

“Had A Note”

**For those that wish
to have the Original**

**“Have a Note” it is
Available for Direct
Download**

**From the Following
Author Approved Sites**

<http://www.ourlemon.com/nshan%20fa.pdf>

Case Closed: eNotes are Not Legal

Incorrect Analysis of eNote Enforceability Nationwide

Mortgage Industry Standards Maintenance Organization (MISMO, a registered service mark of the Mortgage Bankers Association), Electronic Signature Records Association, and the American Land Title Association released a White Paper¹ titled “Case Closed: eNotes Are Legal”.

The White Paper’s “Disclaimer” notes that “the authors and their organizations accept no responsibility for errors and omissions”.

The Error: eNotes are Not Legal

The Omission: 15 USC 7003

“UETA and ESIGN’s approach is noteworthy in that neither statute attempts to insert the concept of a transferable record into the UCC. Instead, UETA and ESIGN exclude from their scope most of the UCC...” page (3).

The Conclusion of the White Paper incorrectly states: *“UCC Article 3 provisions for promissory notes were not designed for use with electronic records. Rather, ESIGN and UETA were enacted to create the legal framework or a parallel structure for the electronic equivalent of a paper promissory note, known as a “transferable record”. As a result, an eNote that is created stored and maintained as required under ESIGN and UETA is a valid, enforceable and negotiable debt obligation.”*

The White Paper itself states that ESIGN and UETA both exclude the Uniform Commercial Code (UCC)– Article 3 – which governs Negotiable Instruments. The authors then attempt to persuade the reader that ESIGN and UETA provide sufficient governing laws to support the existence and the enforceability of an eNote. As ESIGN and UETA both exclude UCC Article 3 and the UCC was not designed for and currently does not allow for eNotes, eNotes lack supporting law to exist.

MISMO’s current day to day operations falls under the MERS umbrella.

E-Notes are “Not Legal”

Under the E-Sign Act or the Uniform Commercial Code E-Sign 15 USC 7003 excludes the Uniform Commercial Code Article 3

¹<http://www.mbaa.org/files/ResourceCenter/emortgage/eNoteWhitePaper.pdf>

Legal-Legal-Legal

“E-Notes are Legal”

“No they’re not”

Being young and without wisdom and knowledge many believed the Tooth Fairy and the Easter Bunny were real. We were told they were real and we believed.

We shall not include Santa Claus as the author still believes in what Santa Claus and Christmas stands for.

Wisdom and Knowledge

Does the average bank teller have any idea their employer may be a part of the biggest fraud in history, No.

Does the average real estate broker have any idea the banks they deal with may be a part of the biggest fraud in history, No.

Does any average person have any idea they may be a part of the biggest fraud in history, No.

Compartmentalization of employees is what has aided in the biggest fraud in history to be accomplished. Cubicle A, Cubicle B, Cubicle C have all been told their actions that are preformed are in legal compliance.
They believe.

The front line employee has no idea that their actions aid in perpetuating the biggest fraud in history. They believe.

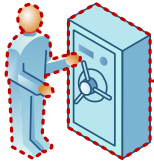
My computer says the electronic negotiable note is here so they believe it’s real... No it’s not.

Electronic Negotiable Notes (E-Notes) are legal. No they’re not.
That’s what they want us to believe.

E-Sign 15 USC 7003 excludes Uniform Commercial Code
Article 3 – Negotiable Instruments

So just like with the Tooth Fairy and the Easter Bunny we learn through wisdom and knowledge that E-Notes are not real. (Lacks supporting laws)

SEC Registered Trust Negotiable Instruments



**Servicer's
Records Vault
Holder of
Paper
Documents**



Scan/Copy

**Lender 1
Originator**

Non Compliance
UCC Article 3 3-203
Invalid use E-Sign Act

E-Sign Act
Book Entry
Scan Copy/Electronic
Assignment of Electronic
Negotiable Instrument

Non-Innocent Purchaser

Pooling & Servicing
Agreement

Agent
Or
Independent
Contractor

Direction
&
Control

**Lender 2
Bank
Seller
Securitizer**

Non Compliance
UCC Article 3 3-203
Invalid use E-Sign Act

E-Sign Act
Book Entry
Assignment of Electronic
Negotiable Instrument

Transfer
Of Custodial
Rights

**Lender 3
Depositor
To
Trust**

Non Compliance
UCC Article 3 3-203
Invalid use E-Sign Act

E-Sign Act
Book Entry
Assignment of Electronic
Negotiable Instrument

Mortgage Loan Pool
Swap
Trust Certificates

Transfer
Of Custodial
Rights

**Lender 4
Trustee
For the Benefit
Of the Trust**

Non Compliance
UCC Article 3 3-203
Invalid use E-Sign Act

E-Sign Act
Book Entry
Assignment of Electronic
Negotiable Instrument

Transfer
Of Custodial
Rights

**Lender 4
Custodian
For the Benefit
Of the Trust**

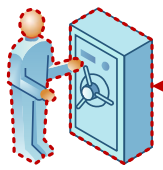
Invalid use of E-Sign Act - 15 USC 7001

15 USC 7003

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.

Fannie Mae Trust Indenture



**Servicer
Records Vault
Holder
Paper
Documents**



**Lender 1
Originator**

Non Compliance
UCC Article 3 3-203

E-Sign Act
Book Entry
Scan Copy/Electronic
Assignment of Electronic
Negotiable Instrument

Non-Innocent Purchaser

Fannie Mae
Contractual
Guidelines

Agent
Or
Independent
Contractor

Direction
&
Control

**Lender 2
Bank
Seller to
Fannie Mae**

Non Compliance
UCC Article 3 3-203

E-Sign Act
Book Entry
Assignment of Electronic
Negotiable Instrument

**Lender 3
Fannie Mae
Securitizer
Trusts**

Non Compliance
UCC Article 3 3-203

E-Sign Act
Book Entry
Assignment of Electronic
Negotiable Instrument

Mortgage Loan Pool
Swap
Trust Certificates

**Lender 4
Custodian
For the Benefit
Of the Trust**

Transfer
Of Custodial
Rights

Transfer
Of Custodial
Rights

Transfer
Of Custodial
Rights

**Single-Family MBS Prospectus
Guaranteed Mortgage Pass-Through Certificates
(Single-Family Residential Mortgage Loans)**

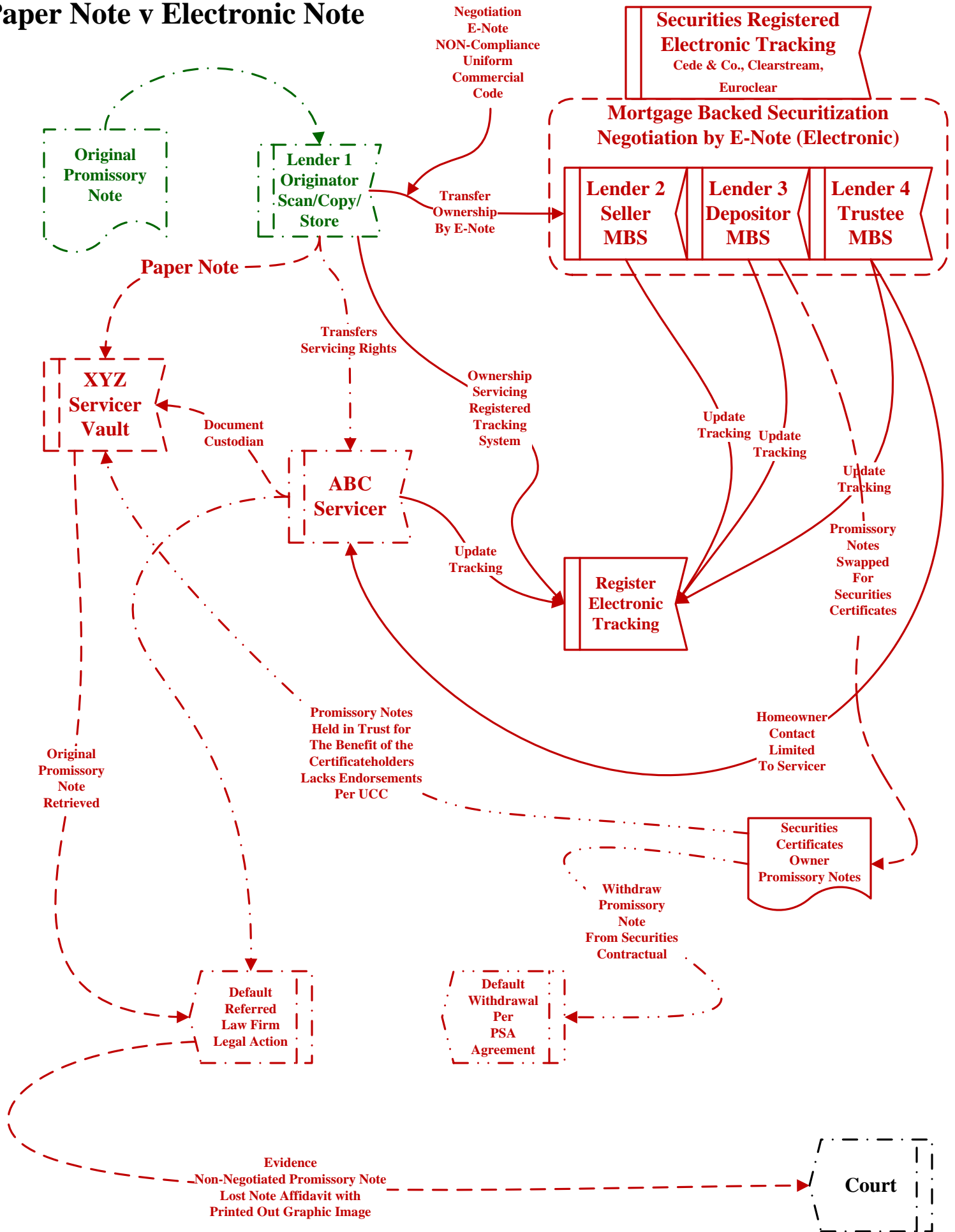
Mortgage Pools

We require each mortgage loan to meet our published standards for loans that we purchase, except to the extent that we have permitted variances from those standards. We may change our standards from time to time.

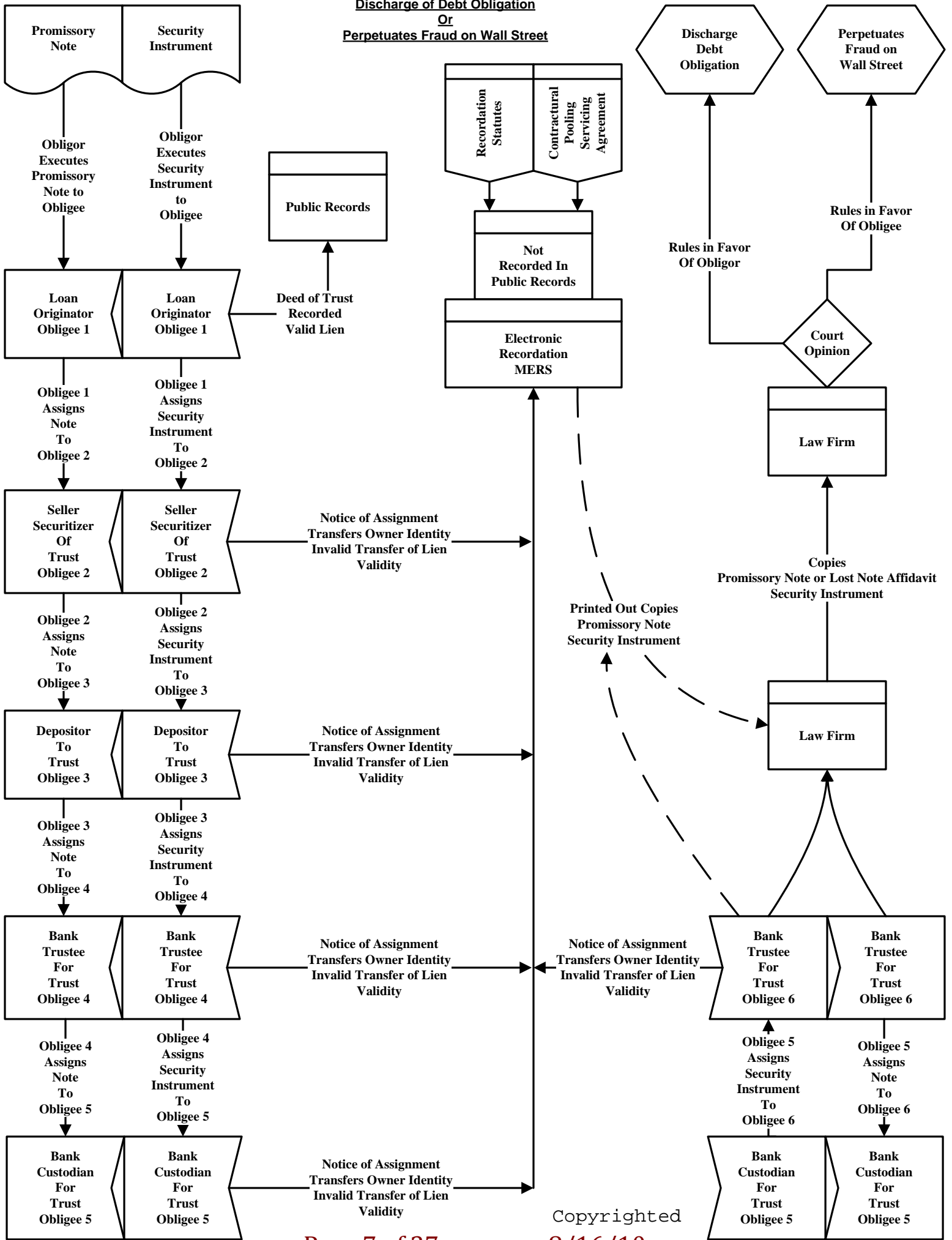
**UCC 3-203
TRANSFER OF INSTRUMENT
RIGHTS ACQUIRED BY TRANSFER**

(b) Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, **but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.**

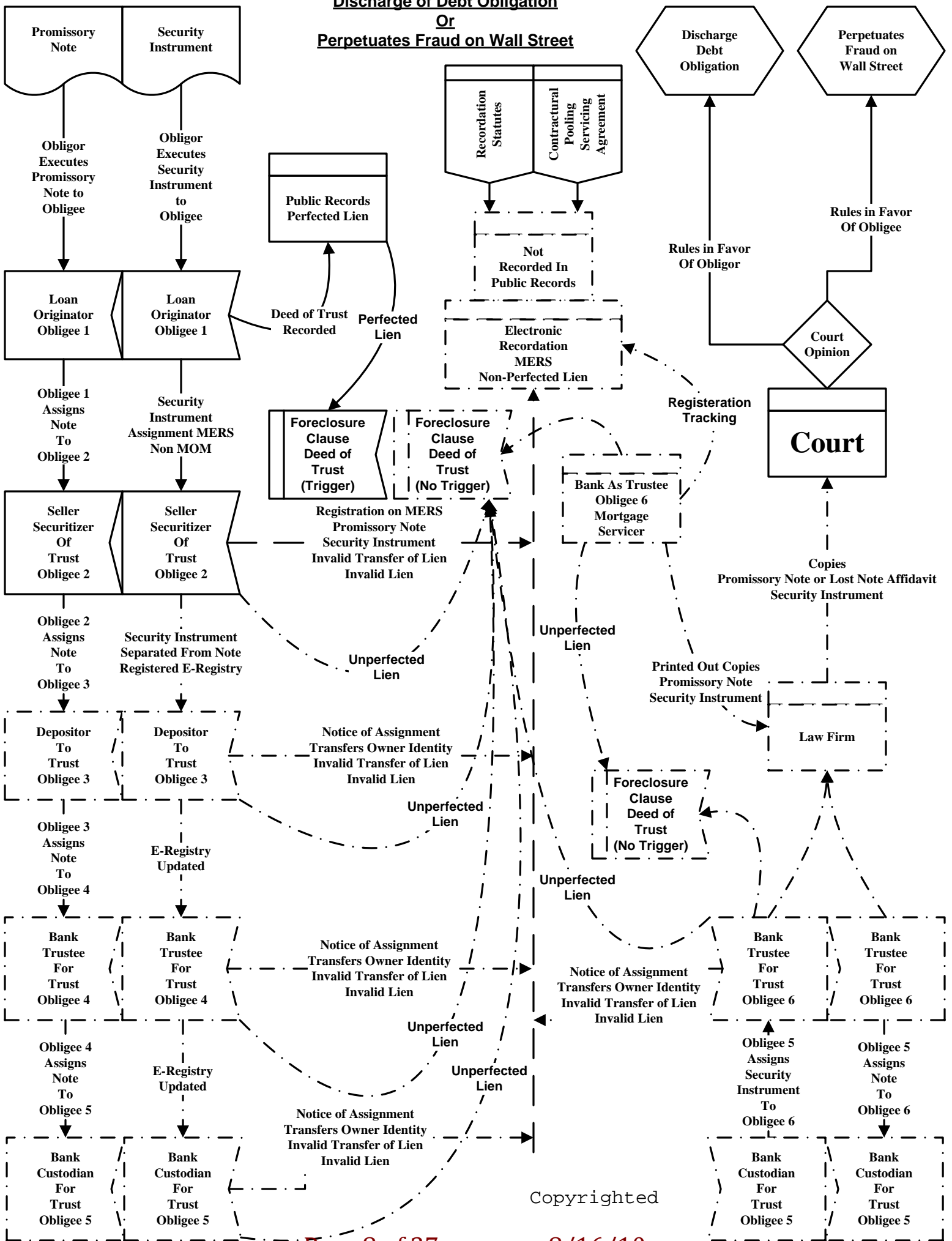
Paper Note v Electronic Note



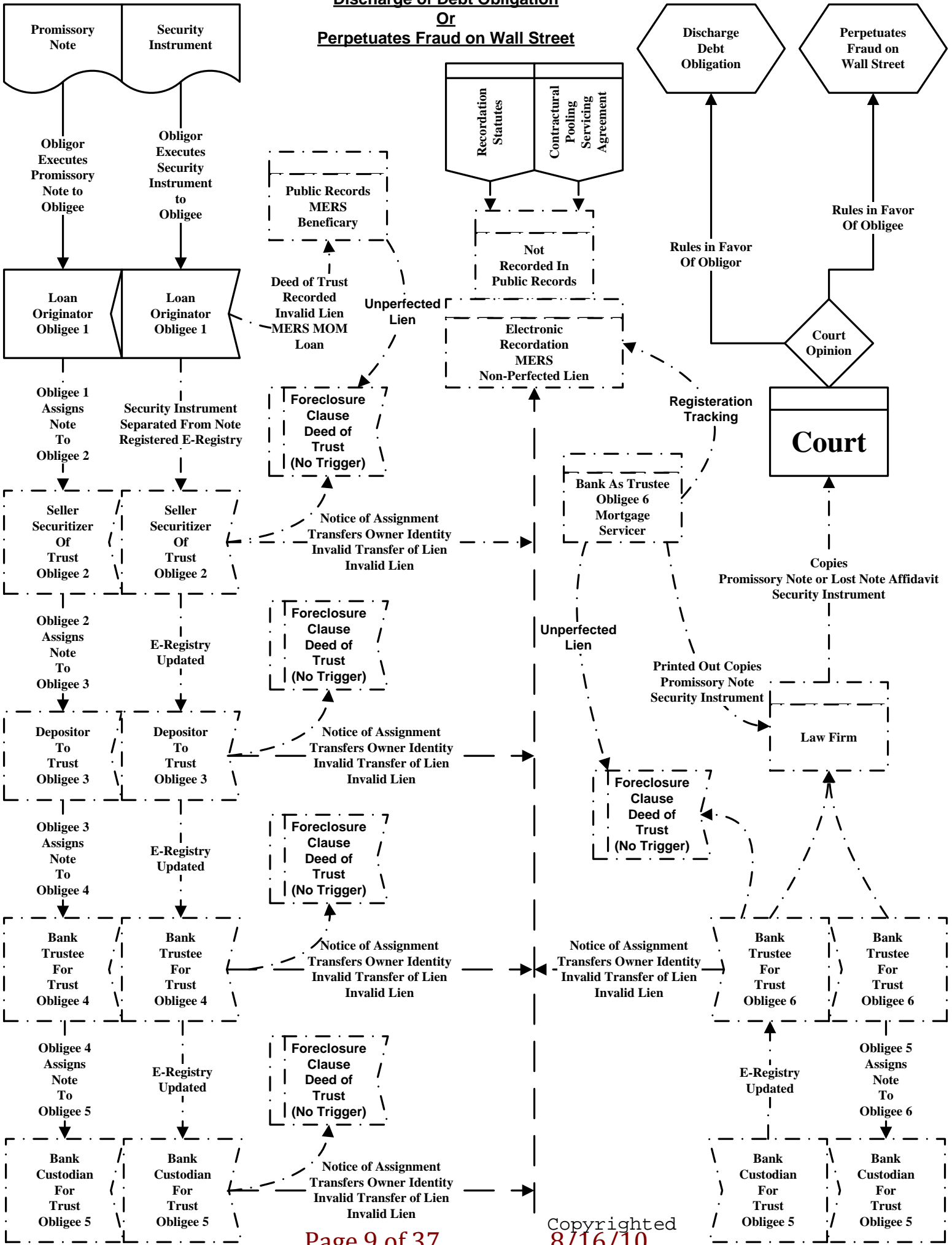
**Discharge of Debt Obligation
Or
Perpetuates Fraud on Wall Street**



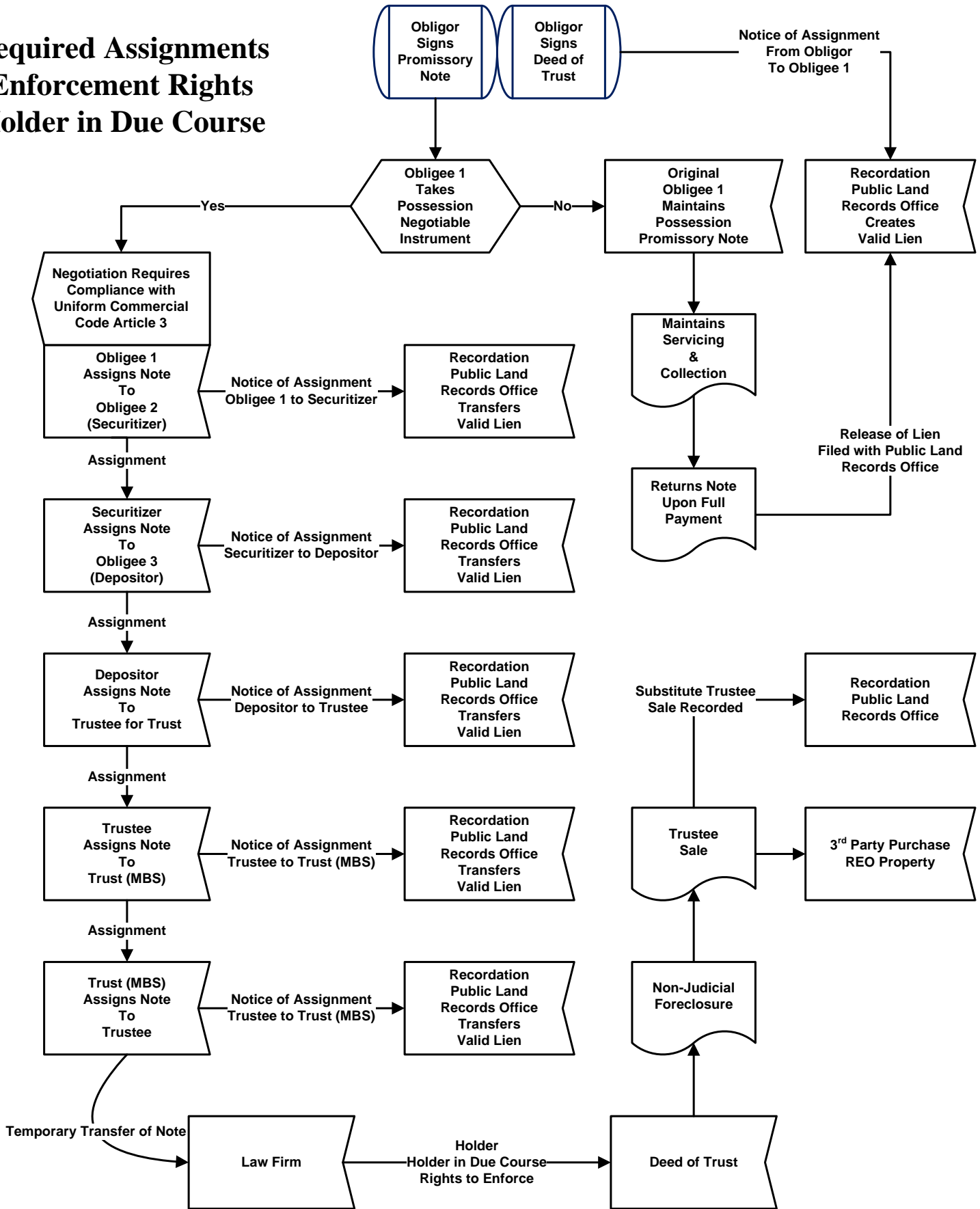
**Discharge of Debt Obligation
Or
Perpetuates Fraud on Wall Street**



**Discharge of Debt Obligation
Or
Perpetuates Fraud on Wall Street**

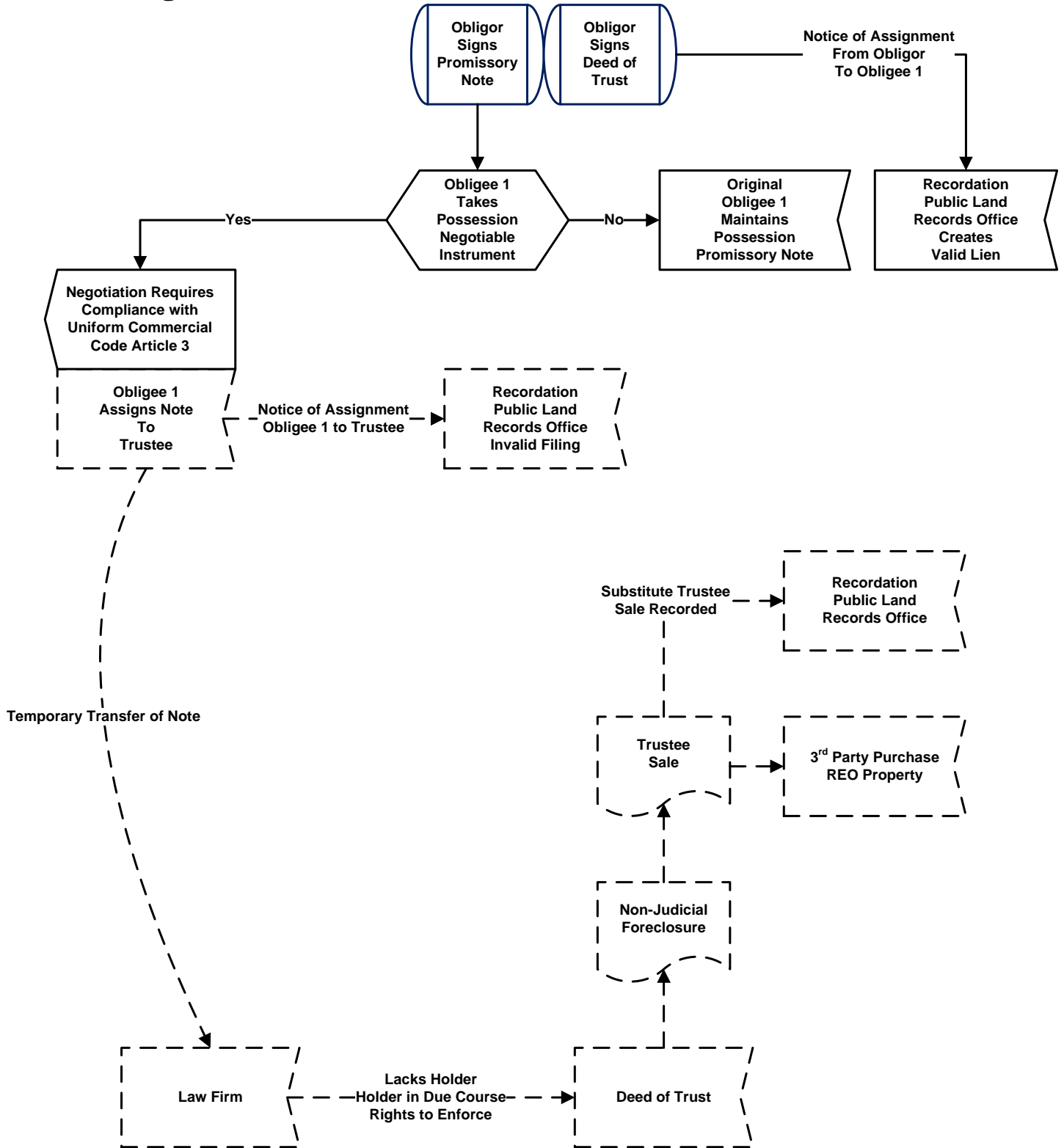


Required Assignments Enforcement Rights Holder in Due Course



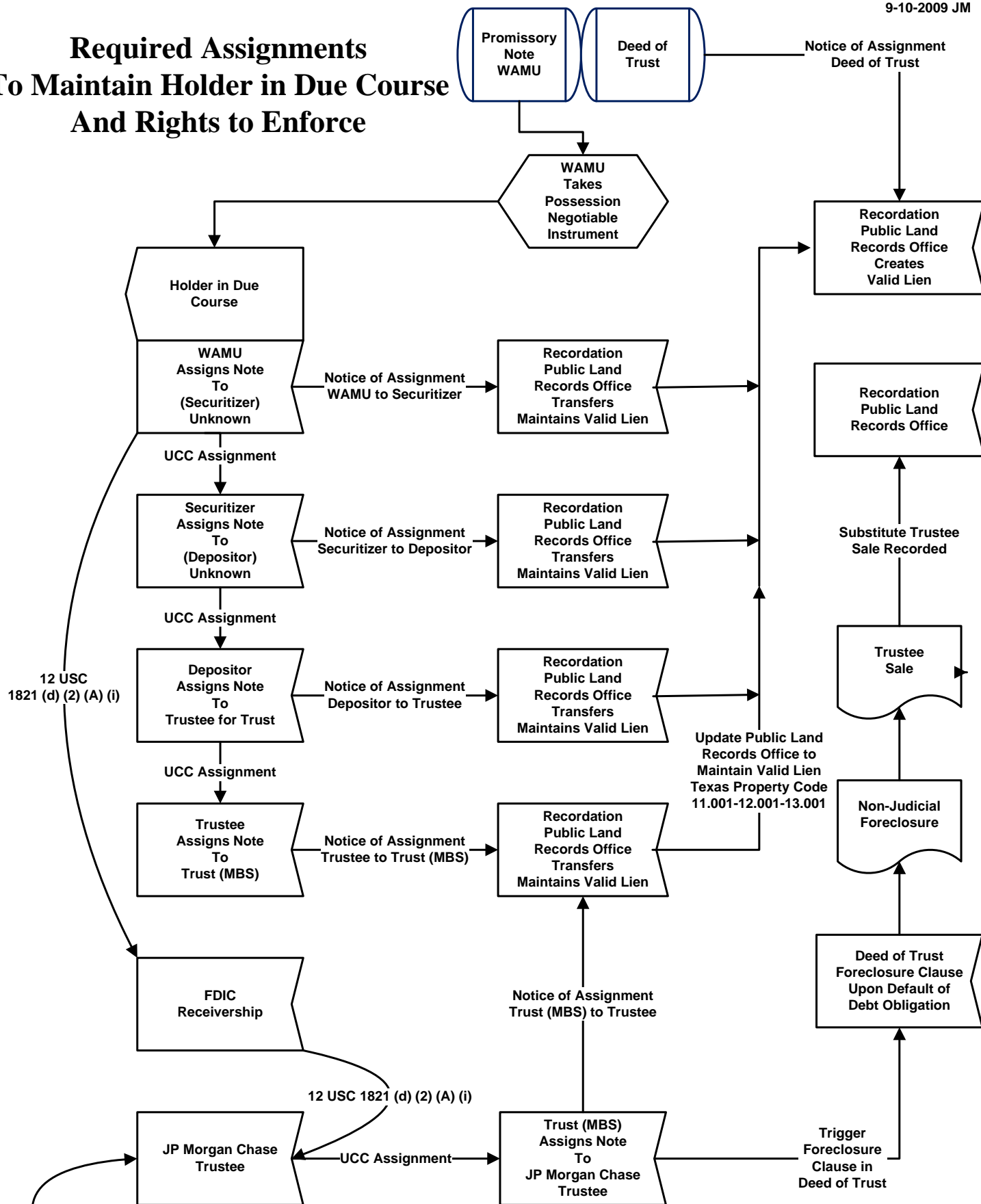
Copyrighted

Actual Assignments



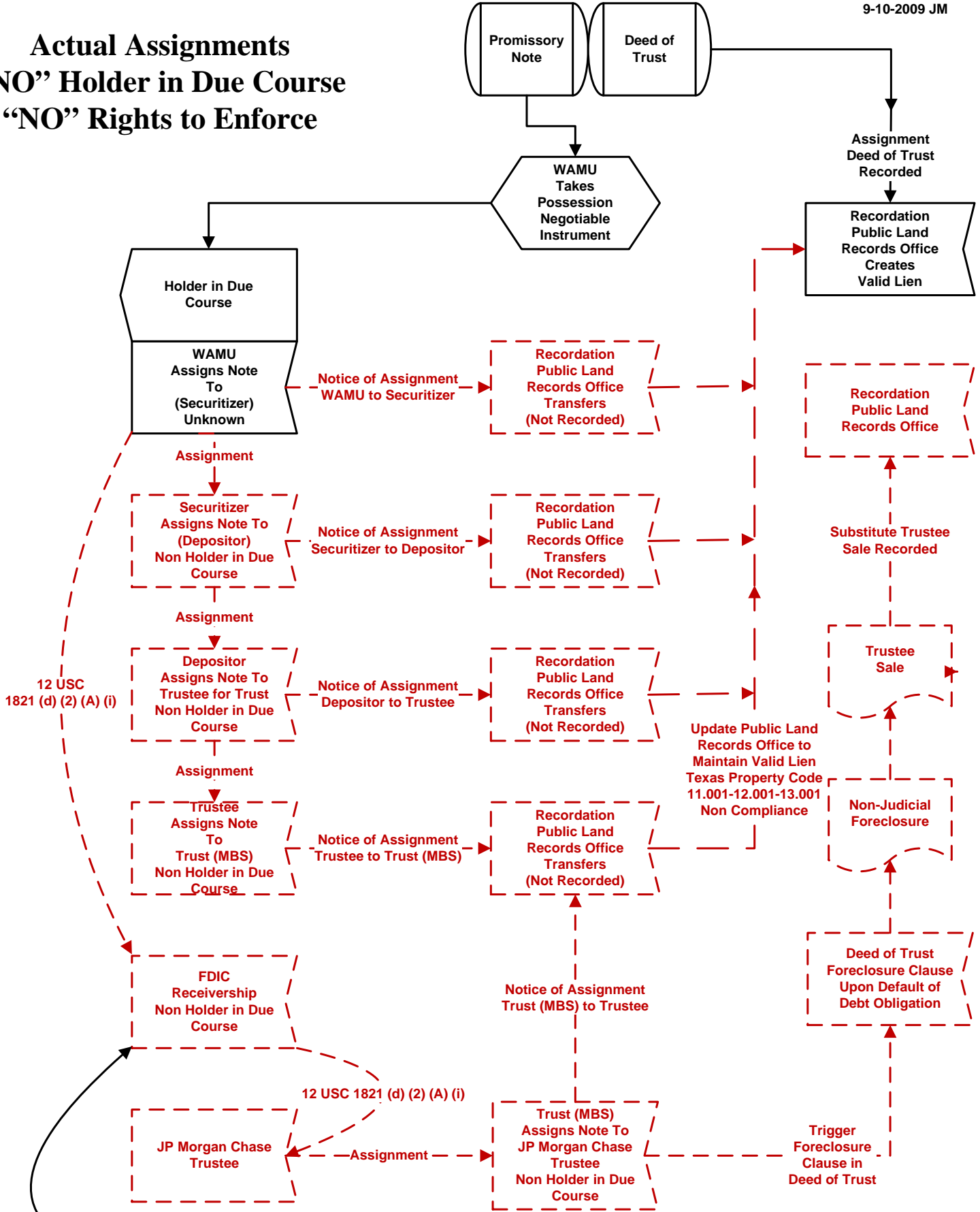
Copyrighted

Required Assignments To Maintain Holder in Due Course And Rights to Enforce



TITLE 12 > CHAPTER 16 > § 1821 (d) Powers and duties of Corporation as conservator or receiver
 (2) General powers (A) Successor to institution The Corporation shall, as conservator or receiver, and by operation of law, succeed to—
 (i) all rights, titles, powers, and privileges of the insured depository institution, and of any stockholder, member, accountholder, depositor, officer, or director of such institution with respect to the institution and the assets of the institution; and (ii) title to the books, records, and assets of any previous conservator or other legal custodian of such institution.

Actual Assignments "NO" Holder in Due Course "NO" Rights to Enforce



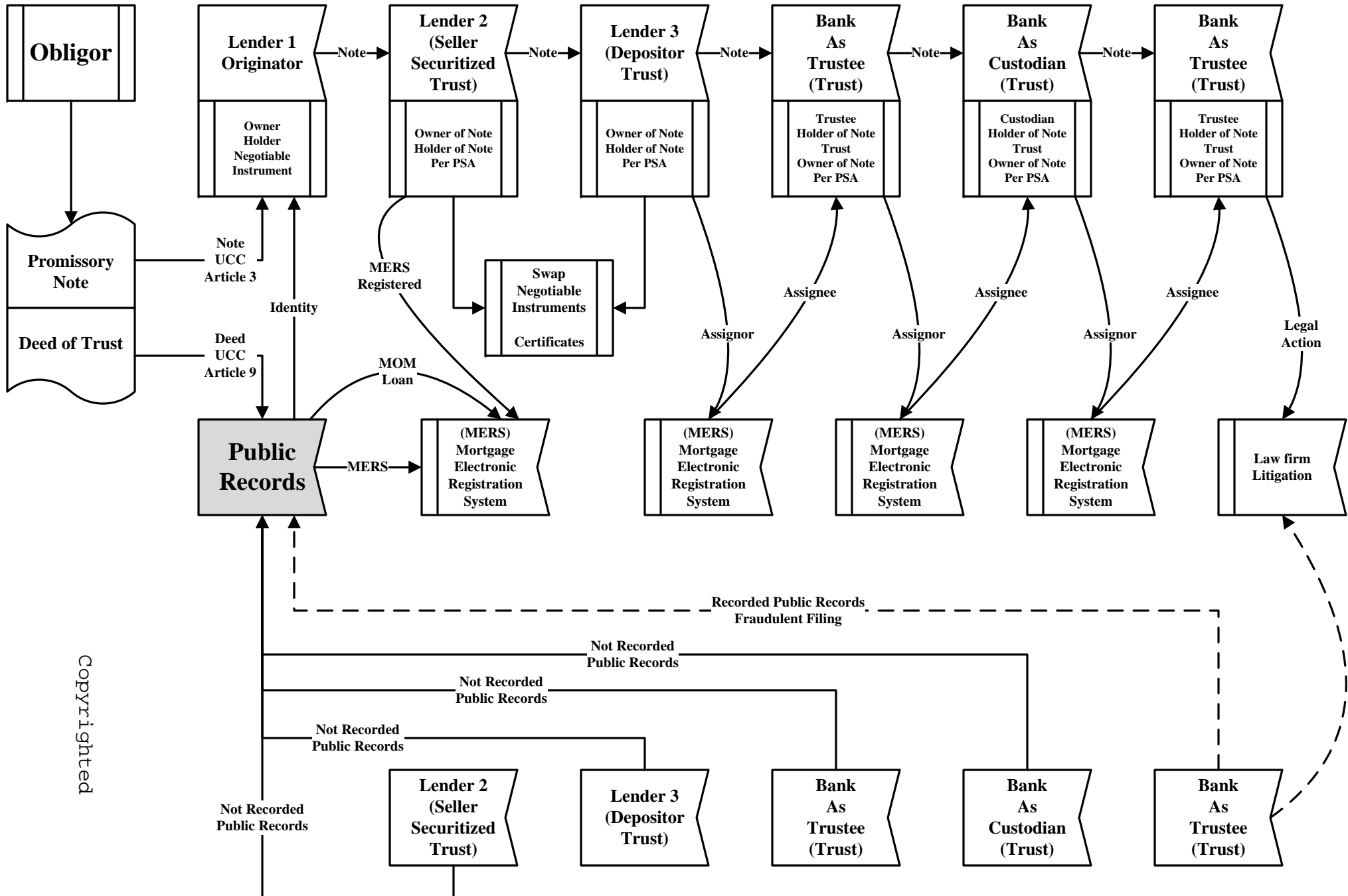
12 USC 1821 (d) (2) (A) (i)

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Missing and Fraudulent Filings Public Records Office

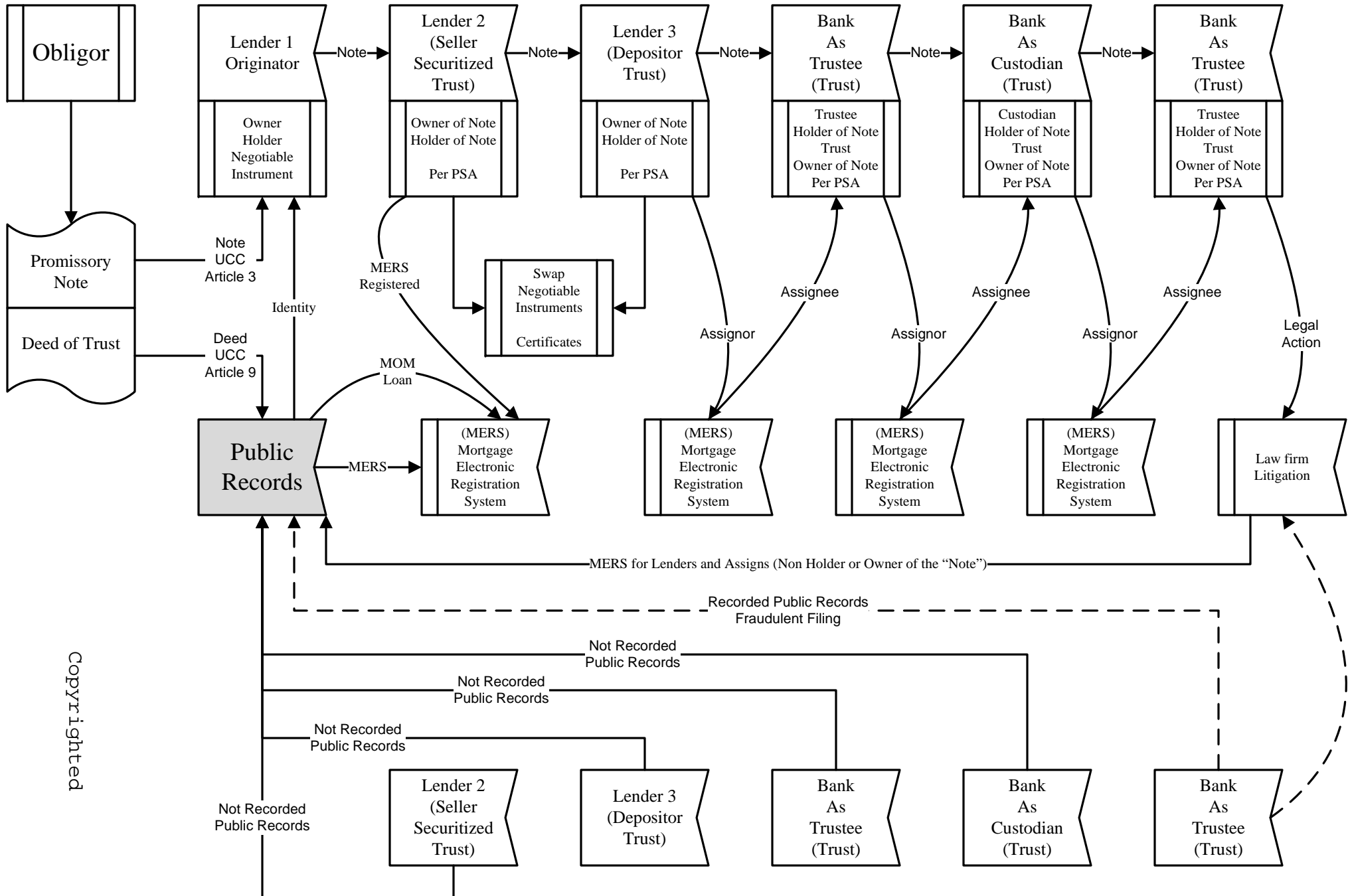
Bank XXX as Trustee for ZZZ Trust



Copyrighted

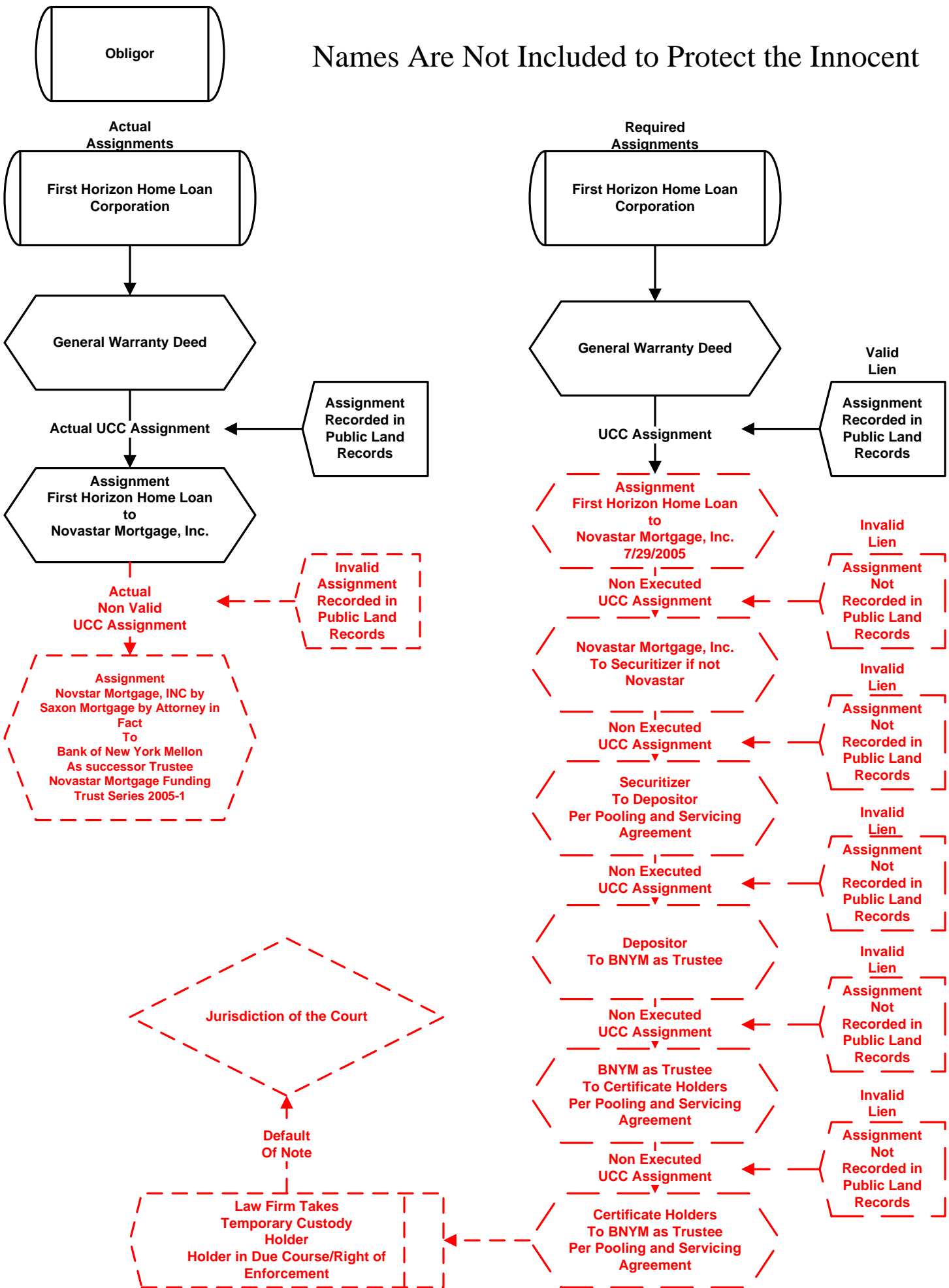
Missing and Fraudulent Filings Public Records Office

Bank XXX as Trustee for ZZZ Trust



Copyrighted

Names Are Not Included to Protect the Innocent



Direction & Control

Agent or Independent Contractor

F N M A

Fannie Mae

NUMBER 13-04-135-CV
 COURT OF APPEALS
 THIRTEENTH DISTRICT OF TEXAS
 CORPUS CHRISTI B EDINBURG
 FIRST NATIONAL ACCEPTANCE COMPANY,
 Appellant,

v.
 DEOLA BISHOP,
 Appellee.
 On appeal from the 357th District Court
 of Cameron County, Texas.

O P I N I O N
 Before Chief Justice Valdez and Justices Hinojosa and Yanez

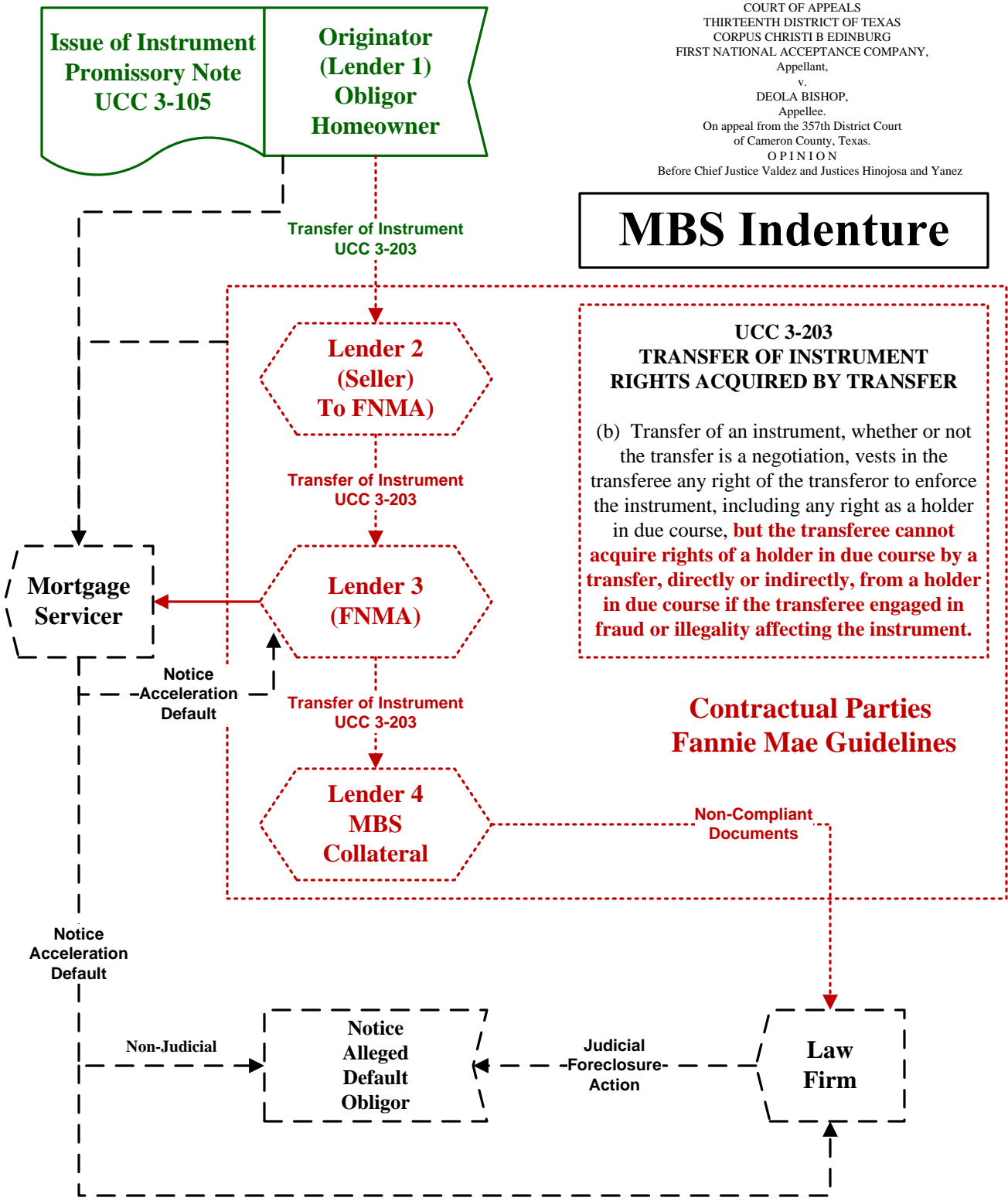
MBS Indenture

UCC 3-203
TRANSFER OF INSTRUMENT
RIGHTS ACQUIRED BY TRANSFER

(b) Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, **but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.**

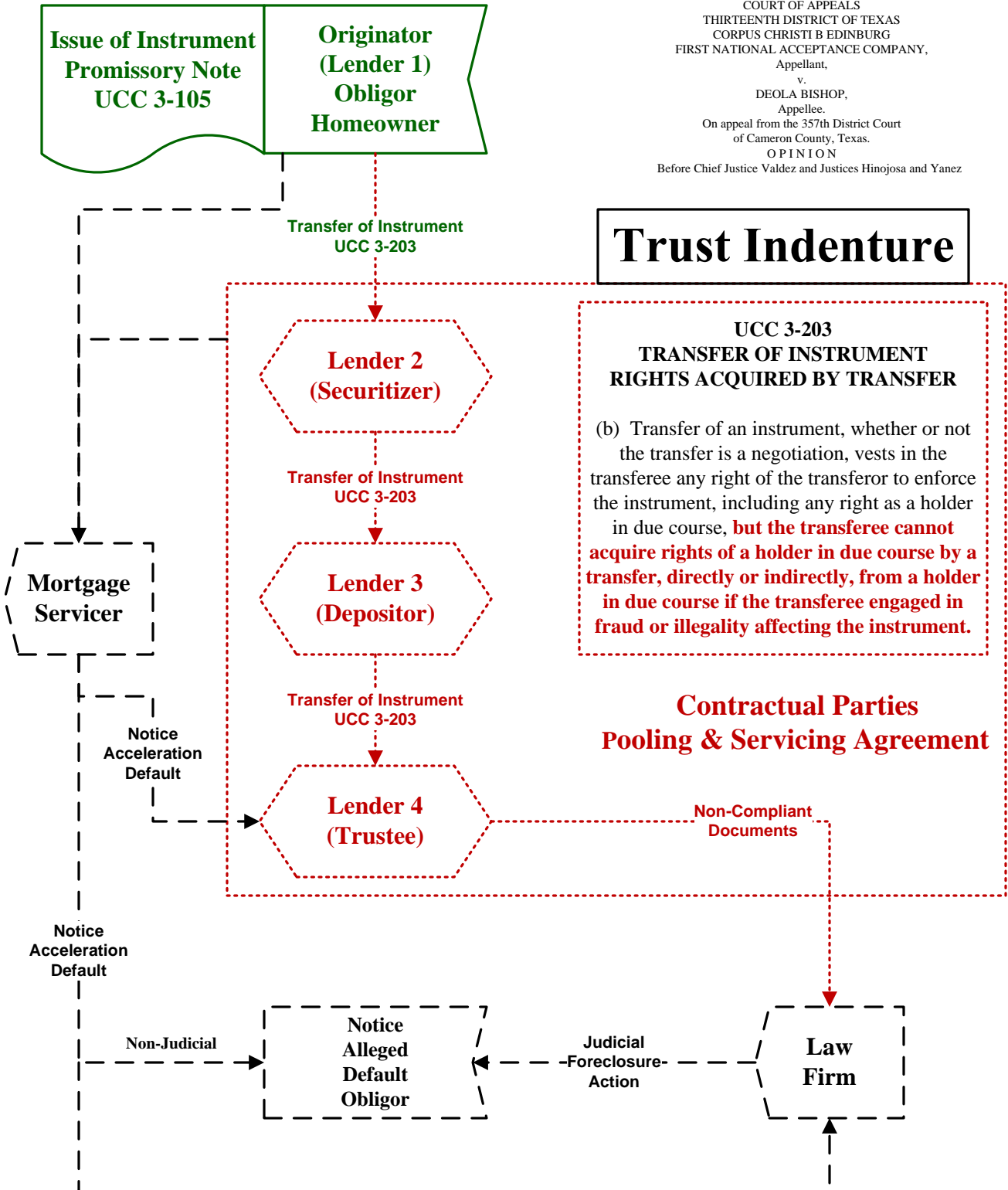
Contractual Parties

Fannie Mae Guidelines

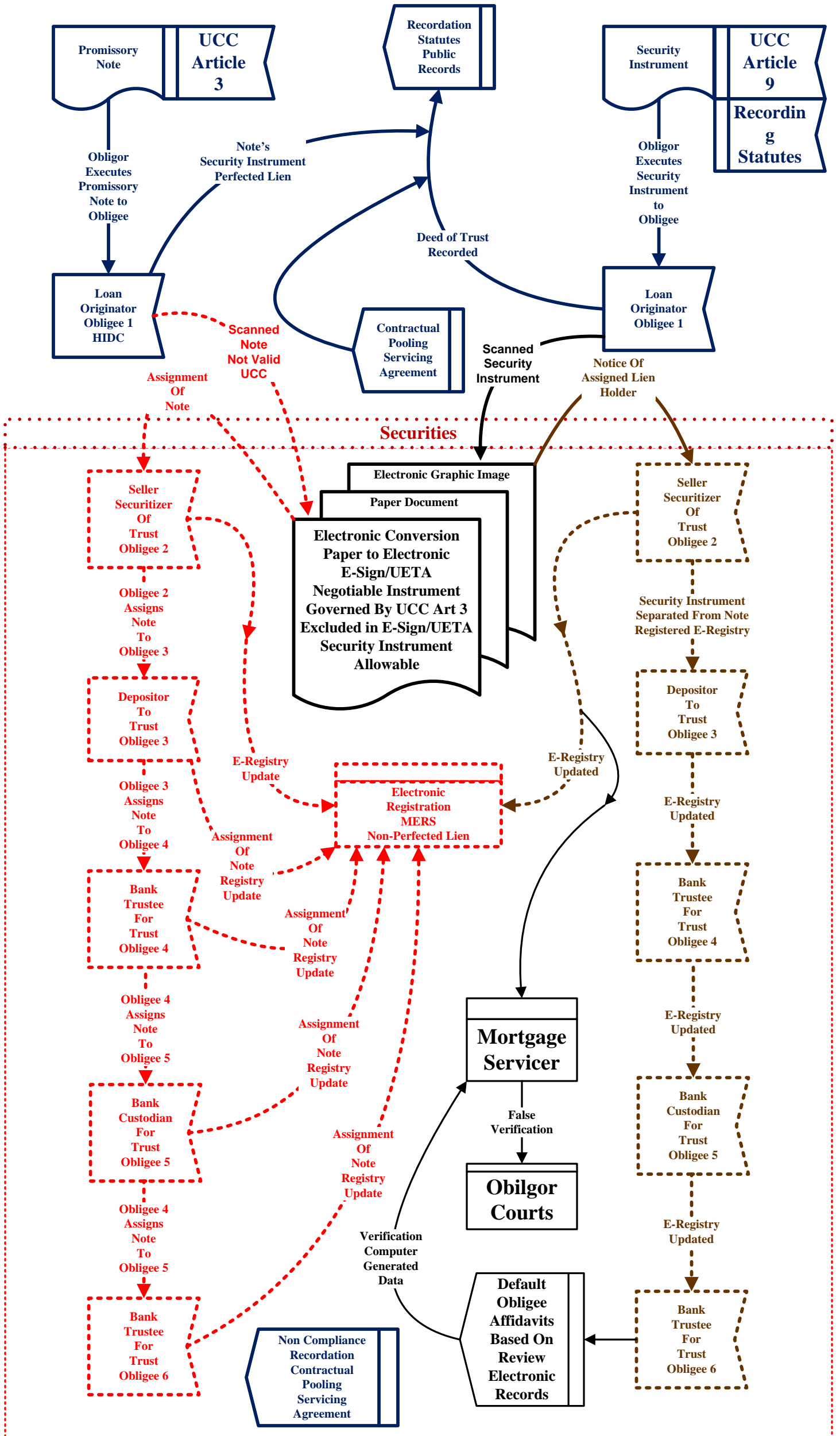


Non Compliance Uniform Commercial Code Trust Indenture Contractual Requirements

NUMBER 13-04-135-CV
COURT OF APPEALS
THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI B EDINBURG
FIRST NATIONAL ACCEPTANCE COMPANY,
Appellant,
v.
DEOLA BISHOP,
Appellee.
On appeal from the 357th District Court
of Cameron County, Texas.
O P I N I O N
Before Chief Justice Valdez and Justices Hinojosa and Yanez



Unperfected Lien



“AGNON / DO-DID”

From the End to the Beginning

By J. McGuire

Closing

- We begin with the loan originator immediately after closing. The loan originator has taken possession of many documents of which only three (3) are required to be followed through to the securitization process. These three (3) documents are the “Warranty Deed,” the Paper Promissory Note and the Paper Security Instrument (Mortgage, Deed of Trust, Security Deed).
- The Warranty Deed contains the information that transfers the Title 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 states’ equivalence and would be allowable under “eSign” to be filed in electronic form.
- The Paper Promissory Note: “a writing” in tangible form identifying an indebtedness governed by the Uniform Commercial Code or the states equivalence identifying the obligor and obligee. 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 the Uniform Commercial Code Article 3 or the states’ equivalence, and “eSign”-15 USC 7003—which clearly excludes items governed by the Uniform Commercial Code Article 3 or the states equivalence and as such the indebtedness can be only in paper tangible form.
- The Security Instrument: if to be governed by the Uniform Commercial Code or the states equivalence, the Security Instrument needs to be “a writing” in tangible form. If the Security Instrument is to be governed by the Uniform Commercial Code Article 9 or the states equivalence and “eSign”, 15 USC 7003 clearly excludes items governed by the Uniform Commercial Code Article 9 or the states equivalence then such security instrument can only be in paper tangible form.
- The Paper Promissory Note and the Security Instrument as combined and offered is a tangible interest in “Real Property.”

Step X – Scanning, Storage, Destruction and Filing

- The Paper Promissory Note and the Security Instrument are scanned into an electronic digitized graphic package and at the same time the data from both sets of documents is scraped of data and this data is placed into an electronic data file and combined with the electronic version of the promissory note and security instrument along with all other closing documents which then is identified as the “Mortgage Loan Package”.
- This “Mortgage Loan Package” would be an intangible interest in “Personal Property,” if it were fully supported by law.
- As future legal actions were unanticipated, the paper documents were either placed in storage, (Custodial and Non-Custodial Custody) or deliberately destroyed.

- The “Electronic Digitized Mortgage Loan File” is now falsely represented as the legal “Mortgage Loan Package.
- The electronic version of the Warranty Deed is electronically filed in Public Records; as this Warranty Deed is allowed to be in electronic form under “eSign,” the filing in Public Records is a lawful action.
- The electronic version of the Security Instrument is electronically filed in Public Records. If the obligee attempts to apply UCC 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 the filing would be lawful.
 - *(Reader Note: Perfection of the Lien and Perfection for Priority are “not” one in the same.)*
- If 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.

The Paper Sale *(In this New World of Electronic Securitization does not occur)*

- The “Loan Originator,” (Assignor), offers the paper loan package under cover of a Bailee’s Letter to a perspective buyer. The recipient, (Assignee), of the Bailee’s Letter then must either accept the offering and tender funds and takes possession of the loan package, or refuse the offering in which case the Assignor retains ownership of the loan package.

(Note: the Assignor could make the Note payable in blank and upon the Assignee’s accepting the Note the Assignee could fill in the blank assignment on the Note which would complete the negotiation.)

- Assignee, upon acceptance of the paper loan package, would file a “Notice of Assignment” in Public Records to show the negotiation of the Paper Promissory Note, thereby transferring perfected lien rights from the Assignor to the Assignee, and as such a continuous perfection of lien rights is maintained. Failure to file this financing statement (Notice of Assignment) would allow the perfection of the lien to expire and thus render the Security Instrument to a “Nullity.”

The First Electronic Sale/Assignment *(Investment Vehicle as Example, Fannie/Freddie Similar)*

- The “Loan Originator,” (Assignor), offers the electronic loan package to a perspective buyer or a prearranged line of credit lender. The Recipient, (Assignee, Seller/Securitizer of the Investment Vehicle), of the electronic loan package then must either accept the offering and tender funds and takes control of the electronic loan package, or refuse the offering in which case the Assignor retains control of the electronic loan package.
 - *(Note: as the electronic loan package is registered in the MERS Registry, there is no physical transfer of the electronic loan package. The MERS Registry is updated as to who has control and ownership rights of the electronic digitized file of the non-lawful and intangible form of the electronic promissory note {eNote}.)*
- “Notice of Assignment” reflecting this “electronic negotiation” is not filed in Public Records as such a filing would be unlawful as there is no law that supports an electronic negotiation of an electronic promissory note (eNote).

The Second Electronic Sale/Assignment

- The “Seller/Securitizer of the Investment Vehicle,” (Assignor), sells/assigns the electronic loan package to the buyer, (Depositor of the Investment Vehicle). The recipient, (Assignee, Depositor of the Investment Vehicle), of the electronic loan package under the terms of the trust accepts the transfer and takes control of the electronic loan package.
 - *(Note: as the electronic loan package is registered in the MERS Registry, there is no physical transfer of the electronic loan package. The MERS Registry is updated as to who has control and ownership rights of the electronic digitized file of the non-lawful and intangible form of the electronic promissory note {eNote}.)*
- “Notice of Assignment” reflecting this “electronic negotiation” is not filed in Public Records as such a filing would be unlawful as there is no law that supports an electronic negotiation of an electronic promissory note (eNote).
 - *(The author has noted several Qui Tam suits being filed claiming the local governments have been defrauded by the failure to file these assignments and tender funds into public records. The suits making these charges are without merit.)*
 - *(It is not uncommon to find in Public Records a “Notice of Assignment” filed reflecting a transfer of lien rights from the Original Assignor to a 3rd subsequent Assignee(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, and, as such, proves the Paper Promissory Note and the Security Instrument are now bifurcated, which renders the Security Instrument a “Nullity.” These filings in public records are fraud upon public records.)*

The Third Electronic Sale/Assignment

- 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 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 loan package to the Trustee of the Investment Vehicle for the benefit of the Certificateholders (The Swap).
 - *(Note: as the electronic loan package is registered in the MERS Registry, there is no physical transfer of the electronic loan package. The MERS Registry is updated as to who has control and ownership rights of the electronic digitized file of the non-lawful and intangible form of the electronic promissory note {eNote}.)*
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The Fourth Electronic Sale/Assignment

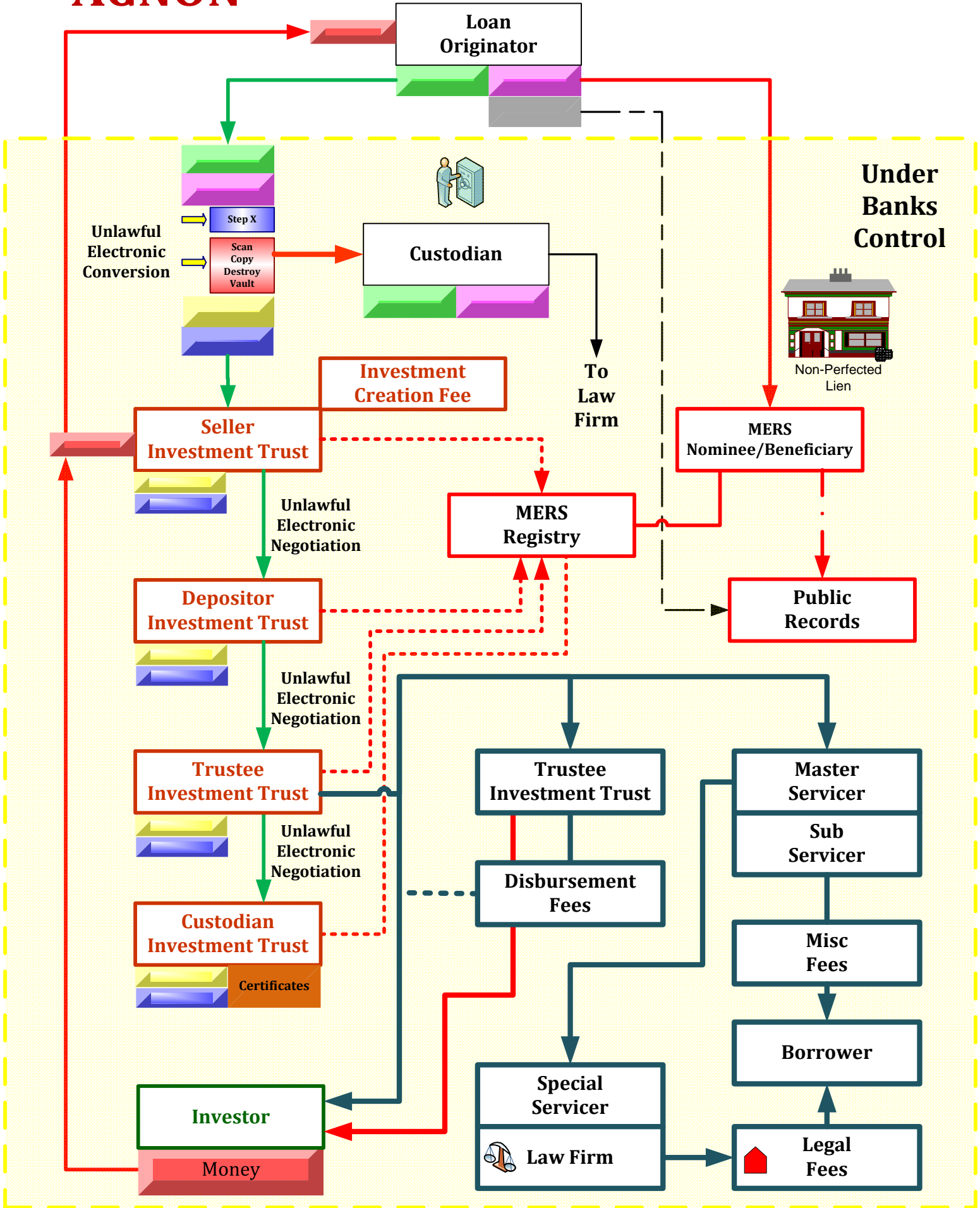
- The “Trustee of the Investment Vehicle,” (Assignor), sells/assigns the electronic loan package to the (Custodian of the Investment Vehicle for the benefit of the Certificateholders). The Recipient, (Assignee, Custodian of the Investment Vehicle for the benefit of the Certificateholders), takes control of the electronic loan package.
- The “Depositor of the Investment Vehicle,” in compliance with the Investment Trust documents, takes control of the Investment Trust’s Certificates, in exchange for selling/assigning the electronic loan package to the Trustee of the Investment Vehicle for the benefit of the Certificateholders who then are in control of the electronic mortgage package.

- *(Note: as the electronic loan package is registered in the MERS Registry, there is no physical transfer of the electronic loan package. The MERS Registry is updated as to who has control and ownership rights of the electronic digitized file of the non-lawful and intangible form of the electronic promissory note {eNote}.)*
- “Notice of Assignment” reflecting this “electronic negotiation” is not filed in Public Records as such a filing would be unlawful as there is no law that supports an electronic negotiation of an electronic promissory note (eNote).

Non Holder in Due Course Alleges Default (*Trustee/Mortgage Servicer*)

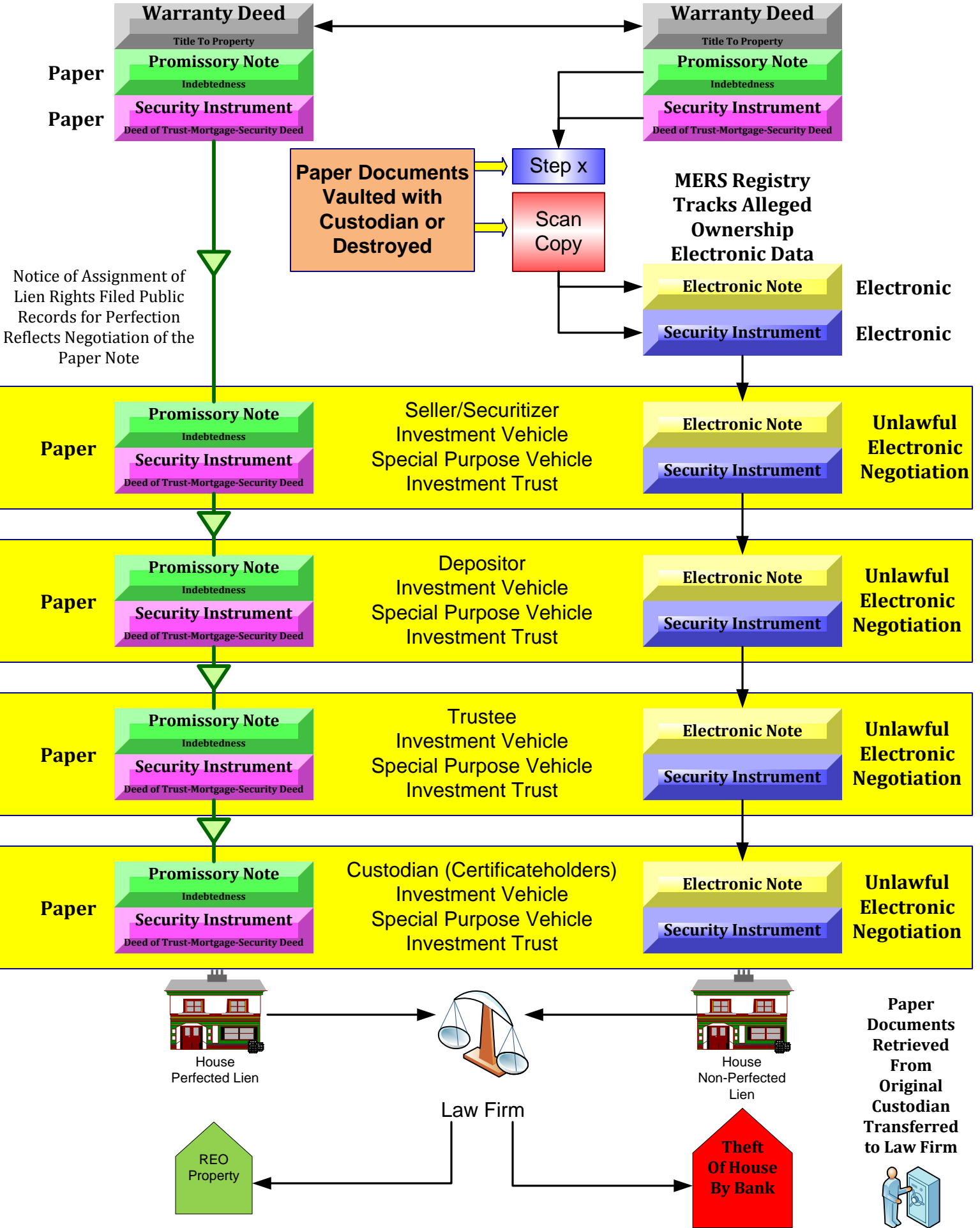
- **“Trustee of the Investment Vehicle/Mortgage Servicer” declares default:**
- Numerous actions of fraud are readily identifiable.
- As noted in the four (4) electronic negotiations of the electronic loan package to securitization, there is a lack of supporting law to allow electronic negotiation. Only 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.
- Many more.

AGNON



Do

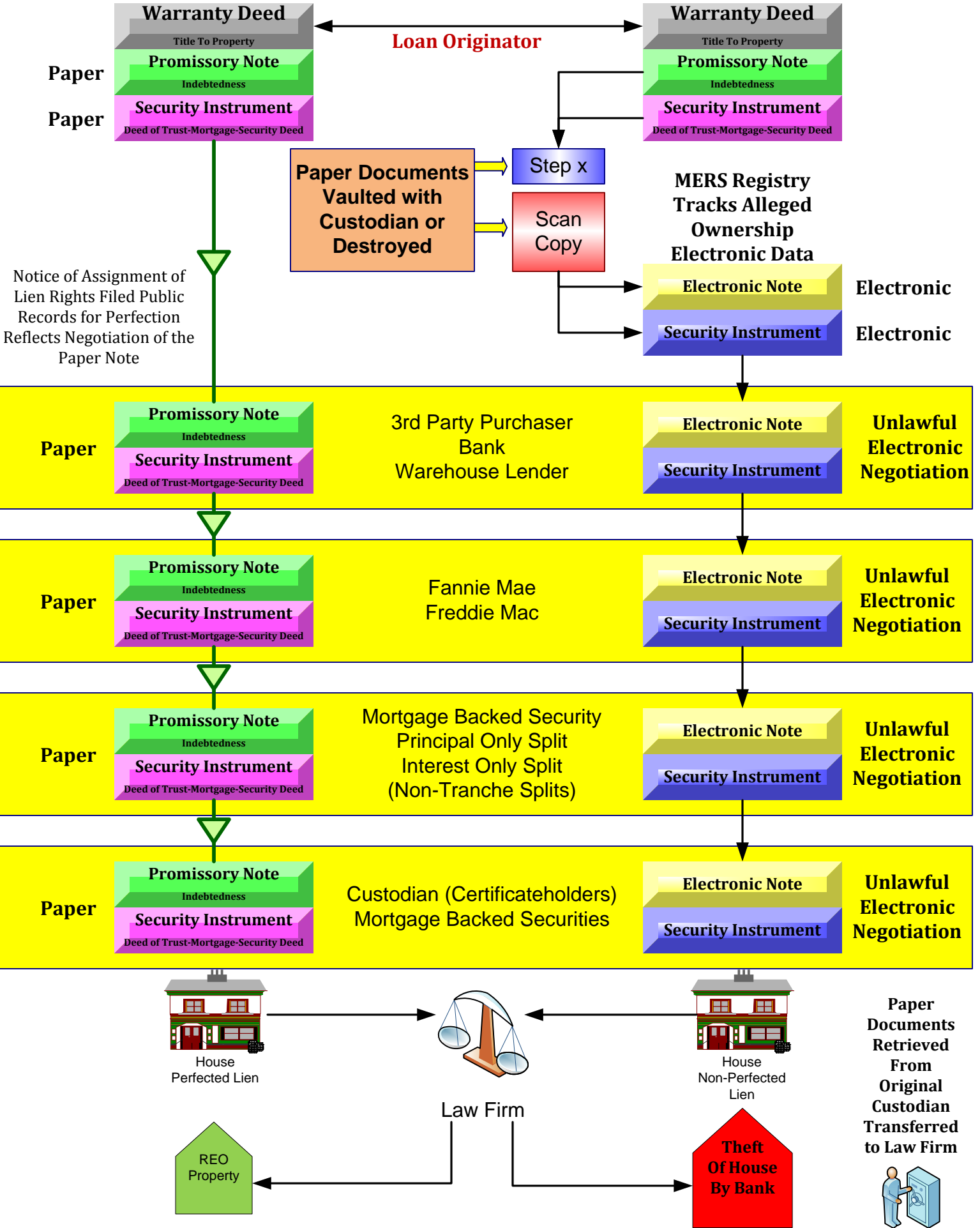
Did



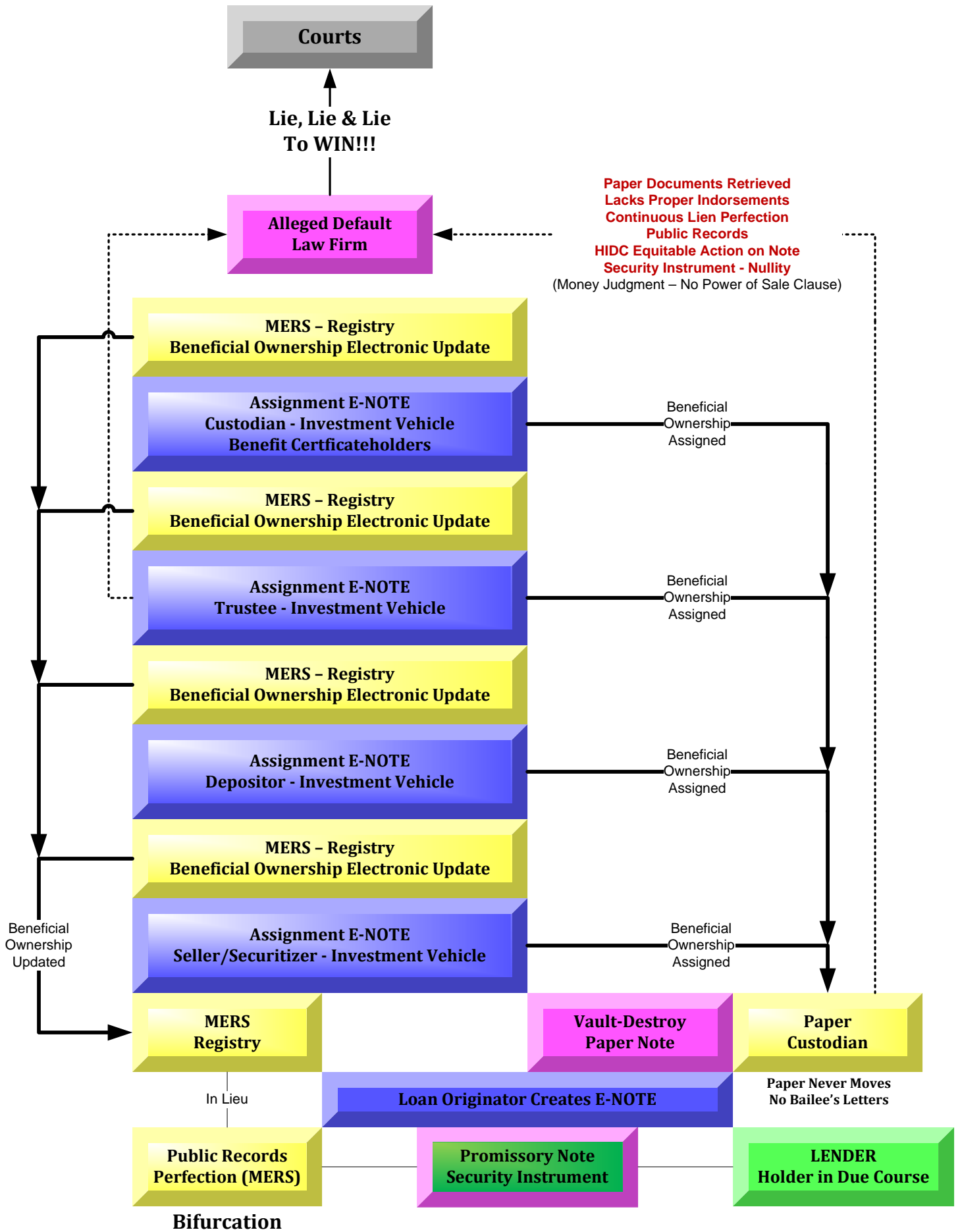
Do

Fannie Mae/Freddie Mac

Did



House of Failures (Lop Sided)



“Buyer in *ordinary course of business*”

Uniform Commercial Code

The author’s favorite: *“Buyer in ordinary course of business” means a person that buys goods in good faith,..”* Better polish your boots on this one. The banks are not the purchaser; the newly created Investment Trust Vehicle was the purchaser. The banks only operate as underwriters, trustees and servicers of these **newly** created Investment Trust Vehicles.

PART 1. GENERAL PROVISIONS

§ 1-102. Scope of Article

This article applies to a transaction to the extent that it is governed by another article of [the Uniform Commercial Code].

§ 1-108. Relation to Electronic Signatures in Global and National Commerce Act

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., except that nothing in this article modifies, limits, or supersedes Section 7001(c) of that Act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that Act.

ESIGN ACT: TITLE 15 > CHAPTER 96 > SUBCHAPTER I > § 7003 Specific exceptions¹

(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—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law; or

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A.

PART 2. GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

§ 1-201. General Definitions.

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of [the Uniform Commercial Code] that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of [the Uniform Commercial Code] that apply to particular articles or parts thereof:

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A

¹ <http://www.law.cornell.edu/uscode/15/7003.html>

person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

Again, the author's favorite, *"Buyer in ordinary course of business" means a person that buys goods in good faith...* Better polish your boots on this one. The banks are not the purchaser; the newly created Investment Trust Vehicle was the purchaser. The banks only operate as underwriters, trustees and servicers of these **newly** created Investment Trust Vehicles.

(21) "Holder" means: (A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; or (B) the person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession.

What is needed to be understood is that the original "Wet Ink" negotiable instrument is not the instrument that was negotiated/assigned/transferred to the newly created Investment Vehicle. The creators of the Investment Trust Vehicle assigned/transferred an electronic negotiable instrument, which lacks supporting laws to exist. This electronic negotiable instrument was created by scanning the original "Wet Ink" negotiable instrument, and this electronic digitized copy was to be called the "authoritative copy" of the "transferable record." It is this "authoritative copy" that was electronically assigned/transferred in book entry form. In actuality, the registry that identifies the "authoritative copy" was updated to reflect who had beneficial ownership rights of the "authoritative copy". Since there was no negotiation of the original "Wet Ink" negotiable instrument to the newly created Investment Trust Vehicle, the Investment Trust Vehicle never became the holder or holder in due course of the original "Wet Ink" negotiable instrument.

Of particular note: if the original "Wet Ink" negotiable instrument by chance was not destroyed, then a high probability exists that the original lender vaulted the documents and the same registry, (MERS), that identified the ownership of the "authoritative copy" will also identify the custodian holding the original "Wet Ink" and the identity of the entity that has beneficial ownership rights of the documents being held by this custodian.

PART 3. ENFORCEMENT OF INSTRUMENTS

§ 3-301. PERSON ENTITLED TO ENFORCE INSTRUMENT.

"Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to Section 3-309 or 3-418(d). A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

As the newly created Investment Trust Vehicle has only ownership right to the "authoritative copy" and beneficial ownership right to the original non-negotiated "Wet Ink" negotiable instrument they have not met the definition of "Holder".

§ 3-302. HOLDER IN DUE COURSE.

(a) Subject to subsection (c) and Section 3-106(d), "holder in due course" means the holder of an instrument if:

(1) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

What the courts do not see is that the electronic negotiable instrument does not bear apparent evidence of forgery or alteration; it just cannot legally exist under current laws.

(2) the holder took the instrument (i) for value, (ii) in good faith, (iii) without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, (iv) without notice that the instrument contains an unauthorized signature or has been altered, (v) without notice of any claim to the instrument described in Section 3-306, and (vi) without notice that any party has a defense or claim in recoupment described in Section 3-305(a).

In "good faith" ... have to re-polish the boots on this one as there is absolutely no "good faith" where there is an intentional act of not following the written laws .

(b) Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection (a), but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

(c) Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken (i) by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, (ii) by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or (iii) as the successor in interest to an estate or other organization...

The author was required to redirect attention back to the negotiable instrument; this document does not dwell into the issues of bifurcation of the security instrument from the negotiable instrument or about the perfection/continuous perfection of the security instrument.

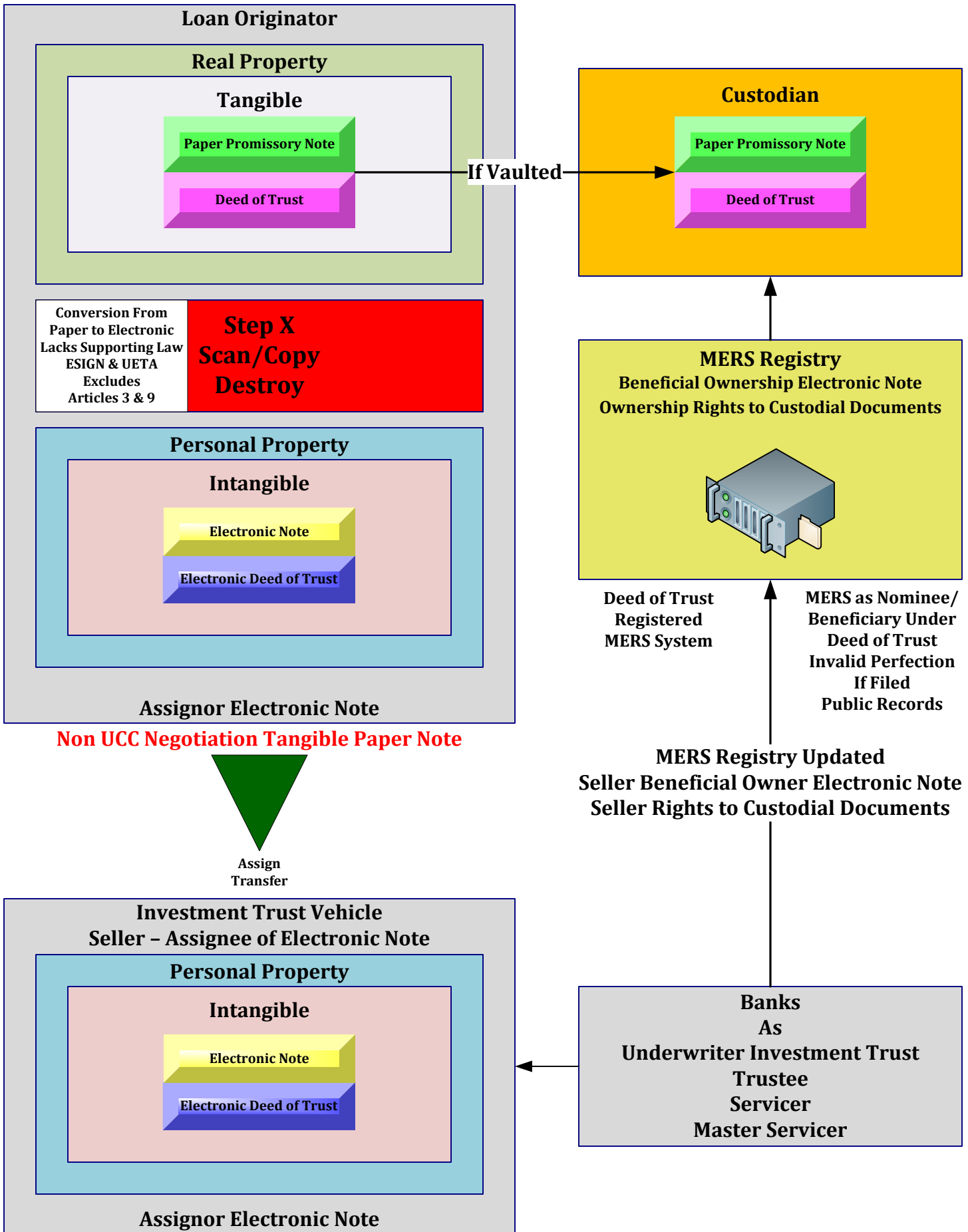
Time to polish the boots and glue them on, this dance is going to get deep.

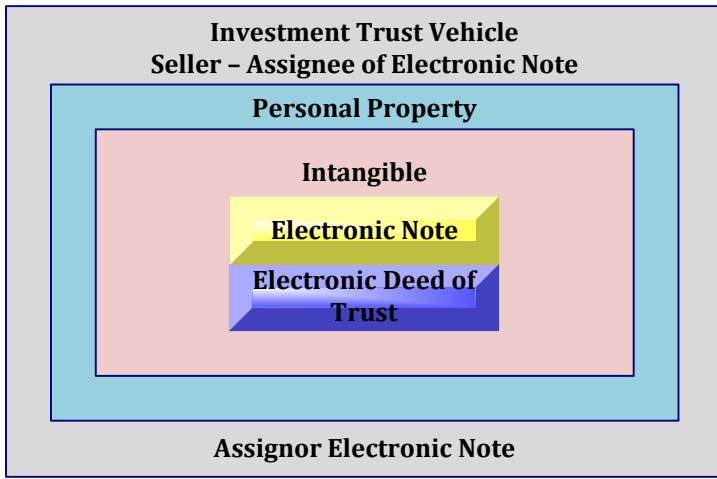
Shinola was immortalized in colloquial English with the phrase, "You don't know shit from Shinola," which first became widely popular during World War II.²

Maybe one day law enforcement will learn the difference.

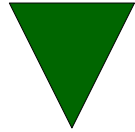
² <http://en.wikipedia.org/wiki/Shinola>

Charts for "Buyer in Due Course"

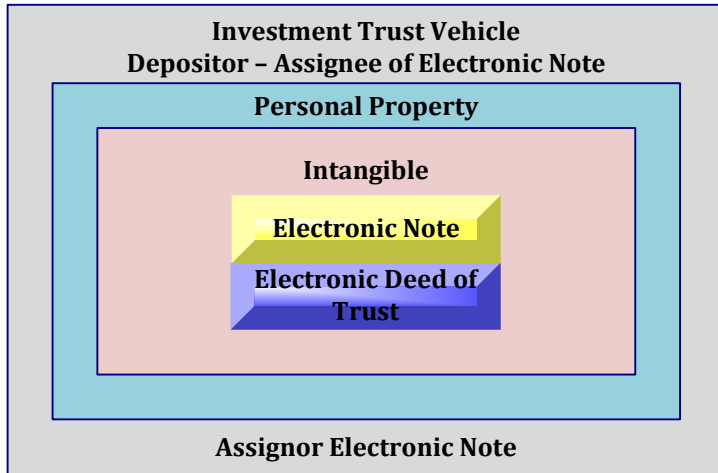




Non UCC Negotiation Tangible Paper Note



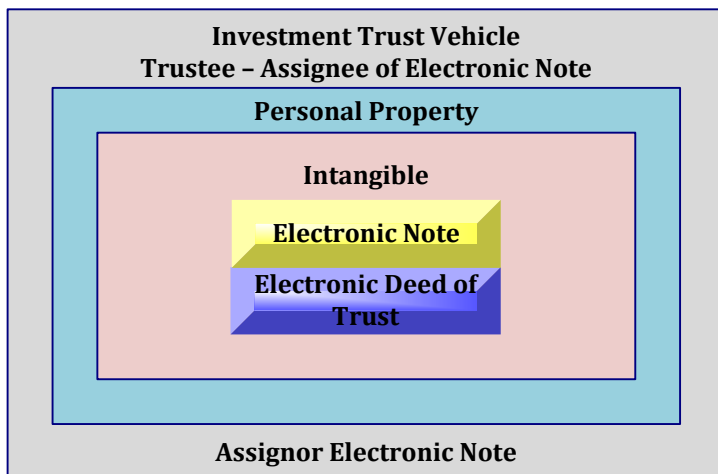
Assign/Transfer



Non UCC Negotiation Tangible Paper Note



Assign/Transfer



“eFraud”

eNotes – eClosing – eMortgages – eSign

Perfection and Loss of Perfection (Security Instrument)

By J. McGuire

The collection rights given in the Paper Promissory Note, if transferred, assigned, or sold to a Mortgage Backed Security, **must** be a Negotiable Instrument, **must** be “in writing” (tangible form) identifying an indebtedness which is governed by the Uniform Commercial Code Article 3: Negotiable Instruments or the states equivalence. This Paper Promissory Note by itself is an “Unsecured” indebtedness.

Where the lender requires a Security Instrument to be part of the loan package, this Security Instrument states the property is to be used as collateral for the repayment of the indebtedness noted in the Paper Promissory Note. This Security Instrument contains language that stating that if the indebtedness, the lender, as the secured party, (Holder in Due Course with rights to the Paper Promissory Note), by the authority granted in the Security Instrument, could foreclose and sale the property to satisfy the indebtedness. When the Paper Promissory Note is accompanied by a Security Instrument such indebtedness is considered to be a “Secured” indebtedness.

The “Secured” indebtedness will survive through a bankruptcy action, whereas an “Unsecured” indebtedness may or may not survive through a bankruptcy action.

One has to wonder how a large corporation can emerge from bankruptcy in a matter of months with a lot of indebtedness gone; he who has a secured loan and he who does not is the answer. Example, GM: how many debts were “Secured” and how many were “Unsecured”? The banks’ loans usually are “Secured” while all others are “Unsecured.” Banks get paid and stockholders and investors get the empty baby bottle. Consider this: the banks generally write all the contracts - as such, the banks will write the contracts to protect themselves while leaving the losses to all others.

Under the Uniform Commercial Code Article 9, there is an automatic perfection of lien rights that is created when the Security Instrument attaches to the Paper Promissory Note by the signing of all documents at closing. Of note: this automatic perfection is limited in time and to convert this temporary perfection into a permanent perfection, local laws of jurisdiction must be followed. So it is not uncommon to find the Security Instrument filed in Public Records to convert a temporary perfection of lien rights into a permanent perfection of lien rights. The Security Instrument represents the “lien.”

In the days of paper, when the Paper Promissory Note was sold/assigned/transferred/negotiated to a subsequent 3rd party purchaser,

endorsements were noted on the Paper Promissory Note, which under the UCC completed the negotiation; also, a “Notice of Assignment” was filed by the subsequent 3rd party purchaser in Public Records, which notices transfer of lien rights to the subsequent 3rd party purchaser, and, as such, continuous perfection, “Perfected Chain of Title,” was maintained of lien rights in Public Records.

Under the UCC, Perfection and Perfection for Priority have different meanings.

§ 9-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.¹

Except as otherwise provided in Sections 9-303 through 9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:”

How do you create an eNote from a Paper Promissory Note? Scan it.

How do you create an eNote at an eMortgage closing? Sign it electronically.

A Negotiable Instrument is governed by the Uniform Commercial Code Article 3 and the states equivalence. The UCC allows the Negotiable Instrument to be **only** in tangible paper form.

The banks have been alleging the eSign Act allows for the existence of an eNote (Transferable Record) as being a negotiable instrument under the UCC. As this eNote Transferable Record is not in paper tangible form, it does not meet the UCC requirements to be a negotiable instrument.

In this day of electronics, it is this eNote that is transferred/assigned to a subsequent 3rd party, 4th party, or 5th party, on up to the securities market or Fannie and Freddie.

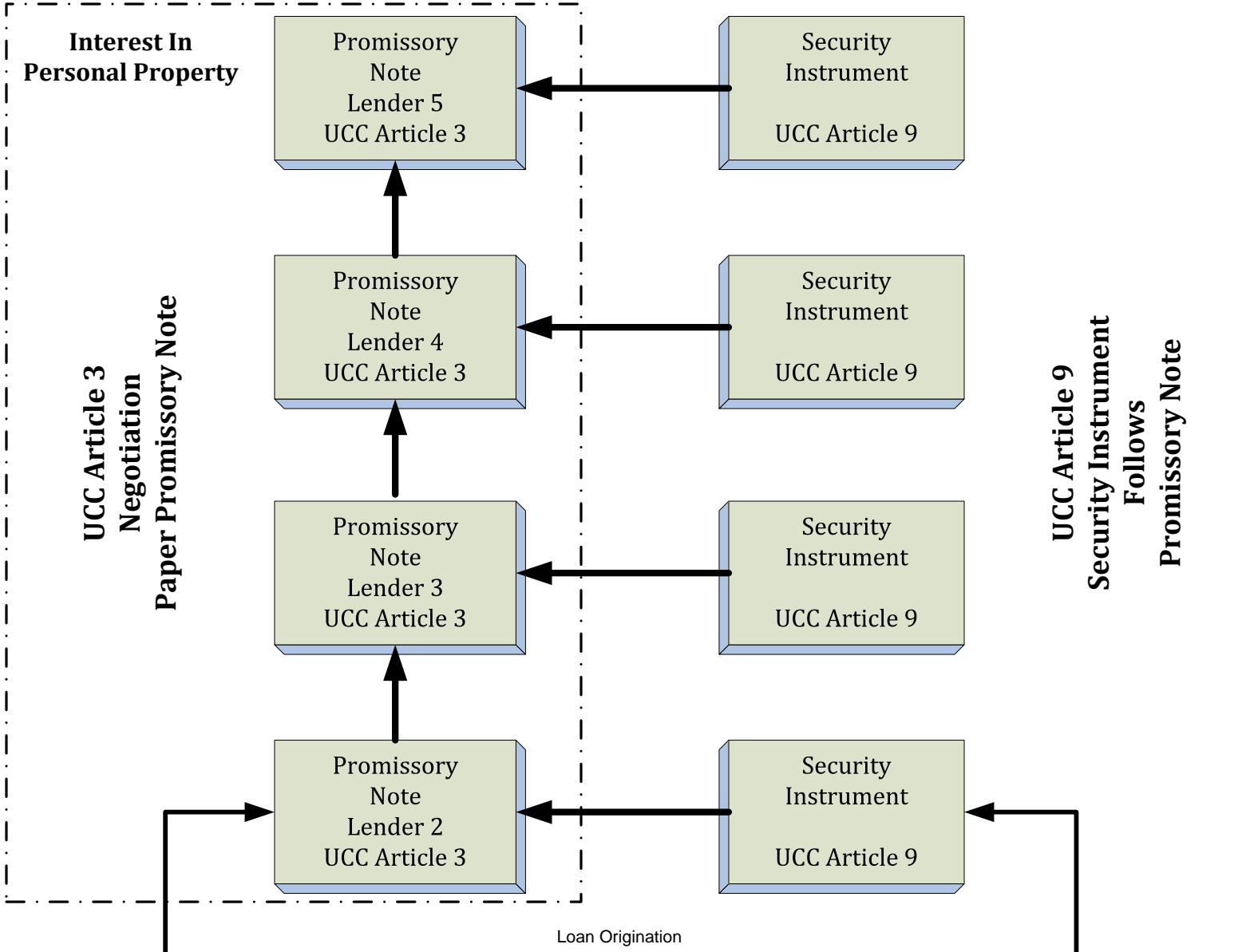
Note: the author did not state that the note was negotiated up to any party.

As these transfers/assignments are in electronic form there has been no negotiation of any note, “Paper or Electronic.” In fact, an eNote could never be negotiated under current laws and as such no party other than the originating lender could claim to be “Holder In Due Course.” For the subsequent 4th or 5th party to claim they have a valid Security Instrument to exercise the “Power of Sale Clause” is an absolute falsehood.

The legal counsels for the subsequent 4th or 5th parties then attempt to foreclose by filing fraudulent “Notices of Assignment” in Public Records showing “negotiation” of an eNote; eNotes lacks supporting laws. The fraudulent filings upon Public Records are the “Ball & Chain” that is misrepresented to provide the illusion that they have legal authority.

¹ <http://www.law.cornell.edu/ucc/9/article9.htm#s9-301>

Perfected Security Instrument Follows The Paper Negotiated Promissory Note



Interest In Real Property

U.C.C. – Article 9 - Secured Transactions;
Sales of Accounts and Chattel Paper
Part 1. Short Title, Applicability and Definitions

§ 9-104. Transactions Excluded From Article
This Article does not apply
(j) except to the extent that provision is made for fixtures in Section 9-313, to
the creation or transfer of an interest in or lien on real estate, including a
lease or rents thereunder - As amended in 1972

Paper Promissory Note
Lender 1
UCC Article 3

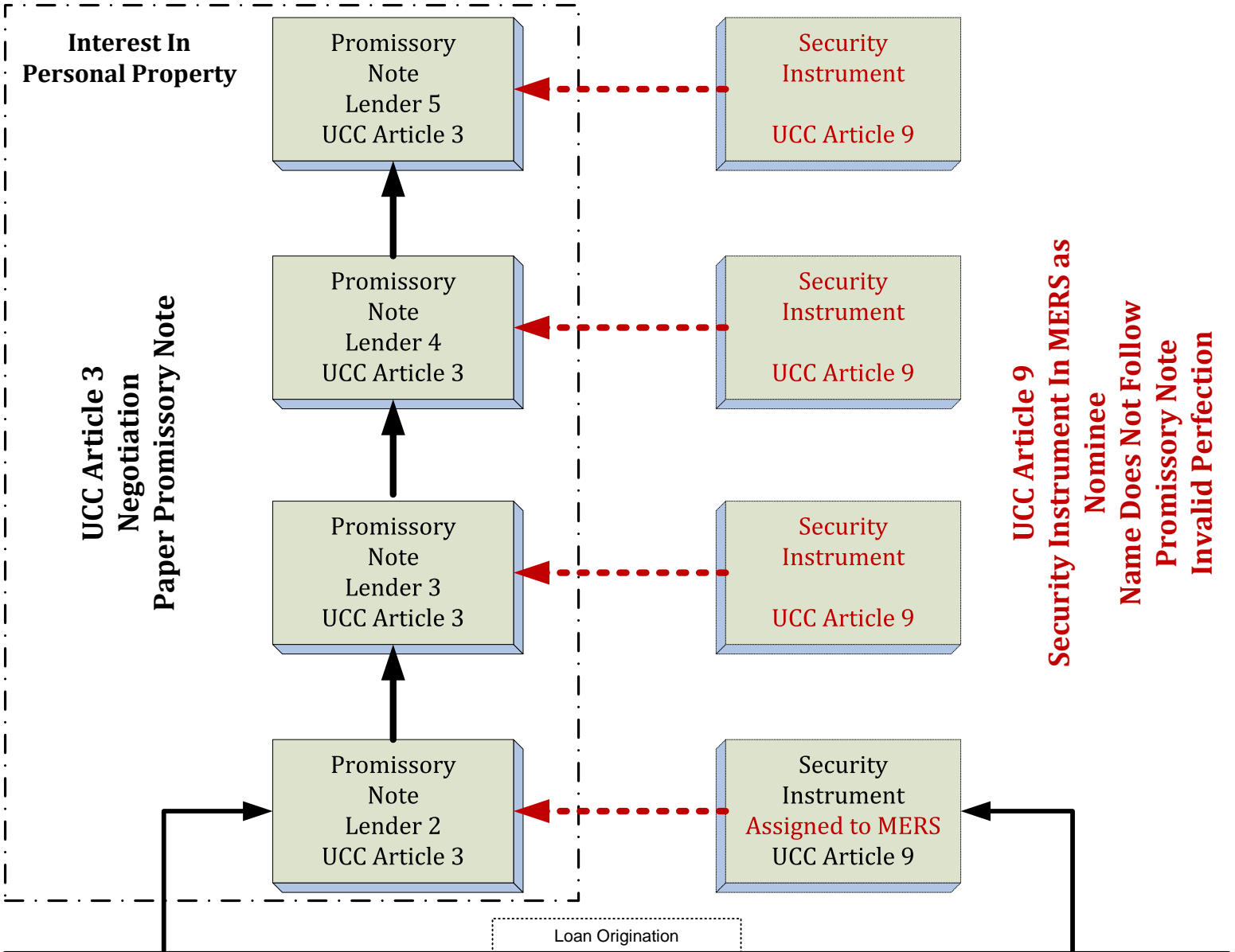
Security Instrument
Perfection
Lender 1
Laws of Local Jurisdiction

[Subpart 2. Applicability of Article] [Table of Contents]
§ 9-109. SCOPE.
(d) [Inapplicability of article.]
This article does not apply to:

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
(A) liens on real property in Sections 9-203 and 9-308;

§ 9-308. WHEN SECURITY INTEREST OR AGRICULTURAL LIEN IS PERFECTED; CONTINUITY OF PERFECTION.
(d) [Supporting obligation.]
Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

Assigned - Perfected Security Instrument Does Not Follow The Paper Negotiated Promissory Note



Interest In Real Property

U.C.C. – Article 9 -Secured Transactions;
Sales of Accounts and Chattel Paper
Part 1. Short Title, Applicability and Definitions

§ 9-104. Transactions Excluded From Article
This Article does not apply
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lease or rents thereunder - As amended in 1972

Paper Promissory Note
Lender 1
UCC Article 3

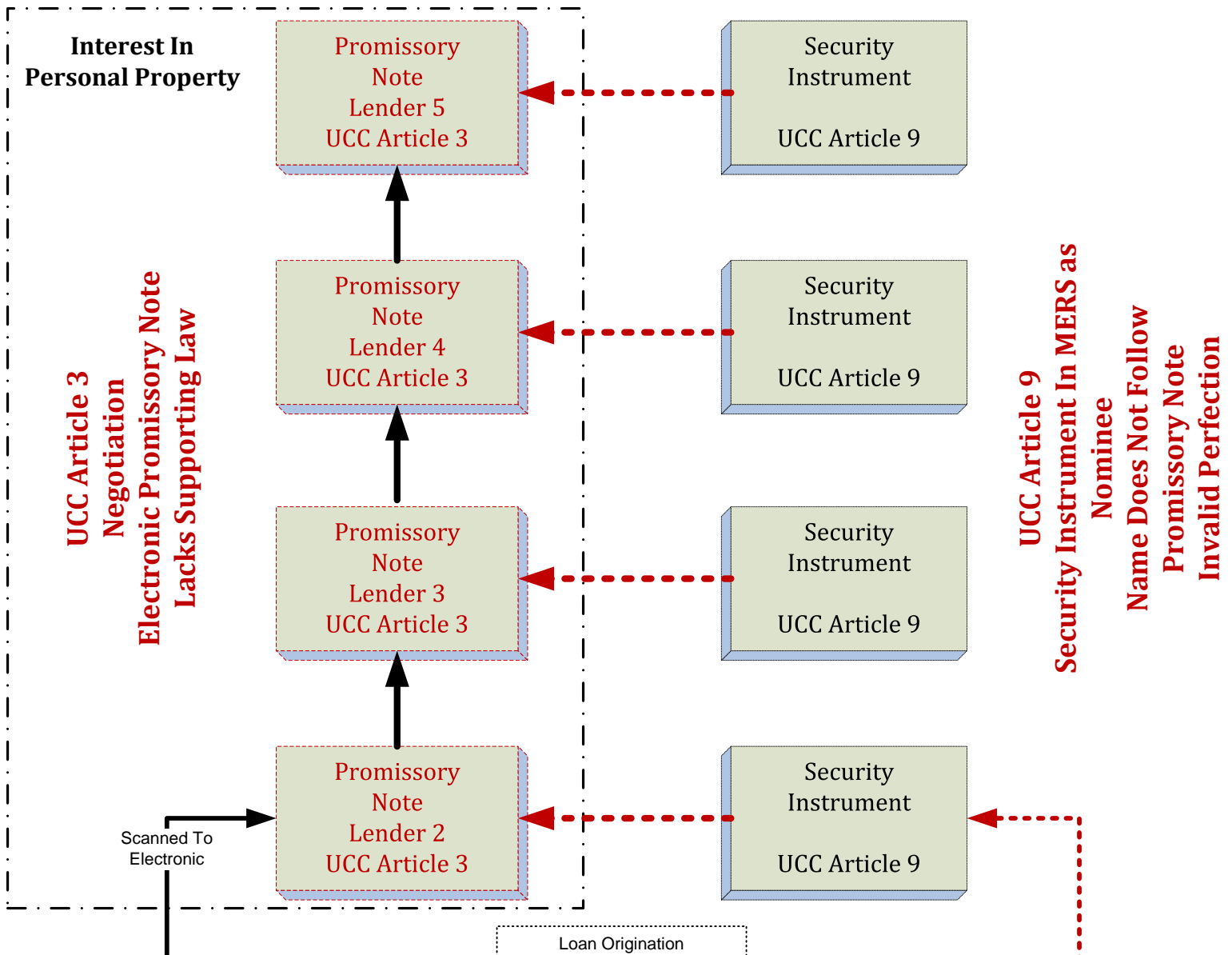
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Security Instrument
Non-Perfected
Lender 1
Laws of Local Jurisdiction

[Subpart 2. Applicability of Article] [Table of Contents]
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§ 9-308. WHEN SECURITY INTEREST OR AGRICULTURAL LIEN IS PERFECTED; CONTINUITY OF PERFECTION.
(d) [Supporting obligation.]
Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

Non-Perfected Security Instrument Does Not Follow The Electronic Negotiated Promissory Note



Interest In Real Property

U.C.C. – Article 9 -Secured Transactions;
Sales of Accounts and Chattel Paper

Part 1. Short Title, Applicability and Definitions

§ 9-104. Transactions Excluded From Article
This Article does not apply

(j) except to the extent that provision is made for fixtures in Section 9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder - As amended in 1972

Paper Promissory Note
Lender 1
UCC Article 3

←

Security Instrument
Non-Perfected
MERS
Laws of Local Jurisdiction

→

[Subpart 2. Applicability of Article] [Table of Contents]
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