

Stern leaves trail of cases hanging

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As David J. Stern resigned from the business of foreclosure prosecution on Thursday, he left behind a troubled trail of 100,000 stranded foreclosure cases in Florida's overwhelmed court system.

The embattled Stern — whose rapid rise and crash draws several parallels to the post-boom housing market collapse that made him a multimillionaire — wrote letters to state judges in March indicating that Thursday would be his last day in the foreclosure prosecution business.

Now, as he attempts to make his exit without formally withdrawing from thousands of cases, he is being compared to the homeowner who turned his back on an unprofitable property with little regard for how the decision will affect those around him.

"The way he's leaving it behind is outrageous — he's basically stranding 100,000 cases," said Richard Burton, a Miami foreclosure defense lawyer and founder of The Foreclosure Project. "For him to just walk away and say, 'I'm not playing this game anymore,' is just a huge disgrace to the court system."

South Florida's judges have expressed their disapproval as well, sending Stern letters that call his decision to informally withdraw from thousands of cases "unacceptable," and "unilateral" and having "no basis in the law."

After allegations of "robo-signing" and fraudulent foreclosures surfaced last fall, the Plantation-based Law Offices of David J. Stern went into a tailspin, losing nearly all of its clients and slashing its 1,200-person workforce down to a few dozen. The firm is targeted in several lawsuits and is being investigated by the attorney general.

Because the collapse happened so rapidly, Stern lawyers are still legally responsible for more than 25 ,000 cases in South Florida, and it's not clear what will happen to those files.

Defense lawyers and legal analysts said those cases will likely hang in limbo for months with no one representing the bank, and judges will eventually have no choice but to dismiss them.

"For those cases in which no one appears on behalf of the plaintiff, the court reserves the right to enter an order of dismissal," Chief Judge Peter D. Blanc, of Palm Beach County, wrote in a letter to Stern last week.

The dismissal of thousands of foreclosure cases could spell more doom for the battered housing market, as banks will likely spend months, or even years, before re-filing those cases. In the meantime, empty homes will remain vacant, condo associations will continue to eat the losses from delinquent units, and those living rent-free will get to stay in their homes

longer.

“Economists and market researchers thought that we would turn the corner ... this year,” said Dennis Donet, a Miami foreclosure defense attorney. “Now that a lot of these files are not even going into the system, it’ll drag things out for another two or three years.”

The burden of foreclosures will also continue to wear on the state’s overworked court system, which is dealing with a backlog of more than 300,000 pending foreclosure cases, and a budget shortfall.

It’s a sharp turnaround from the impact Stern had on the courts just a year ago, as his industry-leading foreclosure processing business helped pump through thousands of cases at a speed that beat most other law firms. The company’s revenue quadrupled to more than \$200 million as it became the state’s largest foreclosure firm.

Former employees testified that Stern achieved that level of success by cutting corners and regularly skirting the legal process with a range of questionable practices. Stern’s lawyer, Jeffrey Tew, declined to comment.

Now, as Stern’s firm abandons nearly a third of the state’s pending foreclosure cases, the aftershocks are set to reverberate through the court system and into the economy.

It already takes more than two years, on average, for the foreclosure process to run its course in South Florida, according to Jacksonville-based mortgage firm Lender Processing Services. That timeline is likely to grow as banks shy away from doing business with the state’s major foreclosure law firms, since nearly all of them have been implicated in a wide-sweeping probe by the attorney general’s office.

When banks finally do find new counsel, those lawyers might allow the cases to be tossed out as a legal strategy, Donet said.

“There’s an incentive for the new lawyers to let these cases get dismissed,” he said. “If you take on a case that comes from David Stern, it comes with the presumption that it’s dirty. It may be more efficient to let it roll, get it dismissed and start afresh.”