Robo-signers: Mortgage experience not necessary

by MICHELLE CONLIN
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NEW YORK In an effort to rush through thousands of home foreclosures since 2007, financial institutions and their mortgage servicing departments hired hair stylists, Walmart floor workers and people who had worked on assembly lines and installed them in "foreclosure expert" jobs with no formal training, a Florida lawyer says.

In depositions released Tuesday, many of those workers testified that they barely knew what a mortgage was. Some couldn't define the word "affidavit." Others didn't know what a complaint was, or even what was meant by personal property. Most troubling, several said they knew they were lying when they signed the foreclosure affidavits and that they agreed with the defense lawyers' accusations about document fraud.

"The mortgage servicers hired people who would never question authority," said Peter Ticktin, a Deerfield Beach, Fla., lawyer who is defending 3,000 homeowners in foreclosure cases. As part of his work, Ticktin gathered 150 depositions from bank employees who say they signed foreclosure affidavits without reviewing the documents or ever laying eyes on them - earning them the name "robo-signers."

The deposed employees worked for the mortgage service divisions of banks such as Bank of America and JP Morgan Chase, as well as for mortgage servicers like Litton Loan Servicing, a division of Goldman Sachs.

Ticktin said he would make the testimony available to state and federal agencies that are investigating financial institutions for allegations of possible mortgage fraud. This comes on the eve of an expected announcement Wednesday from 40 state attorneys general that they will launch a collective probe into the mortgage industry.

"This was an industrywide scheme designed to defraud homeowners," Ticktin said.

The depositions paint a surreal picture of foreclosure experts who didn't understand even the most elementary aspects of the mortgage or foreclosure process - even though they were entrusted as the records custodians of homeowners' loans. In one deposition taken in Houston, a foreclosure supervisor with Litton Loan couldn't define basic terms like promissory note, mortgagee, lien, receiver, jurisdiction, circuit court, plaintiff's assignor or defendant.

She testified that she didn't know why a spouse might claim interest in a property, what the required conditions were for a bank to foreclose or who the holder of the mortgage note was. "I don't know the ins and outs of the loan, I just sign documents," she said at one point.

Until now, only a handful of depositions from robo-signers have come to light. But the sheer volume of the new depositions will make it more difficult for financial institutions to argue that robo-signing was an aberrant practice in a handful of rogue back offices.

Judges are unlikely to look favorably on a bank that claims paperwork flaws don't matter because the borrower was in default on the loan, said Kendall Coffey, a former Miami U.S. attorney and author of the book "Foreclosures."

"There has to be a cornerstone of integrity to the process," Coffey said.

Bank of America responded to Tiktin's depositions by re-affirming that an internal review has shown that its foreclosures have been accurate. "This review will ensure we have a full understanding of any potential issues and quickly address them," Bank of America spokesman Dan Frahm said. Frahm added that, on average, the bank's foreclosure customers have not made a payment in more than 18 months.

JP Morgan Chase spokesman Thomas Kelly said the bank has requested that courts not enter into any judgments until the bank had reviewed its procedures. But Kelly added that the bank believes that all the underlying facts of the cases involved in the document fraud allegations are true.

Litton Loan Servicing did not respond to a request for comment.

Even before the foreclosure scandal broke, the housing market was in the midst of an ugly detoxification. Now the escalating crisis is likely to prolong the housing depression for at least another few years. The allegations are opening the entire chain of foreclosure proceedings to legal challenge. Some foreclosures could be overturned. Others could be deemed illegal.

For a housing recovery to occur, all the foreclosed properties - which could account for 40 percent of all residential sales by 2012 - need to be re-scrutinized by the banks and resold on the market. Now, with so much inventory under a legal threat, the process will become severely delayed.

"This just adds more uncertainty to the whole mortgage process, so buyers are asking themselves: do I want to buy a home in this environment?" says Cris deRitis, director of credit analytics at Moody's Analytics. "We need to fix these issues before the economy can recover."

Though some have chalked up the foreclosure debacle to an overblown case of paperwork bungling, the underlying legal issues are far more serious. Yes, swearing that you've reviewed documents you've never seen is a legal offense.

But at the center of the foreclosure scandal looms something much larger: the question of who actually owns the loans and who has the right to foreclose upon them. The paperwork issues being raised by lawyers and attorneys generals have the potential to blight not just the titles of foreclosed properties but also those belonging to homeowners who have never missed a mortgage payment.

So far, JP Morgan Chase, PNC Financial and Litton Loan Servicing have stopped some foreclosure proceedings in 23 states. Bank of America and GMAC, recently renamed Ally, have extended their moratoriums to all 50 states. Wells Fargo and Citigroup have said they are continuing with foreclosures, adding that they are confident in their documents and processes.

But Citigroup has now backpedaled some on that assertion. The bank sent out a press release Tuesday that it was no longer using the law firm of "foreclosure king" David Stern, now under investigation by the Florida attorney general's office. "Pending the outcome of the AG's investigation, Citi is not referring new matters to this firm," the bank said in an e-mailed statement.

Late last week, in an interview with the Florida attorney general, a former senior paralegal in Stern's firm described a boiler-room atmosphere in which employees were pressured to forge signatures, backdate documents, swap Social Security numbers, inflate billings and pass around notary stamps as if they were salt.

Stern's lawyer, Jeffrey Tew, did not respond to a request for comment.

Meanwhile, the public outrage continues to mount. In what is perhaps a sign of things to come, a Simi Valley, Calif., couple and their nine children broke into their foreclosed home over the weekend and moved back in, according to television station KABC of Simi Valley. The couple, Jim and Danielle Earl, say they were working with the bank to catch up on payments until they discovered a $25,000 difference between what they owed and what the bank said they owed. The family was evicted from their Spanish-style two-story in July. The home has been sold, and the new owner was due to move in soon.

The Earls and their attorney now allege that they were victims of fraudulent paperwork.