (ARM or FIXED)	ARM
CURRENT SERVICER	Ocwen Loan Servicing LLC

Securitization Details:

INVESTMENT BANK	Saxon Mortgage Inc.
Seller	Saxon Funding Management Inc.
DEPOSITOR	Saxon Asset Securities Company
TRUSTEE	Deutsche Bank Trust Company Americas
REMIC NAME	Saxon Asset Securities Trust 2005-1
MASTER SERVICER	Saxon Funding Management Inc.
ISSUE DATE	January 01, 2005
MATURITY DATE	January 25, 2005

Loan Found In RMBS Trust:

ABSNet Deal ID:	37245	Region:	United States
Asset Class/Collateral Type:	RMBS/Unknown	Issuer:	Saxon Advanced Receivables Backed Series
Deal Size:	145,035,995	Underwriter:	Barclay's Bank plc
Remittance Frequency:	Monthly	Trustee:	Wells Fargo
Bloomberg Name:	SARNT 2005-A	Servicer:	--

Classes Active/Paid:

Capital Structure

Ratings and Prices are the most recent available received and as of end of reporting period

Name	Currency	ID	Pools	Class Bal - Original	Class Bal - End	Class Factor	Coupon % - Current	Subordination % - Original	Subordination % - Current	S&P	Moody's	Fitch	DBRS	Price
A1	USD	80555RAB2	Total Pool	5,035,995	0	.000000	3.378%	3.000%	--	AAA	Aaa	FIT	--	--
A2	USD	80555RAC0	Total Pool	85,000,000	0	.000000	3.478%	3.000%	--	NR	Aaa	FIT	--	--
A3	USD	--	Total Pool	55,000,000	--	--	--	3.000%	--	NR	--	AAA	--	--

SECTION 3: MCI INFOGRAPHICS & MORTGAGE FRAUD INVESTIGATION

Intro to MCI Infographic:

1. The chain of custody refers to the chronological documentation or paper trail, showing the seizure, custody, control, transfer, analysis, and disposition of evidence both physical and electronic. I have included research regarding documents that were not found to be recorded in the chain of custody. To allow for the Power of Sale to be available for a party to have standing, the chain of indorsements appearing on the face of the Note Instrument must be in tandem match the recordation of the chain of Assignments of [Security Instrument] in the Public Records. Failure to properly record Assignments of the [Security Instrument] (lien) which would memorialize a Note's negotiation, where without indorsements as it pertains to the transfer of beneficial and security interest in real property, can render the [Security Instrument] a nullity by operation of law as the Note is unenforceable under UCC 3-201, 3-204 & 3-302(d). "A security interest cannot exist independent of the obligation it secures." Negus-Sons, Inc., 460 B.R. at 758, quoting In re Advanced Aviation, Inc., 101 B.R. 310, 313 Bankr. M.D. Fla. 1989

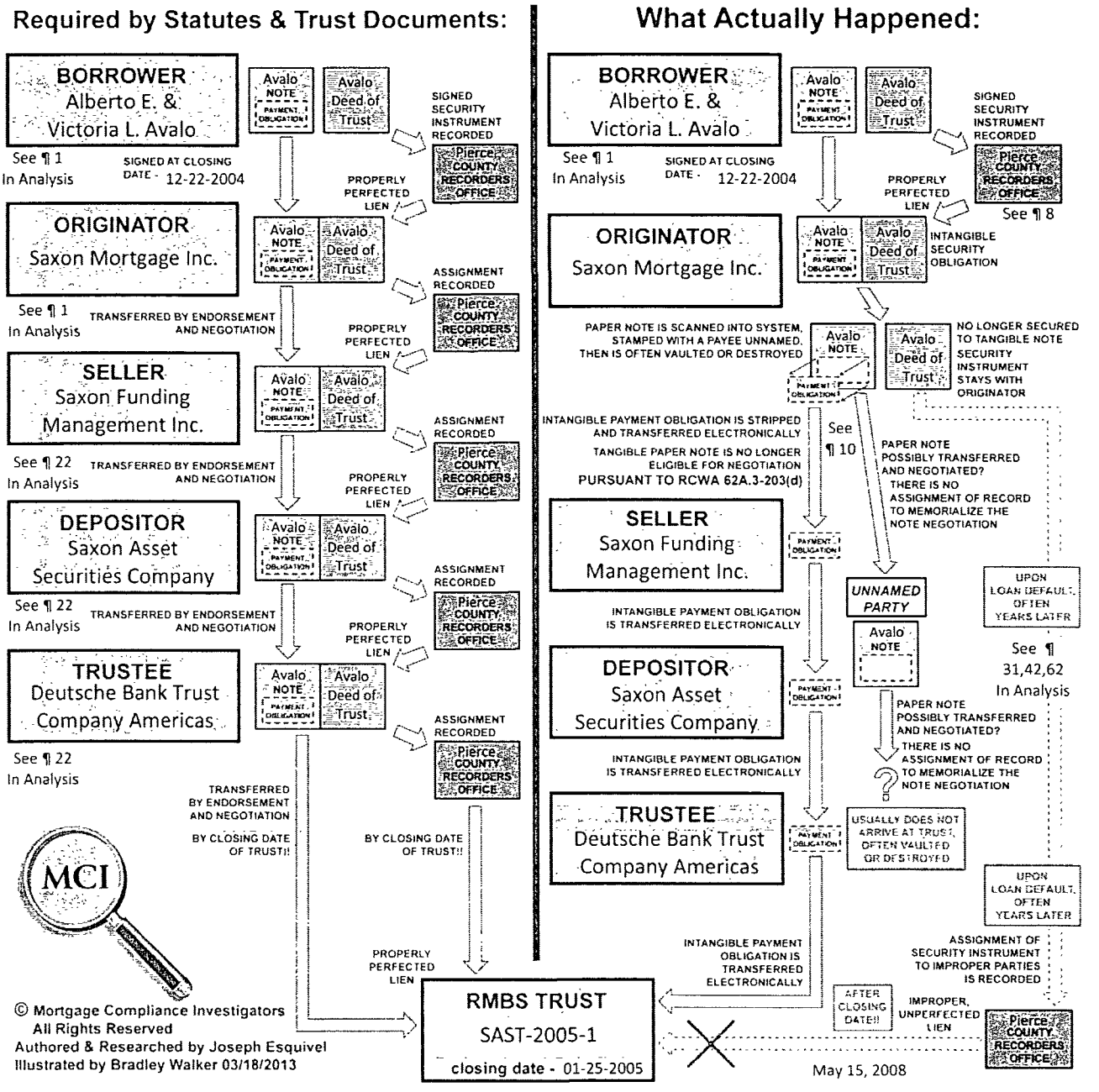
2. Banking Practice does not overcome Uniform Commercial Code USCA (1988). The United States Court of Appeals Fifth Circuit determined that banking practice cannot overcome or substitute for enacted Uniform Commercial Code Statute: "Hibernia's reliance on commercial custom is misplaced. Commercial custom does not apply where the UCC provides otherwise. See UCC Sec. 1-103; also UCC Sec. 3-104, Official Comment 2 ("writing cannot be made a negotiable instrument within this Article by contract or by conduct.") Moreover, it would be inequitable to apply the banking industry's unilateral "custom" to a maker, such as the Army, that is unaware of or may not recognize such a custom." 841 F. 2d 592 United States of America v. Hibernia National Bank 96 A.L.R.Fed. 895, 5 UCC Rep.Serv. 2d 1392 United States Court of Appeals, Fifth Circuit 1988"

3. It is a cornerstone and long held concept within United States Law, that when the rights to the Tangible Paper Note and the rights to the Security Instrument are separated, the Security Instrument, because it can have no separate existence, cannot survive and becomes a nullity.
In Carpenter v. Longan 16 Wall 271,83 U.S. 271, 274, 21 L.Ed. 313 (1872), *the U.S. Supreme Court stated "The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while assignment of the latter alone is a nullity... The mortgage can have no separate existence. When the note is paid the mortgage expires. It cannot survive for a moment the debt which the note represents. This dependent and incidental relation is the controlling consideration . . . ."*

4. This schematic shows the approximate paths that should have been taken by the parties involved which would have achieved a properly secured party. The documents that would have been filed, indexed and recorded by the county recorder would have created an encumbrance of the property and would have lawfully taken place. This process would have achieved a properly secured party. This schematic also shows what the banks often actually do in regards to transferring the Tangible documents and the Intangible records:

Reader Note: The following info graphic depicts transactions that pertain to your unique "Chain of Title Analysis". References may be made in text boxes within the infographic that pertain to specific paragraphs within your unique Chain of Title Analysis.

RMBS LOAN SECURITIZATION DIAGRAM



SECTION 3: MORTGAGE FRAUD INVESTIGATION

Chain of Title Analysis and Mortgage Fraud Investigation:

The following Chain of Title details are a listing of the documents related to the property in chronological order. This chain of custody is necessary to maintain an "unbroken" chain at all times pursuant to State Law. We have investigated the documents that were recorded within the County Recorder's Office where the real property resides, as well as the documents that were NOT recorded within the County Recorder's Office but were made official by filing into public record as exhibits.

We have examined the following documents:

A. Copy of a document purporting to be the Tangible Promissory Note of Alberto E. & Victoria L. Avalo, dated December 22, 2004, regarding a loan for $388,218. (see Exhibit "A" attached within) The Original Lender of the December 22, 2004 Avalo loan is Saxon Mortgage Inc..

B. Copy of a Recorded document purporting to be the Tangible Deed of Trust of Alberto E. & Victoria L. Avalo, dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844. (see Exhibit "B" attached within)

C. Copy of a Recorded document purported to be an "Assignment of Deed of Trust", recorded May 15, 2008 and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150453 (see Exhibit "C" attached within)

D. Copy of a Recorded document purported to be an "Assignment of Deed of Trust", dated December 18, 2008 and filed in the Official Records of the Pierce County Recorder's Office on December 23, 2008 as ins# 200812230804 (see Exhibit "D" attached within)

E. Copy of a Recorded document purported to be an "Assignment of Deed of Trust", dated November 18, 2009 and filed in the Official Records of the Pierce County Recorder's Office on June 25, 2010 as ins# 201006250288 (see Exhibit "E" attached within)

F. Copy of a Recorded document purporting to be an "Appointment of Successor Trustee", dated April 02, 2008 and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150454. (see Exhibit "F" attached within)

G. Voluntary Lien Search pertaining to the Transaction Details for 8009 102nd Street Court East, Puyallup, WA 98371 which includes all publicly recorded documents filed in the Official Records of the Pierce County Recorder's Office.

H. The Sale and Servicing Agreement dated January 01, 2005 for the Saxon Asset Securities Trust 2005-1 Trust

I. The Prospectus Supplement dated January 21, 2005 (To Prospectus dated October 21, 2004) for the Saxon Asset Securities Trust 2005-1 Trust

An Examination of the Alberto E. & Victoria L. Avalo Mortgage Loan

The Avalo Intangible Obligation had been sold by Saxon Mortgage Inc. on or before January 25, 2005

1. On February 3, 2015 I researched Alberto E. & Victoria L. Avalo whose property address is 8009 102nd Street Court East, Puyallup, WA 98371. Alberto E. & Victoria L. Avalo had allegedly signed a Note in favor of Saxon Mortgage Inc. on December 22, 2004. This loan was identified in multiple classes of the Saxon Asset Securities Trust 2005-1 (hereinafter "SAST-2005-1"), which has a Closing Date of January 25, 2005. The loan is being serviced by Ocwen Loan Servicing LLC.

2. Pursuant to a thorough research I have found the aforementioned Avalo Mortgage Loan in multiple classes of the SAST-2005-1 Trust. The Avalo Intangible Obligation has been sold to multiple classes of the SAST-2005-1 Trust. Where records show the intangible payment stream remains an asset, a fact to determine, that is beyond the scope of this analysis, is why if there is a default of the tangible is there not also a default of the intangible. It is possible that a third party contract known as a Credit Default Obligation could account for the reason why the intangible is not in default, such supposition offers a reasonable explanation.

3. The income stream from the Avalo Intangible Obligation is owned in a unified manner as described by the Prospectus when discussing the Classes within the Trust Pool. Each class of the SAST-2005-1 Trust owns a different partial interest in the Avalo Intangible Obligation. Even though a Trust may show a Class within that Trust as being paid, this is a predetermined action by the Trust. It does not mean that the Avalo Intangible Obligation is in default. It is impossible to make that determination as the Avalo Intangible Obligation no longer exists in its original form. Subsequently, the precise ownership of partial interests in the Avalo Intangible Obligation can no longer be determined, nor can it be determined what or which partial interest in Avalo Intangible Obligation has been paid nor what percentage of that partial interest in the Avalo Intangible Obligation has been satisfied/settled. Even though there is some division of performance of the loan from class to class. If the ownership of the Avalo Intangible Obligation exists in any class as the Transferable Record of the ownership, the Avalo Intangible Obligation exists in total within the Trust.

4. Securitization is the process of aggregating the Intangible Obligations from a large number of mortgage loans, into what is called a mortgage pool and then selling "shares" (called certificates) of ownership of partial interest of the Intangible Obligations to investors. The income stream from the Intangible Obligation that Alberto E. & Victoria L. Avalo's mortgage payments produce, flows through fractionalized payments into many different classes to many different investors, of the SAST-2005-1 Trust depending on which certificates of which class were purchased by which investor. My research shows that ownership of the Avalo Intangible Obligation does appear in the schedules and agreements. The divided monthly loan payments paid by Alberto E. & Victoria L. Avalo to Ocwen Loan Servicing LLC most definitely flowed into multiple classes of the SAST-2005-1 Trust.

5. The rights to the Avalo Intangible Obligation have been conveyed as a Transferable Record to multiple classes of the SAST-2005-1 Trust. For the rights to the Avalo Intangible Obligation not to have been stripped away from the rights to the Avalo Note by that conveyance, the rights to the Avalo Note must have also been transferred to multiple classes of the SAST-2005-1 Trust.

6. Even though the Avalo Intangible Obligation is owned by multiple classes of the SAST-2005-1 Trust, it can only be determined if the original Avalo Note had been physically delivered to multiple classes of the SAST-2005-1 Trust by checking with the custodian of documents. Until then, there is no evidence multiple classes or even one class of the SAST-2005-1 Trust possessed in any manner the Avalo Note before the Closing Date of January 25, 2005, as required by its own agreements.

7. The rights to the Avalo Intangible Obligation have been conveyed as a Transferable Record to multiple classes of the SAST-2005-1 Trust. For the conditions of Avalo Deed of Trust over the Avalo Intangible Obligation not to have been stripped away by that conveyance, the rights to the Avalo Deed of Trust must have also been transferred to multiple classes of the SAST-2005-1 Trust.

8. The beneficial interest (ownership) of the Avalo Deed of Trust has been recorded in the Official Records of Pierce County Recorder's Office as being in the name of Saxon Mortgage Inc., the Original Lender of the loan dated December 22, 2004. However, it is clear that Saxon Mortgage Inc. sold all ownership interest in the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust on or about January 25, 2005, the Closing Date of the SAST-2005-1 Trust. Ownership of the Avalo Intangible Obligation is held in multiple classes of the SAST-2005-1 Trust, and the payments under the Avalo Intangible Obligation are disbursed to the investors of SAST-2005-1 Trust who hold certificates

to the investment classes into which payments under the Avalo Intangible Obligation are scheduled to flow. Therefore the transfer of beneficial interest in the Avalo Deed of Trust by Saxon Mortgage Inc. might be accomplished, but that beneficial interest is no longer attached to the rights to the Avalo Intangible Obligation.

As Multiple Classes of the SAST-2005-1 Trust have an Interest in the Avalo Intangible Obligation, Multiple Classes of the SAST-2005-1 Trust Are Required to Have Interest in the Avalo Note and Interest in the Avalo Deed of Trust

9. By multiple classes of the SAST-2005-1 Trust purchasing the Avalo Intangible Obligation and doing with it whatever was done, multiple classes of the SAST-2005-1 Trust were exercising rights of ownership over the Avalo Mortgage Loan and the payment stream. By exercising rights of ownership over the Avalo Mortgage Loan and the payment stream, multiple classes of the SAST-2005-1 Trust were making a claim of rights to all three parts of the Avalo Mortgage Loan, a claim which is misplaced.

10. The Avalo Mortgage Loan only exists through the tangible instruments creating it, the Avalo Note and the Avalo Deed of Trust. The sale of the rights to the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust without stripping away the rights to the Avalo Intangible Obligation from the rights to the Avalo Note could only be accomplished with the accompanying negotiation of the Avalo Note and the accompanying assignment of the Avalo Deed of Trust to the multiple classes of the SAST-2005-1 Trust which is a legal impossibility. Whereas the Trust as a standalone party has not lawfully been conveyed the Avalo Note, much less been filed of record as a secured creditor.

11. Multiple classes of the SAST-2005-1 Trust have made and continue to make claims of ownership of the rights to the Avalo Intangible Obligation and exercise those claims. To exercise claims of rights to the Avalo Intangible Obligation, proper assignments of the Avalo Deed of Trust should have been accomplished. Multiple classes of the SAST-2005-1 Trust are acting as if proper assignments of the Avalo Deed of Trust have been accomplished.

12. The assignment of the Avalo Deed of Trust is a conveyance of an instrument concerning real property which must be recorded to be acted upon. United States Code considers that anyone certifying that a real estate instrument has been assigned when in fact it has not is guilty of a felonious criminal act.

Title 18 USC Chapter 47 § 1021
Whoever, being an officer or other person authorized by any law of the United States to record a conveyance of real property or any other instrument which by such law may be recorded, knowingly certifies falsely that such conveyance or instrument has or has not been recorded, shall be fined under this title or imprisoned not more than five years, or both.

Multiple Classes of the SAST-2005-1 Trust can not Claim Ownership of either the Avalo Note or the Avalo Deed of Trust

13. Multiple classes of the SAST-2005-1 Trust own the Avalo Intangible Obligation. However the transfer of rights to either of the two tangible parts of the security instrument that evidence the Avalo Intangible Obligation from Saxon Mortgage Inc. to multiple classes of the SAST-2005-1 Trust is not memorialized in the Official Records of the Pierce County Recorder's Office in a manner which observes United States Code.

14. Under the Consumer Credit Protection Act Title 15 USC Chapter 41 § 1641(g): any transfers of the Avalo Mortgage Loan to multiple classes of the SAST-2005-1 Trust would be in violation of Federal Statute, if those transfers had not been recorded in the Official Records of the Pierce County Recorder's Office within 30 days along with notification of Alberto E. & Victoria L. Avalo that the transfers had occurred. As there are no recorded assignments of the Avalo Deed of Trust to multiple classes of the SAST-2005-1 Trust within 30 days of December 22, 2004, either there has been a violation of Federal Law or multiple classes of the SAST-2005-1 Trust, who are the owners of the Avalo Intangible Obligation, are not the owners of either the Avalo Note or the Avalo Deed of Trust.

Title 15 USC Chapter 41 § 1641(g)

*(g) **Notice of new creditor***
*(1) **In general***
In addition to other disclosures required by this subchapter, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—
(A) the identity, address, telephone number of the new creditor;
(B) the date of transfer;
(C) how to reach an agent or party having authority to act on behalf of the new creditor;
(D) the location of the place where transfer of interest in the debt is recorded; and
(E) any other relevant information regarding the new creditor.

15. Multiple classes of the SAST-2005-1 Trust are the owners of the Avalo Intangible Obligation; however, according to Washington State Law, multiple classes of the SAST-2005-1 Trust can only be

entitled to enforce the Avalo Deed of Trust if they took the Avalo Deed of Trust by way of assignments pursuant to:

> West's RCWA 62A.9A-514. *Assignment of powers of secured party of record*
> *(a) Assignment reflected on initial financing statement. Except as otherwise provided in subsection (c) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.*
> *(b) Assignment of filed financing statement. Except as otherwise provided in subsection (c) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:*
> *(1) Identifies, by its file number, the initial financing statement to which it relates;*
> *(2) Provides the name of the assignor; and*
> *(3) Provides the name and mailing address of the assignee.*
> *(c) Assignment of record of mortgage. An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under RCW 62A.9A-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than the Uniform Commercial Code.*

> West's RCWA 65.08.070. *Real property conveyances to be recorded*
> *A conveyance of real property, when acknowledged by the person executing the same (the acknowledgment being certified as required by law), may be recorded in the office of the recording officer of the county where the property is situated. Every such conveyance not so recorded is void as against any subsequent purchaser or mortgagee in good faith and for a valuable consideration from the same vendor, his heirs or devisees, of the same real property or any portion thereof whose conveyance is first duly recorded. An instrument is deemed recorded the minute it is filed for record.*

16. The Avalo Deed of Trust must have been duly assigned to multiple classes of the SAST-2005-1 Trust for multiple classes of the SAST-2005-1 Trust to be entitled to enforce the Avalo Deed of Trust.

17. A duly recorded assignment of the Avalo Deed of Trust constitutes constructive notice while an unrecorded assignment of the Avalo Deed of Trust is notice only to immediate parties. With constructive notice, all persons attempting to acquire rights in the Avalo Property are deemed to have notice of the recorded instrument. In this way, the Recording Statute is intended to expose the chain of title of the Avalo Deed of Trust to inspection by examination of real property records, protecting innocent junior purchasers and lenders from secret titles and the subsequent fraud attendant to such titles.

18. Assignments of the Avalo Deed of Trust must be accompanied by parallel endorsements of the Avalo Note for the Avalo Mortgage Loan to remain secured by the Avalo Property. Because endorsements are very often undated and because a plaintiff must prove that it had standing at the inception of a case,

Marianna & B.R. Co. v. Maund, 56 So. 670, 672 (Fla. 1911), the assignment will be determinative of, or at least evidence that would support or contradict, a plaintiff's claim of standing. No evidence is available to evidence negotiations of the Avalo Note to multiple classes of the SAST-2005-1 Trust. This would have required indorsements and proper negotiations of the Avalo Note from Saxon Mortgage Inc. to multiple classes of the SAST-2005-1 Trust, including any intervening claims of ownership. Of course for the Avalo Mortgage Loan to remain a secured loan, there would have been assignments and transfers of the beneficial interest of the Avalo Deed of Trust, concurrent to negotiations of the Avalo Note and those transfers of the Avalo Deed of Trust would have to be entered into the Official Records of the Pierce County Recorder's Office.

19. Importantly, mere presentment of the Avalo Note (even if shown to be the original), is not in itself proof of an equitable transfer of the Avalo Mortgage Loan along with its Security Instrument. This demonstration of possession may be sufficient to enforce the Avalo Note, but carries no indicia of ownership or intent to transfer the Avalo Mortgage Loan. The Uniform Commercial Code ("UCC") consecrates a preference in commercial transactions for simple possession of indorsed instruments over proof of actual ownership, an exception in the law that was intended to foster free trade of commercial paper.

20. The concept that a noteholder, even one who is not legitimate, may nevertheless bring an action on the Avalo Note, is entrenched in commercial law and commonly summarized by the axiom "even a thief may enforce a note." However, the taking of the Avalo Home by foreclosure is an equitable remedy, and equity does not allow a "thief" to use a stolen Avalo Note to foreclose on the Avalo Mortgage lien.

21. The claim that "the mortgage follows the note" is incorrect, as under Washington Law the Lien follows the Secured Party of record. That equitable right must be proven with evidence of a delivery. Intention does not override the requirements of law.

22. For all three parts of the Avalo Mortgage Loan as a whole to have been transferred into the SAST-2005-1 Trust there is a chain of entities through which the Avalo Deed of Trust must be assigned and the Avalo Note must be indorsed. This chain of transfer, as described to be required in the SAST-2005-1 Trust Sale and Servicing Agreement, is to have begun with a recorded assignment of the Avalo Deed of Trust and an indorsement of the Avalo Note from the Original Lender (Saxon Mortgage Inc.) to the Seller (Saxon Funding Management Inc.). Once the Seller (Saxon Funding Management Inc.) had taken

complete ownership, then a recorded assignment of the Avalo Deed of Trust and an indorsement of the Avalo Note from the Seller (Saxon Funding Management Inc.) to the Depositor (Saxon Asset Securities Company) were to have occurred. After the Depositor (Saxon Asset Securities Company) had taken complete ownership, a recorded assignment of the Avalo Deed of Trust and an indorsement of the Avalo Note from the Depositor (Saxon Asset Securities Company) to the Trustee (Deutsche Bank Trust Company Americas) were next to have occurred. Finally, once the Trustee (Deutsche Bank Trust Company Americas) had taken complete ownership, a recorded assignment of the Avalo Deed of Trust and an indorsement of the Avalo Note from the Trustee (Deutsche Bank Trust Company Americas) to the Saxon Asset Securities Trust 2005-1 Trust (hereinafter "SAST-2005-1") were to have occurred.

23. Moreover, these assignments were to all be recorded in the Official Records of the Pierce County Recorder's Office as per the Sale and Servicing Agreement for the SAST-2005-1 Trust. To explain further with a simple example, Party A must contract and assign to Party B, and Party B must contract and assign to Party C, and Party C must contract and assign to Party D and so on. So a contract and an assignment from Party A to Party D are not allowable. Of course, all of these dealings must be recorded within the Official Records of the Pierce County Recorder's Office which date-stamps each recording so as to prevent any "back-dating".

24. Any electronic transfers of the Avalo Deed of Trust that may have been executed without recording within the Official Records of the Pierce County Recorder's Office are void under Uniform Electronic Transactions Act (UETA) USC § 15-96-1-7003:

> *(a) Excepted requirements*
>
> *The provisions of section 7001 of this title shall not apply to a contract or other record to the extent it is governed by—*
>
> > *(3) the Uniform Commercial Code, as in effect in any State, other than sections 1–107 and 1–206 and Articles 2 and 2A*

25. The Avalo Note dated December 22, 2004 specifically states that it is secured by a Deed of Trust dated December 22, 2004, and the Avalo Deed of Trust refers to the Avalo Note and incorporates the Avalo Note into its terms and conditions.

26. The written agreement that created the SAST-2005-1 Trust is a Sale and Servicing Agreement dated January 01, 2005, and is a matter of public record, available on the website of the Securities Exchange Commission (SEC). The SAST-2005-1 Trust is also described in a Prospectus Supplement dated January 21, 2005 (To Prospectus dated October 21, 2004), also available on the SEC website. The

SAST-2005-1 Trust by its terms set a "CLOSING DATE" of (on or about) January 25, 2005. The Avalo Note in this case did not become SAST-2005-1 Trust property in compliance with this requirement set forth in the Sale and Servicing Agreement. The SAST-2005-1 Sale and Servicing Agreement is filed under oath with the SEC. The acquisition of the assets of the SAST-2005-1 Trust and the Sale and Servicing Agreement are governed under the laws of the State of New York.

27. The Sale and Servicing Agreement is the document that governs this trust. The SAST-2005-1 Trust operates in the State of New York, and New York State Law requires strict compliance and adherence to the SAST-2005-1 Trust documents. Any action by the SAST-2005-1 Trust in contravention to the SAST-2005-1 Sale and Servicing Agreement is void under New York State Trust Law.

> As stated on page 50 of the Sale and Servicing Agreement dated January 01, 2005 for the Saxon Asset Securities Trust 2005-1 Trust:
>
> *Section 10.10. Governing Law.*
> *This Agreement Shall In All Respects Be Governed By, And Construed In Accordance With, The Laws Of The State Of Delaware Without Reference To The Conflict Of Laws Provisions Thereof, Including All Matters Of Construction, Validity And Performance, And The Obligations, Rights And Remedies Of The Parties Hereunder Shall Be Determined In Accordance With Such Laws.*
>
> New York State Statute:
>
> *New York Trust Law*
> *Chapter 17- B § 7-2.4 Act of trustee in contravention of trust*
> *If the trust is expressed in the instrument creating the estate of the trustee, every sale, conveyance or other act of the trustee in contravention of the trust, except as authorized by this article and by any other provision of law, is void.*

28. According to the Sale and Servicing Agreement for the SAST-2005-1 Trust, the transfer and sale of all Beneficial Interest of the Avalo Deed of Trust to SAST-2005-1 Trust should have been done on or before the Closing Date of the SAST-2005-1 Trust which was January 25, 2005. These requirements from the Sale and Servicing Agreement also mean the SAST-2005-1 Trust is unable to have any other assets put into the SAST-2005-1 Trust after the Closing Date.

29. The Sale and Servicing Agreement for the SAST-2005-1 Trust holds any conveyance of instrument into the SAST-2005-1 Trust subject to the specific procedures explained above and in further paragraphs. Therefore, the conveyance of the Avalo Note and Deed of Trust into the SAST-2005-1 Trust cannot be true unless compliance with the Sale and Servicing Agreement's specific procedures of conveyance is also proved to be true. The conveyance of the Avalo Note and Deed of Trust into the SAST-2005-1 Trust lacks proof of execution of these specific procedures. Then, as proof of Sale and

Servicing Agreement-compliant conveyance of the Avalo Note and Deed of Trust into the SAST-2005-1 Trust is lacking, and can not now be made to exist, the SAST-2005-1 Trust can not claim have taken the Avalo Note and Deed of Trust as a secured instrument into its collateral pool.

30. The Avalo Deed of Trust contains notice to the Borrowers that the Avalo Note or a partial interest in the Avalo Note may be sold. However, a sale of a "partial interest" in the Avalo Note strips the rights to the Avalo Intangible Obligation from the rights to the Avalo Note, leaving the Avalo Note without an obligation to evidence and the Avalo Deed of Trust without an obligation to hold conditions over:

From the Avalo Deed of Trust:

"20.Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law..."

The document purporting to be an "Assignment of Deed of Trust" recorded May 15, 2008 is Invalid as an Assignment of Deed of Trust

Black's Law Dictionary defines the term valid as "having legal strength or force, executed with proper formalities, incapable of being rightfully overthrown or sent aside... Founded on trust of fact; capable of being justified; supported, or defended; not weak or defective... of binding force; legally sufficient or efficacious; authorized by law... as distinguished from that which exists or took place in fact or appearance, but has not the requisites to enable it to be recognized and enforced by law."(See Black's Law Dictionary, Sixth Edition, 1990, page 1550)

31. There is a document purporting to be an "Assignment of Deed of Trust", UNDATED and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150453, signed by David Ferguson as Assistant Vice President and NOT notarized, where Saxon Mortgage Inc. grants, assigns, and transfers to Deutsche Bank Trust Company Americas FKA Banker's Trust Company all beneficial interest under a Deed of Trust dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844.

32. First and most importantly, the filing of this document purporting to be an "Assignment of Deed of Trust" did not and does not assign/convey any legal rights to enforce the Avalo Note. Enforceability

of a lien is dependent upon compliance with state law and local laws of jurisdiction and, contrary to popular misconception, does NOT fall under the jurisdiction of UCC Article 9 or state equivalent, as stated in:

> RCWA 62A.9A-109. *Scope*
> *(d) Inapplicability of Article. This Article does not apply to:*
> *(A) Liens on real property in RCW 62A.9A-203 and 62A.9A-308;*
> *(D) Security agreements covering personal and real property in RCW 62A.9A-604;*

33. The purpose of the "Assignment of Deed of Trust" document is to simply memorialize the purported sale of the Avalo Tangible Promissory Note and the acquiring of rights; it does not cause the sale nor the acquiring of rights. The sale is to be done in accordance with statutory requirement of law West's RCWA 62A.7-501, which has not happened. The acquiring of rights is to be done in accordance with statutory requirement of law West's RCWA 62A.3-203, which has not happened.

> West's RCWA 62A.7-501. *Form of negotiation and requirements of duenegotiation*
> *(a) The following rules apply to a negotiable tangible document of title:*
> *(1) If the document's original terms run to the order of a named person,* ***the document is negotiated by the named person's indorsement and delivery*** ... (emphasis added)
> *(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.*

34. With Saxon Mortgage Inc. selling only the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust, the Avalo Tangible Promissory Note is no longer eligible for negotiation per West's RCWA 62A.3-203(d) as it is now less than the full value. In order to claim the full value of the Avalo Tangible Promissory Note, a party would need to both be named as payee to the Avalo Tangible Promissory Note and have sole claim to the Avalo Intangible Obligation. With no negotiation, transfer, and delivery of the Avalo Tangible Promissory Note evidenced through proper indorsement with multiple classes of the SAST-2005-1 Trust being named to the Avalo Tangible Promissory Note, a true "Assignment of Deed of Trust" could not take place.

> West's RCWA 62A.3-203. *Transfer of instrument; rights acquired by transfer*
> *(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.*

35. The borrower, Alberto E. & Victoria L. Avalo, is NOT the party that created the transferable record that was sold. A third-party, the Account Debtor, created this Intangible Obligation using the Intangible payment stream of the Avalo Tangible Promissory Note. Saxon Mortgage Inc. was acting as the Account Debtor pursuant to RCWA 62A.9A-102(3) when they created and sold a transferable record to Saxon Funding Management Inc..

RCWA 62A.9A-102. *Definitions and index of definitions*
(a) Article 9A definitions. In this Article:
(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

36. The Assignee, Deutsche Bank Trust Company Americas FKA Banker's Trust Company, is not made the sole party of interest in the Avalo Deed of Trust on the face of this document purporting to be an "Assignment of Deed of Trust" recorded May 15, 2008. Additionally, there are other issues that render this document invalid as an Assignment of Deed of Trust...

37. Saxon Mortgage Inc. was paid a value by Deutsche Bank Trust Company Americas FKA Banker's Trust Company for the beneficial interest in the Avalo Deed of Trust. This means the Original Lender, Saxon Mortgage Inc., may not be paid good and valuable consideration for its beneficial interest which is recorded in the Official Records of the Pierce County Recorder's Office.

38. The value that was paid to Saxon Mortgage Inc. is certainly not the full and complete value of the Avalo Deed of Trust. When Saxon Mortgage Inc. transfers its value of beneficial interest, while ignoring the value held by Saxon Mortgage Inc., it purports to transfer less than the entire instrument of the Avalo Deed of Trust and Deutsche Bank Trust Company Americas FKA Banker's Trust Company does not become the sole party of interest in the Avalo Deed of Trust. Someone, being perhaps either Saxon Mortgage Inc. or Saxon Mortgage Inc., still maintains their interest which can still be exercised.

39. The Original Lender, Saxon Mortgage Inc., gave up all rights to the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust on or before January 25, 2005. Once Saxon Mortgage Inc. had given up the rights to the Avalo Intangible Obligation, the rights to the Avalo Intangible Obligation were stripped away from the rights to the Avalo Note and the rights to the Avalo Deed of Trust. Saxon Mortgage Inc. could transfer beneficial rights to the Avalo Note or Deed of Trust; however, that beneficial interest would not include rights to the Avalo Intangible Obligation.

40. The consequences of the rights to the Avalo Intangible Obligation being stripped away from the beneficial interests of the Avalo Note and Deed of Trust are that the Note is without an Intangible Obligation to evidence and the Avalo Deed of Trust is without an Intangible Obligation to enforce conditions against.

41. Saxon Mortgage Inc. can assign beneficial interest in the Avalo Deed of Trust, albeit with no rights to the Avalo Intangible Obligation, to whomever they please. In order for this document purporting to be an "Assignment of Deed of Trust" recorded May 15, 2008 to be valid as an Assignment of Deed of Trust, it would have to be determined if a transfer could be made to the Assignee. I will explain how transfer to the Assignee named could not have been accomplished by this document purporting to be an "Assignment of Deed of Trust".

The document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008 is Invalid as an Assignment of Deed of Trust

42. There is a document purporting to be an "Assignment of Deed of Trust", dated December 18, 2008 and filed in the Official Records of the Pierce County Recorder's Office on December 23, 2008 as ins# 200812230804, signed by Christina Allen as AVP and notarized December 18, 2008 by Mark Bischof, Minnesota Notary, where Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact grants, assigns, and transfers to Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 all beneficial interest under a Deed of Trust dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844.

43. First and most importantly, the filing of this document purporting to be an "Assignment of Deed of Trust" did not and does not assign/convey any legal rights to enforce the Avalo Note. Enforceability of a lien is dependent upon compliance with state law and local laws of jurisdiction and, contrary to popular misconception, does NOT fall under the jurisdiction of UCC Article 9 or state equivalent, as stated in:

> RCWA 62A.9A-109. *Scope*
> *(d) Inapplicability of Article. This Article does not apply to:*
> *(A) Liens on real property in RCW 62A.9A-203 and 62A.9A-308;*
> *(D) Security agreements covering personal and real property in RCW 62A.9A-604;*

44. The purpose of the "Assignment of Deed of Trust" document is to simply memorialize the purported sale of the Avalo Tangible Promissory Note and the acquiring of rights; it does not cause the sale nor the acquiring of rights. The sale is to be done in accordance with statutory requirement of law West's RCWA 62A.7-501, which has not happened. The acquiring of rights is to be done in accordance with statutory requirement of law West's RCWA 62A.3-203, which has not happened.

West's RCWA 62A.7-501. *Form of negotiation and requirements of duenegotiation*
(a) The following rules apply to a negotiable tangible document of title:
(1) If the document's original terms run to the order of a named person, ***the document is negotiated by the named person's indorsement and delivery*** ... (emphasis added)
(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

45. With Saxon Mortgage Inc. selling only the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust, the Avalo Tangible Promissory Note is no longer eligible for negotiation per West's RCWA 62A.3-203(d) as it is now less than the full value. In order to claim the full value of the Avalo Tangible Promissory Note, a party would need to both be named as payee to the Avalo Tangible Promissory Note and have sole claim to the Avalo Intangible Obligation. With no negotiation, transfer, and delivery of the Avalo Tangible Promissory Note evidenced through proper indorsement with multiple classes of the SAST-2005-1 Trust being named to the Avalo Tangible Promissory Note, a true "Assignment of Deed of Trust" could not take place.

West's RCWA 62A.3-203. *Transfer of instrument; rights acquired by transfer*
(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.

46. The Assignee, Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1, is not made the sole party of interest in the Avalo Deed of Trust on the face of this document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008. Additionally, there are other issues that render this document invalid as an Assignment of Deed of Trust...

47. It was previously explained in ¶ 31-41 that the document purporting to be an "Assignment of Deed of Trust" recorded May 15, 2008 assigned no beneficial interest to Deutsche Bank Trust Company Americas FKA Banker's Trust Company as the document purporting to be an "Assignment of Deed of Trust" is invalid. Because Deutsche Bank Trust Company Americas FKA Banker's Trust Company has no beneficial interest in the Avalo Deed of Trust, the document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008 can only also be invalid. Besides that fact, the document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008 can only be invalid as an Assignment of Deed of Trust because of the following issues...

48. Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact was paid a value by Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 for the beneficial interest in the Avalo Deed of Trust. This means

the Original Lender, Saxon Mortgage Inc., may not be paid good and valuable consideration for its beneficial interest which is recorded in the Official Records of the Pierce County Recorder's Office.

49. The value that was paid to Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact is certainly not the full and complete value of the Avalo Deed of Trust. When Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact transfers its value of beneficial interest, while ignoring the value held by Saxon Mortgage Inc., it purports to transfer less than the entire instrument of the Avalo Deed of Trust and Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 does not become the sole party of interest in the Avalo Deed of Trust. Someone, being perhaps either Saxon Mortgage Inc. or Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact, still maintains their interest which can still be exercised.

50. The Original Lender, Saxon Mortgage Inc., gave up all rights to the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust on or before the Trust Closing Date of January 25, 2005. Once Saxon Mortgage Inc. had given up the rights to the Avalo Intangible Obligation, the rights to the Avalo Intangible Obligation were stripped away from the rights to the Avalo Note and the rights to the Avalo Deed of Trust. Saxon Mortgage Inc. could transfer beneficial rights to the Avalo Note or Deed of Trust; however, that beneficial interest would not include rights to the Avalo Intangible Obligation.

51. The consequences of the rights to the Avalo Intangible Obligation being stripped away from the beneficial interests of the Avalo Note and Deed of Trust are that the Note is without an Intangible Obligation to evidence and the Avalo Deed of Trust is without an Intangible Obligation to enforce conditions against.

52. In view of the foregoing, the Document purporting to be an "Assignment of Deed of Trust", dated December 18, 2008 and recorded in the Official Records of the Pierce County Recorder's Office on December 23, 2008, can have no validity as it is unlawful attempt to reestablish legal title rights of the Avalo Note and Avalo Deed of Trust from an entity who has no authority to another entity who can have no authority.

53. In order to exist, the SAST-2005-1 Trust agreed to operate under the SAST-2005-1 Trust Sale and Servicing Agreement and all applicable Law. As previously explained in ¶22, in order to for the Avalo

Mortgage Loan to be transferred to the SAST-2005-1 Trust, a chain of negotiations needed to occur. A direct transfer from the Original Lender, Saxon Mortgage Inc., to the Trustee, Deutsche Bank Trust Company Americas, violates the terms and conditions under the SAST-2005-1 Trust Sale and Servicing Agreement, under New York State Trust Law governing the SAST-2005-1 Trust, and is therefore void. These principles were recently confirmed in US District Court and New York Supreme Court and the California Supreme Court:

> "See *Wells Fargo Bank, N.A. v. Erobobo, et al., 2013 WL 1831799 (N.Y. Sup. Ct. April 29, 2013)*. In Erobobo, defendants argued that plaintiff (a REMIC trust) was not the owner of the note because plaintiff obtained the note and mortgage after the trust had closed in violation of the terms of the Sale and Servicing Agreement governing the trust, rendering plaintiff's acquisition of the note void. Id. at *2. The Erobobo court held that under § 7-2.4, any conveyance in contravention of the Sale and Servicing Agreement is void; this meant that acceptance of the note and mortgage by the trustee after the date the trust closed rendered the transfer void. Id at 8. Based on the Erobobo decision and the plain language of N.Y. Est. Powers & Trusts Law § 7-2.4, the Court finds that under New York law, assignment of the Saldivars' Note after the start up day is void ab initio"

54. Furthermore, this document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008 is not timely to properly transfer the Avalo Note and Deed of Trust to the SAST-2005-1 Trust where it has been shown to be an asset.

> As stated on page 48 of the Sale and Servicing Agreement dated January 01, 2005 for the Saxon Asset Securities Trust 2005-1 Trust:
>
> *Section 2.1 Conveyance of Mortgage Loans.*
> *(a) In consideration of the Issuer's delivery of the Notes and the Certificates to the Depositor or its designee, and concurrently with the execution and delivery of this Agreement, the Depositor does hereby transfer, assign, set over, deposit with and otherwise convey to the Issuer, without recourse, in trust, all the right, title and interest of the Depositor in and to the Trust Estate, except that the Depositor does not assign to the Issuer any of its rights under Sections 9 and 12 of the Sales Agreement between the Depositor and SFM or under Section 11 of any Sales Agreement between the Depositor and a Warehouse Seller. The Issuer is hereby authorized to enter into the Yield Maintenance Agreements.*
> *Upon the issuance of the Securities, ownership in the Trust Estate shall be vested in the Issuer, subject to the lien created by the Indenture in favor of the Indenture Trustee, for the benefit of the Noteholders. The foregoing sale, transfer, assignment, set-over, deposit and conveyance does not and is not intended to result in creation or assumption by the Indenture Trustee of any obligation of the Depositor, the Seller, or any other Person in connection with the Mortgage Loans or any other agreement or instrument relating thereto except as specifically set forth herein.*
> *With respect to any Mortgage Loan that does not have a first payment date on or before the last day of the Due Period immediately preceding the first Payment Date, the Depositor shall, to the extent required, deposit into the Payment Account on or before the Payment Account Deposit Date relating to the first Payment Date, an amount equal to one month's interest at the related Net Rate on the Stated Principal Balance of such Mortgage Loan on the Cut Off Date.*

(b) In connection with the transfer set forth in clause (a) above, the Depositor has delivered or caused to be delivered to the Indenture Trustee or the Custodian on its behalf for the benefit of the Noteholders the following documents or instruments (collectively, the "Mortgage Loan Documents") with respect to each Mortgage Loan so transferred:

(i) (A) the original Mortgage Note endorsed by manual or facsimile signature to the Indenture Trustee or the Custodian or in blank, without recourse, with all intervening endorsements showing a complete chain of endorsement from the originator to the Person endorsing the Mortgage Note (the "Last Endorsee") (each such endorsement being sufficient to transfer all right, title and interest of the party so endorsing, as noteholder or assignee thereof, in and to such Mortgage Note); or

(B) with respect to any Lost Mortgage Note, a lost note affidavit from the Depositor stating that the original Mortgage Note was lost or destroyed, together with a copy of such Mortgage Note;

(ii) except with respect to any Cooperative Loan, the original recorded Mortgage or a copy of such Mortgage certified by the Depositor, the originating lender, settlement agent, or escrow company as being a true and complete copy of the Mortgage;

(iii) except with respect to any Mortgage Loan for which the related Mortgage names the Custodian as nominee for the originating lender (or similar designation satisfactory to the Custodian), as beneficiary or mortgagee, either (A) a duly executed assignment of the Mortgage in blank, or (B) an original recorded assignment of the Mortgage from the Last Endorsee to the Custodian or a copy of such assignment of Mortgage certified by the Depositor, the originating lender, settlement agent, or escrow company as being a true and complete copy thereof which in either case may be included in a blanket assignment or assignments;

(iv) each interim recorded assignment of such Mortgage, or a copy of each such interim recorded assignment of Mortgage certified by the Depositor, the originating lender, settlement agent, or escrow company as being a true and complete copy thereof;

(v) the original or copies of each assumption, modification, written assurance or substitution agreement, if any;

(vi) except as to any second lien Mortgage Loan in the original principal amount of $50,000.00 or less, either the original or duplicate original title policy (including all riders thereto) with respect to the related Mortgaged Property, if available, provided that the title policy (including all riders thereto) will be delivered as soon as it becomes available, and if the title policy is not available, and to the extent required pursuant to the second paragraph below or otherwise in connection with the rating of the Notes, a written commitment or interim binder or preliminary report of the title issued by the title insurance or escrow company with respect to the Mortgaged Property; and

(vii) in the case of a Cooperative Loan, the originals of the following documents or instruments:

(a) The Coop Shares, together with a stock power in blank;

(b) The executed Security Agreement;

(c) The executed Proprietary Lease;

(d) The executed Recognition Agreement;

(e) The executed UCC1 financing statement with evidence of recording thereon which have been filed in all places required to perfect the Depositor's interest in the Coop Shares and the Proprietary Lease; and

(f) Executed UCC3 financing statements or other appropriate UCC financing statements required by state law, evidencing a complete and unbroken line from the mortgagee to the Indenture Trustee with evidence of recording thereon (or in a form suitable for recordation).

In the event that in connection with any Mortgage Loan the Depositor cannot deliver (a) the original recorded Mortgage or (b) any recorded assignments or interim assignments satisfying

the requirements of clause (iii) or (iv) above, respectively, concurrently with the execution and delivery hereof because such document or documents have not been returned from the applicable public recording office, the Depositor shall deliver such documents to the Indenture Trustee or the Custodian on its behalf as promptly as possible upon receipt thereof and, in any event, within 720 days following the Closing Date. The Depositor or Servicer shall forward or cause to be forwarded to the Indenture Trustee or the Custodian on its behalf (a) from time to time additional original documents evidencing an assumption or modification of a Mortgage Loan and (b) any other documents required to be delivered by the Depositor or the Servicer to the Indenture Trustee. In the case where a public recording office retains the original recorded Mortgage or in the case where a Mortgage is lost after recordation in a public recording office, the Depositor shall deliver to the Indenture Trustee a copy of such Mortgage certified (to the extent such certification is reasonably obtainable) by such public recording office to be a true and complete copy of the original recorded Mortgage.

In addition, in the event that in connection with any Mortgage Loan the Depositor cannot deliver the original or duplicate original lender's title policy (together with all riders thereto), satisfying the requirements of clause (vi) above, concurrently with the execution and delivery hereof because the related Mortgage or a related assignment has not been returned from the applicable public recording office, the Depositor shall promptly deliver to the Indenture Trustee or the Custodian on its behalf a true and correct copy of such original or duplicate original lender's title policy (together with all riders thereto).

Subject to the immediately following sentence, as promptly as practicable subsequent to the transfer set forth in clause (a) of this Section 2.1, and in any event, within thirty (30) days thereafter, the Servicer shall as to any Mortgage Loan with respect to which the Depositor delivers an assignment of the Mortgage in blank pursuant to clause (b)(iii)(A) of this Section 2.1, (i) complete each such assignment of Mortgage to conform to clause (b)(iii)(B) of this Section 2.1, (ii) cause such assignment to be in proper form for recording in the appropriate public office for real property records, and (iii) cause to be delivered for recording in the appropriate public office for real property records each such assignment of the Mortgages, except that, with respect to any assignments of Mortgage as to which the Servicer has not received the information required to prepare such assignments in recordable form, the Servicer's obligation to do so and to deliver the same for such recording shall be as soon as practicable after receipt of such information and in any event within thirty (30) days after receipt thereof. Notwithstanding the foregoing, the Servicer need not cause to be recorded any assignment which relates to a Mortgage Loan in any state other than the Required Recordation States.

Notwithstanding the procedures in the preceding paragraph, with respect to each MERS Mortgage Loan, the Depositor shall take such actions as are necessary to cause the Indenture Trustee to be clearly identified as the owner of each such Mortgage Loan on the records of MERS for purposes of the system of recording transfers of beneficial ownership of mortgages maintained by MERS.

In the case of Mortgage Loans that have been prepaid in full as of the Closing Date, the Depositor, in lieu of delivering the above documents to the Indenture Trustee or the Custodian on its behalf, will deposit in the Collection Account the portion of such payment that is required to be deposited in the Collection Account pursuant to Section 3.8.

(c) It is agreed and understood by the Depositor and the Issuer (and the Depositor so represents and recognizes) that it is not intended that any Mortgage Loan to be included in the Trust Estate be (i) a "High-Cost Home Loan" as defined in the New Jersey Home Ownership Act effective November 27, 2003, (ii) a "High-Cost Home Loan" as defined in the New Mexico Home Loan Protection Act effective January 1, 2004, (iii) a "High-Cost Home Mortgage Loan"

as defined in the Massachusetts Predatory Home Loan Practices Act effective November 7, 2004 or (iv) a "High Cost Home Loan" as defined in the Indiana Home Loan Practices Act effective January 1, 2005.

55. The closing date for the SAST-2005-1 Trust was January 25, 2005. What this means is that the SAST-2005-1 Trust is unable to have any other assets put into the SAST-2005-1 Trust after the January 25, 2005 closing date.

56. In view of the foregoing, all assignments executed after the SAST-2005-1 Trust's closing date are void for the reason that all assignments into the Trust after January 25, 2005 violate the express terms of the SAST-2005-1 Trust Sale and Servicing Agreement. All assignments of Mortgages/Deeds of Trust and or indorsements of notes executed after the SAST-2005-1 closing date are void.

57. The Prospectus Supplement (To Prospectus dated October 21, 2004) for the SAST-2005-1 Trust provides that any attempted or purported transfer in violation of these transfer restrictions will be null and void and will vest no rights in any purported transferee. Any transferor or agent to whom the Trustee provides information as to any applicable tax imposed on such transferor or agent may be required to bear the cost of computing or providing such information.

58. There are enormous tax consequences if the document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008, filed in the Official Records of the Pierce County Recorder's Office, would be authentic, in that this trust has elected to be a REMIC Trust. According to the Prospectus Supplement, under the heading "Federal Income Tax Consequences", multiple classes of the SAST-2005-1 Trust, that the Avalo Intangible Obligation is owned by, elected to be treated as a REMIC, which provides for pass-through tax treatment of the income generated by the Trust assets:

> As stated on page 207 of the Prospectus Supplement dated January 21, 2005 (To Prospectus dated October 21, 2004) for the Saxon Asset Securities Trust 2005-1 Trust:
>
> *A REMIC is subject to tax at a rate of 100 percent on the net income the REMIC derives from prohibited transactions.*
> *The Code also imposes a 100 percent tax on the value of any contribution of assets to the REMIC after the closing date other than pursuant to specified exceptions, and subjects "net income from foreclosure property" to tax at the highest corporate rate. We do not anticipate that any REMIC in which we will offer securities will engage in any such transactions or receive any such income.*

59. Internal Revenue Code Section 860 regulates the activities and requirements of a REMIC Trust.

According to 26 CFR§ 1.860D-1(c) (2)

Identification of assets. *The formation of the REMIC does not occur until (i) The sponsor identifies the assets of the REMIC, such as through execution an indenture with respect to the asset; and (ii) The REMIC issues the regular and residual interests in the REMIC.*

60. In other words, the REMIC is not officially formed until Saxon Funding Management Inc., the Seller of the SAST-2005-1 Trust, identifies and transfers all the specific assets (the specific loans) of the REMIC.

61. The Sale and Servicing Agreement for the SAST-2005-1 Trust specifically identifies a closing date which is the last day that an asset (loan) can be "identified for inclusion" in the Trust/REMIC. The closing date also serves as the Startup Day for the REMIC. According to Internal Revenue code Section, "All of a REMIC's loans must be acquired on the startup day of the REMIC or within three months thereafter".

The document purporting to be an "Assignment of Deed of Trust" dated November 18, 2009 is Invalid as an Assignment of Deed of Trust

62. There is a document purporting to be an "Assignment of Deed of Trust", dated November 18, 2009 and filed in the Official Records of the Pierce County Recorder's Office on June 25, 2010 as ins# 201006250288, signed by Christina Carter as Account Management Manager and notarized June 17, 2010 by Elsie Ramirez, Florida Notary Commission #DD914835, where Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC grants, assigns, and transfers to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 all beneficial interest under a Deed of Trust dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844.

63. First and most importantly, the filing of this document purporting to be an "Assignment of Deed of Trust" did not and does not assign/convey any legal rights to enforce the Avalo Note. Enforceability of a lien is dependent upon compliance with state law and local laws of jurisdiction and, contrary to popular misconception, does NOT fall under the jurisdiction of UCC Article 9 or state equivalent, as stated in:

RCWA 62A.9A-109. *Scope*
(d) Inapplicability of Article. This Article does not apply to:

(A) Liens on real property in RCW 62A.9A-203 and 62A.9A-308;
(D) Security agreements covering personal and real property in RCW 62A.9A-604;

64. The purpose of the "Assignment of Deed of Trust" document is to simply memorialize the purported sale of the Avalo Tangible Promissory Note and the acquiring of rights; it does not cause the sale nor the acquiring of rights. The sale is to be done in accordance with statutory requirement of law West's RCWA 62A.7-501, which has not happened. The acquiring of rights is to be done in accordance with statutory requirement of law West's RCWA 62A.3-203, which has not happened.

> West's RCWA 62A.7-501. *Form of negotiation and requirements of duenegotiation*
> *(a) The following rules apply to a negotiable tangible document of title:*
> *(1) If the document's original terms run to the order of a named person,* ***the document is negotiated by the named person's indorsement and delivery*** ... (emphasis added)
> *(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.*

65. With Saxon Mortgage Inc. selling only the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust, the Avalo Tangible Promissory Note is no longer eligible for negotiation per West's RCWA 62A.3-203(d) as it is now less than the full value. In order to claim the full value of the Avalo Tangible Promissory Note, a party would need to both be named as payee to the Avalo Tangible Promissory Note and have sole claim to the Avalo Intangible Obligation. With no negotiation, transfer, and delivery of the Avalo Tangible Promissory Note evidenced through proper indorsement with multiple classes of the SAST-2005-1 Trust being named to the Avalo Tangible Promissory Note, a true "Assignment of Deed of Trust" could not take place.

> West's RCWA 62A.3-203. *Transfer of instrument; rights acquired by transfer*
> *(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.*

66. The Assignee, Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1, is not made the sole party of interest in the Avalo Deed of Trust on the face of this document purporting to be an "Assignment of Deed of Trust" dated November 18, 2009. Additionally, there are other issues that render this document invalid as an Assignment of Deed of Trust...

67. It was previously explained in ¶ 42-61 that the document purporting to be an "Assignment of Deed of Trust" dated December 18, 2008 assigned no beneficial interest to Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 as the document purporting to be an

"Assignment of Deed of Trust" is invalid. Because Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 has no beneficial interest in the Avalo Deed of Trust, the document purporting to be an "Assignment of Deed of Trust" dated November 18, 2009 can only also be invalid. Besides that fact, the document purporting to be an "Assignment of Deed of Trust" dated November 18, 2009 can only be invalid as an Assignment of Deed of Trust because of the following issues.

68. Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC was paid a value by Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 for the beneficial interest in the Avalo Deed of Trust. This means the Original Lender, Saxon Mortgage Inc., may not be paid good and valuable consideration for its beneficial interest which is recorded in the Official Records of the Pierce County Recorder's Office.

69. The value that was paid to Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC is certainly not the full and complete value of the Avalo Deed of Trust. When Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC transfers its value of beneficial interest, while ignoring the value held by Saxon Mortgage Inc., it purports to transfer less than the entire instrument of the Avalo Deed of Trust and Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 does not become the sole party of interest in the Avalo Deed of Trust. Someone, being perhaps either Saxon Mortgage Inc. or Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC, still maintains their interest which can still be exercised.

70. The Original Lender, Saxon Mortgage Inc., gave up all rights to the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust on or before the Trust Closing Date of January 25, 2005. Once Saxon Mortgage Inc. had given up the rights to the Avalo Intangible Obligation, the rights to the Avalo Intangible Obligation were stripped away from the rights to the Avalo Note and the rights to the Avalo Deed of Trust. Saxon Mortgage Inc. could transfer beneficial rights to the Avalo Note or Deed of Trust; however, that beneficial interest would not include rights to the Avalo Intangible Obligation.

71. The consequences of the rights to the Avalo Intangible Obligation being stripped away from the beneficial interests of the Avalo Note and Deed of Trust are that the Note is without an Intangible Obligation to evidence and the Avalo Deed of Trust is without an Intangible Obligation to enforce conditions against.

72. In view of the foregoing, the Document purporting to be an "Assignment of Deed of Trust", recorded in the Official Records of the Pierce County Recorder's Office on June 25, 2010, can have no validity as it is unlawful attempt to reestablish legal title rights of the Avalo Note and Avalo Deed of Trust from an entity who has no authority to another entity who can have no authority.

The document purporting to be an "Appointment of Successor Trustee" dated April 02, 2008 is Invalid as an Appointment of Successor Trustee

73. There is a document purporting to be an "Appointment of Successor Trustee", dated April 02, 2008 and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150454, signed by Laura Hescott as AVP, and notarized April 02, 2008 by James C. Morris, Minnesota Notary, where Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact removes Chicago Title as Trustee and substitutes Regional Trustee Services Corp. as Trustee of a Deed of Trust dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844.

74. As of the signing date of April 02, 2008, NO Assignments of the Avalo Deed of Trust to Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact had been recorded in the Official Records of the Pierce County Recorder's Office. As no rights or interests in the Avalo Deed of Trust had been transferred to Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact, neither Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact nor any of its agents had any right to substitute Regional Trustee Services Corp. as Trustee to the Avalo Deed of Trust. With neither Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact nor any of its agents having any right to substitute Regional Trustee Services Corp. as Trustee to the Avalo Deed of Trust, the document

purporting to be an "Appointment of Successor Trustee" dated April 02, 2008 is invalid as an Appointment of Successor Trustee.

75. It was previously explained in ¶ 31-41 that a document purporting to be an "Assignment of Deed of Trust" recorded May 15, 2008 is invalid, as the Assignment of Deed of Trust did nothing to transfer any right or interest in the Avalo Deed of Trust to the Assignee, Deutsche Bank Trust Company Americas FKA Banker's Trust Company. As no rights or interests in the Avalo Deed of Trust have been transferred to Deutsche Bank Trust Company Americas FKA Banker's Trust Company, neither Deutsche Bank Trust Company Americas FKA Banker's Trust Company nor any of its agents have any right to substitute Regional Trustee Services Corp. as Trustee to the Avalo Deed of Trust. With neither Deutsche Bank Trust Company Americas FKA Banker's Trust Company nor any of its agents having any right to substitute Regional Trustee Services Corp. as Trustee to the Avalo Deed of Trust, the document purporting to be an "Appointment of Successor Trustee" dated April 02, 2008 is invalid as an Appointment of Successor Trustee.

No One Can Claim the Right to Enforce the Avalo Note

76. The Avalo Note has been indorsed by the Original Lender, Saxon Mortgage Inc., signed by Mary Morgan as Assistant Vice-President. The indorsement states "Pay to the Order of Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 without Recourse". This constitutes a negotiation under West's RCWA 62A.7-501 concerning negotiable instruments with the intent of Saxon Mortgage Inc. transferring ownership to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1. With Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 named as Payee, clearly Saxon Mortgage Inc. has released all interest in the Avalo Note.

> West's RCWA 62A.7-501. *Form of negotiation and requirements of duenegotiation*
> *(a) The following rules apply to a negotiable tangible document of title:*
> *(1) If the document's original terms run to the order of a named person,* ***the document is negotiated by the named person's indorsement and delivery*** ... (emphasis added)
> *(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.*

77. As explained in ¶ 22, an indorsement of the Avalo Note directly from Saxon Mortgage Inc. to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 would be an act in contravention with the governing documents of the SAST-2005-1 Trust and would be void.

78. Beside the fact that the act of an indorsement from Saxon Mortgage Inc. to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 would be void, there is also an issue of enforceability of the Avalo Note through the Avalo Deed of Trust.

The Terms of the Avalo Deed of Trust have been Violated and the Avalo Deed of Trust is Unenforceable

79. Saxon Mortgage Inc. has released all interest in the Avalo Note to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1. The Avalo Deed of Trust as a contract can only enforce its contractual terms against the obligation evidenced by the Avalo Note.

80. The Avalo Deed of Trust is governed by Washington State Law. Washington State Law and Federal Law recognize and require proper recordation of assignment to transfer ownership of the Avalo Deed of Trust.

From the Avalo Deed of Trust:

*16. **Governing Law; Severability; Rules of Construction**. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract.*

81. It was previously explained in ¶ 31-41 how it is not possible for ownership of the Avalo Deed of Trust to have been assigned to Deutsche Bank Trust Company Americas FKA Banker's Trust Company.

82. There is a document concerning the Avalo Deed of Trust recorded in the Official Records of the

Pierce County Recorder's Office, with Saxon Mortgage Inc. releasing all rights to the Avalo Deed of Trust intending that transfer to be to Deutsche Bank Trust Company Americas FKA Banker's Trust Company. Therefore, Saxon Mortgage Inc. no longer has any rights to the Avalo Deed of Trust. Deutsche Bank Trust Company Americas FKA Banker's Trust Company may now claim ownership of the Avalo Deed of Trust, but that ownership would have nothing to enforce the Avalo Deed of Trust contractual terms against. The Avalo Deed of Trust is an unenforceable contract.

83. The Avalo Deed of Trust is part of the overall Avalo Mortgage Loan Instrument. While supposedly delivering the Avalo Note to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1, Saxon Mortgage Inc. did not deliver the Avalo Deed of Trust to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1. When Saxon Mortgage Inc. indorsed the Avalo Note to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 without assigning the Avalo Deed of Trust, Saxon Mortgage Inc. attempted to deliver less than the entire Avalo Mortgage Loan Instrument. By delivering the Avalo Note to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 without delivering the Avalo Deed of Trust, Saxon Mortgage Inc. was also attempting to deliver the Avalo Note without delivering the rights to enforce.

84. Under West's RCWA 62A.3-203(d),] a negotiation of the Avalo Note or a negotiation of the Avalo Loan can not occur without the transfer of the entire interest in the Avalo Note or transfer of the entire interest in the Avalo Loan.

> West's RCWA 62A.3-203. *Transfer of instrument; rights acquired by transfer*
> *(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.*

85. When Saxon Mortgage Inc. indorsed the Avalo Note to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 without assigning the Avalo Deed of Trust, Saxon Mortgage Inc. purported to deliver the Avalo Note without delivering the rights to enforce the Avalo Deed of Trust. Negotiation of either the Avalo Deed of Trust or negotiation of the Avalo Note did not occur.

86. Beside the fact that the indorsement did not accomplish a negotiation of the Avalo Note, Saxon Mortgage Inc. still no longer has an entire interest in the Avalo Note. Saxon Mortgage Inc. must have an entire interest in the Avalo Note for a negotiation to occur. The intangible interest in the Avalo Note has been transferred to multiple classes of the SAST-2005-1 Trust. Saxon Mortgage Inc. can no longer claim an entire interest in the Avalo Note. Neither Saxon Mortgage Inc. nor Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1 can now accomplish a negotiation of the Avalo Note.

87. Interest in the Avalo Deed of Trust is no longer with Saxon Mortgage Inc., yet no one else has any authority to enforce its terms, while the interest in the Avalo Note has been negotiated to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1. The Avalo Deed of Trust is an unenforceable contract, no longer tied to an obligation to enforce its contractual terms over.

88. Under long existing contract law, if the terms of a contract are violated, affecting the conditions under which the Payor is obligated, without the properly evidenced consent of the Payor, that contract is void and cannot be returned to without the consent of the Payor. Even if ownership of the Avalo Note and the Avalo Deed of Trust could be rejoined, the Avalo Deed of Trust, as a now unenforceable contract, no longer being tied to an obligation to enforce its contractual terms over, can not be returned to being an enforceable contract without Alberto E. & Victoria L. Avalo's consent.

Ownership of the Avalo Intangible Obligation Can Not be Rejoined to Ownership of the Avalo Note or the Avalo Deed of Trust

89. Multiple classes of the SAST-2005-1 Trust have rights to the Avalo Intangible Obligation. Multiple classes of the SAST-2005-1 Trust were not each and all named as payee on the Avalo Note and do not now have rights to the Avalo Note. For multiple classes of the SAST-2005-1 Trust to gain rights to the Avalo Note, multiple classes of the SAST-2005-1 Trust would each and all have to be named payee.

90. There is no possible way for the Avalo Note to be transferred to each and all multiple class of the SAST-2005-1 Trust for the partial rights to the Avalo Intangible Obligation that each owns. Interest in the Avalo Intangible Obligation and rights to the Avalo Note will remain separate.

91. SAST-2005-1 Trust and its classes, its officers and its agents are prohibited from accepting any assets on behalf of the Trust after January 25, 2005. SAST-2005-1 Trust and its classes, its officers its and agents can longer accept the rights to the Avalo Note. Ownership of the Avalo Note and the rights to the Avalo Intangible Obligation will remain separate.

92. Because the rights to the Avalo Deed of Trust were separated from the rights to the Avalo Intangible Obligation, and will remain separate, the Avalo Deed of Trust is left with no way to enforce its conditions over the obligation which should be evidenced by the Avalo Note, making the Avalo Deed of Trust an unenforceable contract.

With Ownership of the Avalo Intangible Obligation Stripped Away and No Way to Enforce the Conditions Under the Avalo Deed of Trust, the Avalo Mortgage Contract is a Nullity

93. The ownership of the Avalo Intangible Obligation was separated from the rights to the Avalo Note and the rights to the Avalo Deed of Trust, leaving the Avalo Note no Intangible Obligation to evidence and the Avalo Deed of Trust no Intangible Obligation to enforce conditions over.

94. Saxon Mortgage Inc. retained no beneficial interest in the Avalo Intangible Obligation after selling the Avalo Intangible Obligation to multiple classes of the SAST-2005-1 Trust on or before January 25, 2005. No acceptable assignments of the Avalo Deed of Trust to each and all multiple class of the SAST-2005-1 Trust have been recorded into the Official Records of the Pierce County Recorder's Office. There is no evidence of negotiations of the Avalo Note to each and all multiple class of the SAST-2005-1 Trust. With no properly-recorded owner of the Avalo Deed of Trust, there is no one to enforce the conditions over the Avalo Intangible Obligation which is no longer evidenced by the Avalo Note. The Avalo Intangible Obligation is no longer secured by the Avalo Property.

95. Having no specific properly-secured owner of the limited beneficial interest of the Avalo Note, there is no way to enforce the stripped-away Avalo Intangible Obligation through the Avalo Note.

SECTION 4: APPLICABLE EDUCATIONAL MATERIAL

NY TRUST LAW

NY Estates, Powers and Trust Law § 7-1.18 Trust Asset
Unless an asset is transferred into a lifetime trust, the asset does not become trust property.

NY Estates, Powers and Trust Law § 7-2.4 Trustees Duties
A trustee's act that is contrary to the trust agreement is void.

NY Estates, Powers and Trust Law § 5-1401. Choice of law

1. The parties to any contract, agreement or undertaking, contingent or otherwise, in consideration of, or relating to any obligation arising out of a transaction covering in the aggregate not less than two hundred fifty thousand dollars, including a transaction otherwise covered by subsection one of section 1-105 of the uniform commercial code, may agree that the law of this state shall govern their rights and duties in whole or in part, whether or not such contract, agreement or undertaking bears a reasonable relation to this state. This section shall not apply to any contract, agreement or undertaking (a) for labor or personal services (b) relating to any transaction for personal, family or household services, or (c) to the extent provided to the contrary in subsection two of section 1-105 of the uniform commercial code.

2. Nothing contained in this section shall be construed to limit or deny the enforcement of any provision respecting choice of law in any other contract, agreement or undertaking.

NY Estates, Powers and Trust Law § 5-1402. Choice of forum

1. Notwithstanding any act which limits or affects the right of a person to maintain an action or proceeding, including, but not limited to, paragraph (b) of section thirteen hundred fourteen of the business corporation law and subdivision two of section two hundred-b of the banking law, any person may maintain an action or proceeding against a foreign corporation, non-resident, or foreign state where the action or proceeding arises out of or relates to any contract, agreement or undertaking for which a choice of New York law has been made in whole or in part pursuant to section 5-1401 and which (a) is a contract, agreement or undertaking, contingent or otherwise, in consideration of, or relating to any obligation arising out of a transaction covering in the aggregate, not less than one million dollars, and (b) which contains a provision or provisions whereby such foreign corporation or non-resident agrees to submit to the jurisdiction of the courts of this state.

2. Nothing contained in this section shall be construed to affect the enforcement of any provision respecting choice of forum in any other contract, agreement or undertaking.

INFORMATION ON INDORSEMENT

Uniform Commercial Code or Reader's State Equivalent

§ 3-204. INDORSEMENT

(a) "Indorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument, (ii) restricting payment of the instrument, or (iii) incurring indorser's liability on the instrument, but regardless of the intent of the signer, a signature and its accompanying words is an indorsement unless the accompanying words, terms of the instrument, place of the signature, or other circumstances unambiguously indicate that the signature was made for a purpose other than indorsement. For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument.

§ 3-205. SPECIAL INDORSEMENT; BLANK INDORSEMENT; ANOMALOUS INDORSEMENT

(a) If an indorsement is made by the holder of an instrument, whether payable to an identified person or payable to bearer and the indorsement identifies a person to whom it makes the instrument payable, it is a "special indorsement." When specially indorsed, an instrument becomes payable to the identified person and may be negotiated only by the indorsement of that person. The principles stated in Section 3-110 apply to special indorsements.

(b) If an indorsement is made by the holder of an instrument and it is not a special indorsement, it is a "blank indorsement." When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.

(c) The holder may convert a blank indorsement that consists only of a signature into a special indorsement by writing, above the signature of the indorser, words identifying the person to whom the instrument is made payable.

(d) "Anomalous indorsement" means an indorsement made by a person who is not the holder of the instrument. An anomalous indorsement does not affect the manner in which the instrument may be negotiated.

SECTION 4: APPLICABLE EDUCATIONAL MATERIAL (CONT'D)

TYPES OF INDORSEMENTS, ILLUSTRATED:

BLANK INDORSEMENT:

Lender Signature

***INCOMPLETE* STAMPING:**
Intent is shown; however, Payee is not yet named.

Pay to the Order of:

_____

Lender Signature

SPECIAL INDORSEMENT:

Pay to the Order of:
ABC Mortgage Inc.

Lender Signature

RESTRICTIVE INDORSEMENT:

For Deposit Only

Lender Signature

BEARER PAPER:

Pay to Bearer

Lender Signature

After Recording Return to:
Alberto E. & Victoria L. Avalo
8009 102nd Street Court East
Puyallup, WA 98371

AFFIDAVIT OF JOSEPH R. ESQUIVEL JR.

I, Joseph R. Esquivel Jr, declare as follows:

1. I am over the age of 18 years and qualified to make this affidavit.

2. I am a licensed private investigator of in the State of Texas, License # A18306.

3. I make this affidavit based on my own personal knowledge.

4. I make this affidavit in support of *Mortgage Compliance Investigators'* Chain Of Title Analysis & Mortgage Fraud Investigation prepared for Alberto E. & Victoria L. Avalo regarding the Security Instrument and the real property located at 8009 102nd Street Court East, Puyallup, WA 98371, as referenced in the Pierce County Record.

5. I have no direct or indirect interest in the outcome of the case at bar for which I am offering my observations.

6. I have personal knowledge and experience in the topic areas related to the securitization of mortgage loans, real property law, Uniform Commercial Code practices, predatory lending practices, assignment and assumption of securitized loans, creation of trusts under deeds of trust, pooling and servicing agreements, issuance of asset-backed securities and specifically mortgage-backed securities by special purpose vehicles in which an entity is named as trustee for holders of certificates of mortgage backed securities, the foreclosure process of securitized and non-securitized residential mortgages in both judicial and non-judicial states, and the various forms of foreclosure-related fraud.

7. I perform my research through the viewing of actual business records and Corporate/Trust Documents.

8. I use professional resources to view these records and documents.

9. I have the training, knowledge and experience to perform these searches and understand the meaning of these records and documents with very reliable accuracy.

10. I am available for court appearances, in person or via telephone for further clarification or explanation of the information provided herein, or for cross examination if necessary.

11. My research through professional services and the viewing of actual business records and Corporate/Trust Documents, determined that an interest in the Alberto E. & Victoria L. Avalo Mortgage Loan Instrument was sold sometime shortly after December 22, 2004 to multiple classes of the Saxon Asset Securities Trust 2005-1.

12. I have looked at a purported to be true and correct copy of a Tangible Promissory Note of Alberto E. & Victoria L. Avalo, dated December 22, 2004, regarding a loan for $388,218. The Original Lender of the December 22, 2004 Avalo loan is Saxon Mortgage Inc. (See Exhibit "A" attached within):

    a. This copy of the Alberto E. & Victoria L. Avalo Note shows an indorsement to the Note, from Saxon Mortgage Inc., signed by Mary Morgan as Assistant Vice-President, made payable to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1.

13. The multiple classes of the Saxon Asset Securities Trust 2005-1 are not named in any way on the Alberto E. & Victoria L. Avalo Note.

    a. Ocwen Loan Servicing LLC is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Note.

b. Saxon Funding Management Inc. is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Note.

c. Saxon Asset Securities Company is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Note.

14. I have looked at a Deed of Trust of Alberto E. & Victoria L. Avalo, dated December 22, 2004 and filed in the Official Records of the Pierce County Recorder's Office on January 07, 2005 as ins# 200501070844. (See Exhibit "B" attached within)

a. The multiple classes of the Saxon Asset Securities Trust 2005-1 are not named in any way to the Alberto E. & Victoria L. Avalo Deed of Trust

b. Ocwen Loan Servicing LLC is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Deed of Trust

c. Saxon Funding Management Inc. is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Deed of Trust

d. Saxon Asset Securities Company is not named or referenced in any way on the Alberto E. & Victoria L. Avalo Deed of Trust

15. I have looked at the Pierce County Record relating to the Alberto E. & Victoria L. Avalo Deed of Trust dated December 22, 2004. The Pierce County Record shows an "Assignment of Deed of Trust", UNDATED and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150453, signed by David Ferguson as Assistant Vice President and NOT notarized, where Saxon Mortgage Inc. grants, assigns, and transfers to Deutsche Bank Trust Company Americas FKA Banker's Trust Company. (See Exhibit "C" attached within)

16. I have looked at the Pierce County Record relating to the Alberto E. & Victoria L. Avalo Deed of Trust dated December 22, 2004. The Pierce County Record shows an "Assignment of Deed of Trust", dated December 18, 2008 and filed in the Official Records of the Pierce County Recorder's Office on December 23, 2008 as ins# 200812230804, signed by Christina Allen as AVP and notarized December 18, 2008 by Mark Bischof, Minnesota Notary, where Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact grants, assigns, and transfers to Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1. (See Exhibit "D" attached within)

17. I have looked at the Pierce County Record relating to the Alberto E. & Victoria L. Avalo Deed of Trust dated December 22, 2004. The Pierce County Record shows an "Assignment of Deed of Trust", dated November 18, 2009 and filed in the Official Records of the Pierce County Recorder's Office on June 25, 2010 as ins# 201006250288, signed by Christina Carter as Account Management Manager and notarized June 17, 2010 by Elsie Ramirez, Florida Notary Commission #DD914835, where Deutsche Bank National Trust Company as Trustee for Saxon Asset Securities Trust 2005-1 by its attorney-in-fact Ocwen Loan Servicing LLC grants, assigns, and transfers to Deutsche Bank Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset-Backed Notes, Series 2005-1. (See Exhibit "E" attached within)

18. I have looked at the Pierce County Record relating to the Alberto E. & Victoria L. Avalo Deed of Trust dated December 22, 2004. The Pierce County Record shows an "Appointment of Successor Trustee", dated April 02, 2008 and filed in the Official Records of the Pierce County Recorder's Office on May 15, 2008 as ins# 200805150454, signed by Laura Hescott as AVP, and notarized April 02, 2008 by James C. Morris, Minnesota Notary, where Deutsche Bank Trust Company Americas FKA Banker's Trust Company, by Saxon Mortgage Services Inc. as Attorney in Fact removes Chicago Title as Trustee and substitutes Regional Trustee Services Corp. as Trustee. (See Exhibit "G" attached within)

19. I have looked at the Pierce County Record relating to the Alberto E. & Victoria L. Avalo Deed of Trust dated December 22, 2004. The Pierce County Record shows no record of a release or reconveyance of the Deed of Trust as required in covenant 23 of the Deed of Trust which states. "**Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs and the Trustee's fee for preparing the reconveyance"This has not happened.

The above statements are affirmed by me under penalty of perjury under the laws of the State of Texas to be true and correct to the best of my knowledge and belief, are based on my own personal knowledge, and I am competent to make these statements.

FURTHER THE AFFIANT SAYETH NAUGHT

By Joseph R Esquivel Executed on 2/6/2015

Joseph R Esquivel, Jr.

Private Investigator License # A18306

Mortgage Compliance Investigators

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

Subscribed and sworn before me, Jessica Rangel,
Notary Public, on this 6 day of February, 2015 by
Joseph Esquivel, Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me. WITNESS my hand and official seal.

Jessica Rangel
Notary Public

JESSICA RANGEL
Notary Public, State of Texas
My Commission Expires
February 06, 2016

EXHIBIT "A"

11830407

ADJUSTABLE RATE NOTE
(LIBOR INDEX-RATE CAPS)
2-YEAR/6-MONTH LIBOR ARM

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. MY ADJUSTABLE INTEREST RATE CAN NEVER EXCEED OR BE LESS THAN THE LIMITS STATED IN THIS NOTE.

December 22ND ,2004 Puyallup Washington
[city] *[state]*

8009 102nd Street Court East
Puyallup, Washington 98371
[property address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. $ 388,218.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is
Saxon Mortgage, Inc

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 7.800 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the first day of each month beginning on February 1ST ,2005 . I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on January 1ST ,2035 I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 4880 Cox Road, Glen Allen, Virginia 23060, or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. $ 2,794.67 . This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of January ,2007 , and on the first day of every sixth month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date."

(B) The Index

Beginning with the first Interest Rate Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The Index in effect as of forty-five (45) days prior to the Interest Rate Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Change

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding Six and 050/1000 percentage point(s) (6.050 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Interest Rate Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Interest Rate Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Change

The interest rate I am required to pay at the first Interest Rate Change Date will not increase by more than 3.000% from the initial interest rate, and will not decrease below the Minimum Rate stated below. Thereafter, my interest rate will never be increased or decreased on any single Interest Rate Change Date by more than 1.00 % from the rate of interest I have been paying for the preceding six months, and in no event will be less than the Minimum Rate stated below.

My interest rate will never be greater than Thirteen and 800/1000 percent (13.800 %) which is called the "Maximum Rate." My interest rate will never be less than Six and 800/1000 percent (6.800 %) which is called the "Minimum Rate."

(E) Effective Date of Change

My new interest rate will become effective on each Interest Rate Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Interest Rate Change Date until the amount of my monthly payment changes again.

(F) Notice of Change

The Note Holder will deliver or mail to me a notice of any change in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial prepayment may reduce the amount of my monthly payments after the first Interest Rate Change Date following my partial prepayment. However, any reduction due to my partial prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

In the event any provision of this Note is finally determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity or enforceability of any other provision.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property. If all or any part of the Property or any interest in it is sold or transferred without Note Holder's prior written consent, Note Holder may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Note Holder if exercise is prohibited by federal law as of the date of this Security Instrument. Note Holder also shall not exercise this option if: (a) I submit to Note Holder information required by Note Holder to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Note Holder reasonably determines that Note Holder's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Note Holder.

To the extent permitted by applicable law, Note Holder may charge a reasonable fee as a condition to Note Holder's consent to the loan assumption. Note Holder may also require the transferee to sign an assumption agreement that is acceptable to Note Holder and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. I will continue to be obligated under the Note and this Security Instrument unless Note Holder releases me in writing.

If Note Holder exercises the option to require immediate payment in full, Note Holder shall give me notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which I must pay all sums secured by this Security Instrument. If I fail to pay these sums prior to the expiration of this period, Note Holder may invoke any remedies permitted by this Security Instrument without further notice or demand on me.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

Alberto E Avalo _____ *(SEAL)* *Borrower*

Victoria L Avalo _____ *(SEAL)* *Borrower*

_____ *(SEAL)* *Borrower*

_____ *(SEAL)* *Borrower*

[Sign Original Only]

Without Recourse
Pay to the Order of
Deutche Bank *
Saxon Mortgage, Inc.
By: _____
Mary Morgan, Assistant Vice-President

* Trust Company Americas as Indenture Trustee for the registered holders of Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset backed notes, Series 2005-1

11630407

RIDER TO NOTE

THIS RIDER TO NOTE (the "Note Rider") is made this 22ND day of December, 2004, and is incorporated into and shall be deemed to amend and supplement the Note made by the undersigned (the "Borrower") payable to Saxon Mortgage, Inc (the "Lender") and dated as of even date herewith (the "Note"). I understand that the Lender may transfer the Note, the related security instrument (the "Security Instrument") and this Note Rider. The Lender or anyone who takes the Note, the Security Instrument, and this Note Rider by transfer and who is entitled to receive payments under the Note is called the "Note Holder."

In consideration of the Lender's agreement to provide the loan evidenced by the Note and as a material inducement to the Lender to grant such loan and the terms set forth in the Note, the undersigned agree that the following provision shall be effective, and that the Note shall contain and be subject to the following provision, notwithstanding any provision to the contrary contained in the Note, the security instrument securing the Note, or other loan document:

PREPAYMENT PENALTY:

Payments of Principal prior to the time they are due are known as "Prepayments." When I make a Prepayment, I will notify the Note Holder in writing that I am doing so.

During the first [type an "X" beside the appropriate number:]

X TWENTY-FOUR (24) months ____ THIRTY-SIX (36) months

____ SIXTY (60) months ____ FOURTY-EIGHT (48) months

of my loan, I will be charged a PREPAYMENT PENALTY in an amount equal to six (6) months' interest (at the rate in effect at the time Prepayment occurs) on any Prepayment I make in excess of twenty percent (20%) of the original principal balance in any twelve (12) month period. If neither line above is filled in with an "X", the space adjacent to 36 months will be deemed to be filled in.

The Note Holder will use all of my Prepayments to reduce the amount of Principal that I owe under this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. [If this Note

provides for an adjustable interest rate, my partial Prepayment may reduce the amount of my monthly payments after the Payment Change Date if my partial Prepayment occurs prior to the Payment Change Date. However, any reduction in the amount of my monthly payment due to my partial Prepayment may be offset by an interest rate increase.]

Any foregoing provision to the contrary notwithstanding, such prepayment penalty shall not exceed in amount, and the right to charge such prepayment penalty shall not remain in effect contrary to or beyond, any limitations imposed by applicable law.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note Rider.

_____ *(SEAL)*
Alberto E Avalo *Borrower*

Victoria L Avalo _____ *(SEAL)*
Victoria L Avalo *Borrower*

_____ *(SEAL)*
Borrower

_____ *(SEAL)*
Borrower

[Sign Original Only.
Do Not Sign If Blanks In Text Are Not Filled In.]

EXHIBIT "B"

4303770
DEC -7 2004
CHICAGO TITLE

200501070844 20 PGS
01-07-2005 03:00pm $39.00
PIERCE COUNTY, WASHINGTON

Return To:
Stewart Mtg Svcs-Attn:Trail Docs

3910 Kirby Dr, Suite 300
Houston, Texas 77098

Assessor's Parcel or Account Number:
Abbreviated Legal Description:
Lot 8 Calvert Ridge
[Include lot, block and plat or section, township and range] Full legal description located on page .
Trustee: Chicago Title

[Space Above This Line For Recording Data]

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 22, 2004 , together with all Riders to this document.

(B) "Borrower" is
Alberto E Avalo and Victoria L Avalo, Husband and Wife ~~as Joint Tenants~~

Borrower is the trustor under this Security Instrument.

(C) "Lender" is Saxon Mortgage, Inc

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Lender is a Virginia
organized and existing under the laws of The State Of Virginia
Lender's address is 27121 Towne Centre Drive, Suite 230, Foothill Ranch,

Lender is the beneficiary under this Security Instrument.
(D) "Trustee" is Chicago Title

(E) "Note" means the promissory note signed by Borrower and dated December 22, 2004
The Note states that Borrower owes Lender
388,218.00 Dollars
(U.S. $ $388,218.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2035
(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☐ Planned Unit Development Rider	☐ 1-4 Family Rider
☐ VA Rider	☐ Biweekly Payment Rider	☒ Other(s) [specify]
☒ Arbitration Rider		Tax Service Rider

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
(L) "Escrow Items" means those items that are described in Section 3.
(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

Initials: AEA

(P) "**RESPA**" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "**Successor in Interest of Borrower**" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

County of Pierce :

[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]

LOT 8, CALVERT RIDGE

Parcel ID Number: which currently has the address of

8009 102nd Street Court East [Street]

Puyallup [City], Washington 98371 [Zip Code]

("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Initials: AEA

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community

Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

AEA
URA

Initials:_____

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to

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hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

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9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

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As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

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Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's

notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c)

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certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of

release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property at public auction at a date not less than 120 days in the future. The notice shall further inform Borrower of the right to reinstate after acceleration, the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale, and any other matters required to be included in the notice by Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and/or any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of the Property for a period or periods permitted by Applicable Law by public announcement at the time and place fixed in the notice of sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs and the Trustee's fee for preparing the reconveyance.

24. Substitute Trustee. In accordance with Applicable Law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

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25. Use of Property. The Property is not used principally for agricultural purposes.

26. Attorneys' Fees. Lender shall be entitled to recover its reasonable attorneys' fees and costs in any action or proceeding to construe or enforce any term of this Security Instrument. The term "attorneys' fees," whenever used in this Security Instrument, shall include without limitation attorneys' fees incurred by Lender in any bankruptcy proceeding or on appeal.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

_____

_____

Alberto E Avalo (Seal) -Borrower

Victoria L Avalo (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

STATE OF WASHINGTON
County of King } ss:

On this day personally appeared before me
Alberto E Avalo and Victoria L Avalo

to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this ~~22ND~~ 23rd day of December, 2004.

Notary Public in and for the State of Washington, residing at Snohomish

My Appointment Expires on 10-3-05.

CHERYL PENNER NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-3-05

Initials: AvA VLA

ARBITRATION RIDER

THIS RIDER is made this **22ND** day of **December, 2004** and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the Undersigned (the "Borrower") to secure Borrower's Note (the "Note") to **Saxon Mortgage, Inc** (the "Lender") of the same date and encumbering the property described in the Security Instrument and located at:

8009 102nd Street Court East
Puyallup, Washington 98371

[Property Address]

As used in this Rider the term "Lender" includes Lender's successors and assigns, the company servicing the Note on Lender's behalf (the "Servicer"), any mortgage broker involved in the origination of the mortgage loan evidenced by the Note and Security Instrument, and any settlement agent, escrow agent or closing attorney involved in the settlement of the mortgage loan evidenced by the Note and Security Instrument.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

ARBITRATION OF DISPUTES. All disputes, claims, or controversies arising from or related to the loan evidenced by the Note (the "Loan"), including statutory claims, shall be resolved by binding arbitration, and not by court action, except as provided under "Exclusions from Arbitration" below. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-14). In any arbitration hereunder, the arbitrator shall be appointed by, and the arbitration conducted pursuant to the rules of procedure of, any one of the following arbitration service providers as shall be selected by the party initiating such arbitration: National Arbitration Forum, American Arbitration Association, or JAMS/Endispute. However, if any law applicable to the Loan requires mortgage lenders to engage, or would otherwise impose enhanced regulatory restrictions on mortgage lenders to engage, any particular arbitration service provider, the parties agree to engage such specified provider. Any arbitration hearing shall be conducted within the Federal judicial district in which the Property is located, or within such other or more limited area as required by any applicable law. The arbitrator shall set forth in the award findings of fact and conclusions of law supporting the decision, which must be based on applicable law and supported by substantial evidence presented in the proceeding. Judgment upon the award may be entered by any court of competent jurisdiction. All disputes subject to arbitration under this agreement shall be arbitrated individually, and shall not be subject to being joined or combined in any proceeding with any claims of any persons or class of persons other than Borrower or Lender.

FEES OF ARBITRATOR. In any arbitration that pertains solely to the Loan, Borrower shall not be required to pay more than $125 in initial filing fees to the arbitrator. The Lender shall pay any balance of such initial fees. In addition, the Lender shall pay all other fees and costs of the arbitration. In no event shall either party be responsible for any fees or expenses of any of the other party's attorneys, witnesses, or consultants, or any other expenses, for which such other party reasonably would have been expected to be liable had such other party initiated a suit in the courts of the jurisdiction in which the Borrower resides regarding a similar dispute.

EXCLUSION FROM ARBITRATION. This agreement shall not limit the right of Lender to (a) accelerate or require immediate payment in full of the secured indebtedness or exercise the other Remedies described in this Security Instrument before, during, or after any arbitration, including the right to foreclose against or sell the Property; (b) exercise the rights set forth in the Uniform Covenant labeled "Protection of Lenders' Rights in the Property" contained in this Security Instrument, or (c) exercise of the right under the terms of this Security Instrument to require payment in full of the indebtedness upon a transfer of the Property or a beneficial interest therein. Should Borrower appear in and contest any judicial proceeding initiated by Lender under this Exclusion, or initiate any judicial proceeding to challenge any action authorized by this Exclusion, without asserting any counterclaim or seeking affirmative relief against Lender, then upon request of Borrower such judicial proceedings shall be stayed or dismissed, and the matter shall proceed to arbitration in accordance with the section entitled "Arbitration of Disputes". Any dispute that could otherwise have been asserted as a counterclaim or grounds for relief in such a judicial proceeding shall be resolved solely in accordance with the section entitled "Arbitration of Disputes".

WAIVER: In the event your loan or an interest in your loan is transferred or sold to Freddie Mac or Fannie Mae, this Arbitration rider shall be void and cannot be reinstated by Lender or a subsequent holder or servicer of your loan. In the event of a transfer or sale to Freddie Mac or Fannie Mae, neither Lender nor any subsequent holder or servicer of your loan shall require you to submit to arbitration to resolve any dispute arising out of or relating in any way to your loan. Lender or Lender's designee shall provide you with written notice in the event of a sale or transfer of your loan or an interest in your loan to Freddie Mac or Fannie Mae within sixty (60) days of such sale or transfer by Lender or an affiliate of Lender.

No provision of this agreement shall limit the right of Borrower to exercise Borrower's rights under the Uniform Covenant labeled "Borrower's Right to Reinstate".

NOTICE: BY SIGNING THIS ARBITRATION RIDER YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS DESCRIBED IN THE 'ARBITRATION OF DISPUTES' SECTION ABOVE DECIDED EXCLUSIVELY BY ARBITRATION, AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT HAVE TO LITIGATE DISPUTES IN A COURT OR JURY TRIAL. DISCOVERY IN ARBITRATION PROCEEDINGS MAY BE LIMITED BY THE RULES OF PROCEDURE OF THE SELECTED ARBITRATION SERVICE PROVIDER.

THIS IS A VOLUNTARY ARBITRATION AGREEMENT. IF YOU DECLINE TO SIGN THIS ARBITRATION AGREEMENT, LENDER WILL NOT REFUSE TO COMPLETE THE LOAN TRANSACTION BECAUSE OF YOUR DECISION.

BY SIGNING BELOW, Borrower accepts and agrees to the provisions contained in this Rider.

_____ *Borrower*
Alberto E Avalo

_____ *Borrower*
Victoria L Avalo

_____ *Borrower*

_____ *Borrower*

11830407

TAX SERVICE RIDER TO THE MORTGAGE/DEED OF TRUST

THIS RIDER is made this **22ND** day of **December, 2004** and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the Undersigned (the "Borrower") to secure Borrower's Note (the "Note") to **Saxon Mortgage, Inc** (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

8009 102nd Street Court East, Puyallup, Washington 98371

[Property Address]

As used in this Rider the term "Lender" includes Lender's successors and assigns and the company servicing the Note on Lender's behalf.

Notwithstanding any provision to the contrary contained in the "Uniform Covenants" section of the Security Instrument, paragraph 3, "Funds for Escrow Items"**, Lender may require Borrower to pay a one-time charge for a real estate tax reporting service, which may be either an independent real estate tax reporting service, or may be a service provided by Lender itself, unless applicable law does not permit Lender to make such a charge. Any such charge shall appear on the HUD-1 Settlement Statement signed by Borrower in connection with this loan.

The purpose of this Rider is to amend the "Uniform Covenants" section of the Security Instrument, paragraph 3, "Funds for Escrow Items" to make it clear that Lender may provide such tax reporting service itself, as opposed to having such service provided by an independent company.

Alberto E Avalo

Victoria L Avalo

** In certain states using the "Plain Language" form of Security Instrument, paragraph 2 of the Uniform Covenants section of the Security Instrument may be entitled "Monthly Payments for Taxes and Insurance".

Sax Form R306 (01/31/01)
SM0004.uff\Tax Service Rider\Modified 03.17.04

CHICAGO TITLE INSURANCE COMPANY

Order No.: 004303770

LEGAL DESCRIPTION

LOT 8, CALVERT RIDGE, ACCORDING TO THE PLAT THEREOF RECORDED JULY 9, 2003 UNDER RECORDING NUMBER 200307095001, RECORDS OF PIERCE COUNTY AUDITOR.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

EXHIBIT "C"

FIDELITY NATIONAL TIT
90423

200805150453 1 PG
05/15/2008 1:16pm $14.00
PIERCE COUNTY, WASHINGTON

Att: Document Management Department
Saxon Mortgage Services, Inc.
4708 Mercantile Dr. N.

Loan Number:

Assessor's Parcel or Account Number:

56362

ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned, as Assignor, does hereby grant, convey, assign and transfer to ~~Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian by Saxon Mortgage Services, Inc. f/k/a Meritech Mortgage Services, Inc. as its attorney in fact~~ *

as Assignee, all of the beneficial interest of the Assignor in and to the property described in that certain Deed of Trust dated December 22, 2004, executed by
Alberto E Avalo and Victoria L Avalo, Husband and Wife as Joint Tenants

*Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian

Grantor, to Chicago Title

, Trustee, the following described property situated in Pierce County, State of Washington:
LOT 8, CALVERT RIDGE, ACCORDING TO THE PLAT THEREOF RECORDED JULY 9, 2003 UNDER RECORDING NUMBER 200307095001, records of Pierce County Auditor. Situate in the County of Pierce, State of Washington.

recorded 1/17/2005, in Volume -- of Mortgages, at page --,
under Auditor's File No. 200501070844, records of Pierce
County, State of Washington, also that certain promissory note described in and secured by said Deed of Trust.

SIGNED this day of

Saxon Mortgage, Inc.

By _____
David Ferguson

Its Assistant Vice President

State of Washington California
County of Orange

On this 22ND day of December, 2004, before me personally appeared David Ferguson, to me known to be the Assistant Vice President of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof, I have hereunto set by hand affixed my official seal the day and year first above written.

_____
Stacey Van Winkle

14

EXHIBIT “D”

P11545

Fidelity National Title

200812230804 2 PGS
12/23/2008 1:08pm $15.00
PIERCE COUNTY, WASHINGTON

When recorded, mail to:

SAXON MORTGAGE SERVICES, INC.
Attn: Foreclosure Department
4708 MERCANTILE DRIVE
FORT WORTH, TEXAS 76137

Trustee's Sale No: 01-FMG-66066

FMG6606601 2000000

ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned, DEUTSCHE BANK TRUST COMPANY AMERICAS, FORMERLY KNOWN AS BANKER S TRUST COMPANY, AS TRUSTEE AND CUSTODIAN, by these presents, grants, bargains, sells, assigns, transfers and sets over unto Deutsche Bank National Trust Company, as Trustee for Saxon Asset Securities Trust 2005-1, all beneficial interest under that certain Deed of Trust dated 12/22/2004, and executed by ALBERTO E AVALO AND VICTORIA L AVALO, HUSBAND AND WIFE, as Grantor, to CHICAGO TITLE, as Trustee, and recorded on 1/7/2005, under Auditor s File No. 200501070844, of PIERCE County, State of WASHINGTON, and covering property more fully described on said Deed of Trust referred to herein.

Together with the Note or Notes therein described or referred to, the money due and to become due therein with interest, and all rights accrued or to accrue under said Deed of Trust.

Assn

15

Trustee's Sale No: 01-FMG-66066

Dated: 12-18-08

DEUTSCHE BANK TRUST COMPANY AMERICAS, FORMERLY KNOWN AS BANKER S TRUST COMPANY, AS TRUSTEE AND CUSTODIAN by Saxon Mortgage Services, Inc as Attorney in Fact

BY: _____

Christina Allen — AVP

Name — **Title**

STATE OF MN)
) ss.
COUNTY OF Dakota)

On 12-18-08, before me, Mark Bischof
personally appeared Christina Allen, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC in and for the State of MN, residing at: Hennepin Cty
My commission expires: 1-31-13

MARK BISCHOF
NOTARY PUBLIC - MINNESOTA
MY COMMISSION
EXPIRES JAN. 31, 2013

Assn

EXHIBIT "E"

201006250288 1 PG
06/25/2010 12:21:05 PM $14.00
PIERCE COUNTY, WASHINGTON

Prepared by: Jaicel Valverde
Ocwen Loan Servicing, LLC
1661 Worthington Road, Suite 100
West Palm Beach, FL 33409
Phone Number: 561-682-8835

WASHINGTON
ASSIGNMENT OF DEED OF TRUST

Attorney Code: 00708 TS No. 01-OC-92491

This **ASSIGNMENT OF DEED OF TRUST** is made and entered into as of the 18TH day of NOVEMBER 2009, from **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR SAXON ASSET SECURITIES TRUST 2005-1**, whose address is c/o Ocwen Loan Servicing, LLC. 1661 Worthington Road, Suite 100, West Palm Beach, FL 33409, ("Assignor"), to **DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURETRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES, SERIES 2005-1,** whose address is c/o Ocwen Loan Servicing, LLC. 1661 Worthington Road, Suite 100, West Palm Beach, FL 33409 ("Assignee").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor does by these presents hereby grant, bargain, sell, transfer and set over unto the Assignee, its successors, transferees and assigns forever, in trust, all of the right, title and interest of said Assignor in and to the following deed of trust describing land therein, duly recorded in the Office of the County Recorder of **PIERCE** County, State of WASHINGTON, as follows;

Dated **DECEMBER 22, 2004**, in the principal amount of **$ 388,218.00**, executed by **ALBERTO E. AVALO AND VICTORIA L. AVALO** to CHICAGO TITLE as Trustee(s) and **SAXON MORTGAGE, INC.** as Beneficiary, and filed of record on 1/7/2005 at Book: ____, Page: ____, Instrument/Entry/Document Number: 200501070844.

Property Address: 2215 29TH AVE COURT SW, PUYALLUP, WA
PREMISES DESCRIBED AS: [APN: 6024290080] in **PIERCE** County, WA

~~LEGAL DESCRIPTION: SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.~~

This Assignment is made without recourse, representation or warranty.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR SAXON ASSET SECURITIES TRUST 2005-1
BY ITS ATTORNEY-IN-FACT
OCWEN LOAN SERVICING, LLC

By: _____
Name: Christina Carter
Title: Account Management, Manager

State of Florida, County of Palm Beach)

On JUNE 17, 2010, before me Christina Carter, Account Management, Manager at Ocwen Loan Servicing, A Limited Liability Company, Attorney-In-Fact for **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR SAXON ASSET SECURITIES TRUST 2005-1**, personally appeared, and being personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her respective authorized capacities as Account Management, Manager, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

Notary _____

NOTARY STAMP

NOTARY PUBLIC-STATE OF FLORIDA
Elsie Ramirez
Commission # DD914838
Expires: AUG. 09, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

EXHIBIT "F"

FIDELITY NATIONAL TITLE
P09231

200805150454 2 PGS
05/15/2008 1:16pm $15.00
PIERCE COUNTY, WASHINGTON

When recorded, mail to:

REGIONAL TRUSTEE SERVICES CORPORATION
616 1st Avenue, Suite 500
Seattle, WA 98104

Trustee's Sale No: 01-FMG-56362

FMG5636200720000000

APPOINTMENT OF SUCCESSOR TRUSTEE

KNOW ALL MEN BY THESE PRESENTS that, ALBERTO E. AVALO AND VICTORIA L. AVALO, HUSBAND AND WIFE is the Grantor, and CHICAGO TITLE is the Trustee, and SAXON MORTGAGE, INC. is the Beneficiary under that certain trust deed dated 12/22/2004, and recorded in Volume of Deeds of Trust, at page , under Auditor's/Recorder's No. 200501070844, records of PIERCE County, WASHINGTON.

NOW, THEREFORE, in view of the premises, Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian, who is the present beneficiary, hereby appoints REGIONAL TRUSTEE SERVICES CORPORATION, whose address is 616 1st Avenue, Suite 500, Seattle, WA 98104, as Successor Trustee under said trust deed, to have all the powers of said original trustee, effective as of the date of execution of this document.

IN WITNESS WHEREOF, the undersigned beneficiary has hereunto set his hand; if the undersigned is a corporation, it has caused its corporate name to be signed and affixed hereunto by its duly authorized officers.

Trustee's Sale No: 01-FMG-56362

DATED: 4-2-08

Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian By SAXON MORTGAGE SERVICES, INC. Its Attorney in Fact

By _____
Laura Hescott AVP
(Name Title)

STATE OF MN)
) ss.
COUNTY OF DAKOTA)

On 4-2-08, before me, [illegible] personally appeared Laura Hescott, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.

_____
NOTARY PUBLIC in and for the State of MN, residing at [illegible]
My commission expires: [illegible]

JAMES C. MORRIS
NOTARY PUBLIC - MINNESOTA
MY COMMISSION
EXPIRES JAN. 31, 2009

EX 2

FIDELITY NATIONAL TIT
90923/

200805150453 1 PG
05/15/2008 1:16pm $14.00
PIERCE COUNTY, WASHINGTON

Att: Document Management Department
Saxon Mortgage Services, Inc.
4708 Mercantile Dr. N.

Loan Number:

Assessor's Parcel or Account Number:

56362 ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned, as Assignor, does hereby grant, convey, assign and transfer to ~~Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian by: Saxon Mortgage Services, Inc. f/k/a Meritech Mortgage Services, Inc. as its attorney in fact~~ *

as Assignee, all of the beneficial interest of the Assignor in and to the property described in that certain Deed of Trust dated December 22, 2004, executed by Alberto E Avalo and Victoria L Avalo, Husband and Wife as Joint Tenants

*Deutsche Bank Trust Company Americas formerly known as Banker's Trust Company, as Trustee and Custodian

Grantor, to Chicago Title

, Trustee, the following described property situated in Pierce County, State of Washington:
LOT 8, CALVERT RIDGE, ACCORDING TO THE PLAT THEREOF RECORDED JULY 9, 2003 UNDER RECORDING NUMBER 200307095001, records of Pierce County Auditor. Situate in the County of Pierce, State of Washington.

recorded 1/17/2005, in Volume -- of Mortgages, at page --,
under Auditor's File No. 200501070844, records of Pierce
County, State of Washington, also that certain promissory note described in and secured by said Deed of Trust.

SIGNED this day of

Saxon Mortgage, Inc.

By _____
David Ferguson

Its Assistant Vice President

State of Washington California
County of Orange

On this 22ND day of December, 2004, before me personally appeared David Ferguson, to me known to be the Assistant Vice President of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof, I have hereunto set by hand affixed my official seal the day and year first above written.

_____
Stacey Van Winkle

EX 3

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES, SERIES 2005-1 Plaintiff, vs. ALBERTO E. AVALO and VICTORIA L. AVALO, pro se, Defendant(s)	Case No.: 14-2-07188-0 DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

COME NOW, the Defendants, ALBERTO E. AVALO and VICTORIA L. AVALO, (hereinafter "Defendants"), ProSe, and hereby files, pursuant to *Rule § 34 of the Washington Rules of Civil Procedure*, the instant Request for Production of Documents to Plaintiff, DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES SERIES 2005-1, (hereinafter "Plaintiff"), and request that Plaintiff produce the following documents within thirty (30) days.

INSTRUCTIONS TO PLAINTIFF

A. You are requested to produce all documents in your custody, possession or control, including all documents which are in the custody of your

employees, attorneys, consultants, accountants, or agents, regardless of the location of such documents.

B. If any document responsive to a specific request was, but no longer is, in your possession, custody or control, please identify that document and state whether any such document (a) is missing or lost; (b) has been destroyed; (c) has been transferred voluntarily or involuntarily; or (d) has been otherwise disposed of, and, in each instance, please explain in detail the circumstances surrounding any such disposition thereof.

C. All documents are to be produced in or with their original file folders, file jackets, envelopes, or covers.

D. In answering these requests for production you are required to furnish all information, documents and/or things that are available to you or subject to your reasonable inquiry, including information and things in the possession, custody or control of any of your representatives, including, without limitation, your attorneys, accountants, advisors, agents, or other persons directly or indirectly employed by or connected with you and anyone else otherwise subject to your control.

E. The relevant time period is from December 2004 until the present, unless otherwise indicated.

F. Any document as to which a claim of privilege is or will be asserted should be identified by author, signatory, description (i.e., letter, memo, telefax), title (if any), dates, addresses (if any), general subject matter, present location and custodian and a complete statement of the grounds for the claim of privilege should be set forth.

DEFINITIONS

A. The term "document" or "documents" as used herein further shall mean:

1. all writings of any kind (including the originals and all non-identical copies, (whether different from the originals by reason of any notations made on such copies or otherwise), including without limitation, correspondence, notes, statements, transcriptions, checks, forms, applications, receipts, records, summaries, intra-office communications, notations of any sort of conversations or interviews, telephone calls or other oral communications, and all drafts, alterations, modifications, changes, and/or amendments of any of the foregoing.

2. all graphic or aural records or representations of any kind, including without limitation, photographs, charts, graphs, plans,

drawings, microfiche, microfilm, videotape, recording, and motion pictures;

3. all electronic, mechanical, or electrical records or representations, whether transcribed or not, including without limitation, tapes, cassettes, discs and tape recordings, and

B. The term "all documents" as used herein shall mean every document, as defined above, in your possession, custody or control, or in the possession, custody or control of your officers, directors, employees, principals or agents. If more than one version or copy of a document exists and any such version or copy bears markings or notations which are not on other versions or copies of the document, each such version or copy is included within the meaning of the term 'document."

C. The terms "you" or "your" shall mean the person or entity to whom this document request is directed and, if any entity, all officers, directors, employees and agents of the entity.

D. The term "communication" as used herein shall mean the transmittal of information (in the form of facts, ideas, inquires, or otherwise) verbally, in writing, orally, by telephone, in person, at meetings, electronically, or in any way or in any form, and includes, but is not limited to emails, texts, twitter and similar forms of electronic communication, letters, faxes, telegraphs, telexes, inter-and intra-office memoranda or communications, envelopes, and all other written communications of whatever form, notes and memoranda of meetings, tapes other sound records and transcripts, videotapes, or films.

E. The term "concerning" as used herein shall mean relating to, referring to, describing, supporting, evidencing, or constituting.

F. The term "and" and "or" shall where the context permits be construed as "and/or" so as to be inclusive rather than exclusive.

G. The term "person" shall mean any natural person, trust, partnership, organization, business, entity or association.

H. The term "related to," "relates to" or "relating to" means in any way directly or indirectly, concerning, referring to, disclosing, describing, confirming, supporting, evidencing or representing.

I. The past tense shall be construed to include the present tense and vice versa to make the request inclusive rather than exclusive, and also now includes the following grammar rules as follows below:

1. The singular shall be construed to include the plural and vice versa to make the request inclusive rather than exclusive.
2. Any reference to the note and mortgage refers to the specific documents alleged by plaintiff to be involved in the instant proceedings.

DOCUMENTS TO BE PRODUCED

REQUEST NO. 1: All documents in Plaintiff's possession or available to Plaintiff that establish the Plaintiffs standing to bring this foreclosure action, including but not limited to:

A. Copies of all assignments, contracts, documents, agreements and other disclosure forms, written communications, notes, memoranda and records concerning the note and deed of trust that are the subject of this action, including attorney fee contracts and a history of the assignments from the original lender to Plaintiff that would document the chain of title of the note and deed of trust.

B. Copies of all receipts for payments made by or to and/or received by the plaintiff concerning the note and deed of trust that is the subject of this foreclosure action.

REQUEST NO. 2: All documents in Plaintiff's possession or available to Plaintiff that establish that the plaintiff is the legal, beneficial or equitable owner of the promissory note that is the subject of this foreclosure action.

REQUEST NO. 3: All documents in Plaintiff's possession or available to Plaintiff that establish that plaintiff is the servicer of the loan that is the subject of this foreclosure action.

REQUEST NO. 4: All documents in Plaintiff's possession or available to Plaintiff that identify what entity or entities are the beneficial owner of the subject promissory note and mortgage that are the subject of this foreclosure action.

REQUEST NO. 5: Copies of any communications and/or documents evidencing instructions and/or directions that the Plaintiff has received concerning the filing of this foreclosure action.

REQUEST NO. 6: Copies of all internal memoranda, instructional or operational memoranda, training materials and any other materials or documents created or distributed by Plaintiff and/or in the plaintiff's possession relating to the filing of the subject foreclosure action by the Plaintiff.

REQUEST NO. 7: Copies of any other communication, notice, records, notes, internal memoranda, or other documents relating to the filing of this foreclosure action by the Plaintiff.

REQUEST NO. 8: All contracts between you and any person or entity responsible for servicing the deed of trust

REQUEST NO. 9: All documents in Plaintiff's possession or available to Plaintiff that establish what entity, if not the plaintiff, that is the servicer of the loan that is the subject of this foreclosure action.

REQUEST NO. 10: Copies of all billing and accounting records pertaining to the imposition of all fees against the Defendants' borrower, including servicing and legal fees.

REQUEST NO. 11: Copies of all pooling and servicing agreements pertaining to the subject note and deed of trust.

REQUEST NO. 12: Copies of documents provided to the Defendants at the time of application through closing, including all TILA and RESPA disclosures.

REQUEST NO. 13: Any and all documents, copies, records transcripts and materials of and maintained by Plaintiff pertaining to the use of Form 1099 OID as it relates to Defendants.

REQUEST NO. 14: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the use of form S-3 registration statement as it relates to Defendants.

REQUEST NO. 15: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the security filing 424-B-5 prospectus as it relates to Defendants.

REQUEST NO. 16: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the FAS 125, 133, 140, 5, & 95 as it relates to Defendants.

REQUEST NO. 17: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the RC C, Q, S & RC-B Call Schedule as it relates to Defendants.

REQUEST NO. 18: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the use of Federal Reserve form FR 2046 balance sheet as it relates to Defendants.

REQUEST NO. 19: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the use of Federal Reserve form FR 2049 balance sheet as it relates to Defendants.

REQUEST NO. 20: Any and all documents, copies, correspondence, records transcripts and materials of and maintained by Plaintiff pertaining to the use of Federal Reserve form FR 2099 balance sheet as it relates to Defendants.

REQUEST NO. 21: Copies of all any and all documents concerning documents as to proof of charges listed on the HUD-1 as pertaining to the subject note and deed of trust.

REQUEST NO. 22: Copies of all any and all documents as to the collateralized deed of trust obligation pertaining to the subject note and deed of trust.

REQUEST NO. 23: Copies of all any and all documents as to the collateralized debt obligation pertaining to the subject note and deed of trust.

REQUEST NO. 24: Copies of all any and all documents as to the mortgage-backed security or credit default swap which is collateralized in whole or in part by the deed of trust or note pertaining to the subject note and deed of trust.

REQUEST NO. 25: Provide any and all copies of any documents that show your mortgage license or authority to provide mortgages in the State of Washington.

REQUEST NO. 26: Pooling and Servicing Agreement for the Saxon Asset Securities Trust 2005-1 Mortgage Loan Asset Backed Notes Series 2005-1.

Respectfully Submitted,

ALBERTO E. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Clerk of Court and served by email/US Mail upon the following party: Craig Peterson, Robinson Tait, P.S., 710 Second Avenue, Ste. 710, Seattle, WA 98104, cpeterson@robinsontait.com; on this ____ day of February, 2015.

_____
ALBERTO E. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

_____
VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES, SERIES 2005-1 Plaintiff, vs. ALBERTO E. AVALO and VICTORIA L. AVALO, pro se, Defendant(s)	Case No.: 14-2-07188-0 NOTICE OF SERVICE OF INTERROGATORIES

NOTICE OF SERVICE OF DEFENDANTS' FIRST INTERROGATORIES TO PLAINTIFF

COME NOW, the Defendants, ALBERTO E. AVALO and VICTORIA L. AVALO, (hereinafter "Defendants"), Pro Se, hereby file and now propound the attached Interrogatories upon Plaintiff, DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES SERIES 2005-1, (hereinafter "Plaintiff"), Numbered 1-19, pursuant to *Washington Rules of Civil Procedure § 33 (a)(b)(c)* and request the same be answered separately and fully in writing under oath, within the time and manner prescribed by the *Washington Rules of Civil Procedure*.

Respectfully Submitted,

ALBERTO E. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

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Respectfully Submitted,

ALBERTO E. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

FIRST SET OF INTERROGATORIES TO PLAINTIFF

1. What is the name and address of the person answering these interrogatories, and, if applicable, the person's official position or relationship with the party to whom the interrogatories are directed?

2. Please describe by amount, date, payee, payor, and purpose of payment of any amount of money or other consideration Plaintiff paid, was paid, or given in connection with the sale, assignment, transfer, negotiation or other form of conveyance of any note or mortgage related to the deed of trust transaction subject of this dispute.

3. Please state whether and on what date the Plaintiff owned the note and/or deed of trust, took assignment of the note and/or deed of trust, made an assignment of the note and/or deed of trust, or had any interest in the note and/or deed of trust and please specify the nature of the interest it had on that date?

4. Please state the date, amount and nature of, and fully describe the consideration or value given in exchange for, each and every assignment of the note and/or deed of trust and identify from and to what person or entity such consideration or value was given providing the contact name, full legal name, address and phone number of each such person or entity.

5. Please explain and describe, for the subject deed of trust loan, the relationships among parties (including you, the original lender, any servicer, any custodian, any depository, any Special Purpose Vehicle or Special Purpose Entity, etc. etc.), the structure of the securities offered (including the flow of funds or any subordination features) and any other material features of any transaction concerning the sale, transfer or assignment of the deed of trust loan at any time between the making of same and your filing of the action at issue herein.

6. Please state all parties who have provided servicing of the deed of trust loan and provide the contact name, full legal name, address and phone number of each such party and the dates each began servicing the loan.

7. Please state for the history of the deed of trust loan, the persons or entities who, at any time, collected deed of trust payments specifying the applicable dates each such person or entity did so collect and specify the full legal name, address, and phone number of each such party.

8. Please state for the history of the deed of trust loan, on whose behalf deed of trust payments were collected, specifying the applicable dates collection was made for each such person or entity and specifying the full legal name, address and phone number of each such party.

9. Please state if the note and/or deed of trust was ever subject to, or included in, a "deed of trust loan purchase agreement" or similar agreement and if so, please specify the name to the agreement, the date of the agreement and any amendments, and the parties to the agreement.

10. Please describe the procedure followed by the Plaintiff authorizing the substitution of any promissory note for another promissory note in connection with the deed of trust transaction subject of this dispute. Please include in your response the name and address of the person authorizing such procedure for this transaction; identify all related documents to this transaction; and list all written or unwritten, formal or informal procedures used by Plaintiff between the period of December 22, 2004, to present to review and approve the substitution of one note for another. As a point of reference, the substitution of one note for another may also be referred to as "Novation".

11. Has the Plaintiff ever been a party to a servicing agreement relating to the note or deed of trust? If so, please provide the names and addresses of the other parties to such a servicing agreement, as well as the name(s) and address(es) of the party(ies) acting as servicer and

the name(s) and address(es) and the party(ies) acting as servicees; further please provide the date that the agreement was executed, as well as the current location(s) of such an agreement, or copies of such an agreement.

12. Has the Plaintiff ever been a party to a bailment agreement, bailee agreement, or bailor agreement relating to the note or deed of trust? If so, please provide the names and addresses of the other parties to such an agreement, as well as the name(s) and address(es) of the party(ies) acting as Bailee and the name(s) and address(es) of the party(ies) acting as bailor; further please provide the date that the agreement was executed, as well as the current location(s) of such an agreement, or copies of such an agreement.

13. Has the Plaintiff ever been a party to a securitization agreement or bundling agreement relating to the note or mortgage? If so, please provide the names and addresses of the other parties to such an agreement; further, please provide the date that the agreement was executed, as well as the current location(s) of such an agreement, or copies of such an agreement.

14. Please provide information as to all agents, officers, and/or employees of Plaintiff, that have, or have reason to know about, the underlying note and deed of trust in this action. Please include and specify as to the name, address, city, state, zip code, employment status, position(s) held, and job description as to these individuals with personal knowledge of the note and deed of trust underlying this action.

15. Please include any and all information related to the assignment, transfer, and/or record of sale between the Plaintiff and the entity shown on the note as "Lender". Please specify as to details, any documentation, and how such transactions took place.

16. Please include the details as to what consideration between Plaintiff and the entity shown on the note as "Lender" was offered (i.e., contract price, agreement terms, etc.) that were

offered between the parties to allow Plaintiff to gain any kind of interest in the note and deed of trust underlying this action. Please include and specify as to details.

17. Please indicate if there was a contract or agreement between the entity shown on the note as "Lender", an intermediate party, and Plaintiff in this action, and describe the terms and conditions of said contracts or agreements between the parties. Please specify and include copies of any agreements or contracts.

18. Please describe the procedures utilized between the entity shown on the note as "Lender" and the Plaintiff to assign, transfer, and/or sell the underlying note and deed of trust from the entity shown on the note as "Lender" to Plaintiff. Please indicate all details, including the process by which such assignments are made, considered and authorized between the parties.

19. Please disclose any other assignments, transfers, and/or sales regarding the underlying note and deed of trust, aside from that of the entity shown on the note as "Lender" and Plaintiff, which indicate or show an assignment, transfer, or sale of said interests. Please specify and indicate how this was done, including contracts and agreements, and who authorized such transactions.

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES, SERIES 2005-1 Plaintiff, vs. ALBERTO E. AVALO and VICTORIA L. AVALO, pro se, Defendant(s)	Case No.: 14-2-07188-0 REQUEST FOR ADMISSIONS

DEFENDANTS' FIRST REQUEST FOR ADMISSIONS OF PLAINTIFF

COME NOW, the Defendants, ALBERTO E. AVALO and VICTORIA L. AVALO (hereinafter "Defendants"), Pro Se and hereby propounds upon Plaintiff, DEUTSCHE BANK TRUST COMPANY AMERICAS AS INDENTURE TRUSTEE FOR THE REGISTERED HOLDERS OF SAXON ASSET SECURITIES TRUST 2005-1 MORTGAGE LOAN ASSET BACKED NOTES SERIES 2005-1, their Request for Admissions of Plaintiff, pursuant to Wa. *R. Civ. P. § 36(a)*. Plaintiff shall have thirty (30) days from the receipt of this Request for Admissions to submit its answers, either by admitting or denying the statements contained herein, to the following address of the Defendant's as follows: 2215 29th Ave Ct SW, Puyallup, WA. 98373.

Plaintiff shall specifically admit or deny each statement contained herein, and shall provide a detailed explanation for each statement that Plaintiff admits or denies, as contained herein. Any

answers to any statements contained herein where Plaintiff admits in part and denies in part shall specify what is exactly admitted and what is exactly denied. Any answers to any statements by admitting or denying anything herein where Plaintiff states that there is a lack of information or knowledge on their part shall not be accepted, unless Plaintiff has made a reasonable inquiry as to such information in a statement and thereafter has insufficient information by which to admit or deny a statement contained herein.

Respectfully submitted,

ALBERTO E. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Clerk of the Court and served by email/US Mail upon the following party: Craig Peterson, Robinson Tait, P.S., 710 Second Avenue, Ste. 710, Seattle, WA 98104, cpeterson@robinsontait.com, on this ____ day of February, 2015.

ALBERTO E..AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

VICTORIA L. AVALO
2215 29th Ave Ct SW
Puyallup, WA. 98373

DEFENDANTS' FIRST REQUEST FOR ADMISSIONS OF PLAINTIFF

1. Admit that Plaintiff is not the holder of the note underlying this action.

   RESPONSE:

2. Admit that the subject note is not in default.

   RESPONSE:

3. Admit that the entity shown on the note as "Lender" has not transferred possession of the original note or any rights thereunder to Plaintiff in this action.

   RESPONSE:

4. Admit that Plaintiff is not in possession of the original note underlying this action.

   RESPONSE:

5. Admit that the original note contract and/or agreement between Plaintiff and Defendants have been lost or destroyed in any way or fashion.

   RESPONSE:

6. Admit there is no assignment, transfer, or record of sale present from the entity shown on the note as "Lender" to Plaintiff with regards to the underlying alleged debt in this action.

   RESPONSE:

7. Admit that the Plaintiff did not obtain the right to enforce the subject note in 2013.

   RESPONSE:

8. Admit that Plaintiff cannot provide admissible evidence (i.e., accounting records, business records, etc.) to show and indicate that Plaintiff does, in fact, own and/or hold the alleged debt underlying this action.

   RESPONSE:

9. Admit that the endorsements to the note do not contain all the endorsements of all the prior owners of the note.

RESPONSE:

10. Admit that the assignment(s) of note submitted to the court do not reflect all the prior owners of the note.

RESPONSE:

11. Admit that the assignment(s) of mortgage submitted to the court do not reflect all the prior owners of the mortgage.

RESPONSE:

12. Admit that Plaintiff cannot show and prove that there was a proper assignment, transfer, or record of sale to show that the underlying alleged debt was properly assigned, transferred, or sold to Plaintiff from the entity shown on the note as "Lender".

RESPONSE:

13. Admit that Plaintiff was not present when the underlying alleged debt's contract and/or agreement between Plaintiff and the entity shown on the note as "Lender" were originally signed.

RESPONSE:

14. Admit that Plaintiff had not previously communicated with the Defendant prior to the commencement of this action against the Defendants, regarding the underlying alleged debt in this action.

RESPONSE:

15. Admit that Plaintiff has no actual firsthand knowledge of the alleged debt underlying this action, and cannot show such knowledge.

RESPONSE:

16. Admit that the note that is the subject of this action was part of a re-purchase agreement.

RESPONSE:

17. Admit that note that is the subject of this action was part of a bulk transfer of notes.

RESPONSE:

18. Admit that the note that is the subject of this action is now lost, stolen or destroyed.

RESPONSE:

19. Admit that there is no record of any contract between the entity shown on the note as "Lender" and the Plaintiff that grants, gives, authorizes, or otherwise conveys powers from one party to the other, and vice versa, that gives Plaintiff the ability to enforce the underlying alleged debt.

RESPONSE:

20. Admit that the security instrument/mortgage is not in default.

RESPONSE:

21. Admit that the original monthly payment of principal, interest and escrowed real estate taxes failed to properly and account for escrowed real estate taxes.

RESPONSE: