April 29, 2013
HUFF POST BUSINESS

# Wells Fargo Slapped With $3.1 Million Fine For 'Reprehensible' Handling Of One Mortgage

Posted: 04/ 9/2012 2:57 pm

Protesters Mark The 160th Year Of Wells Fargo With Satirical Birthday Party

A federal judge who has fiercely criticized how big banks service home loans is fed up with Wells Fargo.

In a scathing opinion issued last week, Elizabeth Magner, a federal bankruptcy judge in the Eastern District of Louisiana, characterized as "highly reprehensible" Wells Fargo's behavior over more than five years of litigation with a single homeowner and ordered the bank to pay the New Orleans man a whopping $3.1 million in punitive damages, one of the biggest fines ever for mortgage servicing misconduct.

"Wells Fargo has taken advantage of borrowers who rely on it to accurately apply payments and calculate the amounts owed," Magner writes. "But perhaps more disturbing is Wells Fargo's refusal to voluntarily correct its errors. It prefers to rely on the ignorance of borrowers or their inability to fund a challenge to its demands, rather than voluntarily relinquish gains obtained through improper accounting methods."

The opinion reflects Magner's disgust with tactics that Wells Fargo used to fight the case -- and perhaps frustration with an appeals court ruling in a separate, but similar case, that overturned her order that would have forced Wells Fargo to audit and provide a full accounting for more than 400 home loans in her jurisdiction.

As The Huffington Post previously reported in a story co-published with The Center for Public Integrity, sources familiar with the preliminary findings said that the bank made costly accounting errors in the administration of practically all of those loans.

In an emailed statement, Tom Goyda, a Wells Fargo spokesman said: "The ruling handed down by the court in an individual bankruptcy case covers allegations going back more than six years and ignores significant changes in servicing practices that have occurred since that time. We believe that there are numerous factual and legal problems with the opinion and are reviewing our options regarding an appropriate legal response."

Goyda said that an appeal of the ruling is "one option" the bank is considering.

Despite widespread reports that the banks and other companies that service home loans engaged in a range of misconduct -- from ordering unnecessary property inspections to misapplying payments in a way that can lead to wrongful foreclosure -- few judges have had the time, ability or inclination to do the kind of forensic analysis necessary to uncover wrongdoing in individual cases. For a non-accountant, reading a loan history is like interpreting hieroglyphics without a Rosetta Stone, and banks are often reluctant to turn them over in the first place.

The exceptions have tended to come in federal bankruptcy courts, where justices typically have more time to dig into loan accounts, and are much more likely to have the financial expertise necessary to do so. In an earlier interview, Magner said that she analyzed the loan files of more than 20 borrowers in her court and found mistakes in every instance.

"These are loans of working-class people who bought homes they could afford and whose loans were not administered correctly from an accounting perspective," she said. "I think that these types of problems occur in almost every [defaulted] loan in the country."

The current case involves Michael Jones of New Orleans. In a 2007 decision, Magner ruled that Wells Fargo improperly charged Jones more than $24,000 in fees, owing to a fundamental problem in the automated methodology the bank used to account for his loan payments.

After Jones fell into default, Magner ruled, the bank improperly applied his mortgage payments to interest and fees that had accrued instead of to principal, as required by his servicing contract. This triggered a waterfall of additional fees and interest that consumer lawyers call "rolling default." Later, after Jones applied for bankruptcy, the bank continued to misapply payments, according to Magner's opinion.

In the most recent opinion, Magner describes Wells Fargo's litigation tactics, which involved filing dozens of briefs, motions and other filings that slowed down the proceedings to a snail's pace, as "particularly vexing." The tactics suggest that any other borrower who might wish to contest a fee or charge would find a legal challenge to the bank simply too burdensome.

And yet, Magner writes, it is only through litigation that the abuses can be uncovered. Calling Wells Fargo's conduct "clandestine," Magner wrote that the bank refused to communicate with Jones even as it was misdirecting payments for improper purposes.

"Only through litigation was this practice discovered," Magner writes. "Wells Fargo admitted to the same practices for all other loans in bankruptcy or default. As a result, it is unlikely that most debtors will be able to discern problems with their accounts without extensive discovery."

Magner wrote that the bank still refuses to come clean with homeowners about mistakes it made in the accounting of home loans. This is particularly troublesome in her district, where more than 80 percent of the borrowers who file for bankruptcy have incomes of less than $40,000, and consequently are often unable to hire the kind of legal firepower necessary to counter Wells Fargo's army of lawyers.

"[W]hen exposed, [Wells Fargo] revealed its true corporate character by denying any obligation to correct its past transgressions and mounting a legal assault ensure it never had to," Magner wrote.

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