

Volume I  
Pages 1 to 65  
Exhibits 1 to 5

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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In Re: :
PATRICIA L. STARR, :
      Debtor :
- - - - - : Chapter 13
: No. 09-41903-JBR
PATRICIA L. STARR, :
      Plaintiff, :
:
      vs. :
: Adv. Pro.
BANK OF AMERICA CORPORATION : No. 09-04122-JBR
ASSIGNEE AND/OR SUCCESSOR IN :
INTEREST TO COUNTRYWIDE HOME :
LOANS, INC., COUNTRYWIDE HOME :
LOANS, INC., and BANK OF NEW :
YORK MELLON, :
      Defendants. :
:
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DEPOSITION OF THE BANK OF NEW YORK MELLON,  
through its designee RENEE D. HERTZLER, a witness  
called on behalf of Patricia L. Starr, taken  
pursuant to Rule 30(b)(6) of the Federal Rules of  
Civil Procedure, before Jane M. Williamson,  
Registered Merit Reporter and Notary Public in and  
for the Commonwealth of Massachusetts, at the  
Offices of Doris O. Wong Associates, Inc., 50  
Franklin Street, Boston, Massachusetts, on Friday,  
February 19, 2010, commencing at 2:08 p.m.

PRESENT:

Nickless, Phillips and O'Connor, P.C.  
(by James L. O'Connor, Jr., Esq.)  
625 Main Street, Fitchburg, MA 01420,  
for the Plaintiff Patricia L. Starr.

(Continued on next page)

PRESENT: (Continued)

Goodwin Procter LLP  
(by Catalina E. Azuero, Esq.)  
Exchange Place, Boston, MA 02109, for  
the Defendants.

\* \* \* \* \*

	I N D E X				
	WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
1					
2					
3					
4	RENEE D. HERTZLER				
5	BY MR. O'CONNOR	4		60	
6					
7	BY MS. AZUERO		54		
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9					

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24

## 1 PROCEEDINGS

2 RENEE D. HERTZLER

3 a witness called for examination by counsel for  
4 Patricia L. Starr, having been satisfactorily  
5 identified by the production of her driver's license  
6 and being first duly sworn by the Notary Public, was  
7 examined and testified as follows:

## 8 DIRECT EXAMINATION

9 BY MR. O'CONNOR:

10 Q. Good afternoon, ma'am. Could you please  
11 state your name and your business address.

12 A. Renee Hertzler, 7105 Corporate Drive,  
13 Plano, Texas.

14 Q. And who is your employer, ma'am?

15 A. Bank of America.

16 Q. Bank of America. Is that the complete name  
17 of your employer?

18 A. I work in the home loan servicing -- Bank  
19 of America Home Loan Servicing.

20 Q. Is it Bank of America Corporation or is it  
21 a subsidiary of Bank of America?

22 A. Yes, it's a subsidiary -- well, it's Bank  
23 of America Home Loan Servicing, which is part of  
24 Bank of America.

1 Q. And Bank of America Home Loan Servicing, is  
2 that the complete name of your employer?

3 A. Yes.

4 Q. My name is Jim O'Connor, and I represent  
5 Patricia Starr, who is the debtor in this Chapter 13  
6 bankruptcy, as well as the plaintiff in the  
7 adversary proceeding.

8 I'm going to take your deposition today.  
9 If I ask you a question, I'm going to ask you to  
10 respond verbally. If you want the question  
11 repeated, we can repeat the question for you.

12 If at any time you want to take a break,  
13 just ask to take a break. As long as there's no  
14 question pending, we'll be happy to accommodate.

15 As far as stipulations are concerned, we're  
16 going to waive -- reserve all objections until the  
17 time of trial?

18 MS. AZUERO: That's fine.

19 MR. O'CONNOR: And do you want to have an  
20 opportunity to have your client read the transcript?

21 MS. AZUERO: I do. We're waiving all  
22 except for objections to form, right?

23 MR. O'CONNOR: Correct. And you'll make  
24 arrangements with the reporter to get a transcript?

1 MS. AZUERO: I will. Since we're putting  
2 her forward as the 30(b)(6) for Bank of New York for  
3 specific topics and for Bank of America for specific  
4 topics, I just want to be clear when you're asking  
5 her questions, however you want to do it, but I want  
6 to know -- or she needs to know if she's answering  
7 personally or as the representative for Bank of New  
8 York or as the representative for Bank of America.

9 MR. O'CONNOR: We'll address that when we  
10 come to it.

11 BY MR. O'CONNOR:

12 Q. So is there anything that you want me to  
13 clarify at this time?

14 A. I don't think so.

15 Q. If you could briefly just summarize your  
16 educational background.

17 A. I'm a high school graduate.

18 Q. And any education beyond high school?

19 A. Minimal college. I didn't graduate.

20 Q. What year did you graduate from high  
21 school?

22 A. 1985.

23 Q. And how old are you, ma'am?

24 A. 42.

1 Q. Are you taking any medications today or is  
2 there any condition that would cause you difficulty  
3 in answering questions?

4 A. I'm taking antibiotics, but I would not  
5 have any difficulty answering questions.

6 Q. Then you're physically prepared to go  
7 forward with the deposition?

8 A. Yes.

9 Q. Have you ever testified at a deposition  
10 before?

11 A. Yes.

12 Q. How many times?

13 A. One.

14 Q. Where was that?

15 A. Dallas, Texas.

16 Q. And when was that?

17 A. The deposition was in I believe July of  
18 '09.

19 Q. And was that in connection with your  
20 employment? Were you testifying on behalf of your  
21 employer or was it for a personal matter?

22 A. It was for employment.

23 Q. And was it on behalf of Bank of America  
24 Home Loan Servicing?

1 A. Countrywide Home Loans.

2 Q. Countrywide, all right.

3 Are you also employed by Countrywide?

4 A. No.

5 Q. And why was it in July of '09 you were  
6 testifying on behalf of Countrywide?

7 A. It was a lawsuit from the time I worked for  
8 Countrywide.

9 Q. Have you testified in court before?

10 A. Yes.

11 Q. How many times?

12 A. Once.

13 Q. When was that?

14 A. July of '09.

15 Q. And was that the same proceeding?

16 A. Yes.

17 Q. The Countrywide matter.

18 We're going to start with the Bank of New  
19 York Mellon 30(b)(6) deposition.

20 MS. AZUERO: I just want to be clear that  
21 she won't be testifying as to Topics 3 or 5.

22 MR. O'CONNOR: Do you want to mark this as  
23 the first exhibit.

24

1 (Document marked as  
2 Exhibit 1 for identification)

3 Q. If you could just take a moment and take a  
4 look at the document that's been marked as Exhibit  
5 1.

6 A. Okay. (Witness reviews document) Okay.

7 Q. Have you seen that document before?

8 A. No.

9 Q. This is the first time you've seen it?

10 A. Yes.

11 Q. You've had an opportunity to read it?

12 A. Yes.

13 Q. Do you consent to testify today on behalf  
14 of Bank of New York Mellon concerning the topics set  
15 forth on that notice, other than as your counselor  
16 has indicated Topics No. 3 and 5?

17 A. Yes.

18 Q. Did you speak with anyone today in  
19 preparation of your testimony?

20 A. Yes.

21 Q. Who did you speak with?

22 A. My attorney.

23 Q. And who is that?

24 A. Catalina Azuero.

1 Q. And other than your attorney, did you speak  
2 with anyone else?

3 A. No.

4 Q. When did you first learn that you'd be  
5 testifying at this deposition?

6 A. Roughly, I want to say, sometime in  
7 November.

8 Q. Have you looked at any documents in  
9 preparation for your testimony today?

10 A. Yes.

11 Q. What documents did you look at?

12 A. I looked at assignments, an affidavit,  
13 mortgage note, Proof of Claim.

14 Q. And when did you look at those documents?

15 A. I looked at them today.

16 Q. Was that the first time you looked at them?

17 A. I briefly looked at them when I originally  
18 received them, which was probably around the time  
19 that I found out about this.

20 MR. O'CONNOR: I'll mark that as No. 2.

21 (Document marked as

22 Exhibit 2 for identification)

23 Q. The document that's been handed to you  
24 marked as No. 2, is that the Proof of Claim in this

1 case?

2 A. Yes, it is.

3 Q. Now, if you look at the first page, fourth  
4 column down, where it states the name of creditor,  
5 do you see that?

6 A. Yes.

7 Q. Is that the party on whose behalf you're  
8 testifying today?

9 A. Yes.

10 Q. And are you testifying on behalf of that  
11 party pursuant to a Power of Attorney?

12 A. Yes.

13 Q. I'm going to hand you a document and ask  
14 you if that's the Power of Attorney that you've made  
15 reference to.

16 A. Yes, it is.

17 MR. O'CONNOR: Why don't we just mark this  
18 one as 2A.

19 (Document marked as

20 Exhibit 2A for identification)

21 MS. AZUERO: She's also testifying pursuant  
22 to Power of Attorney and because Bank of New York  
23 has chosen her to designate under the Federal Rules  
24 of Procedure.

1 Q. The document marked as 2A is the Power of  
2 Attorney that you referred to.

3 Does your name appear on that Power of  
4 Attorney?

5 A. No.

6 Q. Do you know if that Power of Attorney has  
7 been recorded anywhere in the Commonwealth of  
8 Massachusetts?

9 A. Can you repeat that, please.

10 Q. Yes. Do you know if that Power of Attorney  
11 has been recorded anywhere in the Commonwealth of  
12 Massachusetts?

13 A. I don't know.

14 Q. You don't know if it's been recorded at any  
15 Registry of Deeds in Massachusetts?

16 A. No, I don't.

17 Q. Do you know if it's been recorded with the  
18 Secretary of State for the Commonwealth of  
19 Massachusetts?

20 A. I don't know.

21 Q. If you find out that it has, will you be  
22 willing to let us know?

23 A. I'll let my attorney know.

24 Q. If you look at the first page, line Item

1 No. 5, about three-quarters of the way down, "Total  
2 amount of claim at the time case filed." Do you see  
3 that?

4 A. Yes.

5 Q. And in the middle of the page to the right,  
6 do you see an amount?

7 A. Yes, I do.

8 Q. In the amount of \$176,645.19; is that  
9 correct?

10 A. That's correct.

11 Q. Do you know what the basis for that amount  
12 is?

13 A. Yes. That's the principal balance, the  
14 interest, escrow shortage, foreclosure fees and  
15 costs, property inspections and uncollected late  
16 charges.

17 Q. Owed to whom?

18 A. Owed to Bank of New York.

19 Q. The party identified as "the creditor"?

20 A. That's correct.

21 Q. Now, if you turn towards the second to the  
22 last page of the Proof of Claim, where it says  
23 "Assignment of Mortgage," do you see that?

24 A. Yes.

1 Q. Where it says, "This assignment has an  
2 effective date of May 12, 2008." Do you see that?

3 A. Yes.

4 Q. Now, is the party for whom you're  
5 testifying today identified on that page?

6 A. Yes.

7 Q. Where is it identified?

8 A. In the second paragraph, the Bank of New  
9 York.

10 Q. Could you read it in its entirety.

11 A. "The Bank of New York as Trustee, for the  
12 Benefit of the Certificateholders CWABS Inc.,  
13 Asset-Backed Securities" -- I'm sorry,  
14 "Certificates, Series 2007-5ES, Series 2007-5  
15 ('Assignee') all Assignor's right, title and  
16 interest in and to the following:"

17 Q. So that's the party that is identified on  
18 that page as the "assignee"?

19 A. Yes.

20 Q. And that's the party for whom you're  
21 testifying today?

22 MS. AZUERO: Objection.

23 Q. You can answer.

24 Is that the party for whom you are

1     testifying today?

2             MS. AZUERO:  You can answer.

3             A.  Yes.

4             Q.  And is that the party that's the creditor  
5     on the first page of the Proof of Claim?

6             A.  Yes.

7             MS. AZUERO:  Objection.

8             A.  Yes, with the exception of the Series  
9     2007-5ES.

10            Q.  And what does the exception mean?

11            A.  I don't know.

12            Q.  Now, if you look on that May 12 assignment,  
13     the second to the last page, about two-thirds of the  
14     way down you'll see the name "Kimberly Dawson"?

15            A.  Yes.

16            Q.  Do you know who Kimberly Dawson is?

17            A.  Yes.

18            Q.  Who is she?

19            A.  She's a vice president at Bank of America.

20            Q.  Did you speak with her today -- I'm sorry,  
21     strike that.

22                    Have you spoken to her in connection with  
23     this matter?

24            A.  No.

1 Q. When was the last time you spoke with  
2 Kimberly Dawson?

3 A. I don't remember.

4 Q. Are you prepared to testify today  
5 concerning her authority to execute this assignment?

6 A. Yes.

7 Q. And what is it you know about her authority  
8 to execute the assignment?

9 A. I know she has a resolution for MERS.

10 Q. And what does the resolution say?

11 A. It indicates that she has the ability to  
12 act on their behalf.

13 Q. Does it identify her personally?

14 A. Not that I'm aware of.

15 Q. So how do you know that it provides her  
16 with the authority to act on its behalf?

17 A. I read it; that we're able to act as an  
18 agent for them.

19 Q. When did you read it?

20 A. I read it today.

21 Q. Is this a copy of what you read?

22 A. Yes.

23 MR. O'CONNOR: Let's mark that as 2B.

24

1                   (Document marked as  
2                   Exhibit 2B for identification)

3           Q.    The document that is marked as 2B,  
4 "Corporate Resolution," is that the document you  
5 were just referring to?

6           A.    Yes.

7           Q.    And does Kimberly Dawson's name appear  
8 anywhere on that document?

9           A.    No.

10          Q.    And today was the first time you had ever  
11 seen that document?

12          A.    Yes.

13          Q.    Do you recognize Ms. Dawson's signature?

14          A.    Yes, I do.

15          Q.    How do you recognize it?

16          A.    I've seen it before.

17          Q.    You have, okay.

18                   Were you present on the date that she  
19 signed the May 5, '09 assignment?

20          A.    No, I did not see her sign it.

21          Q.    Do you know if a notice of that May 5, '09  
22 assignment was ever sent to Patricia Starr?

23          A.    I don't know.

24          Q.    Now, if you would please turn to the last

1 page of the Proof of Claim. And it's a document  
2 labeled as "Assignment of Mortgage." Do you see  
3 that?

4 A. Yes, I do.

5 Q. It's dated as of July 10 of '09. Do you  
6 see that?

7 A. Yes.

8 Q. And is the party on whose behalf you're  
9 testifying today identified on this assignment of  
10 mortgage?

11 A. Yes.

12 Q. Where is that party identified?

13 A. It's identified in the first paragraph, the  
14 Bank of New York.

15 Q. The party identified as "assignor," is that  
16 who you're testifying for today?

17 A. Yes.

18 Q. Are you testifying today on behalf of the  
19 party identified as "assignee" in the second  
20 paragraph?

21 A. Yes.

22 Q. Yes, you are, okay.

23 And is the party identified as "assignor"  
24 identical to the party identified as "assignee"?

1 A. No.

2 MS. AZUERO: I'm going to object as to the  
3 legal structure of the Bank of New York. It's not  
4 something that she is supposed to testify to.

5 MR. O'CONNOR: I don't think that was my  
6 question.

7 MS. AZUERO: That's what your question is  
8 going to.

9 Q. Is the party identified on the Assignment  
10 of Mortgage dated July 10 of '09, the party  
11 identified as the "assignor," is that the creditor  
12 in this case?

13 A. Yes.

14 Q. Is the party identified on that assignment  
15 as the "assignee," is that the creditor in this  
16 case?

17 A. Let me correct myself, please. The  
18 assignor is not the creditor, but the assignee is  
19 the creditor.

20 Q. Okay. Are you certain about that?

21 A. Yes.

22 Q. So the assignor, the party identified as  
23 the "assignor" on the July 10, '09 assignment is the  
24 party that's identified as the "creditor" on Page 1

1 of the Proof of Claim. Is that your testimony?

2 A. Yes.

3 MS. AZUERO: That was not her testimony.

4 She corrected herself.

5 A. The assignee is identified on the Proof of  
6 Claim.

7 Q. The assignee is identified. Let's make  
8 sure we get this clear.

9 Page 1 of the Proof of Claim identifies a  
10 creditor. Do you see that?

11 A. Yes.

12 Q. And the party identified as the "creditor,"  
13 is that the same party that's identified as an  
14 "assignee" on the July 10th assignment?

15 A. Yes.

16 Q. Or "assignor"?

17 A. The assignee on the assignment is the  
18 creditor, which is outlined on Page 2 of the Proof  
19 of Claim.

20 Q. All right.

21 Do you know why the assignment on July 10th  
22 of '09 was executed?

23 A. Yes.

24 Q. Why?

1           A.    It was to correct the assignment that  
2 Kimberly Dawson had executed, because there was an  
3 error in how the creditor's name was outlined in the  
4 assignment.

5           Q.    What was the error on the Kimberly Dawson  
6 May 5th assignment?

7           A.    It outlined Series 2007-5ES.

8           Q.    It identified that party as the assignee?

9           A.    Yes.

10          Q.    So the May 5, '09 assignment identified the  
11 wrong assignee; is that correct?

12          A.    Assignor -- I'm sorry, let me correct  
13 myself. Assignee.

14          Q.    Do you want to just clarify what the error  
15 was on the May 5, '09 assignment.

16          A.    Yes. On the assignee, it indicated "Series  
17 2007-5ES," which was incorrect.

18          Q.    The assignee identified on the May 5, '09  
19 assignment was incorrect.

20          A.    Correct.

21          Q.    And the July 10 assignment -- July 10 of  
22 '09 corrected that by identifying the correct  
23 assignee?

24          A.    Correct.

1 Q. And the assignee identified on the July  
2 10th, '09 assignment is the creditor on Page 1 of  
3 the Proof of Claim.

4 A. Correct.

5 Q. Now, you are the person who signed the July  
6 10, '09 assignment; is that correct?

7 A. Yes.

8 Q. And that's your signature -- if you look at  
9 the last page of the Proof of Claim, the assignment  
10 dated July 10, '09, that is your signature, "Renee  
11 Hertzler, Vice President," correct?

12 A. Yes.

13 Q. And did you sign this document on July 10th  
14 of '09?

15 A. I don't remember.

16 Q. You don't remember.

17 Do you remember where you were when you  
18 signed this document?

19 A. Not specifically.

20 Q. Do you have an office?

21 A. Yes.

22 Q. Where is your office located?

23 A. It's located at 7105 Corporate Drive in  
24 Plano, Texas.

1 Q. And how long has that been your office?

2 A. I've been in that office since February of  
3 '07.

4 Q. And do you travel in connection with your  
5 work?

6 A. Generally, no.

7 Q. But occasionally you do?

8 A. Yes.

9 Q. And do you travel so much that you wouldn't  
10 necessarily recall where you traveled to in July of  
11 '09?

12 A. Correct.

13 Q. So in July of '09, as you testify here  
14 today, do you recall any of the places that you  
15 reported for work during that month?

16 A. Well, I know I reported to the 7105  
17 Corporate Drive, and I would have signed this there.  
18 It's just I may not have signed it in my office.

19 Q. Oh, okay. But if you signed it, you signed  
20 it in Plano, Texas?

21 A. Yes.

22 Q. In the building where you work?

23 A. Correct.

24 Q. But you don't remember if you signed it on

1 July 10.

2 A. I don't remember.

3 Q. Do you remember if you signed it in July of  
4 '09?

5 A. I don't remember.

6 Q. Do you remember if you signed it in June of  
7 '09?

8 A. No.

9 Q. No, you don't remember or No, you didn't?

10 A. I don't remember when I signed it.

11 Q. But there was one assignment that was  
12 signed, according to this document, on May 5th of  
13 '09 by Kimberly Dawson, correct?

14 A. I don't know if she specifically signed it  
15 that day, but this is the assignment that she  
16 signed.

17 Q. You don't know if she signed it on May 5th  
18 of '09?

19 A. I don't.

20 Q. And you don't know where she signed it.

21 A. I don't know.

22 Q. And you don't know if anybody was present  
23 when she signed it.

24 A. I don't know.

1 Q. Well, do you remember if anybody was  
2 present when you signed the document, the July 10th  
3 assignment?

4 A. I don't know.

5 Q. Do you sign a lot of these documents?

6 A. Yes.

7 Q. How many do you sign in a day?

8 A. I don't know specifically in a day.  
9 Sometimes I may not get any, and some days I might  
10 get a lot.

11 Q. What's "a lot"?

12 A. The last I heard, roughly 7 or 8,000 per  
13 month.

14 Q. Per month.

15 A. Yes.

16 Q. What's the procedure that you use to sign  
17 them? Do you sign them as a batch? Do you sign  
18 them as they pass your desk? How does that work?

19 A. Most of the time I sign them in batch.  
20 Every once in a while I'll sign one or two here or  
21 there.

22 Q. And when you sign them, is there generally  
23 somebody present with you?

24 A. Generally, no.

1 Q. Now, the July 10, '09 assignment contains a  
2 jurat just below your signature. Do you see that?

3 A. Yes.

4 Q. And it appears to be Sandra Rivers. Do you  
5 see that?

6 A. Yes.

7 Q. Do you know who Sandra Rivers is?

8 A. Yes.

9 Q. When was the last time you spoke with  
10 Sandra Rivers?

11 A. I generally don't speak to her. I just  
12 know of her.

13 Q. Do you know if she recognizes your  
14 signature?

15 A. Yes, she does.

16 Q. How do you know that?

17 A. She works in the Document Execution Team.  
18 And they are trained to familiarize themselves with  
19 our signatures.

20 Q. They're trained?

21 A. Yes.

22 Q. How are they trained?

23 A. I don't know.

24 Q. Well, how do you know that they're trained?

1 A. That's what I've been told.

2 Q. Who told you that?

3 A. The Document Execution Team.

4 Q. Is there a name?

5 A. David Perez.

6 Q. So as you're testifying here today, was  
7 Sandra Rivers present when you signed the July 10,  
8 '09 assignment?

9 A. No.

10 Q. She was not.

11 And you signed it "Renee Hertzler, Vice  
12 President." Do you see that?

13 A. Yes.

14 Q. Why did you put "Vice President" next to  
15 your name?

16 A. The Document Execution Team actually stamps  
17 that on there for us.

18 Q. Do they do that before you sign it or  
19 after?

20 A. Before.

21 Q. So when you signed it, your name appeared  
22 below you, with the title "Vice President."

23 A. Correct.

24 Q. And the entity just above your name, that

1 is the assignor; is that correct?

2 A. Yes.

3 Q. On July 10th of '09, were you a vice  
4 president of that entity?

5 A. Yes.

6 Q. You were.

7 A. Let me correct myself. I'm a Vice  
8 President of Bank of America.

9 Q. But Bank of America is not the assignor.

10 A. Correct.

11 Q. Bank of New York Mellon, formerly known as  
12 the Bank of New York as Trustee, is the assignor?

13 A. Correct.

14 Q. On July 10th of '09, were you a vice  
15 president of the Bank of New York Mellon, formerly  
16 known as the Bank of New York as Trustee?

17 A. No.

18 Q. Have you ever been a vice president of that  
19 entity?

20 A. No.

21 Q. But when you signed it, it clearly  
22 identified the Bank of New York Mellon, formerly  
23 known as the Bank of New York as Trustee, as the  
24 party for whom you were signing; is that correct?

1 A. Correct.

2 Q. And it clearly identified you as its vice  
3 president, correct?

4 A. Yes.

5 MR. O'CONNOR: This is going to be 3.

6 (Document marked as  
7 Exhibit 3 for identification)

8 Q. The document that's been handed to you  
9 marked as Exhibit 3, if you could just take a look  
10 at that, please.

11 A. (Witness reviews document)

12 Q. Have you had a chance to look at it?

13 A. Briefly.

14 Q. Is that the same promissory note that is  
15 part of the Proof of Claim filed in this case?

16 A. Yes.

17 Q. It's a copy?

18 A. Yes.

19 Q. It's dated February 23, 2007 on the front  
20 page?

21 A. Yes, it is.

22 Q. And it's in the amount of 152,500?

23 A. Yes.

24 Q. And it's signed by Patricia Starr, the

1 debtor?

2 A. Yes, it is.

3 Q. And that note is payable to Countrywide  
4 Home Loans, correct?

5 A. Correct.

6 Q. It's not payable to the Bank of New York,  
7 correct?

8 A. Correct.

9 Q. And the document that was marked as Exhibit  
10 3, the last page, contains something that's missing  
11 from the note that was attached to the Proof of  
12 Claim. Do you see that?

13 A. (Witness reviews document)

14 Q. I'll just point you to the bottom right  
15 corner.

16 A. Okay.

17 Q. Do you see that?

18 MS. AZUERO: I'm just going to object that  
19 this is not part of the supporting documents of the  
20 Proof of Claim.

21 MR. O'CONNOR: I understand.

22 Q. Do you know who Michele Sjolander is?

23 A. I don't.

24 MS. AZUERO: Again, I'm just going to be

1 clear, she would now be answering on behalf of  
2 herself and not on behalf of the Bank of New York.  
3 This isn't part of the documents in the 30(b)(6)  
4 notice.

5 Q. Has Bank of New York Mellon ever had  
6 possession of the original of this promissory note?

7 A. I don't know.

8 Q. You don't know?

9 A. I don't know.

10 Q. And again, do you know who Michele  
11 Sjolander is?

12 A. No.

13 Q. Do you know when she signed this?

14 A. I don't --

15 MS. AZUERO: I'm going to object. Again,  
16 this isn't within her testimony as the Bank of New  
17 York deponent. She can answer for herself.

18 MR. O'CONNOR: I'm not sure I agree.

19 MS. AZUERO: I'm just putting on the record  
20 this is not within the deposition notice.

21 Q. Do you know what the location of the  
22 original promissory note was on July 15 of 2009?

23 A. From my understanding, Bank of New York had  
24 it.

1 Q. Why is it your understanding?

2 A. That's what I was told.

3 Q. Who told you?

4 A. My attorney.

5 Q. Did anyone else tell you that?

6 A. No.

7 MS. AZUERO: I'm going to ask for a brief  
8 break.

9 MR. O'CONNOR: Let's take a break.

10 (Recess taken from to 2:45 to 2:53)

11 MR. O'CONNOR: The topics on this 30(b)(6)  
12 deposition include the location and chain of  
13 possession and custody of the promissory note and  
14 mortgage that are the basis of the claim in this  
15 matter.

16 Is Ms. Hertzler prepared to testify  
17 concerning the location of the promissory notes?

18 MS. AZUERO: Yes.

19 BY MR. O'CONNOR:

20 Q. On July 15, 2009, where was the original  
21 promissory note attached to the Proof of Claim  
22 located?

23 A. From my understanding, Bank of New York had  
24 custody of it.

1 Q. Where did Bank of New York have custody?  
2 A. In their storage facility.  
3 Q. Where is that facility located?  
4 A. I don't recall.  
5 Q. You don't recall or you don't know?  
6 A. I don't recall.  
7 Q. But you knew at one time?  
8 A. I think so.  
9 Q. What would you need to do to refresh your  
10 memory?  
11 A. Go back and look at some documentation.  
12 Q. Why didn't you look at that documentation  
13 before you came here today?  
14 A. I did, but I don't remember.  
15 Q. You did, but you don't remember.  
16 When did you look at it?  
17 A. This morning.  
18 Q. Where is it?  
19 A. I don't have it with me.  
20 Q. Where is it?  
21 A. It's back at the office, my attorney's  
22 office.  
23 Q. Your attorney's office. Right here in  
24 Boston?

1 A. Uh-hum.

2 Q. Do you want to take a break at some point,  
3 go look at it and then come back?

4 MS. AZUERO: I can have Erin fax to me the  
5 location. We don't have the exact address. We do  
6 have the location.

7 Q. But Ms. Hertzler was looking at documents.  
8 Do the documents that you were looking at  
9 have the address?

10 MS. AZUERO: It was an email I sent her  
11 with the location. I didn't get the exact address.

12 Q. Do you know who owns the storage facility?

13 A. No, I don't.

14 Q. Do you know whether it's owned by Bank of  
15 New York?

16 A. I don't know if they specifically own it.

17 Q. All right.

18 Is it in the United States?

19 A. Yes.

20 Q. Is it in Texas?

21 A. I don't believe that was the state that it  
22 was located in.

23 Q. Do you know who Sharon Mason is?

24 A. No, that name doesn't sound familiar.

1 Q. Have you ever spoken with her?

2 A. I don't believe so. If I did, I don't  
3 remember.

4 Q. Now, you filed an affidavit in this case.  
5 Do you recall that?

6 A. Yes.

7 MR. O'CONNOR: Would you mark that as the  
8 next exhibit.

9 (Document marked as  
10 Exhibit 4 for identification)

11 Q. Is that a copy of the affidavit that you  
12 filed?

13 A. Yes.

14 Q. Exhibit 4, correct?

15 A. That's correct.

16 Q. And that's your signature on the bottom?

17 A. Yes.

18 Q. Do you recall who prepared this affidavit?

19 A. It was sent to us by Shawn Masterson.

20 Q. Who is Shawn Masterson?

21 A. He's the attorney, bankruptcy attorney.

22 Q. Do you believe he prepared this?

23 A. I don't know. It came from his office.

24 Q. Did it go directly to you?

1 A. No.

2 Q. Who did it go to before you?

3 A. Actually, I take that back. I recall that  
4 he sent it through email to myself and Sandra  
5 Rivers.

6 Q. Do you recall when?

7 A. I don't remember specifically.

8 Q. And Sandra Rivers is the person who  
9 notarized your signature on the July 10th  
10 assignment?

11 A. Right.

12 Q. Do you know if anyone else was provided  
13 with this affidavit?

14 A. Yes.

15 Q. Who?

16 A. I had forwarded it to David Perez. And I  
17 don't know if I forwarded it to anybody else.

18 Q. And who is David Perez?

19 A. He's a manager over at the Document  
20 Execution Team.

21 Q. Is he your boss? Is he your supervisor?

22 A. No.

23 Q. Who is your supervisor?

24 A. Jeannette Grodsky.

- 1 Q. And how long has she been your supervisor?
- 2 A. Since February of 2007.
- 3 Q. Do you know if Ms. Grodsky was provided
- 4 with a copy of this affidavit?
- 5 A. I don't believe so.
- 6 Q. And you signed this affidavit.
- 7 A. Correct.
- 8 Q. Did you read it before you signed it?
- 9 A. No.
- 10 Q. You did not.
- 11 A. No.
- 12 Q. Is there a particular reason why you didn't
- 13 read it?
- 14 A. I typically don't read them because of the
- 15 volume that we sign. And we have the Power of
- 16 Attorney and also the Corporate Resolution.
- 17 So part of the process is that we don't
- 18 read them before we sign them.
- 19 Q. You don't read them, meaning affidavits?
- 20 A. Documents.
- 21 Q. Documents.
- 22 A. Correct.
- 23 Q. Any documents.
- 24 A. Correct. We have a team of people who

1 screen them for us and prepare them for us to sign.

2 Q. So you're in the habit of signing documents  
3 without reading them.

4 A. That's correct.

5 Q. Including this affidavit.

6 A. That's correct.

7 Q. And you see this affidavit was signed under  
8 oath. Do you see that?

9 A. Yes, I do see that.

10 Q. Would you read out loud the first paragraph  
11 of the affidavit.

12 A. "That I am the Vice President of The Bank  
13 of New York Mellon, formerly known as the Bank of  
14 New York as Trustee, for the Benefit of the  
15 Certificateholders, CWABS, Inc., Asset-Backed  
16 Certificates, Series 2007-5ES, Series 2007-5."

17 Q. Is that statement true?

18 A. No, but I have the Power of Attorney as a  
19 vice president.

20 Q. So it's false?

21 A. I'm a vice president of Bank of America,  
22 but I have the Power of Attorney --

23 Q. I didn't ask you if you had a Power of  
24 Attorney. The statement in Paragraph 1 is you're a

1 vice president of the Bank of New York Mellon. And  
2 I'm asking you if that statement was true.

3 A. No, I'm not a vice president of Bank of New  
4 York.

5 Q. Have you ever been a vice president of the  
6 Bank of New York?

7 A. No.

8 Q. So it was false when you signed it.

9 A. Yes.

10 Q. And it's always been false.

11 A. Correct.

12 Q. Would you read out loud Paragraph 2.

13 A. "That as a vice president of The Bank of  
14 New York Mellon, formerly known as the Bank of New  
15 York as Trustee, for the Benefit of the  
16 Certificateholders CWABS, Inc., Asset-Backed  
17 Certificates, Series 2007-5ES, Series 2007-5, I am,  
18 among other things, authorized to execute  
19 assignments of mortgages."

20 Q. And was that statement true when you signed  
21 it?

22 A. No, I'm not a vice president of the Bank of  
23 New York.

24 Q. Has it ever been true?

1 A. No, I've never worked for them.

2 Q. It's always been false.

3 A. Correct.

4 Q. And would you read out loud Paragraph 4.

5 A. "That the jurat on the Assignment should  
6 have indicated that I was a Vice-President of The  
7 Bank of New York Mellon, formerly known as The Bank  
8 of New York as Trustee, for the Benefit of the  
9 Certificateholders, CWABS, Inc., Asset-Backed  
10 Certificates, Series 2007-5ES, Series 2007-5."

11 Q. Was that statement true when you signed it?

12 A. No.

13 Q. It's never been true?

14 A. That's right.

15 Q. It's always been false.

16 A. That's right.

17 Q. Did you know why you were signing this  
18 affidavit?

19 A. Yes.

20 Q. What was your understanding?

21 A. The assignment that I signed prior had a  
22 mistake in it, in the jurat. It said that I was a  
23 vice president of MERS, and so the attorney was  
24 making an attempt to correct that problem.

1 Q. And in attempting to correct that problem,  
2 the affidavit contained at least three false  
3 statements, right?

4 MS. AZUERO: Objection. She can't know  
5 what the attorney was trying to do.

6 A. I'm not an attorney, and I'm not trained on  
7 how to word these documents.

8 Q. But you don't need to be an attorney to  
9 know the truth, right?

10 A. Right. But I have Power of Attorney --

11 Q. I didn't ask you about the Power of  
12 Attorney.

13 You don't need to be an attorney to know  
14 truth from false, correct?

15 A. That's correct, but I don't know how to  
16 word the documents.

17 Q. You don't know how to word the truth?

18 A. Well, since I had Power of Attorney for  
19 Bank of New York, I don't know the proper way to  
20 word the documents for the Power of Attorney.

21 Q. Well, does it say anywhere in your  
22 affidavit "Power of Attorney"?

23 A. No.

24 Q. And were you prevented in any way from

1 inserting into this affidavit the words "Power of  
2 Attorney"?

3 A. No.

4 MS. AZUERO: Jim, she's already told you  
5 she didn't read --

6 Q. Did you know that this document was going  
7 to be filed in the U.S. Bankruptcy Court?

8 A. No.

9 Q. Do you see at the very top of the document  
10 where it says "United States Bankruptcy Court,  
11 District of Massachusetts"?

12 A. Yes.

13 Q. Did that give you any indication that it  
14 was going to be filed in a bankruptcy case?

15 A. I didn't look at it when I signed it --

16 Q. You did not look at it at all?

17 A. -- so I didn't know at the time.

18 Q. Let me just go back to the Proof of Claim  
19 for a minute in your July 10th assignment.

20 So where you signed that document as a vice  
21 president of the Bank of New York Mellon, that was  
22 false, correct?

23 A. Correct.

24 Q. And how many other documents have you

1 signed in the capacity as a vice president of the  
2 Bank of New York Mellon?

3 A. I don't know.

4 Q. More than one?

5 A. Yes -- well, I don't know. I don't know  
6 how many documents I've signed.

7 Q. But have you signed other documents as a  
8 vice president for the Bank of New York Mellon?

9 A. I don't know specifically.

10 Q. Maybe yes, maybe no?

11 A. Correct.

12 Q. Do you know if any other documents that  
13 you've signed as a vice president of Bank of New  
14 York Mellon have been filed in public court  
15 proceedings?

16 A. I don't know.

17 Q. Do you know if they were signed and  
18 attested to under oath?

19 A. I don't know.

20 Q. Do you know if they were filed in any  
21 Registries of Deeds?

22 A. I don't know.

23 MR. O'CONNOR: Let's take a break.

24 (Recess taken from 3:06 to 3:13)

1 BY MR. O'CONNOR:

2 Q. So the copy of the promissory note that  
3 contains the stamp of Michele Sjolander, I just want  
4 to clarify, do you know when that stamp appeared on  
5 the original of this promissory note, ma'am?

6 A. I don't.

7 MR. O'CONNOR: The next document is the  
8 "Response to Debtor's Objection to the Proof of  
9 Claim of Bank of New York." If you could mark that,  
10 please.

11 (Document marked as  
12 Exhibit 5 for identification)

13 MS. AZUERO: I'm going to object that it's  
14 beyond the scope, so she can't answer on behalf of  
15 Bank of New York.

16 MR. O'CONNOR: She can answer if she knows.

17 MS. AZUERO: She can answer on behalf of  
18 herself.

19 MR. O'CONNOR: I don't have a copy of this.  
20 This is a document marked as Exhibit 5. I'm going  
21 to ask if you can read the yellow highlighted  
22 portion of Paragraph 8.

23 A. "Creditor admits that the jurat indicates  
24 that the assignment was signed by an officer of MERS

1 as nominee for Countrywide Home Loans, but that this  
2 was obviously a typographical error, as the  
3 assignment was clearly executed by Renee Hertzler as  
4 Vice President of The Bank of New York Mellon,  
5 formerly known as The Bank of New York Mellon as  
6 Trustee."

7 Q. What you just read is false; isn't that  
8 correct, Ma'am?

9 MS. AZUERO: I'm going to again clarify  
10 your answer is on behalf of yourself, not the bank.

11 A. That's correct.

12 Q. It's false.

13 A. Right.

14 Q. And with regard to your affidavit, do you  
15 know if this affidavit has ever been amended?

16 A. I don't know if it's been done yet, but I  
17 know that it's going to be done.

18 Q. How do you know that?

19 A. That's what I was told.

20 Q. Who told you that?

21 A. My attorney's office.

22 Q. And which attorney is that?

23 A. Catalina Azuero.

24 Q. Do you have an attorney representing you

1 individually in connection with this matter?

2 A. No, not personally.

3 Q. Have you spoken -- strike that.

4 Do you want to have an attorney  
5 representing you?

6 MS. AZUERO: I'm going to again be clear  
7 that this is on her behalf and not on behalf of the  
8 Bank of New York.

9 Q. Just to be clear, Ms. Azuero represents the  
10 defendants in the case. She doesn't represent you.

11 Do you want to have an attorney  
12 representing your own personal interests?

13 A. I don't know.

14 Q. You don't know?

15 MS. AZUERO: I'm going to object. This is  
16 beyond anything in the deposition. It's not  
17 relevant. You're putting her on the spot.

18 A. Do I need to?

19 Q. I'm asking you if you want a lawyer to  
20 represent you personally.

21 A. Not at this time.

22 Q. Okay. The second page of your affidavit,  
23 could you just turn to that, please.

24 A. (Witness complies)

1 Q. Was George McMillan present when you signed  
2 that affidavit?

3 A. No.

4 Q. He wasn't. Was anyone present when you  
5 signed it?

6 A. Yes.

7 Q. Who?

8 A. A lady by the name of I believe it's Julia  
9 Myra.

10 Q. Is that a co-worker?

11 A. Yes. She works in my building.

12 Q. But George McMillan wasn't present?

13 A. That is correct.

14 Q. Even though it says, On October 9, 2009,  
15 you personally appeared before -- he personally  
16 appeared before you. It says, "On October 9, '09,  
17 personally appeared before me, the above-named Renee  
18 Hertzler..." That isn't true?

19 A. No, he wasn't there.

20 MR. O'CONNOR: I want to suspend and then  
21 return to the issue of the address of that storage  
22 facility.

23 MS. AZUERO: You want to suspend the entire  
24 deposition?

1           MR. O'CONNOR: I want to suspend with  
2 regard to the 30(b)(6) of Bank of New York.

3           MS. AZUERO: As to just that particular --  
4 you're going to suspend the entire deposition even  
5 though she can answer any other question you have?

6           MR. O'CONNOR: I'm going to move on to the  
7 Bank of America --

8           MS. AZUERO: She's only testifying on  
9 behalf of Questions 11 and 12. We have another  
10 witness --

11          MR. O'CONNOR: You have another witness?

12          MS. AZUERO: We do.

13                 I want to be clear, so the only thing that  
14 you want to know is the address. You want to ask  
15 her about the address. Because she's here to  
16 testify on everything else, and we're not going to  
17 bring her back.

18          MR. O'CONNOR: I want to ask her about the  
19 address, and I want to ask her about the owner of  
20 the address and when it was there and the location  
21 of the note and where the note went from, from point  
22 to point.

23          MS. AZUERO: She knows that it went from  
24 Countrywide Home Loans storage to Bank of New York

1 storage. She can testify to that. She doesn't have  
2 the exact addresses, but those things are answering  
3 your question. I don't think it's worth suspending  
4 the deposition.

5 MR. O'CONNOR: I want to know that  
6 information.

7 MS. AZUERO: We will provide it to you, and  
8 you can ask her about the process, which she can  
9 testify to, and that it is in the storage  
10 facilities. But the exact addresses are not the  
11 only answers that she can possibly give in response  
12 to your questions and to suspend the deposition.

13 MR. O'CONNOR: Let's take another break.

14 (Discussion off the record)

15 BY MR. O'CONNOR:

16 Q. So Ms. Hertzler, you don't know where the  
17 original promissory note was, other than in a  
18 storage facility on July 15th of '09?

19 A. That is correct.

20 Q. And you don't know where that storage  
21 facility was located?

22 A. Well, California.

23 Q. Oh, now you say it's California.

24 A. Yeah, that's what we discussed.

1 Q. And do you know who owned that storage  
2 facility?

3 A. I don't.

4 Q. So you don't know if Bank of New York  
5 Mellon owned that facility?

6 A. That's correct.

7 Q. And you don't know if Bank of New York  
8 Mellon leased space in that facility?

9 A. I don't know.

10 Q. And you understand that that was one of the  
11 topics of today's deposition?

12 MS. AZUERO: I'm going to object and  
13 reiterate that she's provided you with the location  
14 of the storage facility --

15 MR. O'CONNOR: And I will --

16 MS. AZUERO: Can I please finish my  
17 objection?

18 MR. O'CONNOR: Go ahead.

19 MS. AZUERO: Thank you.

20 I'm going to say that she provided you with  
21 the location of the facility of Bank of New York.  
22 The ownership of the facility is irrelevant. As  
23 long as Bank of New York uses it to store its  
24 documents, whether it owns it or leases it, it's not

1 relevant. It doesn't matter. It's not relevant to  
2 the location or the possession of Bank of New York.  
3 Lots of people put things where they rent them --  
4 whether they own or rent them.

5 I'm going to say that she's provided you  
6 with the location of the note. And I will also say  
7 we will provide you with additional information as  
8 follow-up information, not as any sort of admission  
9 that this isn't sufficient information as we've  
10 collected it.

11 MR. O'CONNOR: And I will say on the record  
12 that testifying that it was in a storage facility on  
13 July 15th of '09 is insufficient; that I am  
14 reserving my right to suspend and recall the  
15 witness, because I want to know who owned the  
16 facility. I want to know the address of the  
17 facility. I want to know when it arrived at that  
18 facility. I want to know for how long it stayed in  
19 that facility.

20 MS. AZUERO: It was in that facility up  
21 until we pulled it.

22 MR. O'CONNOR: Are you testifying?

23 MS. AZUERO: No, but you said you wanted to  
24 know.

1 MR. O'CONNOR: Who pulled it?

2 MS. AZUERO: Bank of America pulled it, and  
3 we provided it to you. You know that. You've seen  
4 it. We gave it to you on February -- whatever the  
5 date of Patricia Starr's deposition was. At  
6 Patricia Starr's deposition I provided you the  
7 collateral note for your inspection.

8 MR. O'CONNOR: Bank of America pulled it?

9 MS. AZUERO: Yes.

10 MR. O'CONNOR: So it was in Bank of  
11 America's possession.

12 MS. AZUERO: No, it was not. Bank of  
13 America has authority to pull documents on behalf of  
14 Bank of New York.

15 MR. O'CONNOR: All right. Again, for the  
16 record, I have additional questions. They were  
17 identified in the topics. And these responses are  
18 insufficient.

19 So I will suspend at this point in time.  
20 If between now and the end of the day the  
21 information becomes available, I'd be more than  
22 happy to reopen and try to resolve these questions.  
23 But I'm not satisfied that the deponent has been  
24 properly prepared and is a suitable witness for

1 purposes of this deposition.

2 MS. AZUERO: For purposes of all the topics  
3 of the deposition or for Topic No. 2?

4 MR. O'CONNOR: Of the topics that were just  
5 mentioned.

6 MS. AZUERO: That's purely Topic No. 2.  
7 Are you objecting to any of the other  
8 topics?

9 MR. O'CONNOR: No.

10 MS. AZUERO: Do you only want additional  
11 information on Topic No. 2?

12 MR. O'CONNOR: Again, I don't know what  
13 will happen and what the questions that I want to  
14 ask would lead to. I don't know what the responses  
15 would lead to.

16 You've indicated that you want to ask some  
17 rehabilitative questions. I don't know where you're  
18 going with those questions, so I'm not limiting it  
19 to No. 2.

20 It appears to be that the issue is the  
21 ownership of that storage facility and the travel of  
22 the note, but I'm not going to limit myself to those  
23 topics. That's all I'm going to say on the record,  
24 because the purpose of this is not for attorneys to

1 make statements on the record. You want to ask some  
2 rehabilitative questions; go right ahead.

3 If between now and the end of business  
4 today we can get the information and we can resolve  
5 this, that would be fine, but I've said all I'm  
6 going to say on this.

7 MR. O'CONNOR: I would like to ask Renee a  
8 few questions. I'd like to go off the record first,  
9 so I can prepare myself.

10 (Recess taken from 3:29 to 3:36)

11 CROSS EXAMINATION

12 BY MS. AZUERO:

13 Q. My name is Catalina Azuero. I represent  
14 The Bank of America and Bank of New York as Trustee.  
15 I'm just going to ask you a few questions about the  
16 documents we went over today. Actually, let me show  
17 you these copies.

18 I'm going to direct your attention to  
19 Exhibit 4. This is your affidavit that you signed.

20 A. Uh-hum.

21 Q. Was this affidavit -- did it come through  
22 Shawn Masterson, the outside counsel's office, or  
23 did it come through your Document Execution Team?

24 A. It originally came through Shawn

1 Masterson's office, to our Document Execution Team.

2 Q. Do you know if they verified it before they  
3 gave it to you?

4 A. Typically, they do. The normal process is  
5 when documents come in, there's a spreadsheet that  
6 was prepared by our procurement team, and in  
7 conjunction with our legal department, to determine  
8 what entities were able to sign on behalf of, as an  
9 agent.

10 And the Document Execution Team, their  
11 protocol is to review that spreadsheet to determine  
12 if we're authorized to sign. And if we are, then  
13 they'll prepare the documents for us to execute. If  
14 not, they will reach out to the legal department for  
15 validation on whether we can sign or not. And if  
16 they're unsure, then they'll contact the investor.

17 Q. So that's when you're preparing documents  
18 for a signature, such as like an assignment.

19 A. Correct. That's the standard protocol.

20 Q. But if it's this affidavit, which was just  
21 sort of -- which was sort of a clarification, this  
22 was sent to you and to the Document Execution Team.

23 Did Shawn send it to both; do you know?

24 A. It was sent to myself and Sandra Rivers.

1 Q. So it was sent directly to you -- was the  
2 reason that it was also sent to Sandra Rivers was  
3 because there was an affidavit for her as well?

4 A. Yes.

5 Q. Were you told why you were having to sign  
6 this?

7 A. Yes. It was because a correction needed to  
8 take place.

9 Q. And you trusted the attorney to sign -- or  
10 to word the document however that he saw fit?

11 A. Absolutely.

12 Q. Did you think that when you were signing  
13 it, that there would be any misrepresentations in  
14 it?

15 A. No, I did not.

16 Q. And was there any strange circumstances  
17 around the day that you signed it?

18 A. Yes. I was on vacation, and I was called  
19 in to sign this document.

20 Q. So did you do it in the normal course of  
21 your workday?

22 A. No, this was an abnormal document for me to  
23 sign.

24 Q. To your knowledge, when Shawn sent it to

1 you, this didn't go through the normal process of  
2 verification, because it wasn't the sort of document  
3 that you would need to verify, like, Yes, I have  
4 authority; No, I don't have authority.

5 A. That's correct.

6 Q. I'm going to go back to Exhibit 2. It's a  
7 Proof of Claim.

8 And if you could go to the last page. This  
9 is the Assignment of Mortgage. When this would come  
10 in, who would receive it, typically?

11 A. Typically, this would go directly to the  
12 Document Execution Team.

13 Q. And the Document Execution Team, did they  
14 keep track of entities for which they have a Power  
15 of Attorney?

16 A. Yes, there's that spreadsheet that I  
17 mentioned.

18 Q. And do you rely upon them to verify all the  
19 kind of assertions within the legal documents that  
20 you sign?

21 A. Yes, absolutely.

22 Q. And when you signed this as vice  
23 president -- you are a vice president of Bank of  
24 America; is that correct?

1 A. That's correct.

2 Q. And when you signed it, that was your  
3 understanding; that you were signing it as vice  
4 president of Bank of America?

5 A. That is correct.

6 Q. Notwithstanding the fact that it says  
7 something otherwise?

8 A. That's correct.

9 Q. And when you signed this, you were  
10 comfortable with the idea that you had the power to  
11 sign on behalf of the Bank of New York because you  
12 had the Power of Attorney?

13 A. That's correct.

14 MR. O'CONNOR: I'm going to object to the  
15 form of the question.

16 Q. And you were comfortable that -- let me go  
17 back, then.

18 Did this assignment come in through the  
19 normal screening process at Bank of America?

20 A. Yes.

21 Q. So when you signed it, to your knowledge,  
22 it had been screened by the Document Execution Team?

23 A. Yes.

24 Q. But the Document Execution Team does

1 occasionally make mistakes?

2 A. It's possible.

3 Q. So even though there is an indication here  
4 that, for instance, there's a series number that's  
5 incorrect, that those kind of accidents -- mistakes  
6 do happen?

7 A. Yes.

8 Q. But the power that you have to sign on  
9 behalf of Bank of New York still exists?

10 A. Yes.

11 Q. And then my final question has to do with  
12 the notarization process. Are you familiar with it?

13 A. Yes.

14 Q. Do the notaries -- strike that.

15 Are the notaries familiar with the vice  
16 presidents of Bank of America's signatures?

17 A. Yes.

18 Q. Are they familiar with you personally?

19 A. Yes.

20 Q. Are they familiar generally with the vice  
21 presidents of Bank of America?

22 A. Yes.

23 Q. Are they aware of when they are signing  
24 documents -- or that they are signing documents?

1 A. Yes.

2 Q. Does Bank of America have a system in place  
3 where the notaries sign -- notarize documents for  
4 which they're familiar with the people who sign  
5 them?

6 A. Yes.

7 MS. AZUERO: I think those are all my  
8 questions.

9 REDIRECT EXAMINATION

10 BY MR. O'CONNOR:

11 Q. Ms. Azuero just asked you a question about  
12 the system that the notaries have concerning  
13 familiarity with the signatures?

14 A. Yes.

15 Q. How is it that you had knowledge of that?  
16 Have you seen that system?

17 A. No. Personally, no.

18 Q. So how is it that you have knowledge of  
19 that?

20 A. Just from talking to the Document Execution  
21 Team management.

22 Q. And who in the Document Execution Team  
23 management has told you this?

24 A. David Perez.

1 Q. Anyone else?

2 A. No.

3 Q. When did he tell you this?

4 A. I don't remember.

5 Q. Was it recently?

6 A. Maybe a month or two ago.

7 Q. And was there a particular reason that that  
8 topic arose?

9 A. Yes. I just wanted to get a better  
10 understanding of the process.

11 Q. And why was that?

12 A. For my deposition.

13 Q. And do you receive a paycheck from Bank of  
14 America?

15 A. Yes.

16 Q. Do you get it in a paper form or is it  
17 electronic?

18 A. It's electronic.

19 Q. Do you get any kind of paper form? Like a  
20 stub?

21 A. We get an electronic notification where we  
22 can go and look at it online.

23 Q. Does it identify who is paying the  
24 paycheck?

1           A.    You know, I don't recall. I don't look at  
2 it.

3           Q.    Do you receive a W-2?

4           A.    Yes.

5           Q.    And do you read the W-2?

6           A.    Briefly.

7           Q.    Have you ever received a paycheck or a W-2  
8 from the Bank of New York?

9           A.    No.

10          Q.    But you receive a paycheck and a W-2 from  
11 the Bank of America?

12          A.    That's correct.

13          Q.    You testified that the affidavit -- I  
14 believe you testified -- or you were asked if it was  
15 an abnormal document to sign. Do you recall that?

16          A.    Yes.

17          Q.    What do you mean by "abnormal"?

18          A.    It didn't go through the normal channels,  
19 through the Document Execution Team. It was  
20 something that I was on vacation, and I was called  
21 to the office to come in and sign it, so that the  
22 attorney could record it.

23          Q.    So it was an unusual event to have to go  
24 into the office?

1           A.    That's correct.

2           Q.    And despite the fact that it was an unusual  
3 event, you still chose not to read it very closely?

4           A.    That's correct.

5           MR. O'CONNOR:  Nothing further, subject to  
6 my earlier comments.

7           MS. AZUERO:  And to be clear, we will not  
8 be bringing Renee back to the extent Mr. O'Connor  
9 has questions.  As we've stated, we have asked him  
10 to finish the questioning here today.

11                               (Whereupon, the deposition was  
12                               suspended at 3:45 p.m.)

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C E R T I F I C A T E

I, RENEE D. HERTZLER, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that said transcript (with/without) suggested corrections is a true and accurate record of said testimony.

Dated at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_

\* \* \* \* \*

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed above.

\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS. )

3 I, Jane M. Williamson, CRR and Notary Public in  
4 and for the Commonwealth of Massachusetts, do hereby  
5 certify that there came before me on the 19th day of  
6 February, 2010, at 2:08 p.m., the person hereinbefore  
7 named, who was by me duly sworn to testify to the  
8 truth and nothing but the truth of her knowledge  
9 touching and concerning the matters in controversy  
10 in this cause; that she was thereupon examined upon  
11 her oath, and her examination reduced to typewriting  
12 under my direction; and that the deposition is a  
13 true record of the testimony given by the witness.

14 I further certify that I am neither attorney or  
15 counsel for, nor related to or employed by, any  
16 attorney or counsel employed by the parties hereto  
17 or financially interested in the action.

18 In witness whereof, I have hereunto set my hand  
19 and affixed my notarial seal this 10th day of March,  
20 2010.

21

22

23 Notary Public

24 Commission expires 2/28/2014

D I S C L A I M E R

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