Force Government to Curb Lender Abuse

Florida Foreclosure Mediation Program Insufficient.

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Back on 29 **December 2009** the Florida Supremes ordered mediation for foreclosures:

http://www.housingwire.com/2009/12/29/florida-supreme-court-adopts-foreclosure-mediation-program

> The **Florida Supreme Court** yesterday adopted a mediation program to reach out to borrowers facing foreclosure, according to a court order. The bill may help aid distressed borrowers who are too far along in the foreclosure process to benefit from next year's Home Affordable Foreclosure Alternatives Program (HAFA)
>
> The **Task Force on Residential Mortgage Foreclosure Cases** was established in late March to respond to the nation's third highest mortgage delinquency rate by state; its worst foreclosure inventory; and the most foreclosure starts in the nation. At the end of 2009, the state estimates 456,000 pending foreclosure cases statewide.
>
> The 15-member task force issued a final report in August recommending the program and identifying a lack of communication between plaintiffs and borrowers as the largest impediment to early resolutions in the foreclosure process.
>
> Under the statewide managed mediation program, all foreclosure cases in the state courts that involve residential property will be referred to mediation. (etc.)

I wrote this to the author of the above article:

> Jon, try to understand why Lenders and borrowers don't comm well during or prior to foreclosure:
>
> LENDERS WANT TO FORECLOSE AND WANT NOTHING TO INTERFERE.
>
> You see, Jon, nearly all loans have a predatory nature, and foreclosure brings with it windfall profits through bilking of insurance agencies and FDIC. In Florida 95% or more of single family homes have had over-inflated prices and appraisals for the last 4 decades because EVERYONE INVOLVED makes profits by it EXCEPT the Borrower. SO all have MOTIVE to CHEAT the borrowers. Appraisers have gladly gone along with the program.
>
> Otherwise, Jon, (THINK about this) how could the residential realty values possibly have collapsed to 60% or 70% (still falsely inflated) of their prices 5 years ago? Have you noticed the prices houses bring at foreclosure auctions? Routinely 1/5 to 1/6 their 2006 price. Why? Because they collapsed closer to ACTUAL VALUES.
>
> Lenders also want foreclosures to stimulate more Loan Modifications, the grandest scam since appraisal fraud. Here borrowers desperate to save their overpriced homes from foreclosure negotiate a new loan at the SAME LOAN BALANCE (exorbitant) WITHOUT A VALID

APPRAISAL (overpriced), and a FAT BALLOON a few years in the future, which the borrower will not have the resources to pay. So the borrower will lose the house anyway.

Thus, lenders LOVE foreclosures.

Why do so many loan mod offers fall apart? Because the servicer who offers it doesn't own beneficial interest in the note, and must negotiate to buy it as junk paper after default forces the trustee to pull it out of the securitization trust. Often someone else outbids the servicer and so the servicer has to withdraw the offer because without owning the interest in the note the servicer has no loan to modify.

See, Jon? It's a constant series of very clever scams.

Bottom line, the mediation program has zero practical value because it does not tackle the problem: Lenders cheated borrowers systematically for decades. THAT constitutes the problem.

Remember that the average American family moved every 7 years. That means those who could purchase a house with a mortgage would get a new mortgage (refinance) every 7 years. Lenders, greedy, wanted to shorten that time. Why? Because with a 30-year note, almost all of the first 7 years of payments constitutes INTEREST. For faster turnover of 3, 4, 5, or 6 years between new mortgages, lenders get an even bigger percentage of every payment as interest. They make ever bigger fortunes.

So they developed tricks like these (in addition to those I mentioned above):

1. Add the first year or two of insurances and taxes into the loan amount. This lets the borrower make payments for a year or two between 10% and 20% smaller than payments in succeeding years which must include escrow amounts for taxes and insurance. At the end of the first or second year, the borrower get hits with the higher payment. Most already spent everything they made and that made it impossible for them to pay the higher mortgage payment. As a consequence, many headed for foreclosure because they simply could not afford their houses.

2. The FED lowers interest rates and many people rush to buy a new house because now they can afford more house with the same payment. Many related loans have adjustable interest rates. When the lending market improves and interest rates go up, the borrower has to pay the higher interest and can no longer afford the house. So the borrower heads for foreclosure.

3. The mortgage broker or lender will falsify the loan application, particularly in the area of family income, to make to seem that the unqualified borrower qualifies for the loan. The borrower buys the house but soon realizes the inability to make the monthly payments, and heads for foreclosure.

4. Lenders, mortgage brokers, realtors, sellers, and appraisers conspire wittingly or unwittingly to drive the prices of houses way up high, way above the actual replacement cost, income capitalization, and market value. Almost everybody pays 30% to 50% more for houses than they should. This fact, along with loan application falsification,

constitute the most opportune grounds for loan fraud litigation against the lender and the lender's agents.

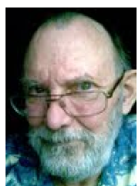
5. The lenders do such shenanigans and frauds on such a wide scale that it collapses realty values and causes massive job loss. Now many borrowers cannot afford their house payments and they head to foreclosure.

6. Lenders and courts conspire to put the burden of equity loss from the above collapse onto the shoulders of borrowers rather than on the shoulders of the more sophisticated investors who caused the collapse: the lenders. Courts should force lenders to cram down their unconscionable loans to the present value of the realty minus all paid in equity, and then restart the mortgage at the present remaining term.

7. Lenders and the courts conspire to create a public policy that allows lenders to use the borrower's chattel in commerce without compensating the borrower for it. The chattel consists of the promissory note, the mortgage note. This document belongs to the borrower and the holder in due course (the lender or assignee for value) must return that chattel to the owner/maker upon satisfaction of the terms of the note. Meanwhile the lender may sell and assign beneficial interest in the note, but not the note itself, unless an borrower agreement confers ownership of the note to the lender. Mortgages typically allow the lender to sell the note, but that can only happen if the lender pays the owner of the note (that is the maker/borrower) for it, and mortgage agreements stipulate no contradiction to that point. When the lender or assignee fraudulently securitizes the note and the trustee becomes the holder in due course. The so-called trust (not really a trust, but an LLC) and associated beneficiaries of the Pooling and Servicing Agreement (PSA) earn a fortune from the sale of security certificates, but never pay the borrower a penny of that money, nor include the borrower in any of the enormous associated tax benefits. They thereby massively cheat the borrower.

8. Fractional reserve lending, deficit spending, and widespread abuse of the Article I Section 10 mandate for the states to use Gold and Silver Coin as tender in payments of debt both conspire to destroy the wealth of the people by diminishing the value of savings over time, and by making it impossible for people to amass wealth based on precious minerals as traditional, government supported mediums of exchange.

The People of America need to take swift action to toss legislators and judges who refuse to reign in such abuse by lenders, servicers, trustees, realtors, appraisers, mortgage brokers, and realty sellers. The People need to make it plain that the note belongs forever to the maker, and all money a holder earns from it directly or indirectly belongs to the maker.



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