



Responses to Questions from
Dan Ruetenik, 60 Minutes
March 24, 2011

Dear Dan,

As many of the questions asked require more detailed responses due to the nature of the business, we thought that the best way to do that was to place a notation on the answer, and then at the end of all the responses we have more detailed notes that provide a complete picture of industry procedures that will provide you with a more detailed understanding of these important issues.

As an introduction to American Home Mortgage Servicing (AHMSI), our mission is to provide for and preserve our customer's dream of home ownership. We work diligently with our customers to realize that mission and as a result we are one of the top eight servicers in the U.S. Treasury's Home Affordable Modification Program (HAMP) program, with performance consistently at the highest levels when compared to our peers. Additionally, we participate in many outreach events on a monthly basis to meet our customers face to face to discuss their financial situations, and work closely with hundreds of counselors across the country to preserve home ownership.

We have modified nearly 60,000 loans for our customers in the last 12 months alone, 126,000 in the last two years, and 180,000 in the last three years. Additionally, we are advancing \$3 billion in funds for borrowers who are currently delinquent.

Regards,

Philippa Brown
AVP Corporate Communications
American Home Mortgage Servicing, Inc.

1. What services did Docx perform for American Home Mortgage Servicing and for how long?

DocX prepared, executed and recorded lien releases, assignments of mortgage and related documents for AHMSI from April 2008 through November 2009.

2. Does American Home Mortgage Servicing continue to use LPS?

AHMSI no longer uses Lender Processing Services, Inc. (LPS) or any of its affiliates to create or execute mortgage-related documents. However, LPS provides a number of products and services to mortgage servicers, including a mortgage servicing platform called MSP, which AHMSI uses as its loan servicing system of record to keep an accounting of loan activity with borrowers, and default management software applications, some of which AHMSI continues to use.

3. Was Linda Green of Cumming, GA a Vice President of American Home Mortgage Servicing or Option One?

No. Linda Green is not and never has been an employee of AHMSI or of Option One Mortgage Corporation.

4. If she was not why did she sign mortgage assignments as Vice President of American Home Mortgage Servicing/Option One?

Ms. Green, along with other employees selected by DocX and LPS, was duly appointed by AHMSI's board of directors as a "Special Officer," holding the title Vice President, for the limited purpose of executing mortgage-related documents.¹

5. Why is it standard practice to have someone with the title of Vice President sign an assignment of mortgage?

As a general matter, corporate authority can only be exercised by officers of the corporation – such as the president, vice presidents and secretaries – or other individuals designated by the corporation's board of directors. In many states, there are statutes and local custom regarding the formalities of recordation of documents in the land records that require that the signatory for a corporation be an officer with the title of assistant vice president or higher for the document to qualify for recordation. AHMSI appointed its signatories of mortgage-related documents as vice presidents to minimize the need to have individuals with different titles sign documents for use in different states.

6. How much did Docx charge American Home Mortgage Servicing for the production of an assignment of mortgage?

As with most negotiated services, pricing information is commercially sensitive, so AHMSI cannot discuss specifics. AHMSI paid a fee for production of assignments of mortgage in accordance with the terms of the contract between the parties. AHMSI also paid DocX the recordation fees required by the appropriate recording authority to record the assignments in the local property records.

7. Is American Home Mortgage Servicing aware of other companies that used the services of Docx for the production of Assignments of Mortgages and if so what were those companies?

AHMSI understands that at least one other national servicer also used DocX's services and was affected by the practice of "surrogate signing." ⁱⁱ

8. How many Assignments of Mortgages did Docx produce for American Home Mortgage Servicing?

AHMSI has determined that DocX produced approximately 70,000 assignments during the period that it was retained by AHMSI to do this work. LPS has advised us that 30,425 assignments were "surrogate-signed" and that such activity was limited to the period of March 2009-October 2009.

9. What was the process for creating an Assignment of Mortgage? Who would request it and why?

Before initiating a foreclosure action for a particular property, AHMSI's local foreclosure counsel would review the title report to determine whether by law or local practice an assignment of mortgage was needed or was expected by courts or local officials to be recorded in the local land records to memorialize the transfer of ownership of the mortgage from the originating lender to the securitization trust, the plaintiff in the foreclosure action. If so, foreclosure counsel would request an assignment on LPS's computerized foreclosure tracking system known as "LPS Desktop." Upon receiving this request, DocX would prepare the assignment and notify local counsel that it was ready for review through LPS Desktop. If foreclosure counsel approved, the process would then be for an authorized individual employee of DocX who had been appointed as a Special Officer of AHMSI, as explained above, to execute the assignment pursuant to the corporate authority granted to him or her and DocX would cause the assignment to be recorded in the appropriate land records.

10. Were the mortgages actually assigned on the dates that they were signed and notarized by Docx employees?

Mortgages generally transfer with the promissory notes they secure. It is a legal principle commonly expressed by the saying: "The mortgage follows the note." Because AHMSI services loans for securitization trusts, the notes are usually delivered to the trust when the securitization closes. The closing would have happened before a DocX mortgage assignment to the trust was prepared. ⁱⁱⁱ

11. When and how did American Home Mortgage Servicing become aware that "surrogate signers" were signing documents at the Docx office in Alpharetta, GA?

LPS notified AHMSI of the practice of “surrogate signing” in late November 2009.

12. What has American Home Mortgage Servicing done to fix the problem?

Upon learning of this unauthorized practice, AHMSI terminated DocX and promptly conducted an extensive 50-state remediation effort, to address any issues caused by this problem. The purpose of our remediation efforts was to ensure that no customer would be adversely impacted by this unauthorized activity.

13. Was Lynn Szymoniak’s loan serviced by American Home Mortgage Servicing?

Yes, but please direct any further inquiries regarding this loan to Ms. Szymoniak. However, we can advise you that on July 14, 2008, a foreclosure action was filed against Ms. Szymoniak styled *Deutsche Bank National Trust Company, as Trustee for the Certificateholders of Soundview Home Loan Trust 2006-OPT2, Asset-Backed Certificates, Series 2006-OPT2 v. Lynn E. Szymoniak, et al.*, Case No. 50-2008 CA 022258, in Palm Beach County, Florida. **Because of this ongoing litigation, AHMSI has reached out to Ms. Szymoniak’s counsel to request that she authorize us to discuss her loan with you. We did not receive a response to our request for permission from Ms. Szymoniak or her counsel; therefore, it would be inappropriate to discuss any details relating to her loan, including any payment history or correspondence.**

14. Is Ms. Szymoniak accurate in her allegation that American Home Mortgage Servicing/Option One missed the date at which they were contractually allowed to raise her interest rate and then retroactively applied the rate change? If that is accurate did American Home Mortgage Servicing ever offer to fix that mistake?

Because of this ongoing litigation, AHMSI has reached out to Ms. Szymoniak’s counsel to request that she authorize us to discuss her loan with you. We did not receive a response to our request for permission from Ms. Szymoniak or her counsel; therefore, it would be inappropriate to discuss any details relating to her loan, including any payment history or correspondence.

However, without discussing Ms. Szymoniak’s loan in particular, Adjustable Rate Mortgage loans set a fixed initial interest rate for a period of time, after which the rate adjusts in accordance with the terms and conditions of the Note. The Note used in this type of loan indicates that the rate will adjust on a "Change Date," defined to be a date in a particular month and that the first payment for which the interest rate change will be effective will be the month following the Change Date. In this context, any allegation that the date for adjustment had passed and, therefore, that any adjustment to the rate would be improper, shows a fundamental misunderstanding of the nature of Adjustable Rate Mortgage loans.

15. Why was Ms. Szymoniak's mortgage assigned to Deutsche Bank by American Home Mortgage Servicing/Option One after Deutsche Bank filed for foreclosure?

Without discussing Ms. Szymoniak's loan in particular, we can advise you that in Florida there is no legal requirement to record the assignment prior to commencement of a foreclosure action and it is appropriate and standard industry practice to record the mortgage assignment after the foreclosure action has been commenced, merely as secondary, albeit legally unnecessary evidence that the plaintiff has the legal standing to prosecute the foreclosure proceeding, and to provide notice to third parties regarding the lien-holder status of the mortgage.

Additional Notes/Further Explanations

ⁱ The use of Special Officers has been standard practice in the mortgage servicing industry for years and is simply a convenient method of appointing individuals employed by contract vendors so that the named individuals are duly appointed to act with respect to legally operative documents that the vendors have been retained to handle. It is akin to using a power of attorney, but with recorded documents it is less burdensome to appoint officers than it is to appoint attorneys-in-fact because with the latter many counties would require the original power of attorney to be submitted for recordation along with the document executed under the power and the signature block for the signature on the document would need to vary depending on the jurisdiction. Thus, it is a sensible and non-controversial business decision to appoint individuals as limited or special officers for the sole and exclusive purposes set forth in the authorizing resolution.

ⁱⁱ The term "surrogate signing," is a term that has been used by others, including the press, to describe what DocX employees apparently did until November 2009. Certain DocX employees had express authority to sign mortgage-related documents for us, and were made Special Officers to do so. There is nothing unusual about that. But, we understand that some of those DocX employees may have delegated their signature authority to others who would sign in the name of the authorized employee. We assume that your question is using that term in the same way. If not, let us know.

ⁱⁱⁱ Although the answer is accurate, the following detailed explanation is necessary to render it complete:

An assignment of mortgage is created based upon the statutory requirements or local custom and practice of the state in which the property is situated and routinely is executed and delivered, but not recorded, shortly before the date upon which the promissory note and related mortgage are transferred to the securitization trust on the date the trust closed. As between the assignor of the mortgage and the trust, as assignee, recordation is not necessary to effect a lawful transfer of the mortgage. All that is required is execution and delivery and those events occur at or prior to the date the trust acquires the loan as part of the securitization closing. Thus, the mortgages are actually assigned on the dates that they were signed and notarized in connection with the closing of the securitization trust and not subsequent to that date when DocX employees signed assignments and had them notarized.

Furthermore, as background for you to understand why servicers use this process, in the vast majority of states in the United States the "mortgage follows the note." This means that the owner or "holder" of the note has the right to enforce the mortgage as collateral for the note. As mentioned, the trustee is typically given possession of the note, endorsed in blank, and delivered to a custodian as agent of the trustee, at the closing of the securitization trust. The assignment is delivered in an abundance of caution, but is not technically required for the trustee to own all legal right, title and interest in and to the mortgage loan; it suffices under the Uniform Commercial Code in force in most states that the note is endorsed and transferred as described above.

In addition to transferring the mortgage through an unrecorded assignment at the time the assignee securitization trust obtains the loan, it has been industry practice for the loan servicer to have an assignment of mortgage executed and recorded in the name of the trustee for the securitization trust typically shortly before a foreclosure action is commenced. This latter assignment would be recorded to put record title into the name of the owner or holder of the loan, to eliminate any confusion about the assignee being the appropriate plaintiff to commence the foreclosure action. However, this assignment would not act to transfer ownership or holder status to that assignee, which occurred earlier, as explained above.

Although there exists a signed and notarized unrecorded assignment of mortgage in favor of the securitization trustee in a loan file maintained under contract by a custodian retained by the trust, in most cases it is very burdensome and costly to obtain that old, original assignment and more troublesome to record it, which is a document in favor of blank (that is, the name of the assignee is not filled in) and is dated, signed, and notarized years ago; it is generally less burdensome, more efficient, and less expensive to have foreclosure counsel review the current state of title and counsel or a document preparer prepare, sign, notarize, and record a currently prepared assignment, pursuant to appropriate corporate authority.

Finally, there are many reasons why the assignment is not recorded until shortly before or even after a foreclosure action has started. For instance, (i) the servicer typically remains in record title to receive notices filed against the property so that it can act, as servicer, to protect the trust's interest in the loan, (ii) in most states, the record title to the mortgage is relevant to provide notice to the world that there is a lien on the property, but the holder of the note has all rights to enforce the lien regardless of whether it is also in record title, and (iii) there is little reason to spend money to record assignments in the name of the trust in the vast majority of cases where the loan does not go into default and is paid off or refinanced and the servicer needs to generate a pay-off statement within a short period of time and record a mortgage satisfaction. Thus, although assignments are executed and recorded many months or years subsequent to the actual transfer of the mortgage loan, it is critical to understand that the mortgage was assigned at the time the securitization trust closed and not at the time a subsequently executed assignment was executed or recorded.