



Wells Fargo gambles on foreclosures, attorneys say

By Elinor Comlay and Joe Rauch

October 22, 2010

NEW YORK/CHARLOTTE, North Carolina (Reuters) - Wells Fargo & Co's (WFC.N) refusal to temporarily halt foreclosures may be driven less by confidence in its own paperwork than by a longer-term legal gamble, foreclosure attorneys said.

Amid rising public outrage over allegations U.S. banks cut legal corners to seize homes, the second largest U.S. mortgage servicer has continued to foreclose on delinquent homeowners. This is even as its peers Bank of America Corp (BAC.N), JPMorgan Chase & Co (JPM.N) and Ally Financial's GMAC Home Mortgage temporarily halted repossessions.

Attorneys and academics said the San Francisco-based bank may be wary of admitting similar flaws in its foreclosure process, since that could encourage more homeowners to fight foreclosure.

"My belief is it may be a strategic move not to admit anything," said **Richard Roth**, founder of **The Roth Law Firm** in New York. "It's a legal strategy -- and it may pay off if no one refutes them."

Roth has represented some plaintiffs in foreclosure cases but does not have any such cases pending against Wells Fargo.

For its part, the bank says it is immune to the paperwork flaws created by so-called robo-signers -- employees who signed thousands of foreclosure documents without reviewing them fully -- and sees no need to halt the process.

"Wells Fargo is confident its foreclosure process is sound," said spokeswoman Vickee Adams. Asked why, Adams referred to an earlier e-mail statement in which she wrote, "We audit, monitor and review our affidavits under controlled standards on a daily basis. We will stand by our affidavits and, if we find an error, we will take the appropriate corrective action."

Yet news site ProPublica on Friday reported a Wells Fargo employee admitted to a Federal bankruptcy court that she submitted unverified documents even after signing that the documents were "true and correct."

"When we find team members who do not follow procedure, we take corrective action," Wells Fargo spokesman Jason Menke said in an e-mailed statement.

Like its industry peers, Wells Fargo is dealing with record levels of foreclosures, and its home loan business is concentrated in some of the hardest hit U.S. states.

California, where Wells Fargo is based, will have the most foreclosures of any state, according to the consumer advocacy group Center for Responsible Lending.

The center projects 1.9 million foreclosures in the state between 2009 and 2012. That's more than Florida -- which is projected to face 1.5 million foreclosures -- and represents 20 percent of the total U.S. foreclosures expected from 2009 to 2012.

Attorneys who represented clients in Wells Fargo foreclosures said the company used many of the same procedures as its industry peers who decided to halt foreclosures in order to fix problems with their process.

Dustin Zacks, attorney at the Florida-based Ice Law Firm, said Wells Fargo gave non-bank contractors power-of-attorney to sign off on foreclosure affidavits that assured the documents in a case were reviewed and correct.

Zacks said the practice is not wrong by itself, but creates concerns in the current environment.

"It raises serious questions about what Wells Fargo knew about the due diligence being conducted in their name and if they were aware of any problems, why they didn't do anything about it," said Zacks.

The bank may be calculating that fewer borrowers will protest foreclosures if it does not admit to problems, Roth said. Lawyers representing borrowers have more grounds to be aggressive in discovery if banks disclose issues with their foreclosure process, Roth added.

"While it may be a good litigation strategy it may hurt them publicity-wise, it makes them look bad," Roth said. "I guess the question is what's most important to them?"

(Reporting by Joe Rauch and Elinor Comlay)

This is an attorney advertisement

The Roth Law Firm, PLLC
545 Fifth Avenue, Suite 960, New York, NY (212) 542-8882
www.rrothlaw.com