

Documents in US foreclosure settlement highlight lawlessness of the banks

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On Monday, the settlement between five major banks and the federal and state governments of foreclosure-related fraud charges was filed in federal district court in Washington, DC. The agreement must be approved by the court to take effect.

The settlement, reported to be worth \$25 billion, was announced February 9 and hailed by President Obama as a serious rebuke to the banks and boon to distressed homeowners. (See: “Obama administration brokers pro-bank mortgage fraud settlement”).

It is nothing of the kind. It quashes investigations by 49 state attorneys general into wholesale fraud and illegality committed by the five biggest mortgage servicers in their rush to foreclose on homeowners and seize their houses. The abuses first surfaced in the fall of 2010, amid reports of “robo-signing” of foreclosure papers and court submissions.

It was revealed that bank employees and contractors routinely vouched for the accuracy of documents affirming the banks’ title to targeted homes without having ascertained the facts or having even read the documents they were signing. The process was rife with forgeries, fraudulent notarizations, inflated job descriptions of the signers and other violations of the law.

The federal complaint against the banks filed Monday as well as audit reports on the five institutions posted Tuesday by the Department of Housing and Urban Development (HUD) inspector general show that the illegal actions covered by the now-suppressed probes went well beyond the fraudulent processing of documents.

The government charged the banks with eight counts of violating federal and state foreclosure and lending laws, including levying improper fees on homeowners who fell behind on their payments, failing to provide

proper documentation on foreclosures, losing paperwork after consumers asked for loan assistance, and wrongfully denying consumers who asked for help.

The complaint alleged that the five mortgage servicers’ malfeasance “resulted in the issuance of improper mortgages, premature and unauthorized foreclosures, violation of service members’ and other homeowners’ rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds.”

The inspector general’s reports documented the fact that the “robo-signing” of foreclosure documents was ordered by top management at the banks. They also accused all five banks of impeding the government investigation into their practices.

Far from a blow to the banks—Bank of America, JPMorgan Chase, Citigroup, Wells Fargo and Ally Financial—the settlement filed Monday is a whitewash designed to shield them from potentially tens of billions in fines and damages arising from the state investigations. The banks largely dictated the terms of the settlement in the course of 16 months of negotiations, during which the Obama administration pressured recalcitrant state governments, particularly California and New York, to sign onto the deal. Under the agreement, the banks do not admit to any wrongdoing.

In return for the ending of the state probes, the banks have merely to pay a combined fine of \$5 billion. Of this, \$1.5 billion is to be set aside to pay some 750,000 illegally foreclosed homeowners a token sum of \$1,500 to \$2,000 each. Not one of the families whose homes were effectively stolen by the banks will be made whole.

The remainder of the reported \$25 billion in the agreement is in the form of relief to be provided by the

banks to “underwater” homeowners—those who owe more on their mortgages than the market value of their homes. Of this, \$10 billion will supposedly go to reducing the principal on home loans, \$3 billion to lowering monthly interest rates, and the other \$7 billion to short sales and other measures to allow delinquent borrowers to avoid foreclosure. The latter procedures are already being carried out by the banks, so they will receive \$7 billion in credit for what they are already doing.

The *Financial Times* reported last month that the bulk of the cost of the settlement will be covered by taxpayer funds. At the insistence of the Obama administration, the banks will be allowed to make use of an existing federal program, the Home Affordable Modification Program (HAMP), which provides public funds to banks that agree to reduce the principal on troubled home loans. Nearly two-thirds of the value of any write-downs the five banks make will be recompensed with funds from this program, the *Financial Times* reported.

Even if all of these measures are carried out, less than 5 percent of the nation’s 11.1 million underwater homeowners will be eligible for aid, according to an analysis by Ted Gayer, co-director of economic studies at the Brookings Institution.

The HUD inspector general’s reports show the undisguised contempt of the banks for the government investigation. Bank of America, for example, refused to provide complete files and documents and refused to provide some of its foreclosure policies to HUD investigators. It failed to fully comply with subpoenas. It also limited employee interviews and ordered employees not to answer certain questions.

JPMorgan would not provide certain records, while other records were incomplete. Wells Fargo did not allow the inspector general to interview some employees and failed to provide information in a “timely manner,” the inspector general reported. Ally Financial put up similar roadblocks, according to the inspector general’s report on that bank.

Despite these attempts at sabotage, the HUD reports document the systematic fraud carried out by the banks, providing damning examples. One notary reported his workload going from 60 to 200 documents per day to more than 20,000. Another employee reported signing 18-inch stacks of documents at a time.

Wells Fargo employees reported signing as many as

600 documents per day. When employees told upper-level management they could not handle the workload, the bank shortened the turnaround time for document signatures.

Citigroup’s mortgage unit “regularly signed foreclosure documents when not in the presence” of a notary public, as required by law, the inspector general said.

The report on Ally Financial said that an employee “routinely” signed 400 foreclosure affidavits per day and 10,000 a month without reviewing the supporting documentation.

JPMorgan Chase supervisors told HUD officials they often signed affidavits as an “assistant secretary” or “vice president,” when those were not their official titles. They had simply been given those titles by Chase to allow them to sign legal documents.

That the government rewarded the banks for breaking the law and then refusing to cooperate with investigators by giving them a sweetheart deal underscores the complete impunity with which the American financial aristocracy carries out its acts of social plunder. Like the French Ancien Regime, they are a law unto themselves and not subject to the rules that apply to the “mob.”



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