

The Miami Herald

Posted on Wed, Jul. 29, 2009

Countrywide's promised loan relief falling short for many

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As part of a settlement, a now-defunct subprime mortgage giant promised \$1 billion in mortgage relief to its legions of struggling Florida customers.

Now, eight months later, borrowers trapped in problem loans say Countrywide Financial is not living up to the terms of the deal.

The loan modifications were part of an \$8.4-billion settlement reached with Florida and 10 other states that allowed Countrywide, which merged with Bank of America a year ago, to avoid prosecution for allegedly using deceptive sales and marketing practices to sell borrowers risky, high-cost mortgages.

"My 1-year-old nephew has more teeth than the settlement agreement," said Dennis Donet, a Miami foreclosure defense attorney.

Both borrowers and loan modification consultants complain of abysmal customer service and a maddening process that can take months to complete. Mortgage brokers and attorneys criticize the low number of loan modifications completed, considering the company's past dominance in Florida.

A spokeswoman for Attorney General Bill McCollum said it appears the company is sufficiently complying with the settlement -- one of the largest of its kind in U.S. history -- but the attorney general's office still has the matter under review.

CIVIL SUITS DROPPED

Under the settlement, Countrywide admitted no guilt in the civil cases filed by Florida and the other states.

The lawsuits were dropped, but Florida is moving forward with a case against the company's former chief executive, Angelo Mozilo, for allegedly engaging in deceptive lending and other illegal practices related to the sale of mortgage-backed securities.

A motion to dismiss the case against Mozilo is being heard Wednesday in Broward Circuit Court. If the case proceeds, he would be the highest profile lending executive to face trial since the start of the mortgage debacle.

Back in October, Countrywide estimated about 52,000 Florida borrowers were potentially eligible for help, which included loan modifications for subprime and payment option adjustable rate mortgages -- loans especially prone to default because of payments that shoot up.

It promised to waive all fees and penalties and agreed to make cash payments to families needing help to relocate after foreclosure. The company also set aside \$21 million to compensate borrowers who quickly defaulted on their loans -- often a sign they never had a chance of affording a home to begin with.

As part of its outreach, the company also said it would offer modifications to borrowers even if they had not yet fallen behind. But homeowners, including Michael Lutfey, who lives in Miramar, say they have pleaded for a loan modification to no avail.

Lutfey, who has a payment option ARM that allows the loan balance to grow when minimum payments are made, says the value of his house has fallen by 40 percent. He's current, but has a loan payment that is about to balloon.

Countrywide, he said, rejected his loan modification application because he made too much money and was not yet behind.

"It did not make any sense to me since a loan modification could have been tailored under their [program] to equal the amount of the minimum monthly payment that I am able to pay," said Lutfey, who still has not received a modification. He has had to hire a lawyer to help him through the process.

Rick Simon, a spokesman for Bank of America, which now owns Countrywide, defended the company's efforts. "We are very proud of our record," he said. "We think we are running ahead of the schedule envisioned."

He did, however, acknowledge that after a quick start, the pace of modifications slowed during the first part of the year as the company waited for the release of the Making Home Affordable federal loan modification program.

Simon also said the company is struggling with the volume of borrowers calling in for aid. The company has 7,400 home retention specialists handling 80,000 calls a day.

According to its first compliance report to the state, Countrywide said it modified 6,497 Florida loans between December -- when the settlement took effect -- and March 31.

Critics say it is impossible to gauge the significance of the number, since the total number of Countrywide subprime and payment option loans in Florida is unknown. The attorney general's office said it does not have the number, which Bank of America also would not disclose.

"We're in a state of 15 million people and they probably made a loan to one in five adults. Where are the modifications? Countrywide could have modified 52,000 loans in Miami-Dade County alone," said Grant Stern, a Bay Harbor Islands-based mortgage consultant.

Delays are to be expected, according to Keith Gumbinger, vice president of mortgage industry publisher HSH Associates. The 6,500 modifications completed so far are a promising step, he said.

"It's not like flipping a switch," he said. "There's paperwork that has to be drafted, developed and signed. It's an uphill battle to get that positive result."

Countrywide has also made \$491,963 in relocation payments. And it said it would begin making payments early next year to borrowers that defaulted quickly. On Tuesday, the attorney general's office announced another payment from Countrywide: \$4 million that will be used to offer foreclosure defense services to borrowers through the Florida Bar Foundation.

Beyond that, neither the state nor the attorney general's office is making the details of the first compliance report public. Last month, Countrywide obtained a temporary protective order from a Broward Circuit Court judge to prevent the release of further details, citing trade secrets. The state, consequently, released only a single page summary of the report.

Critics claim they need to see a detailed account to evaluate how much the company is doing to repair the damage from its lending practices.

“There is no list of loans. There is no mechanism to ensure transparency or to track what happens with the loans. We don't know who gets relief and who doesn't and why,” said April Charney, a senior staff attorney with Jacksonville Area Legal Aid.

Some fault McCollum's office for giving too much control to Countrywide to administer the relief. “They left it up to Bank of America and Countrywide to help borrowers and that is sort of like asking the tobacco industry to take care of smokers who get cancer,” said Guy Cecala, publisher of Inside Mortgage Finance.

The state should have demanded \$1 billion in cash from the company to use for its own foreclosure prevention programs, he said.

Another development some find troublesome is that Countrywide has begun modifying mortgages under the federal Making Home Affordable program, which subsidizes reductions in interest rates and makes incentive payments to lenders for each completed modification.

Austin King, national director of the financial justice center for ACORN, a grass-roots community advocacy group, said Countrywide should not be allowed to substitute one obligation -- reviewing loans and making modifications under the federal plan -- with its obligations under the settlement.

The settlement should be used to qualify borrowers who cannot be modified under the federal plan, he said. “[The settlement] was to make people whole because of Countrywide's law-breaking lending practices and that obligation still needs to be satisfied,” King said.

Simon said in many cases borrowers got a better deal under the federal plan and that incentives were used to foot the cost of more modifications.

BAD EXPERIENCE

Even some customers who eventually succeed in getting a Countrywide loan modification have few nice things to say about the experience. Germain Leville, 52, a technician at Memorial Regional Hospital, said she had to jump through hoops for more than six months.

“I kept calling and they kept transferring me from phone to phone,” Leville said. Like Lutfey, she said she had to pay a private loan modification company for help.