

From: Steve Herbelin  
Subject: Resolution of Financial Companies Under the Bankruptcy Code

---

Comments:

Date: May 12, 2011

Proposal: Studies Regarding the Resolution of Financial Companies Under the Bankruptcy Code  
Document ID: OP-1418  
Document Version: 1  
Release Date: 04/21/2011  
Name: Steve Herbelin  
Affiliation:  
Category of Affiliation: Government  
Address:  
City:  
State:  
Country: UNITED STATES  
Zip:  
PostalCode:

Comments:

Ms. Jennifer J. Johnson Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, North West Washington, DC 20551  
1 RE: FEDERAL RESERVE SYSTEM Docket Number OP-1418 Request for Information Relating to Studies Regarding the Resolution of Financial Companies under the Bankruptcy Code  
Is something wrong with reporting suspected Bankruptcy Fraud to the U.S. Trustee Program? So, this is where the trail ends. Undisclosed moral hazards cost borrowers to lose their savings, homes, dreams, and possessions, leaving them to seek unaffordable lawyers requiring small fortunes to sue multiple entities. Meanwhile, government condolences offer another public comment via the internet. SEC Charges Former American Home Mortgage Executives for Misleading Investors about Company's Financial Condition Former CEO Agrees to Pay \$2.45 Million to Settle Fraud Charges On April 28, 2009 - The Securities and Exchange Commission today charged two former executives at American Home Mortgage Investment Corporation for engaging in accounting fraud and making false and misleading disclosures to conceal from investors the company's worsening financial condition in early 2007 as the subprime crisis emerged. A quote from the article stated, "American Home Mortgage actually originated the majority of its loans in 2006 on a "stated income" basis without verifying the borrower's income." <http://www.sec.gov/news/press/2009/2009-92.htm> Prior to the above release American Home Mortgage had filed for bankruptcy in August of 2007. American Home Mortgage Servicing Inc. (AHMSI) was sold to Wilbur Ross & Co. LLC, (AH Mortgage Acquisition Co., Inc.) as part of the bankruptcy liquidation, in November 2007. Nothing past the above to my knowledge has ever investigated. The problems don't solely rest with the financial companies in bankruptcy but with the Debtor in Possession as well. Wilbur Ross & Co. LLC is banking classed as "domestic entity other" and the only regulatory oversight known is the Federal Reserve Board. In this first example, prior to foreclosure in April of 2009, an employed third-party sent a Qualified Written Request

letter under the rules of the Real-Estate Settlement Procedures Act which was returned August of 2009 (four months later) stating, "AHMSI is not affiliated with the mortgage lender or mortgage broker involved and we played no role in the origination of the loan. Your concerns should be directed to the original mortgage lender. AHMSI is only the current servicer of the loan. Our records indicate that the original mortgage lender was American Brokers Conduit and can be contacted at the following last known address of 538 Broadhollow Road, Melville NY 11747." Perhaps under new bankruptcy amendments it should be suggested that Debtors in Possession be required to inform borrowers of its bankruptcy purchase instead of continuing to service the loans, implementing evasive tactics, sending uninformed borrowers on wild goose chases, and further damaging their financial positions. American Brokers Conduit had always been a subsidiary of American Home Mortgage. The bankruptcy Asset Purchase agreement at the Security Exchange Commission Information website under American Home Mortgage Investment Corp. confirms this. The address above also belongs to American Home Mortgage Investment Corporation. A letter sent to the above address came back stamped, "REJECTED". Truth in lending, Real Estate Settlement Procedures Act, and Homeowner Protection laws become rendered useless and cannot be upheld and when a bankruptcy purchaser becomes classified as a new loan servicer, thus denying any liability or relationship to the original mortgage loan. A Debtor in Possession is not the formation of a new service and should not be allotted to create dis-allowances merely by choosing. In this second example a letter replied by AHMSI in January of 2011 states; "Please be advised your request for additional loan documents is not the subject of a Qualified Written Request (QWR). Pursuant to 12 USC 2605 (e), the information that may be obtained on a loan under a QWR is specifically limited to "information relating to the servicing of such loan. that includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower." First of all, the request for additional loan documents described above was not sent under the subject of a QWR. It was a prescribed letter referencing Title 12 Chap. 49-Homeowners Protection Sec.4903, Disclosure Requirement. AHMSI elected to reply creating its own interpretation of the letter. Second, to answer AHMSI own answer, the statement; "provides sufficient detail to the servicer regarding other information sought by the borrower"- should have been self explanatory. Again, a dis-allowance AMSI elects for its own choosing. Last but not least, with the SEC announcing charges against American Home Mortgage executives in April of 2009, AHMSI undeniably should have obtained direct knowledge to its own bankruptcy purchase, instead of preventing further moral hazards by acknowledging the violations reported by the SEC. It's assumed that AHMSI simplistic approach was to foreclose, thus ridding itself of the asset. Discoveries found that these mortgages were designed to fail from their origination. The purchase of these failed mortgages through bankruptcy grants the Debtor in Possession control, which it seemingly utilizes to serve its own best interests. This further supplements a systemic financial moral hazard. Referencing the SEC charges, the SEC performed a search and rescue effort but the drowning victims (classed as terrorists) were pulled from the water and tossed back into a pool of sharks. An additional factor (if a court panel were to be created) would be to follow up on asset sales. The argued mortgage loan above was in American Home Mortgage Assets Trusts 2006-5. Deutsche Bank National Trust Company was the Trustee and Custodian of the Assets prospectus supplement holding access to the originated loans. Coincidentally Deutsche Bank National Trust Company became the purchaser using a cash or credit bid. All of the loans under the prospectus supplement are classed as Negative amortization loans. It would be highly coincidental if all the loans in this supplement

eventually foreclosed and Deutsche Bank became the credit bidding purchaser. It isn't enough to pass new bankruptcy laws if government then turns a blind eye when those laws are violated. The lives of individual consumers are harmed when this happens, treating consumers as a commodity. Financial institutions (with borrowers account information) strong-arm leverage, and can easily manipulate, alter, ignore, or challenge established laws as we've been witnessing in the financial crisis. Deceptive financial circles have been created and a counter active monitored circle is crucial to avoid systemic financial moral hazard. Individuals should not be left to suffer financially, shunned without recourse.