

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DEUTSCHE BANK NATIONAL TRUST	)	
COMPANY AND HOMEQ SERVICING,	)	
Plaintiffs,	)	
	)	
vs.	)	CA No. 08-11141-NMG
	)	
JONATHAN BARRY AND	)	
JAMIE FLACK BARRY,	)	
Defendants.	)	

BEFORE: THE HONORABLE NATHANIEL M. GORTON

EXCERPT OF DAY TWO OF JURY TRIAL  
TESTIMONY OF RONALDO REYES

John Joseph Moakley United States Courthouse  
Courtroom No. 4  
One Courthouse Way  
Boston, MA 02210  
Wednesday, January 20, 2010

Cheryl Dahlstrom, RMR, CRR  
Official Court Reporter  
John Joseph Moakley United States Courthouse  
One Courthouse Way, Room 3209  
Boston, MA 02210  
Mechanical Steno - Transcript by Computer

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

DOONAN, GRAVES & LONGORIA, LLC  
By: Reneau J. Longoria, Esq., and  
Erin Powers Severini, Esq.  
100 Cummings Center  
Beverly, Massachusetts 01915  
On behalf of the Plaintiffs.

LAW OFFICE OF GLENN F. RUSSELL JR.  
By: Glenn F. Russell, Jr., Esq.  
38 Rock Street  
Fall River, Massachusetts 02720  
- and -

CUTLER AND ASSOCIATES  
By: Timothy K. Cutler, Esq.  
77 Franklin Street  
Boston, Massachusetts 02110  
On behalf of the Defendants.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

<u>Testimony of:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
RONALDO REYES				
by Ms. Severini	4			
by Mr. Cutler		47		

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>In Evd.</u>
24	Pooling and Servicing Agreement.....	8
25	Prospectus Supplement.....	16
26	Initial Certification of Custodian.....	19
27	Original mortgage file for first mortgage .....	27
28	Original mortgage file for second mortgage .....	29
29	Original note for first mortgage, redacted .....	33
30	Original note for second mortgage, redacted .....	34
31	Mortgage Loan Purchase Agreement between Sutton and WMC .....	36
32	Bill of Sale.....	39
33	Cross-Receipt.....	40
34	Certificate of Incumbency.....	44
35	Flowchart of securitization process.....	45

1 (EXCERPT AS FOLLOWS:

2 MS. SEVERINI: We would next call Ronaldo Reyes.

3 RONALDO REYES, Sworn

4 MS. SEVERINI: Your Honor, may I approach the witness  
5 with the exhibits?

6 THE COURT: Yes.

7 THE CLERK: Please state your name for the record,  
8 spelling your last.

9 THE WITNESS: Ronaldo Reyes, R-e-y-e-s.

10 DIRECT EXAMINATION BY MS. SEVERINI:

11 Q. Good morning, Mr. Reyes. Can you tell us what you do for  
12 a living?

13 A. Yes. I work for Deutsche Bank National Trust Company.

14 Q. What position do you hold there?

15 A. I am a vice president.

16 Q. And the business address of Deutsche Bank National Trust  
17 Company?

18 A. The address is 1761 East St. Andrew Place, Santa Ana,  
19 California 92705.

20 Q. As the vice president at Deutsche Bank National Trust  
21 Company, are you an officer?

22 A. Yes. I'm a bank officer.

23 Q. How long have you been in that current position?

24 A. I have been a vice president since December, 2005.

25 Q. What position did you hold prior to becoming a vice

1 president?

2 A. I was an assistant vice president.

3 Q. How long were you an assistant vice president?

4 A. I was an assistant vice president since 2003.

5 Q. And prior to that, what did you do?

6 A. I held the first-level officer position at Deutsche Bank,  
7 which is known as an associate.

8 Q. So how long have you been working at Deutsche Bank in  
9 total?

10 A. I've been working at Deutsche Bank for 11 years.

11 Q. Can you give us a brief summary of your educational  
12 background?

13 A. I have a bachelor of arts degree in economics from UCLA.

14 Q. In general, how long have you been working in the  
15 mortgage-backed securities industry?

16 A. For approximately 14 years.

17 Q. So 11 of those years you've been with Deutsche Bank and  
18 approximately three prior to that?

19 A. Yes.

20 Q. What are your duties and responsibilities at Deutsche  
21 Bank?

22 A. I manage a team of employees, and we ensure that we, as  
23 trustee, make payments to certificate holders or bondholders.

24 Q. So you're involved in the mortgage-backed securities  
25 business at Deutsche Bank?

1 A. Yes.

2 Q. And so as a vice president at Deutsche Bank, do you have  
3 personal knowledge as to the procedures and systems in place  
4 for the storage of records, particularly securitization  
5 records, that are stored by Deutsche Bank in the ordinary  
6 course of business?

7 A. Yes.

8 Q. Can you just give a general explanation of securitization  
9 with respect to mortgages, residential mortgages?

10 A. Yes. A securitization is a financial transaction. A  
11 company purchases many loans from a loan originator. Those  
12 loans are commonly in the industry referred to as a pool of  
13 mortgages. The company that buys the pool of mortgages then  
14 sells the mortgages to a trust.

15 As borrowers make their monthly payments on their  
16 note, the monthly remittance by the borrowers is received by a  
17 servicer. The servicer then remits those collections to the  
18 trust.

19 On a monthly basis, the trust then remits those  
20 collections to the certificate holders or bondholders. Thus,  
21 the loans are securitized, meaning that the loans back the  
22 certificates or bonds that were issued by the trust.

23 Q. And the trust isn't -- you know, isn't a person. So who  
24 actually handles the disbursement of these funds on behalf of  
25 the trust?

1 A. Deutsche Bank National Trust Company, as trustee, acts on  
2 behalf of the investors or bondholders.

3 Q. Turning your attention to this case, what is Deutsche  
4 Bank's role in that connection?

5 A. Deutsche Bank acts as trustee for Securitized Asset Backed  
6 Receivables LLC Trust 2006-WM3.

7 Q. I'd like to direct your attention to Exhibit No. 24. Can  
8 you tell me, do you recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. This document is a Pooling and Servicing Agreement.

12 Q. And is it a true and correct copy of the document it  
13 represents?

14 A. Yes.

15 Q. Is Deutsche Bank a party to this document?

16 A. Yes. Deutsche Bank National Trust Company is a party to  
17 this agreement.

18 Q. And as a party, did Deutsche Bank sign this agreement?

19 A. Yes.

20 Q. Now, is this document kept in the regular course of  
21 Deutsche Bank's business?

22 A. Yes.

23 MS. SEVERINI: Your Honor, I'd like to admit this  
24 document.

25 THE COURT: You're offering it for admission?

1 MS. SEVERINI: I am.

2 THE COURT: It will be admitted as Exhibit 24.

3 (Exhibit No. 24 received into evidence.)

4 Q. Sir, can you tell me the significance of this document?

5 A. Yes. One point of significance of this document is that  
6 in Section 2 of this agreement it discusses the conveyance of  
7 mortgage loans from the depositor entity, Securitized Asset  
8 Backed Receivables LLC, to the trustee.

9 Q. Now, is this -- is this a contract between the parties to  
10 this agreement?

11 A. Yes, this is a contract.

12 Q. What is the date of this contract?

13 A. This agreement is dated as of November 1, 2006.

14 Q. Can you tell me who all the parties are to this agreement?

15 A. Yes. Securitized Asset Backed Receivables LLC is the  
16 depositor. HomEq Servicing is the servicer. WMC Mortgage  
17 Corp. is the responsible party. Deutsche Bank National Trust  
18 Company is the trustee. And Wells Fargo Bank National  
19 Association is the custodian.

20 Q. Okay. Let's start with WMC Mortgage Corp. What does it  
21 mean, "the responsible party"?

22 A. WMC Mortgage Corp., as responsible party, is the lender of  
23 the loans in this trust, and WMC Mortgage Corp. makes certain  
24 representations and warranties with respect to the mortgage  
25 loans in this trust.

1 Q. Okay. The depositor?

2 A. The depositor is the entity that purchased the mortgage  
3 loans and then conveyed all right, title and interest in the  
4 mortgage loans to the trustee.

5 Q. And as you previously testified, the trustee is Deutsche  
6 Bank --

7 A. Yes.

8 Q. -- National Trust Company?

9 And then, finally -- actually, two more. The  
10 custodian, Wells Fargo, what is their role in this agreement?

11 A. As custodian, Wells Fargo had the responsibility to  
12 review, pursuant to Section 2 of this agreement, each mortgage  
13 file to ensure that it complied with the terms of this  
14 agreement.

15 Q. Is that their only responsibility with regard to this?

16 A. They also hold the mortgage files in -- of this pool as  
17 custodian. They are the custodian of the mortgage loans.

18 Q. Do they hold the originals, the original documents  
19 representing the loans?

20 A. Yes.

21 Q. And then, finally, the servicing, HomEq Servicing, what is  
22 their role in this?

23 A. HomEq Servicing is responsible for collecting the monthly  
24 mortgage payments from the borrowers.

25 Q. Now, as trustee, does Deutsche Bank receive any type of

1 fee for its role?

2 A. Yes. There is a defined trustee fee rate in this  
3 agreement.

4 Q. Okay.

5 A. It is .002 percent. What it means is you basically  
6 multiply that number times the balance of the mortgage loans on  
7 a monthly basis and divide it by 12. It can -- it is -- it's  
8 ranged from several thousand dollars to -- I believe currently  
9 it's about \$1,000 a month now.

10 Q. So as trustee, Deutsche Bank's role is more  
11 administrative, overseeing the trust and maximizing the trust  
12 benefit?

13 A. Yes. We are trustee of the trust, and we represent the  
14 interests of the certificate holders or bondholders.

15 Q. So you had mentioned Section 2.0. I'd like to direct your  
16 attention to Tab A. Can you just tell me what this section  
17 represents and what it's about?

18 A. Yes. This section is the conveyance of mortgage loans,  
19 representations and warranties. In this section, with the  
20 execution of this document, the depositor transferred all of  
21 its rights, title and interest in the mortgage loans to the  
22 trustee.

23 Q. Now, did the depositor retain any interest in the loans as  
24 part of this transfer?

25 A. No.

1 Q. I'm sorry. Can you repeat your answer?

2 A. No, the depositor does not retain any interest.

3 Q. Okay. It says "mortgage loans." What does that mean?

4 A. The mortgage loans, what it's referring to is outlined in  
5 this section. The mortgage loans refers to the original  
6 mortgage note, the mortgage itself, any assignments of  
7 mortgage, and the title policy.

8 Q. So when does this transfer take place from the depositor  
9 to the trustee?

10 A. According to this agreement, it's on the closing date,  
11 which is defined in the agreement as December 1, 2006.

12 Q. All of the documentation that supports each of the  
13 mortgage loans that are transferred into the trust, what  
14 happens to those original documents?

15 A. Wells Fargo, as custodian, has to review each of those  
16 documents, and it provides the parties to this transaction and  
17 initial certification. Wells Fargo certifies that it has  
18 received all of the necessary documents, and if it has not  
19 received certain documents, it notes which documents it has not  
20 received.

21 Q. So according to Article 2 -- Section 2.01, what documents  
22 need to be transferred over?

23 A. The original mortgage note, pay to the order of, blank,  
24 without recourse; the original mortgage; the original  
25 assignment of mortgage for each mortgage loan endorsed in blank

1 except with respect to MERS-designated loans.

2 Q. What does that mean, "MERS-designated loans"?

3 A. A MERS-designated loan -- MERS stands for Mortgage  
4 Electronic Registration Systems. MERS is a vendor that acts as  
5 a nominee holder for the beneficial owner. MERS facilitates  
6 the electronic transfer of mortgages.

7 Q. Turning your attention to Tab B of Exhibit 24, can you  
8 tell me what this is?

9 A. This is the mortgage loan schedule.

10 Q. So what would it show?

11 A. The mortgage loan schedule represents all of the loans  
12 that the depositor conveys to the trustee.

13 Q. Now, are the Barry loans included in this?

14 A. Yes.

15 Q. How can you -- how do you know this?

16 A. Because their loans are listed in the mortgage loan  
17 schedule and the column "seller loan number." The loan numbers  
18 there match the loan numbers that are on both notes, both  
19 promissory notes.

20 Q. So this indicates that the loans were transferred into the  
21 pool that Deutsche Bank is now the trustee of -- excuse me,  
22 transfer into the trust that Deutsche Bank is the trustee of?

23 A. Yes. These loans are an asset of the trust.

24 Q. Now, I just wanted to go back to the Pooling and Service  
25 Agreement in general. Who are the beneficiaries under this

1 trust?

2 A. The beneficiary -- the beneficiaries are the investors, or  
3 they're referred to in the agreement as the certificate  
4 holders. Think of them as bondholders.

5 Q. Can you give me an example, in general, the typical  
6 certificate holder that might be --

7 A. Yes. Certificate holders of mortgage-backed securities  
8 are institutional investors; for example, investment banks,  
9 mutual funds, pension funds are some examples.

10 Q. Now, the borrowers for each of these mortgage loans, are  
11 they a party to this agreement?

12 A. No.

13 Q. They're not a beneficiary in any way?

14 A. No.

15 Q. So what happens when a borrower stops making payments to  
16 their servicer and the loans in the trust and the property goes  
17 into foreclosure?

18 A. Under Section 3 of this agreement, it deals with the  
19 duties of HomeEq as servicer. HomeEq, as servicer, has the  
20 responsibility, in the event a borrower does not make payment,  
21 to initiate foreclosure proceedings on behalf of the trust.

22 Q. So how does a borrower's nonpayment and foreclosure  
23 proceedings affect the certificate holders?

24 A. Initially, there is not an effect to certificate holders  
25 or bondholders because one of the terms of this agreement is

1 that the servicer has to advance to the trust the monthly  
2 principal and interest payment that would have been due from  
3 the borrower.

4 Q. So even if the borrower doesn't make the payment, the  
5 servicer is on the hook to have to make the payment to the  
6 trust?

7 A. Yes.

8 Q. The servicer is responsible for that?

9 A. Yes.

10 Q. So you said, initially, certificate holders, there is no  
11 real loss to them. What about long term?

12 A. Long term, if the borrower does not become current and the  
13 foreclosure sale occurs, the property is then marketed by the  
14 servicer. The servicer sells the property in the open market.

15 Q. When a property is sold that way, do the certificate  
16 holders take a loss? How does that work?

17 A. In many cases, when what's commonly referred to as --  
18 after foreclosure, a property is then an REO property, meaning  
19 that it is now real estate owned. Typically, currently, with  
20 current market conditions, yes, a loss is taken by the trust.

21 Q. Now, is the Pooling and Servicing Agreement the binding  
22 contract setting forth the terms of the transfer of the  
23 mortgage loans into the trust?

24 A. Yes.

25 Q. Now, what about the Prospectus Supplement, what is that?

1 A. The Prospectus Supplement is the offering document offered  
2 by the underwriter to potential investors.

3 Q. Now, is the underwriter an investment bank? Is that  
4 usually how it works?

5 A. The underwriter in this transaction is Barclays Capital,  
6 Inc.

7 Q. Okay. I'd like to direct your attention to Exhibit No.  
8 25. Do you recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. This document is the Prospectus Supplement.

12 Q. Is it a true and correct copy of the document it  
13 represents?

14 A. Yes.

15 Q. Now, is this document filed? Is it a public document?

16 A. This document is a public document.

17 Q. Where is it filed?

18 A. With the SEC.

19 Q. What does that stand for?

20 A. The Securities and Exchange Commission.

21 Q. Is this document kept in the regular, ordinary course of  
22 Deutsche Bank's business?

23 A. Yes.

24 Q. And is it regularly made as part of this type of  
25 transaction?

1 A. Yes.

2 MS. SEVERINI: Your Honor, I'd move to admit this  
3 exhibit.

4 THE COURT: It will be admitted as Exhibit 25.  
5 (Exhibit No. 25 received into evidence.)

6 Q. So can you tell me the significance of this document?

7 A. Yes. This document is the offering document to potential  
8 investors. It provides investors an overview of the  
9 transaction.

10 Q. So like an advertisement?

11 MR. CUTLER: Objection.

12 THE COURT: Grounds?

13 MR. CUTLER: Leading.

14 THE COURT: Sustained.

15 Q. When you say "overview," what do you mean?

16 A. It describes to investors the characteristics of the loans  
17 that are backing these certificates or bonds, and it describes  
18 the characteristics of the certificates or bonds that are for  
19 sale.

20 Q. Is it a legal contract?

21 A. No.

22 Q. I'd like to direct your attention to Exhibit No. 26. Do  
23 you recognize this document?

24 A. Yes. This is the Initial Certification of Custodian.

25 Q. Is it a true and correct copy of the document it

1 represents?

2 A. Yes.

3 Q. How do you recognize this document?

4 A. We maintain this document, and this document was required  
5 to be issued by Wells Fargo on the closing date of this  
6 transaction.

7 Q. I see that Deutsche Bank is an addressee on this document.  
8 So when did Deutsche Bank receive this document?

9 A. On the closing date, December 1, 2006.

10 Q. Is this document kept in the regular course of Deutsche  
11 Bank's business?

12 A. Yes.

13 MS. SEVERINI: Your Honor, I move to admit Exhibit No.  
14 26.

15 MR. CUTLER: Objection, your Honor. This is hearsay.  
16 It hasn't been authenticated.

17 THE COURT: Who is it from?

18 MR. CUTLER: It's from Wells Fargo.

19 THE COURT: And it's addressed to Deutsche Bank. On  
20 foundation grounds, the objection is sustained, Miss Severini,  
21 but you may continue to inquire.

22 Q. So you stated you -- Deutsche Bank received this document?

23 A. Yes.

24 Q. Can you again restate when it received it?

25 A. Yes. Under the Pooling and Servicing Agreement, an

1 initial certification is required from the custodian on the  
2 closing date.

3 Q. Okay.

4 A. We received this initial certification on the closing  
5 date.

6 Q. Okay. Now, turn to Page -- it's 143.

7 THE COURT: It has not been admitted yet, Miss  
8 Severini.

9 MS. SEVERINI: Excuse me. I was going to ask him if  
10 he recognized a signature.

11 THE COURT: Okay.

12 Q. You said it was sent by Wells Fargo. Do you recognize  
13 Patrick Gorrien?

14 A. Yes. I recognize the signature of Patrick Gorrien.

15 Q. Is this document in connection with security transactions  
16 and, in particular, this one?

17 A. Yes. This document is a typical document required on the  
18 closing date of a securitization.

19 Q. Is it retained by Deutsche Bank in their records?

20 A. Yes.

21 Q. And is it reviewed by Deutsche Bank?

22 A. Yes.

23 MS. SEVERINI: Your Honor, I move to admit this into  
24 evidence.

25 MR. CUTLER: Your Honor, same objection.

1           THE COURT: It will be admitted over the defendants'  
2 objection and marked as Exhibit 26.

3 (Exhibit No. 26 received into evidence.)

4           THE COURT: This is where we're going to break for  
5 lunch, so you may step down for the time being, Mr. Reyes.

6           We're going to be in recess for one hour, till 2:00,  
7 jurors.

8           This is the first time now that you have been  
9 constituted as a jury. You haven't had an extended break. If  
10 you see anybody involved in this case in the cafeteria or  
11 strolling around the courthouse, you are instructed not to talk  
12 to them, and they, of course, the attorneys and anybody else  
13 associated with the case, are instructed not to talk to you.

14           They are not being impolite if they walk by you  
15 without talking to you. That would be entirely inappropriate  
16 for you to have even a casual conversation with anybody  
17 associated with this case. So keep that in mind. It's the  
18 appearances as well as the substance of these matters that are  
19 important.

20           Again, please don't talk about this matter with one  
21 another. The reasons for that are, as I've explained before,  
22 you are to wait until you hear all of the evidence and then  
23 have a discussion with one another, which we call jury  
24 deliberations. But it would be inappropriate for you to start  
25 deliberating about this case before then.

1           And if you see any members of your family or friends  
2 over lunch, talk about anything else, but don't talk about this  
3 case. Get to know one another. Talk about anything else you  
4 want to but not about this case until the end after you've  
5 heard all of my instructions on the law. So I'll see you back  
6 here at 2:00, 2:00 this afternoon.

7 (The jury left the room at 1:00 p.m.)

8           THE COURT: You may step down, Mr. Reyes. Please be  
9 seated, counsel.

10           Approximately how much longer on direct examination,  
11 Miss Severini?

12           MS. SEVERINI: Maybe an hour.

13           THE COURT: An hour?

14           MS. SEVERINI: Forty-five. An hour is --

15           THE COURT: And cross-examination, approximate?

16           MR. CUTLER: An hour, maybe a tad over, maybe an hour  
17 and fifteen minutes.

18           THE COURT: So we're not going to get through with Mr.  
19 Reyes today. That's fair to say, I would think?

20           MR. CUTLER: Probably, yes, you're correct, your  
21 Honor.

22           THE COURT: And then tomorrow -- we can get into that  
23 at 3 or 3:30 when we break. But just roughly, what are the --  
24 what further witnesses will the plaintiffs be calling tomorrow?

25           MS. LONGORIA: Mr. Perry. And I would estimate his

1 examination to be a little shorter than Mr. Reyes', probably  
2 around three hours between the two of us.

3 THE COURT: By "three hours," you mean --

4 MS. LONGORIA: An hour and a half for myself and an  
5 hour and a half for counsel, total.

6 THE COURT: That's going to be shorter than Reyes?

7 MS. LONGORIA: Perhaps that's not a good estimate. I  
8 can conclude my examination in an hour.

9 THE COURT: Okay. And then after Mr. Perry?

10 MS. LONGORIA: And then after Mr. Perry is Mr. and  
11 Mrs. Barry. Mrs. Barry, half an hour; Mr. Barry, it all  
12 depends on the documents and what I have.

13 THE COURT: Understand. Then that would be the  
14 conclusion of plaintiffs' case?

15 MS. LONGORIA: Yes, your Honor.

16 THE COURT: Anything else that needs to come to my  
17 attention before we break for the lunch recess?

18 MR. CUTLER: No, your Honor.

19 MS. LONGORIA: One question with regard to the two  
20 witnesses that have testified already. Would your Honor  
21 release those two on a call basis, or would you like to retain  
22 them?

23 THE COURT: I don't hold any call on them. Does the  
24 defendant have any objection to their being released?

25 MR. CUTLER: I have no objection, your Honor.

1 THE COURT: Then they will be released.

2 We'll be in recess until 2:00.

3 (Luncheon recess taken at 1:02 p.m.)

4 (The jury entered the room at 2:06 p.m.)

5 THE COURT: Good afternoon, jurors. We are ready to  
6 resume.

7 Mr. Reyes will please retake the witness stand. And  
8 good afternoon, Mr. Reyes. You are reminded that you remain  
9 under oath. Please be seated.

10 Miss Severini, you may continue with direct  
11 examination.

12 Q. We were discussing Exhibit No. 26. Could you just repeat  
13 the name of this document?

14 A. Yes. This document is the initial certification of the  
15 custodian.

16 Q. What is it saying?

17 A. Wells Fargo, as custodian, is certifying that after its  
18 review of each mortgage file that is in the pool for this  
19 trust, it certifies that it has received all of the necessary  
20 documents other than documents that it notes it may not have  
21 yet received or it may be missing a component of a document.

22 Q. So how does this document relate to the Barry loans?

23 A. This document relates to the Barry loans in that no  
24 exceptions -- or it notes that the mortgage notes were not  
25 missing and that the mortgage notes with respect to the Barrys'

1 loans was received.

2 Q. You say "was received." By -- when?

3 MR. CUTLER: Objection, your Honor. Hearsay.

4 THE COURT: Well, I'm going to allow the admission of  
5 Exhibit 26, and he may testify from it. If you will point out  
6 where it says that, I will allow him to testify.

7 MS. SEVERINI: Your Honor -- sorry.

8 Q. Mr. Reyes, what's the date -- what's the date on this  
9 initial certification?

10 A. The initial certification is dated as of December 1, 2006.

11 THE COURT: Where does that show in Exhibit 26?

12 MS. SEVERINI: I'm sorry. It's at the top of the  
13 exhibit.

14 Q. I just want to direct your attention to Tab A of Exhibit  
15 26.

16 MR. CUTLER: Your Honor, I'm going to object to  
17 testifying in the context of any of these documents in that  
18 these were prepared by a separate entity.

19 THE COURT: I understand your objection. I have  
20 admitted them, over your objection, as business records kept in  
21 the normal course of this individual's business. Therefore, he  
22 may continue to testify.

23 Q. Can you explain what's tabbed in Exhibit A -- sorry, as  
24 Tab A of Exhibit 26?

25 A. Yes. With respect to the two Barry loans, it notes that

1 at the time of this certification -- sorry. The print is  
2 really small. With respect to the mortgage, the document  
3 received was a copy, and there was a comment that the original  
4 is needed. With respect to the title policy, there was a  
5 comment, "Evidence of title received. Need title policy."

6 Q. What does SECI --

7 A. Security instrument.

8 Q. Does it reference anything relating to the Barry  
9 promissory notes?

10 A. No.

11 Q. What does that mean?

12 A. Meaning that Wells Fargo, as custodian, certifies that it  
13 has received the original mortgage note with respect to the two  
14 Barry loans.

15 Q. Now, on the front of the Exhibit 26, it talks about a duly  
16 executed assignment of mortgage. How does this relate with  
17 respect to MERS-designated loans as set forth in the Pooling  
18 and Servicing Agreement?

19 A. With respect to MERS-designated loans, in Section 2 of the  
20 Pooling and Servicing Agreement, the Pooling and Servicing  
21 Agreement contemplates that some loans will be transferred  
22 through the MERS system.

23 Q. I'd like to direct your attention to previously admitted  
24 exhibits marked 14 and 15. They should be right in front of  
25 you. Can you tell me, with respect to Exhibit 14, what is this

1 document?

2 A. This document is a mortgage.

3 Q. Which mortgage?

4 A. This document is with respect to the first mortgage.

5 Q. Who are listed as the borrowers?

6 A. This is with respect to -- the named borrower is Jonathan  
7 Barry and Jamie Flack Barry.

8 Q. Can you tell me, is this a MERS-designated loan?

9 A. Yes.

10 Q. How do you know that?

11 A. Because in Clause C of the mortgage, it discusses that  
12 MERS is the nominee on behalf of WMC Mortgage.

13 Q. I just want to direct your attention to previously  
14 admitted Exhibit No. 15. Can you just tell us what this is?

15 A. Yes. This is a mortgage.

16 Q. Who are the borrowers?

17 A. The mortgagors listed are Jonathan Barry and Jamie Flack  
18 Barry.

19 Q. Thank you. I meant mortgagors. Is this a MERS-designated  
20 loan as well?

21 A. Yes.

22 Q. How do you know that?

23 A. Because it states that MERS is acting solely as nominee  
24 for the lender, WMC Mortgage.

25 Q. Thank you. I'd like to direct your attention to Exhibit

1 No. 27. Do you recognize this document?

2 A. Yes. This is the mortgage file.

3 Q. Is it the original?

4 A. Yes.

5 Q. When you say "mortgage file," what do you mean?

6 A. Per Section 2 of the Pooling and Servicing Agreement, and  
7 as noted on the custodian's original certification, certain  
8 documents were to be reviewed by the custodian and confirmed by  
9 the custodian that they had been received, such as the original  
10 mortgage note, the mortgage, and the title policy.

11 MR. CUTLER: Your Honor, I'm going to move to strike.  
12 The witness has no basis for that testimony.

13 THE COURT: Give me the answer back, please.  
14 (Answer read.)

15 THE COURT: And the grounds for your objection? He is  
16 quoting from the Pooling and Servicing Agreement, Section 2.

17 MR. CUTLER: No. He's paraphrasing it, and he's  
18 saying how he knows that what this set of documents are, in  
19 saying -- and talked about what the custodian does and -- this  
20 is for the custodian to testify as to where these documents  
21 came from.

22 THE COURT: Miss Severini?

23 MS. SEVERINI: Judge, these are original documents  
24 that the custodian's quoting on behalf of Deutsche Bank  
25 pursuant to the Pooling and Servicing Agreement. Pursuant to

1 the Pooling and Servicing Agreement, Deutsche Bank is the  
2 holder of these documents.

3 THE COURT: I'm going to let him testify to it. The  
4 objection is overruled.

5 Q. And how do you know these are the originals, the original  
6 -- how do you know that what you're holding is the original  
7 collateral file?

8 A. Because I have reviewed these documents, and these  
9 documents were requested from Wells Fargo.

10 MS. SEVERINI: Your Honor, I move to admit this as  
11 Exhibit No. 27.

12 THE COURT: 27.

13 MR. CUTLER: Objection.

14 THE COURT: Overruled. It will be admitted as Exhibit  
15 27.

16 (Exhibit No. 27 received into evidence.)

17 Q. What loan is this file for?

18 A. This is for the first mortgage.

19 Q. First mortgage. Who are the mortgagors?

20 A. Jonathan Barry.

21 Q. Can you tell me what's in this file?

22 A. Yes. The first documents are the title policy documents;  
23 the mortgage; also contains the adjustable rate rider to the  
24 note.

25 Q. Are you sure it's to the note, the rider that you're

1       referencing? Can you clarify?

2       A.     Yes.

3       Q.     Is the original promissory note in there?

4       A.     I'm sorry. Let me try to find it.

5                THE COURT: Is it in there, Miss Severini? Maybe you  
6       could find it for him.

7       Q.     Mr. Reyes, it's not in there. It's the next exhibit. I  
8       just wanted to clarify. All right.

9                I want to turn your attention to Exhibit No. 28.

10      A.     Exhibit 28, all right.

11      Q.     And can you tell me -- do you recognize this?

12      A.     Yes. This is the mortgage file with respect to the second  
13      mortgage.

14      Q.     Second mortgage for whom?

15      A.     For Jonathan Barry.

16      Q.     Is it the original?

17      A.     Yes.

18               MS. SEVERINI: On the basis of his previous testimony,  
19      your Honor, I'd like to admit this document as well as Exhibit  
20      No. 28.

21               MR. CUTLER: Objection, for the record.

22               THE COURT: You object, for the record?

23               MR. CUTLER: Yes, your Honor.

24               THE COURT: It will be admitted as Exhibit 28 over the  
25      defendants' objection.

1 (Exhibit No. 28 received into evidence.)

2 Q. All right. I'd like to move to the next exhibit. It's  
3 Exhibit No. 29. Do you recognize this?

4 A. Yes.

5 Q. What is it?

6 A. This is the adjustable rate note with respect to the first  
7 mortgage.

8 Q. Is it an original?

9 A. Yes.

10 Q. How do you know it's the original?

11 A. There's a signature, an original signature, from Jonathan  
12 Barry on 7/24/06.

13 MS. SEVERINI: Your Honor, I'd like to move to admit  
14 this document into evidence as Exhibit No. 29.

15 MR. CUTLER: Your Honor, I'm going to object. On that  
16 document -- there's a writing from a third party on that  
17 document.

18 THE COURT: Handwriting?

19 MR. CUTLER: Yes, your Honor. And a --

20 THE COURT: I take it the handwriting will be  
21 redacted, Miss Severini?

22 MS. SEVERINI: Yes, definitely, if there's any privacy  
23 information on there.

24 THE COURT: Not if there's any privacy information.  
25 It will be redacted.

1 MR. CUTLER: I think we're misunderstanding the  
2 writing I'm talking about. Would you object if we came to  
3 sidebar on this?

4 THE COURT: Yeah.

5 (SIDEBAR CONFERENCE AS FOLLOWS:

6 MR. CUTLER: On the -- after the purported signature  
7 of my client, there is a stamp with -- supposedly from someone  
8 from WMC, and then there's some handwriting saying it's  
9 assigned over to the trust. Those are the two items -- one, I  
10 am challenging the woman who signed that, actually signed it,  
11 is undated and when it was signed; and two, I don't have any  
12 idea who the handwriting is. There needs to be a foundation  
13 for that. It's back-door trying to get this document in  
14 because they have a real problem with that so-called assignment  
15 on the note.

16 THE COURT: What about that, Miss Severini?

17 MS. SEVERINI: Judge, it's the original note with the  
18 endorsement over to Deutsche Bank as pursuant to the Pooling  
19 and Servicing Agreement.

20 THE COURT: Pursuant?

21 MS. SEVERINI: To the Pooling and Servicing Agreement.  
22 Deutsche Bank is the holder of this document.

23 MR. CUTLER: Your Honor, this is absolutely --

24 THE COURT: Let me see the document.

25 This is 29, right?

1 MR. CUTLER: Yes, sir. It's both that signature --

2 THE COURT: This is Mr. Barry's signature.

3 MR. CUTLER: Yes. And then there's this handwriting.

4 I have no idea where that came from. And we highly question  
5 this as well as the authorization and the date of when this was  
6 done.

7 MS. SEVERINI: WMC is the originator of this loan.

8 Pursuant to the terms of this whole transaction, this loan was  
9 transferred into the pool.

10 MR. CUTLER: That's what they're saying.

11 THE COURT: Wait. You can't talk over somebody.

12 MS. SEVERINI: This shows that's been endorsed over to  
13 Deutsche Bank as holder. It's an original.

14 MR. CUTLER: They can't just hide behind this document  
15 anymore, your Honor. It says it is the document. It's a  
16 completely circular reason. They're saying everything is  
17 legitimate because it exists in the document. They have --

18 THE COURT: Go ahead.

19 MR. CUTLER: They have to come in and tell me where  
20 this handwriting came from, whose handwriting this is, and the  
21 signature and substantiate that this person actually did this,  
22 had the authority and had -- because we have a whole issue as  
23 to when this thing actually -- if this is the actual note, and  
24 we have other questions. We've got some authentication  
25 problems, originality with these notes. It looks like a photo

1 shop. And two --

2 THE COURT: Counsel, with a jury sitting here, I'm not  
3 going to resolve this. But for now, I will admit it with that  
4 portion of the page redacted; in other words, cover it up like  
5 that, and we'll determine whether or not it's admissible at  
6 another time. We'll argue this out.

7 MS. SEVERINI: Okay.

8 THE COURT: Okay.

9 MS. SEVERINI: I just want to say, this is an original  
10 document. It's the best evidence of -- this document speaks  
11 for itself. And the --

12 THE COURT: And it comes from WMC, right?

13 MS. SEVERINI: That endorsement, yes.

14 THE COURT: Do you have any evidence as to when it was  
15 endorsed?

16 MS. SEVERINI: Based on the Pooling and Servicing  
17 Agreement and the documents that we're going to be submitting  
18 into evidence, Mr. Reyes can testify as to the time frame.

19 MR. CUTLER: Because the document says that it's  
20 supposed to be done on this date, it's been done on this date.

21 THE COURT: I've heard enough about this now, and I'm  
22 not going to delay the trial because of this issue. So for  
23 now, if you expect him to testify, he will testify without that  
24 document; and for now, if it is admitted, it will be admitted  
25 with that portion of the document redacted. Is that

1 understood?

2 MR. CUTLER: Thank you, your Honor.

3 MS. SEVERINI: Understand.

4 . . . END OF SIDEBAR CONFERENCE.)

5 THE COURT: You may continue.

6 MS. SEVERINI: Just to clarify, your Honor, I move to  
7 admit this document.

8 THE COURT: The document --

9 MS. SEVERINI: Redacted.

10 THE COURT: The document, 29, will be admitted, as  
11 redacted, as instructed at sidebar.

12 MS. SEVERINI: Okay.

13 (Exhibit No. 29 received into evidence.)

14 Q. Mr. Reyes, can you tell me the date on this document?

15 A. Yes, July 24, 2006.

16 Q. And who signed the document?

17 A. Jonathan Barry.

18 Q. And the original lender named in the document?

19 A. Is WMC Mortgage Corp.

20 Q. And the amount?

21 A. \$1,160,000.

22 Q. Is this document -- is this promissory note fixed or  
23 adjustable?

24 A. It is adjustable.

25 Q. All right. I'd like to direct your attention to Exhibit

1 No. 30. Can you tell me what this document is?

2 A. Yes. This document is a note.

3 Q. Is it the original?

4 A. Yes.

5 Q. And how do you know it's the original?

6 A. It has an original signature by Jonathan Barry on 7/24/06.

7 MS. SEVERINI: Your Honor, I'd like to admit this  
8 document.

9 THE COURT: And I understand it will be subject to the  
10 same redaction on the third page. It will be admitted subject  
11 to that redaction for the time being.

12 MS. SEVERINI: Yes, your Honor.

13 (Exhibit No. 30 received into evidence.)

14 Q. Can you tell me the date of this document?

15 A. July 24, 2006.

16 Q. Okay. And the borrower, the individual who signed it?

17 A. Jonathan Barry.

18 Q. And the original amount of this note?

19 A. \$113,000.

20 Q. And the original lender?

21 A. WMC Mortgage Corp.

22 Q. With respect to both of those documents, Exhibit 29 and  
23 Exhibit 30, is Deutsche Bank the holder of these documents?

24 A. Yes.

25 Q. And how do you know that?

1 MS. SEVERINI: I just want to clarify. Judge --

2 THE COURT: Yes. Not with respect to the redacted  
3 material. I'm not going to allow him to testify to that.

4 Q. Right, on Page 3.

5 THE COURT: There's no question before you now.

6 Q. So is Deutsche Bank currently in possession of these two  
7 documents?

8 A. Yes.

9 Q. Thank you. I want to just discuss the path that these two  
10 documents took with respect to this securitization transaction.  
11 Can you explain what happened with the notes after WMC  
12 originated them?

13 A. Yes. As noted in the Prospectus Supplement and in the  
14 Pooling and Servicing Agreement --

15 MR. CUTLER: Objection. I'm going to object, your  
16 Honor. If there's a line of questioning --

17 THE COURT: The objection is overruled. I'm going to  
18 allow him to answer the question.

19 A. As noted in the Prospectus Supplement and in the Pooling  
20 and Servicing Agreement, there is a reference to a Mortgage  
21 Loan Purchase Agreement between WMC Mortgage Corp., as seller,  
22 and Sutton Funding LLC, as purchaser.

23 Q. All right. I'd like to direct your attention to Exhibit  
24 No. 31. Do you recognize this document?

25 A. Yes.

1 Q. Can you tell me what it is?

2 A. It is the Mortgage Loan Purchase Agreement between Sutton  
3 Funding LLC, as purchaser, and WMC Mortgage Corp., as seller.

4 Q. Is it a true and correct copy of the document it  
5 represents?

6 A. Yes.

7 Q. Is this document kept in the regular course of Deutsche  
8 Bank's business?

9 A. Yes.

10 Q. Is it regularly made -- is there a regular practice to  
11 make this type of document with the securitization transaction  
12 and, in particular, the Barrys' securitization transaction?

13 A. Yes.

14 MS. SEVERINI: Your Honor, I'd like to move to admit  
15 this document into evidence as Exhibit No. 31.

16 THE COURT: It will be admitted, Exhibit 31.  
17 (Exhibit No. 31 received into evidence.)

18 Q. Can you tell me what this document says?

19 MR. CUTLER: Your Honor, I'm going to object to asking  
20 questions on this on the basis of surprise.

21 Q. Can you tell me what this document says?

22 THE COURT: Well, this document is about a hundred  
23 pages long. That question is too broad.

24 MS. SEVERINI: Okay.

25 MR. CUTLER: Wait. Which one --

1 THE COURT: 31 has been admitted.

2 MS. SEVERINI: Thank you, your Honor.

3 MR. CUTLER: I'm sorry. I thought your Honor was on  
4 --

5 Q. Referring to Page 5 of the agreement, can you please state  
6 a summary of what this page says? I'm sorry. Just to clarify,  
7 it's the page entitled, "Mortgage Loan Purchase Agreement."

8 THE COURT: Is that the fifth page in?

9 MS. SEVERINI: It's the fifth page in and it's not  
10 numbered, but I believe it's No. 1 on the Table of Contents.

11 A. This page describes that this is a Mortgage Loan Purchase  
12 Agreement between Sutton Funding LLC, as purchaser, and WMC  
13 Mortgage Corp., as seller.

14 Q. What is the seller selling to the purchaser?

15 A. The seller from time to time sells mortgage loans to the  
16 purchaser.

17 Q. Was this document made in connection with the  
18 securitization transaction for the Barry loan?

19 A. Yes.

20 Q. How do you know this?

21 A. This Mortgage Loan Purchase Agreement is referenced in the  
22 Prospectus Supplement and is defined and referenced in the  
23 Pooling and Servicing Agreement.

24 Q. Can you tell me who the custodian was for this agreement?

25 A. The defined custodian for this agreement is Wells Fargo

1 Bank National Association.

2 Q. What does that mean?

3 A. It means that Wells Fargo, in this Mortgage Loan Purchase  
4 Agreement, held the mortgage loans that were sold.

5 Q. When you say "held," what do you mean? Were they in  
6 possession and the holder under this agreement?

7 A. Meaning that they act as custodian of the mortgage file  
8 for the purchaser.

9 Q. So after Sutton Funding LLC purchased these two loans,  
10 what happened?

11 A. What happened is Sutton Funding LLC then sold the mortgage  
12 loans to Securitized Asset Backed Receivables LLC, as depositor  
13 of the Pooling and Servicing Agreement.

14 Q. All right. I would like to direct your attention to  
15 Plaintiffs' Exhibit 32 and -- I'm sorry, Exhibit Nos. 32 and  
16 33. Can you tell me what Exhibit 32 is?

17 A. Exhibit 32 is a Bill of Sale.

18 Q. Do you recognize this?

19 A. Yes.

20 Q. How do you recognize this?

21 A. This document is maintained by Deutsche Bank as a part of  
22 the documents maintained for this securitization.

23 Q. Is it a true and correct copy of the document it  
24 represents?

25 A. Yes.

1 Q. You stated these are maintained. Are they kept in the  
2 regular course of Deutsche Bank's business?

3 A. Yes.

4 Q. Was this document generated as part of -- regularly  
5 generated as part of a securitization transaction?

6 A. Yes.

7 Q. Have you reviewed this document before?

8 A. Yes.

9 MS. SEVERINI: Your Honor, I'd like to move to admit  
10 this exhibit, Exhibit No. 32, into evidence.

11 THE COURT: It will be admitted as 32.  
12 (Exhibit No. 32 received into evidence.)

13 Q. Can you tell me the date on this document?

14 A. Yes. It's dated as of December 1, 2006.

15 Q. What's the significance of that date?

16 A. The significance of that date is that is the defined  
17 closing date of Securitized Asset Backed Receivables LLC Trust  
18 2006-WM3.

19 Q. Why is that date defined as the closing date?

20 A. In the Pooling and Servicing Agreement, there is a  
21 glossary of terms, and "closing date" is a definition defined.

22 Q. Moving along to Exhibit 32 -- I'm sorry, 33, do you  
23 recognize this document?

24 A. Yes.

25 Q. Can you tell me what it is?

1 A. It is a cross-receipt.

2 Q. How do you recognize it?

3 A. This document is maintained by Deutsche Bank as part of  
4 its records with respect to this securitization.

5 Q. And is it a true and correct copy of the document it  
6 represents?

7 A. Yes.

8 Q. This document is kept in the regular course of Deutsche  
9 Bank's business?

10 A. Yes.

11 Q. And this document is regularly made as part of the  
12 securitization transaction, specifically the Barrys'  
13 securitization transaction?

14 A. Yes.

15 Q. Have you had an opportunity to review this document prior  
16 to today?

17 A. Yes.

18 MS. SEVERINI: Your Honor, I would like to move this  
19 document into evidence as Exhibit No. 33.

20 THE COURT: It will be admitted, 33.

21 (Exhibit No. 33 received into evidence.)

22 Q. What does the cross-receipt say?

23 A. The cross-receipt is executed or signed by both the  
24 seller, Sutton Funding LLC, and the depositor, Securitized  
25 Asset Backed Receivables LLC. "The seller acknowledges receipt

1 of payment for the mortgage loans purchased by the depositor,  
2 and the depositor acknowledges receipt of the mortgage loans."

3 Q. These documents indicate whether Sutton retained any  
4 interest in the mortgage loans?

5 A. This document indicates that the seller, Sutton Funding  
6 LLC, does not retain any interest in the mortgage loans.

7 Q. Were these documents made in connection with the trust  
8 that currently holds the Barry loans?

9 A. Yes.

10 Q. How do you know this?

11 A. Because it is the cross-receipt that references  
12 Securitized Asset Backed Receivables LLC 2006-WM3, Mortgage  
13 Pass-Through Certificates 2006-WM3.

14 Q. Finally, can you tell me the date of the cross-receipt?

15 A. December 1, 2006.

16 Q. Thank you. I'd like to direct your attention to  
17 previously marked Plaintiffs' Exhibit 20. Do you recognize  
18 this document?

19 A. Yes. It is a confirmatory assignment of mortgage.

20 Q. Original certified copy of this document?

21 A. Yes.

22 Q. Did you -- is that your signature? Did you sign this  
23 document?

24 A. Yes.

25 Q. Do you have the authority to sign this type of document?

1 A. Yes.

2 Q. When you executed this, was it executed in front of a  
3 notary?

4 A. Yes.

5 Q. Did you read this document before you signed it?

6 A. I made sure that the Deutsche Bank entity named was the  
7 correct entity named. Otherwise, Deutsche Bank received an  
8 officer's certificate from the servicer, which we may rely on  
9 to execute this document.

10 Q. Does this document accurately reflect that the Barry  
11 mortgage was transferred into the trust?

12 A. Yes.

13 Q. Now, do you see anything wrong with this assignment?

14 A. Yes.

15 Q. What are the errors?

16 A. The reference to the Series 2006-WMC3 is incorrect. It  
17 should have read 2006-WM3.

18 Q. Is that the only error?

19 A. And the transfer date of July 10, 2007.

20 Q. So it contained these errors. Why did you sign the  
21 document?

22 A. Because the trustee is able to place reliance on the  
23 servicer. The servicer provided the Trustee Officer  
24 Certificate which stated that this document was necessary for  
25 the trustee to execute in order for the servicer to carry out

1 its servicing duties.

2 Q. When you say "servicer," can you clarify who that is  
3 again?

4 A. HomEq Servicing.

5 Q. I want to direct your attention to previously admitted  
6 Exhibit No. 21. Do you recognize this document?

7 A. Yes.

8 Q. Is that your signature?

9 A. Yes.

10 Q. Again, to confirm, did you have authority to sign this  
11 document?

12 A. Yes.

13 Q. Was it executed in front of a notary?

14 A. Yes.

15 Q. If this was executed in front of a notary, can you explain  
16 the discrepancy between the dates? The assignment's dated May  
17 18th; the notary has a date of May 27th.

18 A. Yes. As we received these types of documents from the  
19 servicer during this period, there was a backlog of documents  
20 such as this confirmatory assignment of mortgage. We have a  
21 temporary employee who dated the front page May 18, 2009, when  
22 we received this document.

23 Q. When did you actually sign it?

24 A. On May 27, 2009.

25 Q. I'd like to direct your attention to Exhibit No. 34. Do

1 you recognize this document?

2 A. Yes.

3 Q. How do you recognize it?

4 A. This document is our Certificate of Incumbency or a  
5 listing of authorized signers for Deutsche Bank National Trust  
6 Company.

7 Q. Is it an original certified copy?

8 A. Yes.

9 MS. SEVERINI: Your Honor, I'd like to admit this as  
10 Exhibit No. 34.

11 THE COURT: It will be admitted, 34.

12 (Exhibit No. 34 received into evidence.)

13 Q. Can you tell me the significance of this document?

14 A. It indicates and lists my name as a vice president, and it  
15 has my specimen signature on Page 2.

16 Q. And that is your signature --

17 A. Yes.

18 Q. -- on Page 2. What is it authorizing?

19 A. That I may enter into contracts and sign any documents on  
20 behalf of Deutsche Bank National Trust Company.

21 Q. Finally, I'd like to direct your attention to Exhibit No.

22 35. Do you recognize this exhibit?

23 A. Yes.

24 Q. What is it?

25 A. It is a flowchart of the securitization process with

1 respect to Securitized Asset Backed Receivables LLC Trust  
2 2006-WM3.

3 Q. Does it fairly and accurately reflect the securitization  
4 process that the Barry loans were involved in?

5 A. Yes.

6 Q. Does this chart help explain the securitization process  
7 that the Barry loans were involved in?

8 A. Yes.

9 Q. And have you previously reviewed this document for  
10 accuracy?

11 A. Yes.

12 MS. SEVERINI: Your Honor, I'd like to admit this  
13 document as Exhibit No. 35.

14 MR. CUTLER: Your Honor, I think it's fine as a chalk,  
15 but I do object to it going into evidence.

16 THE COURT: I'm going to admit it as an exhibit,  
17 Exhibit 35.

18 (Exhibit No. 35 received into evidence.)

19 Q. If you could walk us through the process with the Barry  
20 loans from origination with WMC?

21 A. Yes. Starting at the top left corner of the page, as Mr.  
22 Romano and Mr. Gediman have testified earlier, Mr. Barry took  
23 out a mortgage loan -- or took out two mortgage loans through  
24 the loan originator, Mike Romano. The lender was WMC Mortgage  
25 Corp., as noted in the two notes.

1 Q. What happened after this loan originated with WMC?

2 A. After the loan originated with WMC, WMC, per the Mortgage  
3 Loan Purchase Agreement, sold the Barry loans, along with a  
4 pool of other loans, to the sponsor, Sutton Funding LLC.

5 Q. And then?

6 A. And then Sutton Funding LLC sold the Barry loans, along  
7 with a pool of other mortgage loans, to the depositor,  
8 Securitized Asset Backed Receivables LLC, and that's documented  
9 by the Bill of Sale and cross-receipt.

10 Q. And, finally, the last step?

11 A. The last step, pursuant to the Pooling and Servicing  
12 Agreement dated November 1, 2006, and on the closing date of  
13 that document, December 1, 2006, the depositor conveyed all  
14 right, title and interest in the two Barry loans, along with  
15 other loans in the mortgage pool, to the trust, Securitized  
16 Asset Backed Receivables LLC Trust 2006-WM3, for which Deutsche  
17 Bank acts as trustee for certificate holders or bondholders.

18 Q. Can you explain how the payments flow from the borrowers,  
19 and in this case, the Barrys?

20 A. Yes. As noted in the Pooling and Servicing Agreement,  
21 HomEq Servicing is the servicer. The Barrys, along with other  
22 mortgagors or borrowers, make payments on a monthly basis to  
23 HomEq, as servicer. Also on a monthly basis, HomEq then remits  
24 to the trustee, for the benefit of the certificate holders or  
25 bondholders, the monthly mortgage payments from the borrowers.

1 Deutsche Bank National Trust Company, as trustee, then, based  
2 on the collections received from the servicer, HomEq, makes  
3 payments to the certificate holders or bondholders.

4 MS. SEVERINI: Your Honor, I have no further  
5 questions.

6 THE COURT: Cross-examination?

7 MR. CUTLER: Thank you, your Honor.

8 THE COURT: Mr. Cutler.

9 CROSS-EXAMINATION BY MR. CUTLER:

10 Q. Good afternoon, Mr. Reyes.

11 A. Good afternoon, sir.

12 Q. Could you point out to me where HomEq is in this chart,  
13 please? We're looking at Exhibit 35.

14 A. Yes. HomEq, servicer, in the flowchart, is in that box  
15 that is titled, "Trust For Loan Pool." The servicer, HomEq, is  
16 there on the just -- bottom left of that title.

17 Q. Were they in the chain of title of the notes that Deutsche  
18 Bank is -- Deutsche Bank National Trust Company, as trustee of  
19 the securitized trust, is bringing this suit?

20 A. No. The servicer, HomEq, is not in the chain of title.

21 Q. Do they own a claim to these notes?

22 A. No.

23 Q. Do they have a contract with the Barrys?

24 MS. SEVERINI: Objection, your Honor. Can he be more  
25 specific?

1 THE COURT: Overruled.

2 A. From my understanding, Litton was the original servicer of  
3 the two Barry loans, and both Litton and HomEq, through the  
4 normal course of business, sent notification to the Barrys that  
5 the servicing of their mortgage loan would transfer to HomEq.

6 Q. So you say -- they have that contract with HomEq; that's  
7 what you're saying? That is a contract?

8 A. I don't know if that is a contract, but I do know that,  
9 even from personal experience, the servicing of a mortgage loan  
10 may change and that one receives a notification from your prior  
11 servicer and from your new servicer that you are to remit  
12 payments to that servicer now.

13 Q. Do you understand what HomEq's damages are in this case?  
14 Strike that.

15 Did the Barrys borrow any money from HomEq?

16 A. No.

17 Q. What amount of monies is HomEq trying to recover from the  
18 Barrys in this case?

19 MS. SEVERINI: Objection, your Honor.

20 THE COURT: Sustained.

21 Q. You testified earlier that HomEq was damaged -- they have  
22 monies at issue here -- in the beginning of your testimony,  
23 didn't you?

24 A. I don't believe I said that. I said that HomEq is the  
25 servicer and that I believe that HomEq, along with Litton,

1 would have notified the Barrys of the servicing transferred --

2 Q. You're not aware of any damages on behalf of HomEq?

3 MS. SEVERINI: Objection, your Honor.

4 THE COURT: Sustained.

5 Q. Let's get some points clear. On December 1, 2006, was --  
6 I think your testimony was WMC -- sorry, December 1, 2006, was  
7 the closing date, correct, of the Pooling and Service  
8 Agreement?

9 A. Yes.

10 Q. Okay. And WMC was no longer a participant in that,  
11 correct, in the Pooling and Servicing Agreement, at that point?

12 A. WMC Mortgage Corp. is named as a responsible party in the  
13 Pooling and Servicing Agreement. At the point of the Pooling  
14 and Servicing Agreement, WMC no longer held any interest in the  
15 two Barry loans. However, WMC Mortgage Corp. is party to the  
16 Pooling and Servicing Agreement because it made certain  
17 representations and warranties with respect to the mortgage  
18 loans.

19 Q. Okay. So with regards to these representations as to the  
20 mortgage loans, it is held into that agreement just as to those  
21 representations but is no longer -- for all other purposes, no  
22 longer a member of the Pooling and Servicing Agreement?

23 A. WMC continues to be the responsible party in this Pooling  
24 and Servicing Agreement.

25 Q. According to your chart here, you're saying that WMC sold

1 the Barrys' loan and mortgage to Sutton?

2 A. Yes, pursuant to the Mortgage Loan Purchase Agreement.

3 Q. Okay. And we have that as Exhibit 31 in front of you,  
4 correct?

5 A. Yes.

6 Q. That agreement -- let me put this -- you weren't involved  
7 in the negotiation of this agreement, correct, Exhibit 31?

8 A. Yes, that's correct.

9 Q. And this agreement isn't between Deutsche Bank and Sutton,  
10 correct?

11 A. That's correct. However, it is --

12 Q. No, just -- and it's not between WMC Mortgage Corp. and --  
13 this agreement is not between WMC Mortgage Corp. and Deutsche,  
14 is it?

15 A. No.

16 Q. This is an agreement between Sutton and WMC, correct?

17 A. Yes.

18 Q. When you said that you reviewed this agreement, when did  
19 you review it?

20 A. Several times during the past two weeks.

21 Q. Okay. You looked at this agreement in the last two weeks  
22 to prepare for this trial?

23 A. Yes.

24 Q. Looking at this agreement -- let me raise it. I'll help  
25 you out -- it doesn't identify specifically the Barrys' loan,

1 does it?

2 A. The document makes reference to an Exhibit A, a mortgage  
3 loan schedule.

4 Q. Are you hoping that the Barrys' loan would be in that  
5 Exhibit A?

6 A. My understanding is that the Barrys' loan, when it was  
7 placed into the trust, there was a mortgage loan schedule.

8 Q. I'm asking you -- we're going back here between WMC and  
9 Sutton. This document does not specifically identify the  
10 Barrys' loan, does it?

11 A. No, I do not have the mortgage loan schedule.

12 Q. When was this -- when was this contract entered into  
13 between Sutton and WMC Mortgage?

14 A. It's dated as of July 1, 2006.

15 Q. So do you know that that was the day that it was entered  
16 into?

17 A. Yes, because this is an execution copy of the Mortgage  
18 Loan Purchase Agreement.

19 Q. All right. Why does it say on the signature Page  
20 "7/28/06"?

21 A. If you are referring to --

22 Q. I'm referring to the bottom. It says, "Sutton-WMC  
23 (7/28/06) - MLPA," which looks like the time it was typed up  
24 and finalized.

25 A. I do not know what the significance of that date is.

1 Q. All right. But it's your belief that some kind of  
2 agreement was entered into between WMC and Sutton to sell --  
3 for WMC to sell mortgages to Sutton, correct?

4 A. Yes.

5 Q. And now, with respect -- pursuant to this agreement, would  
6 they sell the mortgages the day they closed on them, or would  
7 they wait a week or two weeks? And which mortgages would they  
8 sell -- would WMC sell to Sutton?

9 MS. SEVERINI: Objection, your Honor, cumulative.

10 THE COURT: Sustained.

11 Q. Which mortgages that WMC had did it sell to Sutton, if you  
12 know?

13 A. As a part of the closing set, there are representations  
14 and warranties made by WMC as the responsible party.

15 Q. So you don't know what -- is it fair to say you really  
16 don't know what mortgages WMC sold to Sutton pursuant to this  
17 agreement?

18 A. Pursuant to this agreement, and relative to the Pooling  
19 and Servicing Agreement -- I would have to find it in the  
20 exhibits here, but there is, with dates, representations and  
21 warranties made by WMC Mortgage with respect to the loans that  
22 were bought by Sutton Funding LLC from this Mortgage Loan  
23 Purchase Agreement.

24 Q. Actually, I think the only documents that you've gone over  
25 is this initial certificate in which you cited -- you said,

1 look, here's the Barrys' mortgages. As I recall, that was the  
2 only document you have identified so far in all of this  
3 material that specifically identifies the Barrys' mortgage, is  
4 that correct?

5 A. And the attached spreadsheet to that initial certification  
6 that indicates that the Barry loans were reviewed by Wells  
7 Fargo.

8 Q. Reviewed. I'm going to go over this in a minute.  
9 Reviewed. Wells Fargo is not making any guarantees as to  
10 whether those notes or mortgages were properly assigned,  
11 correct, if you know?

12 A. That's correct. Wells Fargo, as custodian, is reviewing  
13 that the documents received were in accordance with the  
14 agreement.

15 Q. In fact, there are a series of reviews that Wells Fargo  
16 has to go through related to the notes brought into the trust,  
17 correct? It's more than just one review, correct?

18 A. I don't know what you mean.

19 Q. All right. There's the initial review. Then ten days  
20 later there's a second review that has to go on. And then 90  
21 days after that there's a third review that, pursuant to your  
22 Pooling and Servicing Agreement, is required, is it not?

23 A. I believe an initial and final certification are required.

24 Q. And you just provided the initial certification, correct?

25 A. Yes.

1 Q. Didn't come back with the final certification, correct?  
2 You didn't -- you haven't showed that to the jury yet, the  
3 final certification, have you?

4 A. No.

5 Q. All right. Now, then you say, okay, from Sutton -- all  
6 right. The sale from WMC to Sutton, is that an absolute sale?

7 A. Yes.

8 Q. That means that WMC is not retaining any rights, correct?

9 A. Yes.

10 Q. And it's not retaining any rights in what, the mortgage or  
11 the note or both?

12 A. Both.

13 Q. At any point was the mortgage and the note ever divided?

14 A. No.

15 Q. At all times did the note stay with the mortgage?

16 A. Yes.

17 Q. So if the note -- if the mortgage went to Sutton, so would  
18 the note, correct?

19 A. Yes.

20 Q. And if the note went to Sutton, so would the mortgage,  
21 correct?

22 A. Yes.

23 Q. And if the mortgage didn't go to Sutton, then the note  
24 wouldn't have gone to Sutton, correct?

25 A. I don't know what you mean by that.

1 Q. Well, it's the converse. If the mortgage went, then the  
2 note would have followed it. If the mortgage never went, then  
3 the note wouldn't have gone, right?

4 MS. SEVERINI: Objection, your Honor. He's asking for  
5 a legal conclusion leading to transfer.

6 THE COURT: Overruled. If he understands the  
7 question, he can answer it.

8 A. I'm interpreting your question to mean that the physical  
9 document itself, the mortgage note and the mortgage, are  
10 transferred to the custodian in a mortgage file, of which the  
11 custodian reviews.

12 Q. I am talking about the rights, the rights of the note.  
13 Wouldn't you agree with me that the note, as a piece of paper,  
14 is only a set of rights that the holder of that note can  
15 enforce against the person who signed the note? And it's those  
16 rights that you've brought this present lawsuit under, correct?

17 A. Yes. The note is a negotiable instrument.

18 Q. Now, you're not suing on the mortgage in this case,  
19 correct?

20 A. I don't understand the question.

21 Q. Well, you're representing Deutsche Bank as trustee of this  
22 big securitized trust, correct? You're their representative  
23 here?

24 A. Yes.

25 Q. And you understand that your company is suing the Barrys?

1 A. Yes.

2 Q. And you understand that it's doing it under certain legal  
3 theories, correct? Do you have any idea why the Barrys are  
4 being sued?

5 A. Yes.

6 Q. Are they being sued on their mortgage?

7 A. I don't know from a legal standpoint. I only understand  
8 this from a business standpoint.

9 Q. You just understand from the money?

10 A. Well, the business standpoint meaning that the Barrys have  
11 not paid their mortgage and that foreclosure proceedings were  
12 initiated. That is my understanding.

13 Q. Okay. So you don't know whether or not in this case --  
14 well, let me refresh your memory.

15 MR. CUTLER: Your Honor -- your Honor, I'd like to  
16 approach the witness with the Verified --

17 THE COURT: You may.

18 Q. Here's a Verified Complaint and Counterclaim. And if  
19 you'd turn to Page 6, please, and then on to Page 7, and you  
20 can see the claims being asserted by your company against the  
21 Barrys. Count 1 is breach of loan agreement contract; Count 2,  
22 unjust enrichment; Count 3, breach of covenant of good faith  
23 and fair dealing.

24 Are you -- being Deutsche Bank, not you personally,  
25 Deutsche Bank -- suing the Barrys to foreclose on their house

1 in this case?

2 A. Yes.

3 Q. Then why did Deutsche Bank file a separate action in Land  
4 Court to foreclose on their house -- to foreclose on their  
5 house?

6 MS. SEVERINI: Your Honor, I'd like to object. This  
7 is beyond the scope of his testimony.

8 THE COURT: Sustained. The objection is sustained.

9 MR. CUTLER: Well, I'd like the Court to take judicial  
10 --

11 Q. Well, sir, isn't it true that you're not foreclosing on  
12 the Barrys' in this action? Isn't it true that in this action,  
13 originally, the foreclosure action, the first -- isn't it true  
14 that the first foreclosure action brought by Deutsche Bank has  
15 been abandoned?

16 MS. SEVERINI: Your Honor, objection.

17 THE COURT: Sustained.

18 Q. What damages is Deutsche Bank -- what is the breach of  
19 loan agreement contract that Deutsche Bank is suing on here?  
20 What is that contract?

21 A. From my understanding, the Barrys have not made payment on  
22 their mortgage loans.

23 Q. Do the Barrys have a contract with Deutsche Bank?

24 A. The two Barry loans are owned by Deutsche Bank.

25 Q. But do they have a contract with Deutsche Bank?

1 A. No.

2 Q. Breach of the covenant of good faith and fair dealing,  
3 what listing forbearance agreement -- with regards to the  
4 listing and forbearance agreement, what agreement is Deutsche  
5 Bank suing the Barrys under?

6 MS. SEVERINI: Objection, your Honor.

7 THE COURT: Sustained.

8 MR. CUTLER: Your Honor, this --

9 THE COURT: Go forward.

10 MR. CUTLER: Yup, I am.

11 Q. What are Deutsche Bank's damages resulting from the  
12 Barrys' bringing an action to stop the foreclosure of their --

13 MS. SEVERINI: Objection, your Honor. It's a  
14 misstatement.

15 THE COURT: Sustained.

16 Q. All right. The next thing you're saying, then, Sutton  
17 sold the Barrys' note and mortgage to the depositor, is that  
18 correct, pursuant to your chart?

19 A. Yes.

20 Q. And in support of that, you have produced Exhibit 32, a  
21 Bill of Sale, and a cross-receipt, Exhibit 33, correct?

22 A. Yes.

23 Q. When was the last -- when did you first review this Bill  
24 of Sale?

25 A. The past two weeks.

1 Q. Again, in preparation for this trial?

2 A. Yes.

3 Q. And Deutsche Bank is not a party to this Bill of Sale,  
4 correct?

5 A. Correct.

6 Q. And you didn't personally negotiate this Bill of Sale, did  
7 you?

8 MS. SEVERINI: Objection. Asked and answered.

9 THE COURT: Overruled. He can have it again.

10 A. No, I did not personally negotiate this Bill of Sale.

11 Q. You weren't aware of this Bill of Sale until about -- you  
12 hadn't looked at the Bill of Sale until about two weeks ago,  
13 correct?

14 A. No. I am aware of this -- a Bill of Sale in  
15 securitizations is a document that is executed. It is typical  
16 in a securitization for this type of document to be executed.

17 Q. Where in Exhibit 32 would I find the Barrys' loan?

18 A. These documents, the Bill of Sale, the cross-receipt, the  
19 Pooling and Servicing Agreement, are executed concurrently on  
20 the closing date by all the parties. This is a mortgage loan  
21 schedule.

22 Q. Sir, it doesn't list the Barrys' loan, does it, the bill  
23 of receipt (sic)?

24 A. The Bill of Sale specifically, no.

25 Q. In fact, it doesn't list any loans, does it?

1 A. The Bill of Sale -- again, it does make reference to an  
2 Exhibit A, a schedule of mortgage loans.

3 Q. Would you -- which you have not provided us, correct?  
4 Correct?

5 A. Yes.

6 THE COURT: All right. We're going to suspend for the  
7 day. You may step down for the time being, Mr. Reyes.

8 We will suspend till tomorrow morning at 9 a.m.,  
9 jurors. I ask you now -- this is the first time when you have  
10 broken for an overnight session after the trial started.  
11 Again, I caution you not to talk about this matter with friends  
12 or members of your family. The reason being, as I've explained  
13 to you before, what somebody else says about a case that might  
14 or might not be similar to this would be inappropriate for you  
15 to consider. You are to decide this case solely on the basis  
16 of the evidence that will come into this courtroom.

17 We will have a regular full day tomorrow. I believe  
18 we will go till about 3:30 in the afternoon. And I am hopeful  
19 that we are still on schedule to complete the trial by the end  
20 of this week. So have a nice evening. Leave those notebooks  
21 in the jury room, and I'll see you back here again at 9 a.m.  
22 (The jury left the room at 3:30 p.m.)

23 THE COURT: You may step down, Mr. Reyes.

24 Approximately how much longer on cross-examination of  
25 Mr. Reyes?

1 MR. CUTLER: About an hour.

2 THE COURT: And then the next witness will be -- you  
3 told me -- Mr. Perry, is that right?

4 MS. LONGORIA: Mr. Perry, that's correct.

5 THE COURT: He then -- the Barrys will then be the  
6 final two witnesses?

7 MS. LONGORIA: Exactly.

8 THE COURT: Will the defendants have additional  
9 evidence to offer after their cross-examination of their own  
10 clients?

11 MR. CUTLER: Additional witnesses, no, your Honor.

12 THE COURT: So I take it you will make your  
13 affirmative questions to your clients during your  
14 cross-examination?

15 MR. CUTLER: I would like to, if I could, your Honor.

16 THE COURT: That's fine.

17 Anything else that needs to come to my attention  
18 before we adjourn for the day?

19 MS. LONGORIA: Your Honor, with regard to Exhibits 29  
20 and 30, with regard to the redactions, I would like to make an  
21 argument on the record for that and to give your Honor an  
22 opportunity to review those original documents.

23 THE COURT: Well, unfortunately, I have another matter  
24 that I need to attend to today. If you want to make a written  
25 argument, you may do so by submitting it either later this

1 evening or first thing tomorrow morning.

2 MS. LONGORIA: Thank you.

3 THE COURT: Provide a copy to counsel. He will be  
4 able to respond either in writing or orally at that time.

5 MS. LONGORIA: Thank you.

6 THE COURT: Anything else? If not, we're adjourned  
7 for the day. We will resume tomorrow morning at 9 a.m.

8 (Whereupon, at 3:32 p.m. the trial recessed.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/Cheryl Dahlstrom

01/24/2010

Cheryl Dahlstrom, RMR, CRR  
Official Court Reporter

Dated