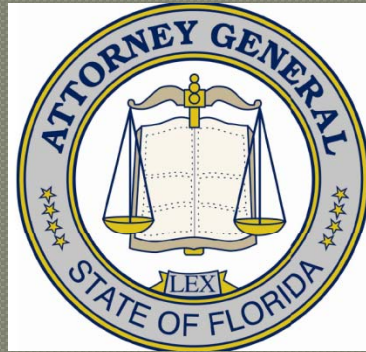


# Office of the Attorney General



Presentation to the Senate  
Banking and Insurance  
Committee  
January 11, 2011

# The Problem Today

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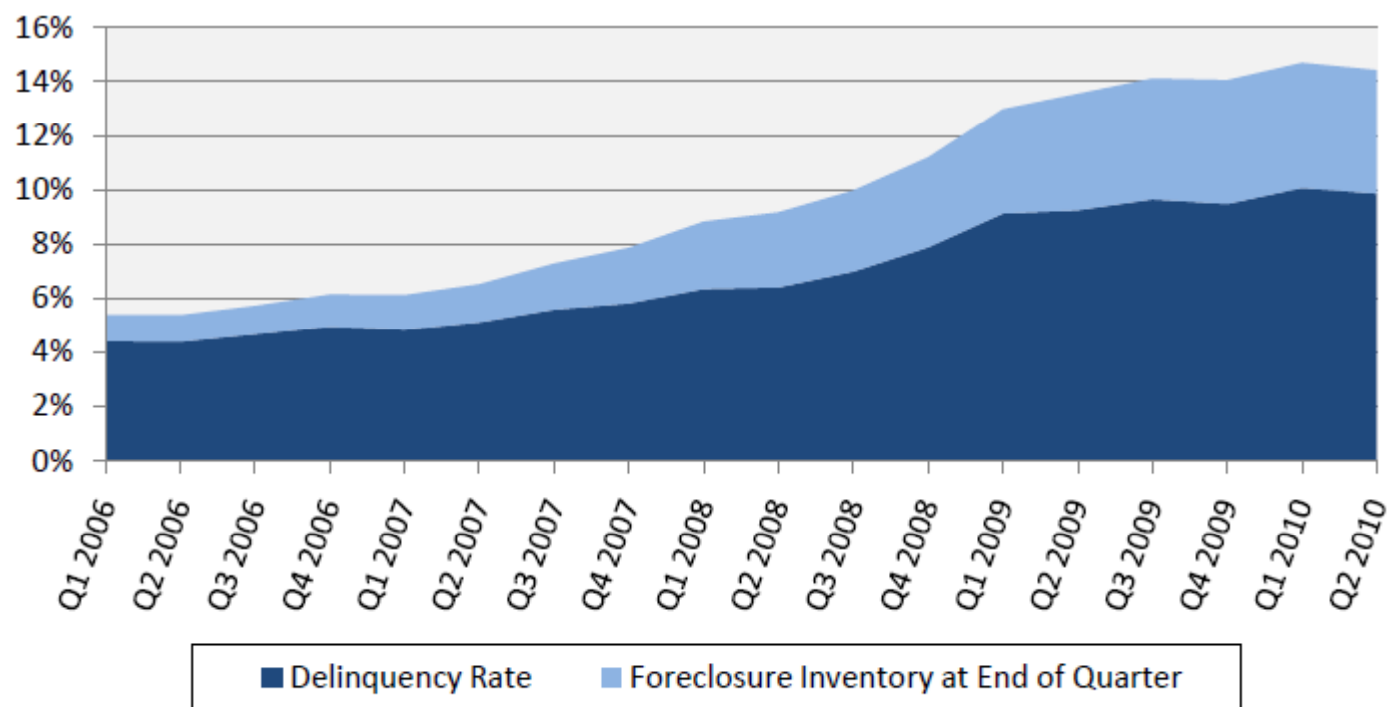
- Florida represents 50 percent of pending foreclosures in the 23 judicial foreclosure states.
- 55,000 of Bank of America's 106,000 pending foreclosures are in Florida.
- Roughly half of JP Morgan Chase's 55,000 pending foreclosures are pending in Florida.

- The Mortgage Bankers Assn announced in November that Florida leads the nation in the percentage of homeowners that are “seriously delinquent” on their mortgages, with 48% of the homeowners underwater on their loans.
- Just last month, a RealtyTrac survey found that, nationally, 48% of homeowners with a mortgage said a strategic default is an option they would consider if they owed more on their home than the house is worth. That is up from 41% in May.

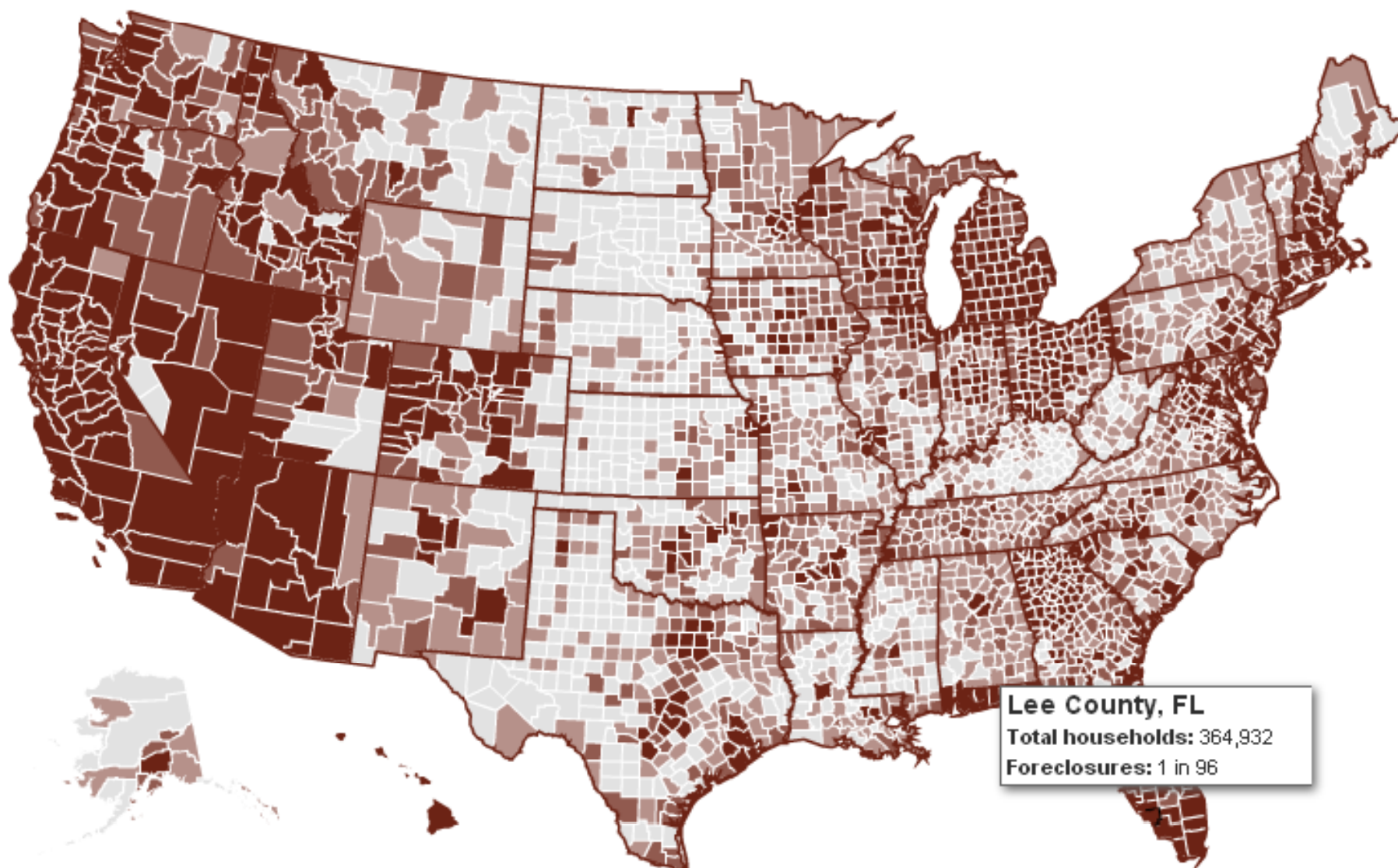
- 42% of South Florida homes were underwater during the 3<sup>rd</sup> Qtr of 2010 (Zillow), compared to 23% nationally during the same time frame.
- And, the homes going into foreclosure now are not the ones that were purchased with ARMs that the homeowner should never have been able to qualify for, but are the traditional fixed-rate mortgages that in the past were the conservative, less risky loans in the mortgage industry.

# Delinquency & Foreclosure Rates 2006-2010

**Figure 3: Delinquency and Foreclosure Rates (2006-2010)<sup>200</sup>**



■ Data not available ■ Low foreclosure rate ■ Moderate foreclosure rate ■ High foreclosure rate



Source: RealtyTrac Inc., U.S. Bureau of Labor  
Statistics, Nielsen Claritas October 2010

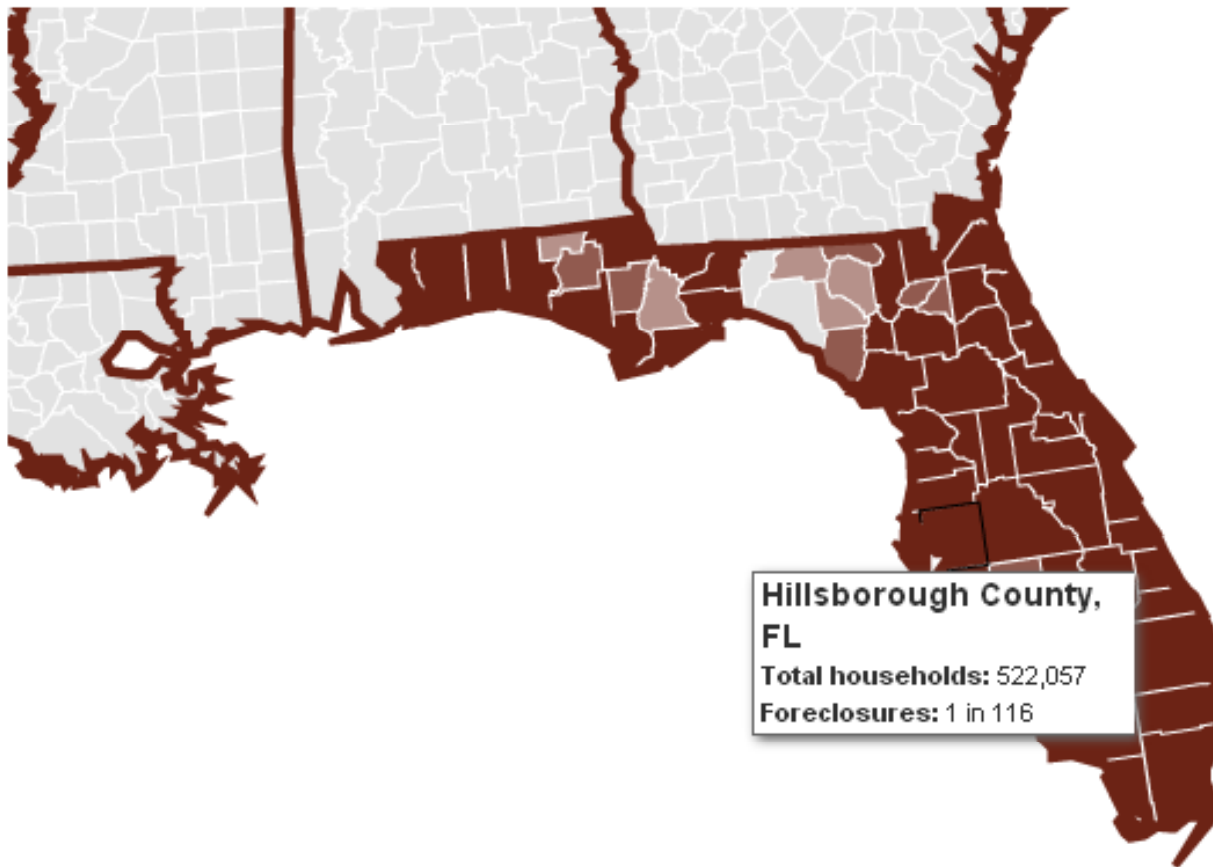


### Foreclosure Rates

### Unemployment Rates

### Median Household Income

■ Data not available ■ Low foreclosure rate ■ Moderate foreclosure rate ■ High foreclosure rate



Source: RealtyTrac Inc., U.S. Bureau of Labor Statistics,  
Nielsen Claritas October 2010

## Foreclosure Rates

## Unemployment Rates

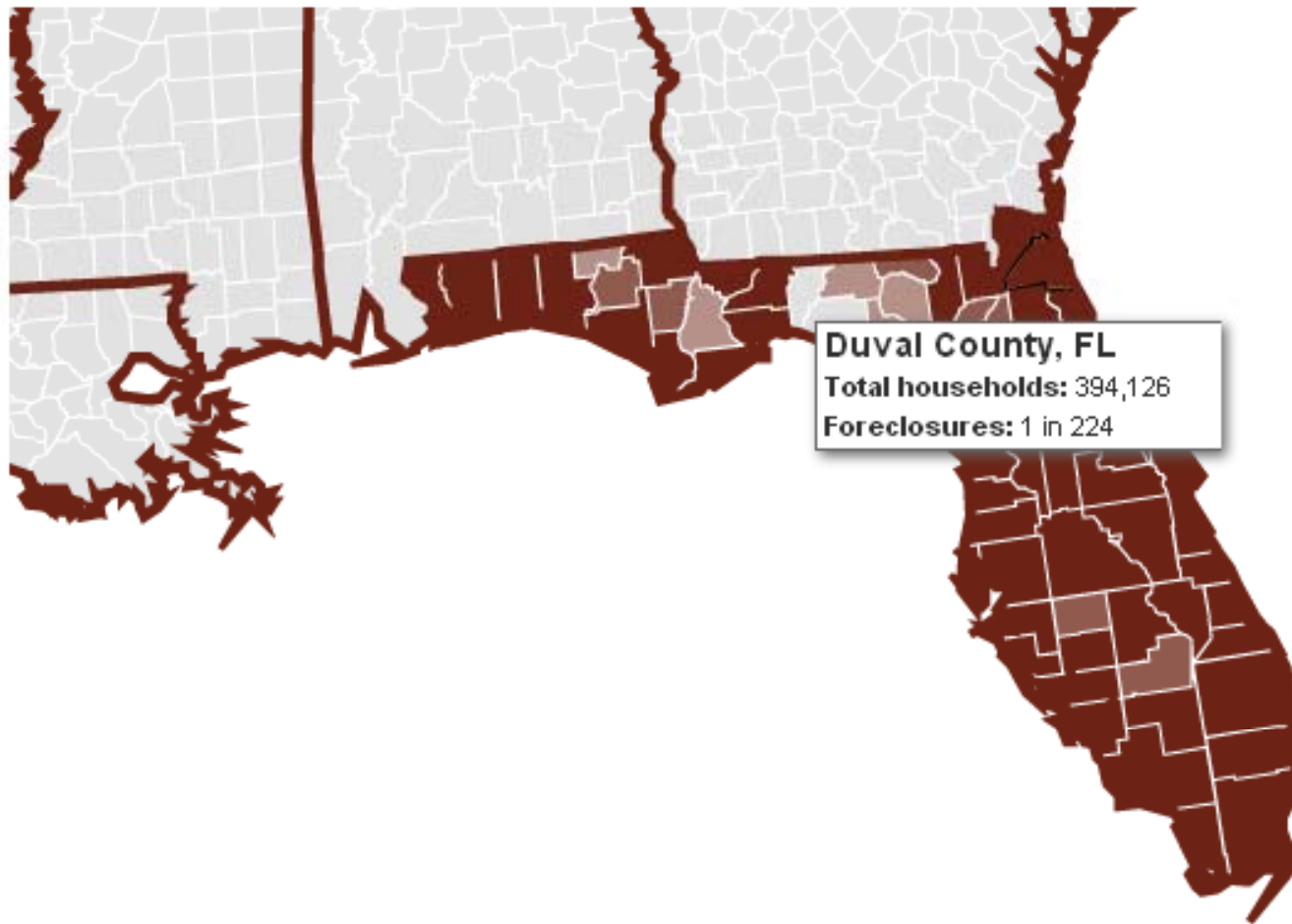
## Median Household Income

Data not available

Low foreclosure rate

Moderate foreclosure rate

High foreclosure rate



Source: RealtyTrac Inc., U.S. Bureau of Labor  
Statistics, Nielsen Claritas October 2010



- These troubling trends have been closely followed by our office. And, we have been working on several fronts.
- First, we have attempted to deal with issues arising from the massiveness of the foreclosure crisis itself, by pushing the banks to facilitate loan modifications and otherwise change their procedures to do more to assist distressed homeowners in avoiding foreclosure. That has been an ongoing effort of ours since 2008.

- Second, both independently and through the 50-state foreclosure working group, we are looking at the foreclosure process itself to determine ways to return integrity to the process and ensure proper chain of title. It is only when the credibility of the process is restored, that we can be sure that we are seeing the light at the end of the tunnel regarding this crisis

- Finally, since August of 2010, we have had a number of investigations open looking at the recent revelations regarding irregularities in the foreclosure process that have only exacerbated an already enormous problem. These investigations began with the robo-signing revelations last fall but have expanded into other apparent irregularities since.

# What to do?

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- With the record amounts of loans are in default. Florida needs to work its way through the backlog of defaulted loans to get the properties into the hands of purchasers that can afford them and care for them.
- That can be done through loan modification, foreclosure and resale or short sale.

## ● But:

- Modifications of loans are not incentivized by market factors, no matter what the servicers might say.
- Foreclosures, usually a relatively simple process, have become a virtual morass of faulty affidavits of indebtedness, faulty, late or non-existent assignments and court rulings that are not favorable to lenders.
- Foreclosure mills have added to this problem rather than being instrumental in solving it.
- Short sales, while desirable economically, get bogged down in bank decision making and investor inaction and may also have title problems if assignments are improper.

# Foreclosure Process in Total Disarray

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- We are finding as part of our investigation into foreclosure mills and ancillary businesses that:
  - Improperly executed affidavits of indebtedness have been filed in support of summary judgment.
  - Records of assignments of mortgages are hopelessly lost resulting in corrective assignments that are sometimes filed even after the foreclosure sale has occurred.
  - Initially some title companies were reluctant to issue title insurance on foreclosed properties and may be reluctant to do so again because of the following recent decision.



## U. S. Bank v. Ibanez - Massachusetts Supreme Court - January 7, 2011

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- Court found that U. S. Bank and Wells Fargo had not adequately proven they held the mortgage at the time of foreclosure.
- Assignments were not recorded, nor were there business records that were adequate to establish ownership of the note.
- Attempts to use securitization documents failed as they did not adequately describe the mortgages that were securitized.
- Bank stocks fell significantly on news of the decision.

# Assignment of Mortgage

## ASSIGNMENT OF MORTGAGE

SPACE FOR R

CFN 20080364085  
DP CR 26871 Pg 1747: (1pg)  
RECORDED 05/19/2009 12:08:00  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA  
LAST PAGE

FOR VALUE RECEIVED, on or before October 04, 2008, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED AS NOMINEE FOR LITTON LOAN SERVICING, LP, ("Assignor") whose address is 1818 Library Street, Suite 300, Reston, VA 20190 assigned, transferred and conveyed to: LITTON LOAN SERVICING LP, AS SERVICER FOR GSAA HOME EQUITY TRUST 2007-2, ("Assignee") whose address is 4828 Loop Central Drive, , Houston, TX 77081-2226, its successors and/or assigns all of the right title and interest of Assignor in and to that certain Mortgage (the "Mortgage") dated

**FOR VALUE RECEIVED, on or before October 04, 2008, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED AS NOMINEE FOR LITTON LOAN SERVICING, LP, ("Assignor") whose address is 1818 Library Street, Suite 300, Reston, VA 20190 assigned, transferred and conveyed to: LITTON LOAN SERVICING LP, AS SERVICER FOR GSAA HOME EQUITY TRUST 2007-2, ("Assignee") whose address is 4828 Loop Central Drive, , Houston, TX 77081-2226, its successors and/or**

Witness  
Typed Name Patricia Hutchens

Witness  
Typed Name Yamel A. Hernandez

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS INCORPORATED AS NOMINEE FOR  
LITTON LOAN SERVICING, LP  
By: Kim Litchfield  
Typed Name: Kim Litchfield  
Title: Certified Officer

# Corrective Assignment of Mortgage

CFN 2010R0010406  
OR BK 27141 Pg 1492; (1pg)  
RECORDED 01/07/2010 11:38:38  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA  
LAST PAGE

CFN 2  
OR BK 271  
RECORDE  
HARVEY  
MIAMI-D  
LAST PA

CORRECTIVE ASSIGNMENT OF MORTGAGE

SPACE FOR RUC

FOR VALUE RECEIVED, on or before October 04, 2008, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED AS NOMINEE FOR \*AXIOM FINANCIAL SERVICES, ("Assignor") whose address is

FOR VALUE RECEIVED, on or before October 04, 2008, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED AS NOMINEE FOR \*AXIOM FINANCIAL SERVICES, ("Assignor") whose address is

assigned, transferred and conveyed to: \*DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR GSAA HOME EQUITY TRUST 2007-2, ASSET-BACKED CERTIFICATES, SERIES 2007-2, ("Assignee") whose address is 4828 Loop Central Drive, , Houston, TX

Mattie Miller  
Witness  
Print Name MATTIE MILLER

Sandra Benavides  
Witness  
Print Name SANDRA BENAVIDES

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INCORPORATED AS NOMINEE FOR AXIOM FINANCIAL SERVICES

By: Denise Bailey

Print Name: Denise Bailey  
Title: Assistant Secretary

# Filing Lis Pendens Without Standing

IN THE CIRCUIT COURT OF THE ELEVENTH  
JUDICIAL CIRCUIT IN AND FOR DADE COUNTY, FLORIDA  
CIVIL ACTION

US BANK NATIONAL ASSOCIATION AS SUCCESSOR TRUSTEE  
TO WACHOVIA BANK, NA, AS TRUSTEE FOR WFASC 2005-  
AR13.

CFN 2008R0811447  
OR Bk 26596 Pg 3771; (1pg)  
RECORDED 10/03/2008 15:56:10  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA  
LAST PAGE

811447  
(1pg)  
10/03/2008 15:56:10  
CLERK OF COURT  
FLORIDA

## NOTICE OF LIS PENDENS

AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE  
DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES,  
HEIRS, DEVISEES, GRANTEES, OR OTHER CLAIMANTS; WELLS FARGO BANK, NA; THE  
GRANDVIEW PALACE CONDOMINIUM ASSOCIATION, INC.; TENANT #1, TENANT #2, TENANT  
#3, and TENANT #4 the names being fictitious to account for parties in possession  
Defendant(s).

### NOTICE OF LIS PENDENS

To the above-named Defendant(s) and all others whom it may concern:

You are notified of the institution of this action by the above-named Plaintiff, against you seeking to foreclose a  
mortgage recorded in Official Records Book 23278, Page 3642, on the following property in DADE County, Florida:  
UNIT NO. 407, THE GRANDVIEW PALACE CONDOMINIUM, ACCORDING TO THE  
DECLARATION OF CONDOMINIUM THEREOF, AS RECORDED IN OFFICIAL RECORDS  
BOOK 21423, PAGE 3980, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA,  
TOGETHER WITH ANY AND ALL AMENDMENTS TO THE DECLARATION AND ANY  
UNDIVIDED INTEREST IN THE COMMON ELEMENTS OR APPURTENANCES THERETO.

Dated this 23<sup>rd</sup> day of September, 2008.

Florida Default Law Group, P.L.  
P.O. Box 25018  
Tampa, Florida 33622-5018  
(813) 251-4766

# Assignments *After* Lis Pendens

## ASSIGNMENT OF MORTGAGE

WACHOVIA BANK, NA, AS TRUSTEE FOR WFASC 21  
Stateview Boulevard, MAC #X7801-013, Fort Mill, SC 29715, I  
and interest of Assignor in and to that certain Mortgage (the "Mo  
15, 2005 In Official Records Book 23278 at Page 3642 of  
encumbering the following-described real property:

UNIT NO. 407, THE GRANDVIEW PALACE CONDOMINIUM, ACCORDING TO THE  
DECLARATION OF CONDOMINIUM THEREOF, AS RECORDED IN OFFICIAL  
RECORDS BOOK 21423, PAGE 3986, OF THE PUBLIC RECORDS OF MIAMI-DADE  
COUNTY, FLORIDA, TOGETHER WITH ANY AND ALL AMENDMENTS TO THE  
DECLARATION AND ANY UNDIVIDED INTEREST IN THE COMMON ELEMENTS  
OR APPURTENANCES THERETO.

as the same may have been amended from time to time; together with the Note and indebtedness secured thereby.

MORTGAGOR(S): ROBERT PRINE, and INES PRINE

IN WITNESS WHEREOF, Assignor has executed and delivered this Instrument on  
October 13, 2008.

Witness  
Typed Name Patricia Hutchens

Witness  
Typed Name Yamel A. Hernandez

WELLS FARGO BANK, NA

By: [Signature]

Typed Name: Ron Wolfe  
Title: Attorney-in-Fact  
9119 Corporate Lake Drive, Suite 300  
Tampa, FL 33634

CFN 2008R0954129  
DR BK 26663 Ps 27291 (1ps)  
RECORDED 11/25/2008 10:14:35  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA  
LAST PAGE

# Impossible Notaries- Stamps are only good for *four years* in Florida

- IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN AND FOR PASCO COUNTY, STATE OF FLORIDA
- U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, ET AL
- Plaintiff, vs. CASE NO. SI-2007-CA-6684ES ERNEST E. HARPSTER
- Defendant.
- -----~...~-
- **AMENDED ORDER GRANTING MOTION TO COMPEL, GRANTING**
- **MOTION IN LIMINE AND GRANTING MOTION FOR REHEARING**
- 8) Confirming this, the Notary Bonding Company's representative, Erika Espinoza, stated in a sworn affidavit that the Notary Stamp used by Terry Rice, the Notary, did not exist on the purported date is was notarized. Specifically, Espinoza testified in her affidavit that the notary stamp didn't come into existence until sometime in April 2008. five months after the date on the Assignment.
- 11) The court specifically finds that the purported Assignment did not exist at the time of filing of this action; that the purported Assignment was subsequently created and the execution date and notarial date were fraudulently backdated, in a purposeful, intentional effort to mislead the Defendant and this Court. The Court rejects the Assignment and finds that is not entitled to introduction in evidence for any purpose. The Court finds that the Plaintiff does not have standing to bring its action.



# What Can Be Done?

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- Restore integrity to the judicial system by making servicers get paperwork right before filing for foreclosure.
- Lenders and investors should incentivize the modification of mortgages rather than foreclosure.
- Streamline short sale procedures.
- Lenders and investors should indemnify title insurance issuers for faulty assignments or other faulty paperwork.