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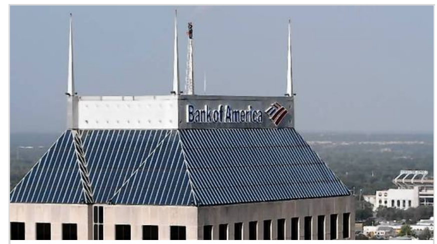
Bank of America fined for repeated violations in Orange homeowners' bankruptcy case

March 19, 2013 | By Richard Burnett, Orlando Sentinel

A federal bankruptcy judge in Orlando has slapped Bank of America Corp. with a $220,000 sanction — one of the largest fines on record in the local court — for ignoring the judge's orders and refusing an Orange County couple's court-approved mortgage-loan modification.



Bank of America Corp.'s downtown Orlando tower. (By Red Huber, Sentinel Staff)

U.S. Bankruptcy Judge Karen Jennemann sanctioned the giant bank earlier this month after it failed to appear at a series of hearings but continued trying to collect unauthorized mortgage payments from the homeowners, according to a court filing.

The judge ruled March 5 that Bank of America had 30 days in which to pay the fine — or the couple's mortgage debt, which totals about $223,000, will be "deemed fully satisfied."

Jennemann acted in the case of Warren and Mary Grant-Hougland, who live in the southwest Orange County community of Gotha. They filed personal bankruptcy in 2010 under Chapter 13 of the federal code to restructure their debts and to fend off the foreclosure of their 1,900-square-foot home.

Clermont lawyer Jimmy Crawford, who represents the couple, would not comment on the case or the sanction, which is still subject to appeal by the bank.

A spokeswoman for the bank said last week it is looking into the case to see what went wrong.

"It is clear that the Hougland family did not receive the level of service we strive to provide for each Bank of America customer," the Charlotte, N.C.-based bank said in a prepared statement. "We apologize to the Houglands and to the Court for the manner in which this matter was handled, and want to assure them that we are working to resolve this matter as quickly as possible."

The Houglands' is just the latest in a series of local bankruptcy cases in which Bank of America has missed court hearings, failed to file motions or otherwise been labeled missing in action when it comes to foreclosure-related and loan-modification issues, according to some local lawyers. But though it may be a big offender, Bank of America is not alone, they said.

"When you see a sanction this large, there is clearly a sense of frustration on the part of the judge with this kind of behavior by the banks," said Amy Goodblatt, a veteran bankruptcy lawyer in Orlando and a board member of Community Legal Services of Mid-Florida. "When you can't even get the banks to respond in court, well, judges take a dim view of that. In a sanction like this, a judge is saying enough is enough."

According to court records, the Houglands obtained Bank of America's approval for a mortgage modification in January 2011 that shaved more than $550 a month from their loan payments. The bankruptcy court approved the deal in March and adopted the Houglands' overall debt-repayment plan that April.

One month later, however, the couple received a new letter from the bank, and this one denied their modification request. The bank continued to bill them for the higher mortgage payment throughout 2011 and 2012 — despite court orders upholding the original modification agreement.

Just a few months ago, the federal government announced a $9.3 billion agreement with Bank of America and nine other big banks to settle allegations that they had improperly handled people's mortgage papers, including "robo-signing" some foreclosure documents and other suspect and fraudulent practices. A year ago, Bank of America was one of five large U.S. home lenders that agreed to a $25 billion settlement of similar allegations brought by state attorneys general.

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Consumer advocates say mortgage miscues, foul-ups and outright abuse by banks have continued across the country in recent years, despite those multibillion-dollar settlements.

In June, a Texas judge hit Bank of America with a $300,000 sanction after it was accused of breaking two loan-modification agreements with a homeowner and continuing to harass her for higher mortgage payments. In November, a Virginia judge fined the bank, one of the nation's largest, $7,500 for failing to comply with terms of a $70,000 settlement in the case of a homeowner who had accused the bank of wrongful foreclosure, fraud and defamation.

A year ago, Orlando bankruptcy Judge Arthur Briskman fined Bank of America $11,500 in the case of Anita Smith, now 80, who was hounded by the bank's bill collectors for years even though she had surrendered her home as part of a Chapter 7 liquidation bankruptcy, according to court records. Despite the federal judge's 2008 order discharging Smith's debt, the bank called her nearly 100 times seeking additional mortgage payments.

"She had tried to get a loan modification from Bank of America but had been turned down so much, she just gave up," said Hunter Goff, an Orlando bankruptcy lawyer who represents her. "There were so many times — she'd send paperwork to one person, only to get a call from another person who said they never got the papers."

The government settlements appear to have been of some benefit: The big banks reported that, as of late last year, they had provided more than $26 billion in mortgage relief overall to 300,000 homeowners, according to the Office of National Mortgage Settlement Oversight, which was created to monitor the deal between the banks and the states.

But much more needs to be done, said Suzanne Martindale, a financial-services lawyer for Consumers Union, the nonprofit organization best known as the publisher of Consumer Reports magazine.

"I think it is going to take a while for these banks to really understand they need to change their entire paradigm," she said. "The writing is on the wall: You just can't offer a loan modification and do a foreclosure at the same time. You can't treat these cases in cookie-cutter fashion and still expect to come out with a fair outcome."

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