

New York Bankruptcy Lawyer Triumphs Over Shoddy Mortgage Lender Practices

Manhattan condominium owner, victim of shoddy record-keeping at mortgage giant JPMorgan Chase, fights back and wins with the help of New York bankruptcy lawyer David B. Shaev.

“The homeowner won the battle today. But with so much mortgage servicer abuse in bankruptcy, the war wages on.” - David B. Shaev, New York Bankruptcy Lawyer
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New York homeowners filing for bankruptcy are breathing a sigh of relief, knowing that the courts are on their side. In a scathing opinion issued recently by U.S. Bankruptcy Court Judge Martin Glenn, JPMorgan Chase Bank was effectively denied payment of their entire alleged mortgage claim because they refused to prove their ownership of the loan. The case is *In re Minbatiwalla*, Chapter 13 Case No. 09-15693 (MG) (Bankr.S.D.N.Y. 2009).

Kerman J. Minbatiwalla, a Manhattan homeowner, filed for Chapter 13 bankruptcy to repay his debts over time and save his East Side condominium. Though he was current on his mortgage at the time his case was filed, Minbatiwalla is the poster child for a system gone horribly wrong at the hands of shoddy recordkeeping at his mortgage company.

Minbatiwalla had two mortgages with various JPMorgan Chase entities. On filing of his bankruptcy, Chase Home Finance, LLC filed papers with the court on behalf of U.S. Bank as well as an unknown mortgage trust asking for payment of pre-bankruptcy arrears; a second claim was filed by JP Morgan Chase Bank N.A. also demanding payment of arrears.

Minbatiwalla's attorney, Manhattan bankruptcy lawyer David B. Shaev, looked on both documents with suspicion. “My client wants to pay his mortgage, but now he doesn't know who is the rightful recipient of the money. There was nothing but a summary attached, with nothing to indicate which party was which, or to whom the monies should be paid,” Shaev said. “A string of mortgage trusts and servicers only confused the situation, and we needed to be sure that the property parties would be paid.”

Though Shaev demanding more information on the transfer of the loans and the relationships of the parties, he was met with no response. Undeterred, he demanded that the claims for payment be denied in full.

Bankruptcy Court Judge Martin Glenn, in a 26-page written opinion, found that Chase's failure to attach documentation and respond to the Shaev's information requests is fatal to their claims for payment. “Here it is not clear whether the claim was assigned to Chase, or whether Chase was the original party on the mortgage and the note,” Glenn wrote. “[T]he Debtor requested additional information from the claimant in October and has received no documents.”

A copy of the full opinion is available from the Court's website here (http://www.nysb.uscourts.gov/opinions/mg/185702_20_opinion.pdf).

This is not the first time Shaev has seen mortgage servicer abuses in the bankruptcy courts. He has recently fought – and won – in cases against a variety of lenders who have refused to treat bankruptcy debtors with the fairness the law demands.

“The homeowner won the battle today,” Shaev said on hearing of the decision. “But with so much mortgage servicer abuse in bankruptcy, the war wages on.”

David B. Shaev is a New York bankruptcy lawyer and partner at Shaev & Fleischman, LLP where he concentrates his practice in the field of protecting consumers in bankruptcy. To find out more, please visit Shaev & Fleischman, LLP (<http://www.newyorkbankruptcyhelp.com/>). Members of the press may also see past coverage of David here (<http://www.davidshaev.com/>).

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