Sam Santiago

Subject: FW: E-mail From Web Site User

Below is an email I sent to Mr. Lira. It's a long email, but it states the facts with the timeline of events in 4 points. Mr. Lira has yet to respond to me.

Thank you,
Sam Santiago

From: Sam Santiago
Sent: Tuesday, October 19, 2010 10:00 PM
To: 'Gonzalo Lira'
Subject: RE: E-mail From Web Site User

Hello Mr. Lira,

Here are the facts. Our website is a final resting place for our emailed commentary, not the other way around. It is not a blog. You picked up on an archived website piece that didn't have the original disclaimer. That was my fault and I did apologize to you yesterday for that.

1) Mr. Kotok received an email on Thursday October 14, 2010 at 9:54pm EST from Sandy Harman who received it from someone else and so on. You will note there is no attribution to you as the original author in this email chain. You will find this email below, item #1)

2) Mr. Kotok then emailed the piece on Friday October 15th at 6:52pm EST with a disclaimer that the original author is not known and that Mr. Kotok had edited out the expletives. You will find this below, in my yahoo account, item #2) Please note it has a full disclaimer that says Mr. Kotok did not write it.

Dear Readers, this text came to me in an email from sources that are in the financial services business and with whom I have a personal relationship. The original text was laced with expletives and I would not use it in the form I received it. Therefore the text below has had some substantial editing in order to remove that language. The intentions of the writer are undisturbed. The writer shall remain anonymous. This text echoes some of the news items we have seen and heard today; however, it can serve as a plain language description of the present foreclosure-suspension mess. There is a lot here. It takes about ten minutes to read it.
David Kotok

3) It was picked up my John Mauldin on Saturday October 16th with the anonymous author disclaimer also and the following sentence at the end: (I am not sure who wrote this, but if you want your 15 minutes of fame, I will be glad to credit you next week. - John) See his newsletter, item #3 below.

4) Mr. Kotok then published a follow-up piece yesterday at 5:00pm EST giving you full attribution and a link to your blog before you or anyone else emailed us. See item #4 below.

The attachments you have are from our website on Monday afternoon. I submit to you the facts and timeline from the **emails** and hopefully you come to the same conclusion that all of John Mauldin's readers came to on **Saturday** and our readers on **Friday**. David Kotok never claimed this was his piece and he gave you full attribution with a link to your blog as soon as he knew it was your work. Has any one of John Mauldin's readers sent you their copy of his newsletter from Saturday or possibly one of our readers from Friday? I was hoping that would correct the situation. In any event, I did apologize to you and if you would like us to take down your original, toned down piece from our website, let me know. You have a great message that was lost in all the f-bombs. I added a link to our follow-up piece so that anyone reading the toned down original version would see the whole picture and how that not only did Mr. Kotok not claim to write the piece, he gave you full attribution when he found out who the original author was.

Thanks,
Sam

#1)

From: Sandy Harman [mailto:rafflesassoc@hotmail.com]
Sent: Thursday, October 14, 2010 9:54 PM
Subject: FW: must read...wow, I did not realize the depths of the

Date: Thu, 14 Oct 2010 19:18:25 -0400
From: bob.bedford@bloomberg.net
To: rafflesassoc@hotmail.com
Subject: Fwd:must read...wow, I did not realize the depths of the

----- Original Message -----

From: ROBERT BEDFORD (LINCOLN CAPITAL)

At: 10/14 19:17:41

----- Original Message -----

From: ROBERT BEDFORD (LINCOLN CAPITAL)

To: cbedford@nj.rr.com

At: 10/14 19:15:00

---- Original Message -----

From: Peter <farmgoy@aol.com>

At: 10/14 14:17:34

Now—the long version:

Homeowners can only be foreclosed and evicted from their homes by the person or institution who actually has the loan paper—only the note-holder has legal standing to ask a court to foreclose and evict. Not the mortgage—the note, which is the actual IOU that people sign, promising to pay back the mortgage loan.

Before Mortgage Backed Securities, most mortgage loans were issued by the local Savings & Loan. So the note usually didn't go anywhere: It stayed in the offices of the S&L down the street.

But once mortgage loan securitization happened, things got sloppy—they got sloppy by the very nature of Mortgage Backed Securities.

The whole purpose of MBS's was for different investors to have their different risk appetites satiated with different bonds. Some bond customers wanted super-safe bonds with low returns, some others wanted riskier bonds with therefore higher rates of return.

Therefore, as everyone knows, the loans were "bundled" into REMIC's (Real-Estate Mortgage Investment Conduits, a special vehicle designed to hold the loans for tax purposes), and then "sliced & diced"—split up and put into tranches, according to their likelihood of default, their interest rates, and other characteristics.

This slicing and dicing created "senior tranches", where the loans would likely be paid in full, if past history of mortgage loan statistics was to be believed. And it also created "junior tranches", where the loans might well default, again according to past history and statistics. (A whole range of tranches were created, of course, but for purposes of this discussion, we can ignore all those countless other variations.)

These various tranches were sold to different investors, according to their risk appetite. That's why some of the MBS bonds were rated as safe as Treasury bonds, and others were rated by the ratings agencies as risky as junk bonds.

But here's the key issue: When an MBS was first created, all the mortgages were pristine—none had defaulted yet, because they were all brand new loans. Statistically, some would default and some others would be paid back in full—but which ones specifically would default? No one knew, of course. If I toss a coin 1,000 times, statistically, 500 tosses the coin will land heads—but what will the result be of, say, the 723rd toss specifically? I dunno.

Same with mortgages.

So in fact, it wasn’t that the riskier loans were in junior tranches and the safer mortgage loans were in the senior tranches: Rather, all the loans were in all the tranches, and if and when a mortgage in a given bundle of mortgages defaulted, the junior tranche holders would take the losses first, and the senior tranche holder take the loss last.

But who was the owner of the junior tranche bond and the senior tranche bond? Two different people. Therefore, the mortgage note was not actually signed over to the bond holder. In fact, it couldn’t be signed over. Because, again, since no one knew which mortgage would default first, it was impossible to assign a specific mortgage to a specific bond.

Therefore, how to make sure the safe mortgage loan stayed with the safe MBS tranche, and the risky and/or defaulting mortgage went to the riskier MBS tranche?

Enter stage right, the famed MERS—the Mortgage Electronic Registration System.

MERS was the repository of these digitized mortgage notes that the banks originated from the actual mortgage loans signed by homebuyers. MERS was jointly owned by Fannie Mae and Freddie Mac (yes, those two, again, I know, I know: Like the chlamydia and the gonorrhea of the financial world—you cure ‘em, but they just keep coming back).

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However, legally—and this is the important part—MERS didn’t hold any mortgage note: The true owner of the mortgage notes should have been the REMIC’s.

But the REMIC’s didn’t own the note either, because of a fluke of the ratings agencies: The REMIC’s had to be “bankruptcy remote”, in order to get the precious ratings needed to peddle Mortgage Backed Securities to insitutional investors.

So somewhere between the REMIC's and the MERS, the chain of title was broken.

Now, what does "broken chain of title" mean? Simple: When a homebuyer signs a mortgage, the key document is the note. As I said before, it's the actual IOU. In order for the mortgage note to be sold or transferred to someone else (and therefore turned into a Mortgage Backed Security), this document has to be physically endorsed to the next person. All of these signatures on the note are called the "chain of title".

You can endorse the note as many times as you please—but you have to have a clear chain of title right on the actual note: I sold the note to Moe, who sold it to Larry, who sold it to Curly, and all our notarized signatures are actually, physically on the note, one after the other.

If for whatever reason, any of these signatures is skipped, then the chain of title is said to be broken. Therefore, legally, the mortgage note is no longer valid. That is, the person who took out the mortgage loan to pay for the house no longer owes the loan, because he no longer knows whom to pay.

To repeat: If the chain of title of the note is broken, then the borrower no longer owes any money on the loan.

Read that last sentence again, please. Don't worry, I'll wait.

You read it again? Good: Now you see the can of worms that's opening up.

The broken chain of title wouldn't have been an issue if there hadn't been an unusual number of foreclosures. Before the housing bubble collapse, the people who defaulted on their mortgages wouldn't have bothered to check to see that the paperwork was in order.

But as everyone knows, following the housing collapse of 2007-'10-and-counting, there's been a boatload of foreclosures—and foreclosures on a lot of people who weren't sloppy bums who skipped out on their mortgage payments, but smart and cautious people who got squeezed by circumstances.

These people started contesting their foreclosures and evictions, and so started looking into the chain of title issue . . . and that's when the paperwork became important. So the chain of title became important. So the botched paperwork became a non-trivial issue.

Now, the banks had hired "foreclosure mills"—law firms that specialized in foreclosures—in order to handle the massive volume of foreclosures and evictions that occurred because of the Housing Crisis. The foreclosure mills, as one would expect, were the first to spot the broken chain of titles.

Well, hell, whaddaya know—turns out that these foreclosure mills might have faked and falsified documentation, so as to fraudulently repair the chain-of-title issue, thereby "proving" that the banks had judicial standing to foreclose on a delinquent mortgage. These foreclosure mills might have even forged the loan note itself—

—wait, why am I hedging? The foreclosure mills actually, deliberately and categorically faked and falsified documents, in order to expedite these foreclosures and evictions. Yves Smith at naked capitalism, who has been all over this story, put up a price list for this "service" from a company called DocX—yes, a price list for forged documents. Talk about your one-stop shopping!

So in other words, a massive fraud was carried out, with the inevitable innocent bystander getting caught up in this fraud: The guy who got foreclosed and evicted from his home in Florida, even though he didn't actually have a mortgage, and in fact owned his house free-and-clear. The family that was foreclosed and evicted, even though they had a perfect mortgage payment record. Et cetera, depressing et cetera.

Now, the reason this all came to light is not because enough people were getting screwed that the banks or the government or someone with power saw what was going on, and decided to put a stop to it—that would have been nice, to see a shining knight in armor, riding on a white horse.

But that's not how America works nowadays.

No, alarm bells started going off when the title insurance companies started to refuse to insure the title.

In every sale, a title insurance company insures that the title is free-and-clear: That the prospective buyer is in fact buying a properly vetted house, with its title issues all in order. Title insurance companies stopped providing their service because—of course—they didn't want to expose themselves to the risk that the chain-of-title had been broken, and that the bank had illegally foreclosed on the previous owner.

That's when things started gettin' innerestin': That's when the Attorneys General of various states started snooping around and making noises (elections are coming up, after all).

The fact that Ally Financial (formerly GMAC), JP Morgan Chase, and now Bank of America have suspended foreclosures signals that this is a serious problem—obviously. Banks that size, with that much exposure to foreclosed properties, don't suspend foreclosures just because they're good corporate citizens who want to do the right thing, with all the paperwork in strict order—they're halting their foreclosures for a reason.

The move by the United States Congress last week, to sneak by the Interstate Recognition of Notarizations Act? That was all the banking lobby—they wanted to shove down that law, so that their foreclosure mills' forged and fraudulent documents would not be scrutinized by out-of-state judges. (The spineless cowards in the Senate carried out their Master's will by a voice vote—so that there'd be no registry of who had voted for it, and therefore no accountability, the corrupt pricks.)

And President Obama's pocket veto of the measure? He had to veto it—if he'd signed it, there would have been political hell to pay, plus it would have been challenged almost immediately, and likely overturned as un-Constitutional in short order. (The milquetoast didn't even have the gumption to veto it—he pocket vetoed it.)

As soon as the White House announced the pocket veto—the very next day!—Bank of America halted all foreclosures, nationwide.

Why do you think that happened? Because the banks are screwed—again. By the same thing as the last time—the Mortgage Backed Securities!

The reason the banks are screwed again is, if they've been foreclosing on people they didn't have the legal right to foreclose on, then those people have the right to get their houses back. And the people who bought those foreclosed houses from the bank might not actually own the houses they paid for.

And it won't matter if a particular case—or even most cases—were on the up-and-up: It won't matter if most of the foreclosures and evictions were truly because the homeowner failed to pay his mortgage. The fraud committed by the foreclosure mills casts enough doubt that now, all foreclosures come into question. Not only that, all mortgages come into question.

People still haven't figured out what this all means—but I'll tell you: If enough mortgage-paying homeowners realize that they may be able to get out of their mortgage loan and keep their house, scott-free?That's basically a license to halt payments right now. That's basically a license to tell the banks to eff off.

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If this isn't handled right, then this will be the second leg down, in the American Death Spiral.

--Forwarded Message Attachment--

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#2)

(136 unread) Yahoo! Mail, samsan2000 - Windows Internet Explorer

http://us.mg1.mail.yahoo.com/dc/launch?.gx=1&.rand=0rsh8cvrt6jif

File Edit View Favorites Tools Help

Favorites | Suggested Sites ▾ | Web Slice Gallery ▾

Page ▾ Safety ▾ Tools ▾

YAHOO! MAIL Hi, sam ▾ | Available ▾ | Sign Out — Yahoo! | My Yahoo! | Search

Check Mail | New ▾ | Search Mail... Go

View your 2010 Credit Score

Inbox (109)
Drafts (15)
Sent
Spam (2) Empty
Trash (17) Empty
Contacts Add
1 online
Folders Add

What's New | Inbox 491 emails

Delete | Reply ▾ | Forward | Spam | Move ▾ | Actions ▾ — Show: All Emails ▾

From	Subject	Date
David Kotok	Cumberland Advisors Commentar...	Mon 10/18, 5:00 PM
David Kotok	Cumberland Advisors Commentar...	Fri 10/15, 6:52 PM
Spirit Airlines	Right-of-Way for Savings with Far...	Fri 10/15, 12:50 PM

Cumberland Advisors Commentary - foreclosure mess — Full View

From: David Kotok <David.Kotok@CUMBER.COM> Add to Contacts
To: COMMENTS@LISTSERV.CUMBER.COM

Cumberland Advisors

2 N. Tamiami Trail, Suite 303, Sarasota, FL 34236
614 Landis Avenue, Vineland, NJ 08360-8007
1-800-257-7013 http://www.cumber.com

The Foreclosure Mess

October 15, 2010

Dear Readers, this text came to me in an email from sources that are in the financial services business and with whom I have a personal relationship. The original text was laced with expletives and I would not use it in the form I received it. Therefore the text below has had some substantial editing in order to remove that language. The intentions of the writer are undisturbed. The writer shall remain anonymous. This text echoes some of the news items we have seen and heard today; however, it can serve as a plain language description of the present foreclosure-suspension mess. There is a lot here. It takes about ten minutes to read it. David Kotok

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Applications
Attach Large Files
Automatic Organizer
Calendar
Edit Photos
Evite
Flickr
My Drive

TODAY: 10/19 No events. Click the plus sign to add an event.

Done — Internet | Protected Mode: Off

#3)

From: John Mauldin [mailto:wave@frontlinethoughts.com]
Sent: Saturday, October 16, 2010 7:28 PM
To: David Kotok
Subject: The Subprime Debacle: Act 2 - John Mauldin's Weekly E-Letter

This message was sent to david.kotok@cumber.com.

Thoughts from the Frontline Weekly Newsletter

The Subprime Debacle: Act 2

by John Mauldin
October 15, 2010

In this issue:

Trouble, oh we got trouble, Right here in River City!
With a capital "T" That rhymes with "P"
And that stands for Pool, That stands for pool.

We've surely got trouble!
Right here in River City,
Right here! Gotta figger out a way
To keep the young ones moral after school!
Trouble, trouble, trouble, trouble, trouble...

- From *The Music Man*

(Quick last-minute note: I think this (and next week's) is/will be one of the more important letters I have written in the last ten years. Take the time to read, and if you agree send it on to friends and responsible parties. And note to new readers: this letter goes to 1.5 million of my closest friends. It is free. You can go to www.frontlinethoughts.com to subscribe. Now, let's jump in!)

There's trouble, my friends, and it is does indeed involve pool(s), but not in the pool hall. The real monster is hidden in those pools of subprime debt that have not gone away. When I first began writing and speaking about the coming subprime disaster, it was in late 2007 and early 2008. The subject was being dismissed in most polite circles. "The subprime problem," testified Ben Bernanke, "will be contained."

My early take? It would be a disaster for investors. I admit I did not see in January that it would bring down Lehman and trigger the worst banking crisis in 80 years, less than 18 months later. But it was clear that it would not be "contained." We had no idea.

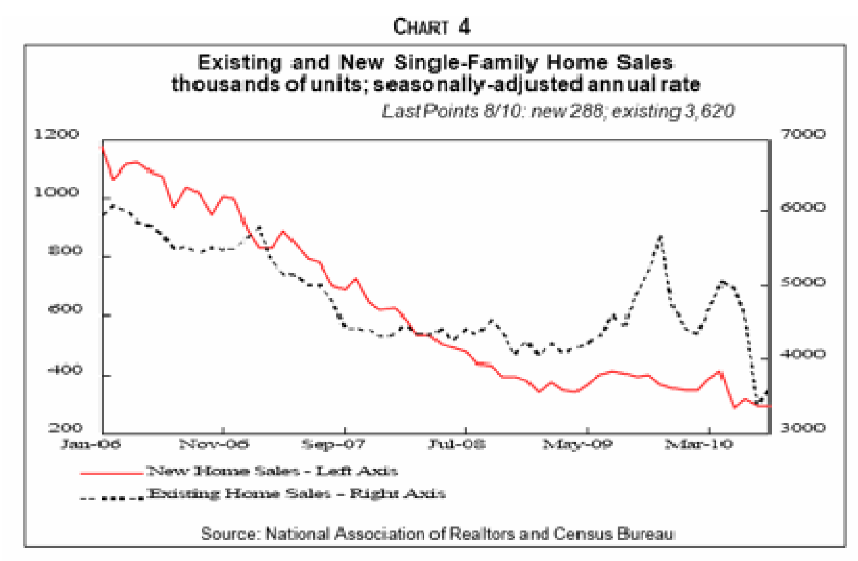
I also said that it was going to create a monster legal battle down the road that would take years to develop. Well, in the fullness of time, those years have come nigh upon us. Today we briefly look at the housing market, then the mortgage foreclosure debacle, and then we go into the ***real problem*** lurking in the background. It is *The Subprime Debacle, Act 2*. It is NOT the mortgage foreclosure issue, as serious as that is. I seriously doubt it will be contained, as well. Could the confluence of a bank credit crisis in the US and a sovereign debt banking crisis in Europe lead to another full-blown world banking crisis? The potential is there. This situation wants some serious attention.

This letter is going to print a little longer. But I think it is important that you get a handle on this issue.

Where is the Housing Recovery?

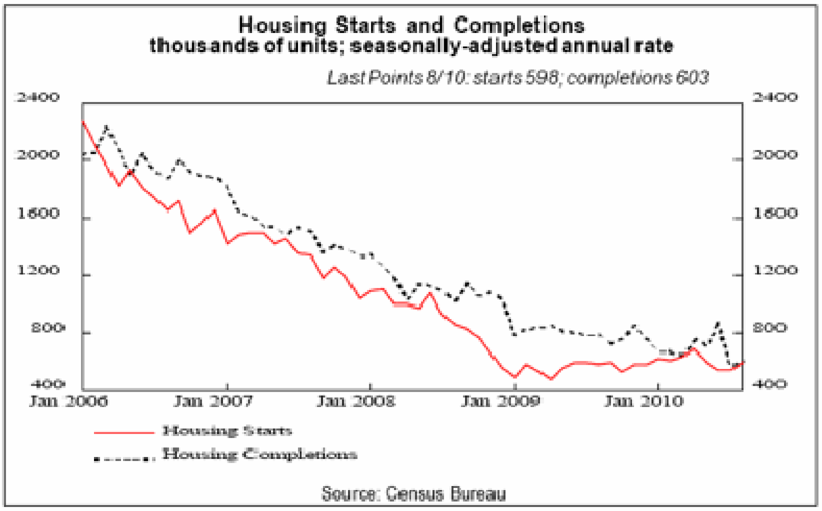
We are going to quickly review a few charts from Gary Shilling's latest letter, where he review the housing market in depth. Bottom line, the housing market has not yet begun to recover, and it is not only going to take longer but the decline in prices may be greater than many have forecast. I wrote three years ago that it could be well into 2011 before we get to a "bottom." That may have been optimistic, given what we will cover in this letter.

First, existing and new single-family home sales continue to slide, in the wake of the tax rebate that ended earlier this year. We have declined back to the down-sloping trend line. If you are a seller, this is not a pretty picture.



The homebuilding industry, which was the source of so many jobs last decade (aka the good old days), is on its back. This country needs a healthy housing construction market to get back to lower unemployment, and until the overhang in the foreclosure market is cleared out, that is unlikely to happen.

CHART 5



Lending is tighter, as is reasonable. Banks actually expect you to have the ability to pay back the mortgage you take out (solid FICO scores) and want reasonable down payments. Only 47% of applicants have the FICO score to get the best mortgage rates.

(Sidebar: Gary writes, "Furthermore, false appraisals rose 50% in 2009 from 2008. The tax credit for first-time homebuyers cost taxpayers about $15 billion, twice the official forecast, in part due to fraud. Over 19,000 tax filers claimed the credit but didn't buy houses, while 74,000 who claimed $500 million in refunds already owned homes." Where are the regulators?)

Shilling thinks prices are likely to fall another 20%. Given what I am writing about in the next section, that is a possibility. There is certainly no demand pressure to push up housing prices.

Finally, two charts on foreclosures. Residential mortgages in foreclosure are near all-time highs, close to 1 in 21 of all mortgages, up from 1 in 100 just four years ago. That's got to be bad for your profit models.

CHART 12

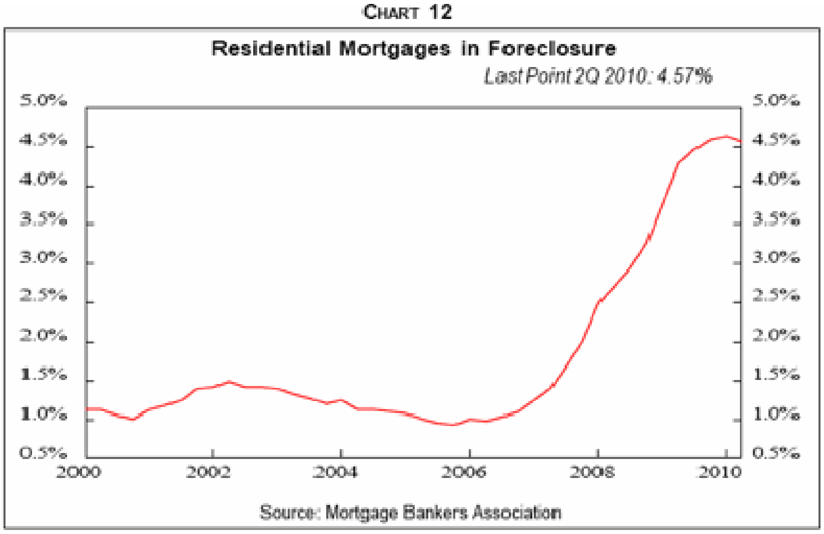
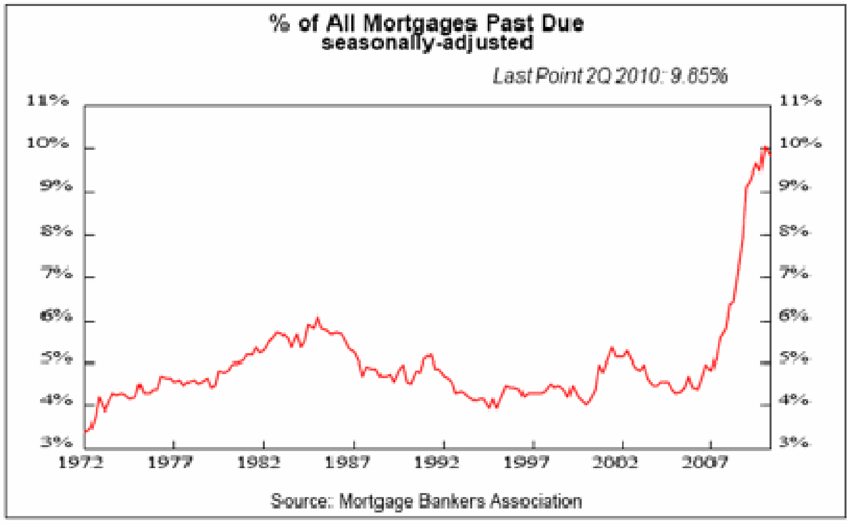


CHART 13



Anyone who tells you the housing problem is "bottoming" either has an agenda or simply does not pay attention to the data. I really want to see housing bottom and then turn around and the home builders come back; the nation desperately needs the jobs. But my job is to be realistic. When we see 3-4 months of non-stimulus-induced housing sales growth, then we can start talking about bottoms.

But housing sales are not really the issue. Let's look at the next leg of the problem.

The Foreclosure Mess

OK, in a serendipitous moment, Maine fishing buddy David Kotok sent me this email on the mortgage foreclosure crisis just as I was getting ready to write much the same thing. It is about the best thing I have read on the topic. Saves me some time and you get a better explanation. From Kotok:

"Dear Readers, this text came to me in an email from sources that are in the financial services business and with whom I have a personal relationship. The original text was laced with expletives and I would not use it in the form I received it. Therefore the text below has had some substantial editing in order to remove that language. The intentions of the writer are undisturbed. The writer shall remain anonymous. This text echoes some of the news items we have seen and heard today; however, it can serve as a plain language description of the present foreclosure-suspension mess. There is a lot here. It takes about ten minutes to read it. - David Kotok (www.cumber.com)

"Homeowners can only be foreclosed and evicted from their homes by the person or institution who actually has the loan paper...only the note-holder has legal standing to ask a court to foreclose and evict. Not the mortgage, the note, which is the actual IOU that people sign, promising to pay back the mortgage loan

"Before mortgage-backed securities, most mortgage loans were issued by the local savings & loan. So the note usually didn't go anywhere: it stayed in the offices of the S&L down the street.

"But once mortgage loan securitization happened, things got sloppy...they got sloppy by the very nature of mortgage-backed securities.

"The whole purpose of MBSs was for different investors to have their different risk appetites satiated with different bonds. Some bond customers wanted super-safe bonds with low returns, some others wanted riskier bonds with correspondingly higher rates of return.

"Therefore, as everyone knows, the loans were 'bundled' into REMICs (Real-Estate Mortgage Investment Conduits, a special vehicle designed to hold the loans for tax purposes), and then "sliced & diced"...split up and put into tranches, according to their likelihood of default, their interest rates, and other characteristics.

"This slicing and dicing created 'senior tranches,' where the loans would likely be paid in full, if the past history of mortgage loan statistics was to be believed. And it also created 'junior tranches,' where the loans might well default, again according to past history and statistics. (A whole range of tranches was created, of course, but for the purposes of this discussion we can ignore all those countless other variations.)

"These various tranches were sold to different investors, according to their risk appetite. That's why some of the MBS bonds were rated as safe as Treasury bonds, and others were rated by the ratings agencies as risky as junk bonds.

"But here's the key issue: When an MBS was first created, all the mortgages were pristine...none had defaulted yet, because they were all brand-new loans. Statistically, some would default and some others would be paid back in full...but which ones specifically would default? No one knew, of course. If I toss a coin 1,000 times, statistically, 500 tosses the coin will land heads...but what will the result be of, say, the 723rd toss? No one knows.

"Same with mortgages.

"So in fact, it wasn't that the riskier loans were in junior tranches and the safer ones were in senior tranches: rather, all the loans were in the REMIC, and if and when a mortgage in a given bundle of mortgages defaulted, the junior tranche holders would take the losses first, and the senior tranche holder last.

"But who were the owners of the junior-tranche bond and the senior-tranche bonds? Two different people. Therefore, the mortgage note was not actually signed over to the bond holder. In fact, it couldn't be signed over. Because, again, since no one knew which mortgage would default first, it was impossible to assign a specific mortgage to a specific bond.

"Therefore, how to make sure the safe mortgage loan stayed with the safe MBS tranche, and the risky and/or defaulting mortgage went to the riskier tranche?

"Enter stage right the famed MERS...the Mortgage Electronic Registration System.

"MERS was the repository of these digitized mortgage notes that the banks originated from the actual mortgage loans signed by homebuyers. MERS was jointly owned by Fannie Mae and Freddie Mac (yes, those two again ...I know, I know: like the chlamydia and the gonorrhea of the financial world...you cure 'em, but they just keep coming back).

"The purpose of MERS was to help in the securitization process. Basically, MERS directed defaulting mortgages to the appropriate tranches of mortgage bonds. MERS was essentially where the digitized mortgage notes were sliced and diced and rearranged so as to create the mortgage-backed securities. Think of MERS as Dr. Frankenstein's operating table, where the beast got put together.

"However, legally...and this is the important part...MERS didn't hold any mortgage notes: the true owner of the mortgage notes should have been the REMICs.

"But the REMICs didn't own the notes either, because of a fluke of the ratings agencies: the REMICs had to be "bankruptcy remote," in order to get the precious ratings needed to peddle mortgage-backed Securities to institutional investors.

"So somewhere between the REMICs and MERS, the chain of title was broken.

"Now, what does 'broken chain of title' mean? Simple: when a homebuyer signs a mortgage, the key document is the note. As I said before, it's the actual IOU. In order for the mortgage note to be sold or transferred to someone else (and therefore turned into a mortgage-backed security), this document has to be physically endorsed to the next person. All of these signatures on the note are called the 'chain of title.'

"You can endorse the note as many times as you please...but you have to have a clear chain of title right on the actual note: I sold the note to Moe, who sold it to Larry, who sold it to Curly, and all our notarized signatures are actually, physically, on the note, one after the other.

"If for whatever reason any of these signatures is skipped, then the chain of title is said to be broken. Therefore, legally, the mortgage note is no longer valid. That is, the person who took out the mortgage loan to pay for the house no longer owes the loan, because he no longer knows whom to pay.

"To repeat: if the chain of title of the note is broken, then the borrower no longer owes any money on the loan.

"Read that last sentence again, please. Don't worry, I'll wait.

"You read it again? Good: Now you see the can of worms that's opening up.

"The broken chain of title might not have been an issue if there hadn't been an unusual number of foreclosures. Before the housing bubble collapse, the people who defaulted on their mortgages wouldn't have bothered to check to see that the paperwork was in order.

"But as everyone knows, following the housing collapse of 2007-'10-and-counting, there has been a boatload of foreclosures...and foreclosures on a lot of people who weren't sloppy bums who skipped out on their mortgage payments, but smart and cautious people who got squeezed by circumstances.

"These people started contesting their foreclosures and evictions, and so started looking into the chain-of-title issue, and that's when the paperwork became important. So the chain of title became crucial and the botched paperwork became a nontrivial issue.

"Now, the banks had hired 'foreclosure mills'...law firms that specialized in foreclosures...in order to handle the massive volume of foreclosures and evictions that occurred because of the housing crisis. The foreclosure mills, as one would expect, were the first to spot the broken chain of titles.

"Well, what do you know, it turns out that these foreclosure mills might have faked and falsified documentation, so as to fraudulently repair the chain-of-title issue, thereby 'proving' that the banks had judicial standing to foreclose on delinquent mortgages. These foreclosure mills might have even forged the loan note itself...

"Wait, why am I hedging? The foreclosure mills did actually, deliberately, and categorically fake and falsify documents, in order to expedite these foreclosures and evictions. Yves Smith at Naked Capitalism, who has been all over this story, put up a price list for this 'service' from a company called DocX...yes, a price list for forged documents. Talk about your one-stop shopping!

"So in other words, a massive fraud was carried out, with the inevitable innocent bystanders getting caught up in the fraud: the guy who got foreclosed and evicted from his home in Florida, even though he didn't actually have a mortgage, and in fact owned his house free -and clear. The family that was foreclosed and evicted, even though they had a perfect mortgage payment record. Et cetera, depressing et cetera.

"Now, the reason this all came to light is not because too many people were getting screwed by the banks or the government or someone with some power saw what was going on and decided to put a stop to it...that would have been nice, to see a shining knight in armor, riding on a white horse.

"But that's not how America works nowadays.

"No, alarm bells started going off when the title insurance companies started to refuse to insure the titles.

"In every sale, a title insurance company insures that the title is free -and clear ...that the prospective buyer is in fact buying a properly vetted house, with its title issues all in order. Title insurance companies stopped providing their service because...of course...they didn't want to expose themselves to the risk that the chain of title had been broken, and that the bank had illegally foreclosed on the previous owner.

"That's when things started getting interesting: that's when the attorneys general of various states started snooping around and making noises (elections are coming up, after all).

"The fact that Ally Financial (formerly GMAC), JP Morgan Chase, and now Bank of America have suspended foreclosures signals that this is a serious problem...obviously. Banks that size, with that much exposure to foreclosed properties, don't suspend foreclosures just because they're good corporate citizens who want to do the right thing, and who have all their paperwork in strict order...they're halting their foreclosures for a reason.

"The move by the United States Congress last week, to sneak by the Interstate Recognition of Notarizations Act? That was all the banking lobby. They wanted to shove down that law, so that their foreclosure mills' forged and fraudulent documents would not be scrutinized by out-of-state judges. (The spineless cowards in the Senate carried out their master's will by a voice vote...so that there would be no registry of who had voted for it, and therefore no accountability.)

"And President Obama's pocket veto of the measure? He had to veto it...if he'd signed it, there would have been political hell to pay, plus it would have been challenged almost immediately, and likely overturned as unconstitutional in short order. (But he didn't have the gumption to come right out and veto it...he pocket vetoed it.)

"As soon as the White House announced the pocket veto...the very next day!...Bank of America halted all foreclosures, nationwide.

"Why do you think that happened? Because the banks are in trouble...again. Over the same thing as last time...the damned mortgage-backed securities!

"The reason the banks are in the tank again is, if they've been foreclosing on people they didn't have the legal right to foreclose on, then those people have the right to get their houses back. And the people who bought those foreclosed houses from the bank might not actually own the houses they paid for.

"And it won't matter if a particular case...or even most cases...were on the up -and up: It won't matter if most of the foreclosures and evictions were truly due to the homeowner failing to pay his mortgage. The fraud committed by the foreclosure mills casts enough doubt that, now, all foreclosures come into question. Not only that, all mortgages come into question.

"People still haven't figured out what all this means. But I'll tell you: if enough mortgage-paying homeowners realize that they may be able to get out of their mortgage loans and keep their houses, scott-free? That's basically a license to halt payments right now, thank you. That's basically a license to tell the banks to take a hike.

"What are the banks going to do...try to foreclose and then evict you? Show me the paper, Mr. Banker, will be all you need to say.

"This is a major, major crisis. The Lehman bankruptcy could be a spring rain compared to this hurricane. And if this isn't handled right...and handled right quick, in the next couple of weeks at the outside...this crisis could also spell the end of the mortgage business altogether. Of banking altogether. Hell, of civil society. What do you think happens in a country when the citizens realize they don't need to pay their debts?"

(I am not sure who wrote this, but if you want your 15 minutes of fame, I will be glad to credit you next week. - John)

Some Foreclosure Takeaways

Let me add a few thoughts. First, I agree, this is very serious. It has the possibility of seriously hurting the housing market, which as we saw in the first section is already on the ropes. But at the end of the day, there is a cure.

Someone borrowed money for a mortgage. Some entity is cashing a check if that person is paying. That entity should have the title until it is paid off. If someone is not making their mortgage payments, they should be removed from the house and it should be sold to the benefit of the ultimately correct and what everyone thought was the proper title holder.

If you took out a mortgage and now the title is in some doubt because the investment banks and mortgage banks and all the middle guys screwed up (big-time!) because they wanted to save some bucks and make some commissions, you did not win the lottery. That is not America as I know it. You can't pay the mortgage, I am sorry. But you do not get to keep the house. The people who (thought) they bought the mortgage in a fair deal need to end up with that mortgage.

If you pay your mortgage, you get to have the American Dream.

We CANNOT allow this debacle to continue. It will bring the system down. Who will want to buy a mortgage that is in a securitized package with no clear title? Who will get title insurance? Some judge somewhere is going to make a ruling that is going to petrify every title company, and the whole thing grinds to a halt.

Let's be very clear. If we cannot securitize mortgages, there is no mortgage market. We cannot go back to where lenders warehoused the notes. It would take a decade to build that infrastructure. In the meantime, housing prices are devastated. Whatever wealth effect remains from housing gets worse, and the economy rolls over.

This is beyond my pay grade, but there have to be some adults who can make everyone play nice in the sandbox. Ideally, someone in authority at the Treasury, with bipartisan support steps in and says everyone follow these rules, whatever these rules need to be.

I had a very spirited conversation with good friend Barry Ritholtz today (of The Big Picture). Barry runs money but is also a lawyer and has a somewhat different perspective. He thinks we do not need any legislation and there is a legal cure. He says that real trained people (lawyers and paralegals) need to look at each mortgage and figure it out, and that it can get resolved. It is expensive to the banks; but I agree, if it is just dollars I don't care. Fix it.

But that is a maybe. Other people I talk to disagree. Some think we need some regulatory fixes. Some think we will need a legislative cure. But if we need to, there need be no finger pointing, no partisan BS. This needs to get solved.

Someone took out a mortgage. Some entity thinks they are owed money. Fix the damn paper trail so that happens, whether in a legal if time-consuming manner, in a regulatory fix, or with legislation.

Now, that is not to say the people who did this stuff did not commit felonies and such. We can sort that out over time. The longer we wait the worse it will get. Fix the problem and then go round up the bad guys. There are bigger issues in play here. (I know this will be somewhat controversial. Oh well.)

I get the fraud being done here. I am regulated by FINRA, the NFA, various states, the British FSA, and ultimately the SEC. If I did something in my business like the stuff described above, someone would come in and justifiably shut me down, fine me, and ban me from the securities business. Oh, wait. These guys ARE regulated by the above groups.

Finally on this topic, I shake my head when I think that the FDIC is now running several of the banks (think IndyMac) that are part of this foreclosure crisis. These are the guys who are supposed to be preventing something like this. Again, where are the adults?

The Subprime Debacle: Act 2

OK, this letter is already getting too long. I am going to finish it next week, as the next topic needs a lengthy treatment. But I will not leave you hanging. A quick preview.

All those subprime and Alt-A mortgages written in the middle of the last decade? They were packaged and sold in securities. They have had huge losses. But those securities had representations and warranties about what was in them. And guess what, the investment banks may have stretched credibility about those warranties. There is the real probability that the investment banks that sold them are going to have to buy them back. We are talking the potential for multiple hundreds of billions of dollars in losses that will have to be eaten by the large investment banks. We will get into details, but it could create the potential for some banks to have real problems.

And all this coming as European banks are going to have to sort out their own sovereign debt problems. Shades of 2008. I hope I am wrong, but it's all connected.

Yankees, Rangers, and The Endgame

I travel on Monday to New York, where good friend Barry Habib is going to take me to the Yankees-Rangers game. I will be the guy on the second row behind home plate, behind the mayor, wearing the Rangers jacket. Barry assures me I will be safe. Cliff Lee pitching. Can the Rangers hold up to the pressure against the best there is? Stay tuned.

My book, *The End Game,* is coming along. It is out for comments from friends, and then I will sit down with my co-author in London for four days and we will finish this the first week of November, and then Wiley will push as fast as they can to get it out.

This has been a very tumultuous week for a host of reasons. It's all good, but exhausting. I am more than ready to hit the send button. I just turned on the TV to watch the last few innings. The Rangers have gone from up 5 to zip to losing 6-5. Can we say disheartening?

Your really wanting to see a World Series analyst,

John Mauldin
John@FrontLineThoughts.com

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PAST RESULTS ARE NOT INDICATIVE OF FUTURE RESULTS. THERE IS RISK OF LOSS AS WELL AS THE OPPORTUNITY FOR GAIN WHEN INVESTING IN MANAGED FUNDS. WHEN CONSIDERING ALTERNATIVE INVESTMENTS, INCLUDING HEDGE FUNDS, YOU SHOULD CONSIDER VARIOUS RISKS INCLUDING THE FACT THAT SOME PRODUCTS: OFTEN ENGAGE IN LEVERAGING AND OTHER SPECULATIVE INVESTMENT PRACTICES THAT MAY INCREASE THE RISK OF INVESTMENT LOSS, CAN BE ILLIQUID, ARE NOT REQUIRED TO PROVIDE PERIODIC PRICING OR VALUATION INFORMATION TO INVESTORS, MAY INVOLVE COMPLEX TAX STRUCTURES AND DELAYS IN DISTRIBUTING IMPORTANT TAX INFORMATION, ARE NOT SUBJECT TO THE SAME REGULATORY REQUIREMENTS AS MUTUAL FUNDS, OFTEN CHARGE HIGH FEES, AND IN MANY CASES THE UNDERLYING INVESTMENTS ARE NOT

TRANSPARENT AND ARE KNOWN ONLY TO THE INVESTMENT MANAGER.

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Thoughts from the Frontline
3204 Beverly Drive
Dallas, Texas 75205

#4)

(136 unread) Yahoo! Mail, samsan2000 - Windows Internet Explorer

From	Subject	Date
David Kotok	Cumberland Advisors Commentar...	Mon 10/18, 5:00 PM
David Kotok	Cumberland Advisors Commentar...	Fri 10/15, 6:52 PM
Spirit Airlines	**Right-of-Way for Savings with Far...**	Fri 10/15, 12:50 PM

why-did-the-mortgage-servicers-use-robo-signers Read this actual and in the paragraph that starts with Second, they will provide the support for my claims. Here are additional articles I searched for on the web. http://www.fiercefinance.com/story/robo-signer-wells-fargo-no-foreclosure-halt-yet/2010-10-14 and http://www.housingwire.com/2010/10/15/robo-signers-are-a-drop-in-the-bucket-to-mortgage-industrys-problems I hate people that have no idea what they are talking about and mislead people. They don't even know what a Note and Mortgage are or what they are used for, holy cows. And MERS doesn't slice or dice mortgages they are just a repository. Must of the slicing and dicing is done in CDOs, which if needed I will explain why. CDO unlike MBS or RBMS continually slice and dice the junior pieces or Mezz into new CDO whereby they take the more riskier debt make them look like AAA."

I will stop and add just add a few personal observations. No writer mentioned the role of real estate taxes so we discussed this with NE, a highly skilled, community development real estate professional. He described how a well-informed tax-sale certificate buyer could jump ahead of the other lien holders and get a house on the cheap. In addition, an occupant could keep the tax payments current, delay the mortgage payment while the mess is in the courts, and remain in the house for quite a while. He noted how many mortgage servicers do not collect the real estate taxes and are therefore exposed.

Also, state law prevails on mortgages. That means 50 jurisdictions with 50 different sets of rules. The securities are mostly through NY trusts, noted Josh Rosner. The trust will determine how the securitizations are unwound, not the rules under which the foreclosures will occur. Many of our diverse legal opinions are coming to us because the lawyers involved are citing their own local jurisdictions.

We thank the many, many readers for their thoughtful comments. We do not normally pass on a piece and keep the writer anonymous. Had he written without rudeness and expletives the outcome might have been different. It is too bad he had to resort to abusive language. The original text, despite the technical errors, was provocative and captured the gist of the mess.

Many have asked about the identity of the original writer, LG sent this email: "David Kotok: A simple Google search would have revealed to you who wrote the following. I doubt he is need of you providing him 15 minutes of fame, but who knows...http://gonzalolira.blogspot.com/2010/10/second-leg-down-of-americas-death.html ." Thank you, LG.

BTW, there is an investment implication in our view. We believe the banking system will weather this mess and the weakness in the sector will evolve into a buying opportunity as a result. The new Fed policy of additional QE implies more liquidity to offset the economic weakness of the foreclosure mess and more subsidies for banks.

TODAY: 10/19 No events. Click the plus sign to add an event.

From: Gonzalo Lira [mailto:expat229@gmail.com]
Sent: Tuesday, October 19, 2010 3:39 PM
To: Sam Santiago
Subject: Re: E-mail From Web Site User

Tell Mr. Kotok that I would have respected him—and he wouldn't have become the laughinstock of the financial world—if he'd simply apologized. You see, a gentleman would have apologized.

But his words? His actions? The words and actions of a two-bit thief, who knows he got caught, and is trying to weasel his way out of it.

GL

On Mon, Oct 18, 2010 at 10:09 PM, Sam Santiago <sam.santiago@cumber.com> wrote:
Thank you for your email. Here are the links to the two posts. Please note the disclaimer at the top of the first one and the attribution at the bottom of the follow-up. The first one with the disclaimer went out to all our readers via email, but I missed it when I posted to our website and I corrected immediately. I apologize, my technical error. I have passed this inquiry along to David.

http://www.cumber.com/commentary.aspx?file=101510a.asp

http://www.cumber.com/commentary.aspx?file=101810a.asp

-----Original Message-----
From: expat229 [mailto:expat229]
Sent: Monday, October 18, 2010 7:24 PM
To: info
Subject: E-mail From Web Site User

Mr. Kotok,

You stole my writing, and passed it off as your own. I have proof that you did.

Please advise me as to the name of your attorney, so that I can direct my legal team to begin proceedings.

Gonzalo Lira