Home Foreclosures: Another Sweetheart Bank Settlement on Sub-Prime Mortgage Fraud

The settlement includes Bank of America, Citigroup, JPMorgan Chase, Wells Fargo, MetLife Bank, PNC, Sovereign, SunTrust, US Bank and Aurora.

By Andre Damon
Global Research, January 09, 2013
World Socialist Web Site

Region: USA
Theme: Global Economy

Ten major financial firms agreed on Monday to pay $3.3 billion in cash to settle allegations of mortgage fraud by the Office of the Comptroller of the Currency (OCC) in the latest in a string of sweetheart settlements between the major Wall Street banks and their nominal regulators. As usual, there were no criminal charges and no bank officials were held accountable.

The settlement, which nominally totals $8.5 billion, includes $3.3 billion in direct payments to borrowers and $5.2 billion in loan modifications and other forms of "borrower assistance" left largely at the discretion of the banks.

The settlement with the OCC, a branch of the Treasury Department, relates to widespread fraud committed by the banks in their rush to foreclose on as many homes as possible in 2009 and 2010. To expedite the foreclosure process, the banks had employees or contractors sign off on thousands of mortgage documents every month, swearing that they had intimate knowledge of their contents when in reality they had not even read them.

In many cases, banks illegally imposed fees on targeted homeowners or failed to inform them of their rights.

In concluding the pittance of a settlement, a fraction of the billions taken in by the banks from the sub-prime mortgage racket, the Obama administration is once again letting the banks get away with massive crimes that have had devastating social consequences, while giving them a green light to continue similar practices.

In all the scandals relating to the banks' criminality in the run-up to and aftermath of the 2008 financial crisis, the government has deliberately avoided bringing cases to trial. This is not only to protect the banks' activities from further public scrutiny, but also to cover up regulators' complicity in facilitating the banks' illegal activities.

The number of households that will get a share of the $3.3 billion in payouts, averaging $868 for each of the 3.8 million borrowers whose homes were in foreclosure in 2009 and 2010, has not been disclosed. Under previous guidelines issued by the federal government, homeowners who were put in foreclosure but were not really in default would theoretically receive $15,000 and a reversal of the foreclosure, or $125,000 if a reversal was not possible. The actual amounts that are ultimately paid out could be far lower.

The settlement puts to an end the "Independent Foreclosure Review" imposed as a regulatory action by the OCC on fourteen banks in April 2011. Under the program, banks paid contractors to examine each claim of improper foreclosure. The cost to the banks had reached $1.5 billion when the government agreed to end the investigation.

With the new settlement, the banks themselves are left to determine where abuses took place, with only a handful of cases to be examined by regulators.

Comptroller of the Currency Thomas Curry sought in a press conference Monday to present the settlement as a means of getting money to consumers as soon as possible. "When we began the Independent Foreclosure Review, the OCC pledged to fix what was broken, identify who was harmed, and compensate them for that injury," Curry said. "While today's announcement represents a significant change in direction," he continued, "it meets those original objectives by ensuring that consumers are the ones who will benefit."

The settlement prompted an outpouring of denunciations from consumer advocates and even some media commentators. "The regulators have decided to replace the fox in the henhouse with the wolf," commented John Taylor, head of the National Community Reinvestment Coalition, a community development nonprofit. "It is just incomprehensible to me that they could not find a third party that has the wherewithal and independence to fairly determine what the damage is to homeowners."

Gretchen Morgenson, in a *New York Times* op-ed entitled "Surprise, Surprise: The Banks Win," wrote: "If you were hoping that things might be different in 2013—you know, that bankers would be held responsible for bad behavior or that the government might actually assist troubled homeowners—you can forget it."

The settlement includes Bank of America, Citigroup, JPMorgan Chase, Wells Fargo, MetLife Bank, PNC, Sovereign, SunTrust, US Bank and Aurora. Four other banks that were included in the investigation refused to take part in the settlement.

The settlement by the OCC is of a piece with the agreement announced last February between 49 state governments and five top Wall Street banks over similar types of mortgage fraud. In last year's settlement, the federal government put pressure on state attorneys general to wind down their investigation into criminal abuses by the banks, leaving them to pay only $5 billion in payouts and a largely meaningless $17 billion in mortgage modifications.

Under the de facto protection of the government agencies that are supposed to police them, the banks are allowed to violate securities and other laws knowing that they can treat any fines that may eventually be imposed as part of the cost of doing business.

The same applies to the settlement also announced Monday between Bank of America and the government-sponsored mortgage finance giant Fannie Mae, in which the bank will pay $3.55 billion to Fannie and buy back 30,000 low-performing mortgages for $6.75 billion.

The settlement covers allegations that Countrywide Financial, bought by Bank of America in 2008, knowingly sold Fannie Mae toxic mortgages that produced billions of dollars of losses. The loans were made between 2000 and 2008 and were originally valued at $1.4 trillion. The collapse of these assets triggered a $116 billion government bailout of Fannie and helped precipitate the financial crisis that led to the loss of millions of jobs.

The deal follows a similar 2010 agreement in which Bank of America repurchased $2.87 billion of bad loans from Fannie's fellow government-backed mortgage company, Freddie Mac.

More than four years after the financial crash of September 2008, not a single top Wall Street executive has been criminally prosecuted.