

## **Crisis In The Housing Market**

### **Major U.S. Banks Investigated For Foreclosure Fraud**

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With well over a million homes being repossessed, 2010 is shaping up to be a record year for foreclosures in the U.S. But there are serious questions about the way many have been carried out, and now prosecutors are investigating whether some of the country's largest banks committed fraud.

Bank of America, Chase and GMAC Mortgage have put tens of thousands of foreclosures on hold and lawmakers are calling for a nationwide moratorium after bank employees acknowledged that they failed to conduct required reviews.

The question is whether this was just a costly paperwork glitch for the banks or if it's another mortgage fiasco for the whole country.

"If judges start digging deeper into the foreclosure mess ... they're also going to find that many loans from the housing bubble were so badly documented that many are unenforceable. That'll be an even bigger mess.

"I've tried to read everything I can, I've called tons of people -- I'm trying to figure out how big is this issue, and the answer seems to be nobody really knows," says Thomas Lawler, an economist and former vice president at the mortgage giant Fannie Mae.

Nobody knows how the courts are going to react, but everybody is taking this very seriously -- in part because it's possible that the major lenders were committing fraud in hundreds of thousands of foreclosure cases over the past several years.

#### **What The Banks Were Allegedly Doing**

Twenty-three states have laws that require lenders to file an affidavit with the court before they foreclose and take somebody's house. The person signing the affidavit is swearing under oath that he or she has reviewed the case and that everything is accurate. But bank employees admitted in depositions that they were not actually reviewing the documents -- but were signing off anyway.

Ohio state Attorney General Richard Cordray says that amounts to a "fraud on the court."

"It's a basic subversion of our legal system, and it does not sufficiently respect people's private property rights," Cordray says.

The lenders -- GMAC Mortgage, Chase and Bank of America -- in written statements basically say that the underlying facts behind these foreclosures were sound, and that they weren't taking people's homes for no reason.

While the person who actually signed the affidavits may not have performed a review, JPMorgan Chase says: "The affidavits were prepared by appropriate personnel with knowledge of the relevant facts based on their review of the company's books and records."

#### **Committing 'Deliberate Fraud On The Court'?**

So, is this just a problem of the banks being sloppy and too casual with the paperwork? Attorney General Cordray thinks not.

"That's not what we have here," he says. "What we have here is lying under oath. The facts may or may not be correct. And this seems to have been an industry-wide practice, where the companies encouraged this and required it of their employees -- to commit deliberate fraud on the court in case after case after case."

Cordray says it's eerily similar to the industry-wide sanctioning of mortgage fraud that helped create the foreclosure crisis.

Ohio is suing GMAC Mortgage, whose parent company is an NPR underwriter. Cordray is also investigating Chase, Bank of America and two other major lenders.

"We have filed a lawsuit against GMAC Mortgage and their parent company, Ally, and we consider each separate incident of a false affidavit filed in a case warranting full penalties of \$25,000 per incident," he says.

That's \$25,000 per homeowner, and there have been millions of foreclosures. This isn't just another shoe dropping for the mortgage industry.

"That is so much bigger than a shoe," Cordray exclaims.

### **'Dropping The Nuke'**

William Black, associate professor of economics and law at the University of Missouri, Kansas City, says it would be "dropping the nuke if this happens."

If judges start digging deeper into the foreclosure mess, Black says, they're also going to find that many loans from the housing bubble were so badly documented that many are unenforceable. That'll be an even bigger mess.

Harvard economist Kenneth Rogoff confirms that the implications are serious.

"I think it's quite important, because housing may well have further to drop," Rogoff says. And a big snarled process in the courts would prolong the foreclosure crisis, he says.

"It would be better to get it over with, have housing prices adjust and then start going up again, and this slows it down. It creates a huge cloud of uncertainty," Rogoff says. "But at the same time, there's a fairness issue. What do you do?"

Meanwhile, the controversy reached the White House. Legislation that would have allowed lenders more flexibility in signing court documents and speeding up foreclosures had been sent to President Obama, but he's using a rare "pocket veto" to essentially kill it.

The White House said Thursday that it's sending the bill back to Congress for revisions, and that the administration would work with lawmakers on it.

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