

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA and OKLAHOMA ,)
STATE BANKING DEPARTMENT, *ex rel.*)
E. SCOTT PRUITT, ATTORNEY GENERAL)
OF OKLAHOMA,)

Plaintiffs,)

vs.)

BANK OF AMERICA CORPORATION;)
BANK OF AMERICA, N.A.; BAC HOME)
LOANS SERVICING, LP (f/k/a)
COUNTRYWIDE HOME LOANS)
SERVICING, LP); CITIGROUP INC.;)
CITIBANK, N.A.; CITIMORTGAGE, INC.;)
J.P. MORGAN CHASE & COMPANY;)
J.P. MORGAN CHASE BANK, N.A.;)
RESIDENTIAL CAPITAL, LLC; ALLY)
FINANCIAL, INC.; GMAC MORTGAGE,)
LLC; WELLS FARGO & COMPANY; and)
WELLS FARGO BANK, N.A.;)

Defendants.)

Case No.

CJ-2012-1537

PETITION

COMES NOW, Plaintiffs, the State of Oklahoma and the Oklahoma State Banking Department, *ex rel.* E. Scott Pruitt, Attorney General, and for their causes of action against Bank of America Corporation, Bank of America, N.A., BAC Home Loans Servicing, LP (f/k/a Countrywide Home Loans Servicing, LP), Citigroup Inc., Citibank, N.A., Citimortgage, Inc., J.P. Morgan Chase & Company, J.P. Morgan Chase Bank, N.A., Residential Capital, LLC, Ally

Financial, Inc., GMAC Mortgage, LLC, Wells Fargo & Company, and Wells Fargo Bank, N.A. (hereafter Defendants) alleges and states as follows:

JURISDICTION AND VENUE

1 That this petition is filed and these proceedings are instituted under the provisions of the Oklahoma Consumer Protection Act, 15 O.S. 2011 § 751 *et. seq.* (hereafter the OCPA).

2 That standing of the Attorney General to commence this action is conferred by 15 O.S. 2011 § 756.1.

3 That this Court has jurisdiction over the Defendants because the Defendants have transacted business in the State.

4. That this Court is the proper venue for this action.

PARTIES

5. That this action is brought in the public interest by E. Scott Pruitt, the duly elected Attorney General for the State of Oklahoma, as Plaintiff to remedy past violations of the OCPA.

6. That Defendant Bank of America Corporation is a diversified global financial services company incorporated in Delaware and headquartered in Charlotte, North Carolina.

7. That Defendant Bank of America, N.A. is a national banking association headquartered in Charlotte, North Carolina.

8. That Defendant BAC Home Loans Servicing L.P. was a home loan servicer that was a Texas limited partnership headquartered in Plano, Texas. BAC Home Loans Servicing L.P. was merged into Bank of America, N.A. in July 2011.

9. That Defendant Citigroup Inc. is a diversified global financial services company incorporated in Delaware and headquartered in New York, New York. Citigroup Inc. is the parent holding company of Citibank, N.A. and Citimortgage, Inc.

10. That Defendant Citibank, N.A. is a national banking association that acts as Citi's primary depositor institution. Citibank, N.A. is headquartered in New York, New York.

11. That Defendant Citimortgage, Inc. is a wholly-owned indirect subsidiary of Citigroup Inc. that is incorporated in New York and headquartered in O'Fallon, Missouri.

12. That Defendant J.P. Morgan Chase & Company is a diversified global financial services firm that is incorporated in Delaware and headquartered in New York, New York. On May 30, 2008, J.P. Morgan Chase & Company acquired The Bear Stearns Companies Inc. (now the Bear Stearns Companies LLC) by merger, including its subsidiary EMC Mortgage Corporation (now EMC Mortgage LLC).

13. That Defendant J.P. Morgan Chase Bank, N.A., is a national banking association headquartered in Columbus, Ohio. On September 25, 2008, J.P. Morgan Chase Bank, N.A., purchased the assets and assumed certain liabilities of Washington Mutual Bank pursuant to a Purchase and Assumption Agreement with the Federal Deposit Insurance Corporation (FDIC) as Receiver for Washington Mutual Bank.

14. That Defendant Residential Capital, LLC is a residential real estate finance company formed as a Delaware limited liability company and headquartered in Minneapolis, Minnesota. Residential Capital, LLC is a wholly-owned subsidiary of GMAC Mortgage Group, LLC.

15. That Defendant Ally Financial, Inc. (formerly GMAC, Inc.) is a diversified financial services firm incorporated in Delaware and headquartered in Detroit, Michigan.

16. That Defendant GMAC Mortgage, LLC is a financial services company that engages in origination and servicing of residential mortgages. GMAC Mortgage, LLC is a Delaware corporation headquartered in Fort Washington, Pennsylvania.

17. That Defendant Wells Fargo & Company is a diversified financial services company incorporated in Delaware and headquartered in San Francisco, California. In 2008, Wells Fargo & Company acquired Wachovia, a diversified financial services company headquartered in Charlotte, North Carolina.

18. That Defendant Wells Fargo Bank, N.A. is a national banking association and a subsidiary of Wells Fargo & Company.

19. That any reference to the acts, practices, or omissions of Defendants shall include those acts, practices, or omissions of Defendants' employees, representatives, billing and collections agents, or other agents.

FACTUAL ALLEGATIONS AND VIOLATIONS

20. That each of the Defendants services home mortgage loans secured by residential properties owned by individual citizens of Oklahoma. Servicing activities conducted by each Defendant include, but are not limited to, billing, collection of loan payments, collection of default-related fees (such as delinquency fees, property valuation fees, property inspections, and attorneys' fees), maintenance of escrow accounts, communication with borrowers regarding accounts, maintenance of loan-related documents, foreclosure processing and documentation,

administration of loan modification and other loss mitigation programs, management of foreclosure sales and disposition of post-foreclosure properties.

21. That Defendants' activities in Oklahoma are subject to the OCPA in the conduct of their loan origination, servicing and foreclosure activities.

22. That the OCPA prohibits the Defendants from engaging in unfair or deceptive trade practices with respect to Oklahoma consumers.

23. That in the course of their conduct, management and oversight of loan origination activities in the State of Oklahoma, on information and belief, the Defendants have violated the OCPA by failing to properly obtain or record collateral documents relating to the origination of residential mortgage loans.

24. That in the course of their conduct, management and oversight of loan servicing in the State of Oklahoma, on information and belief, the Defendants have violated the OCPA by:

- a. failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements;
- b. charging excessive or improper fees for default-related services;
- c. failing to properly oversee third-party vendors involved in servicing activities on Defendants' behalf;
- d. providing borrowers false or misleading information in response to borrower complaints; and
- e. failing to maintain appropriate staffing, training and quality control systems.

25. That in the course of their conduct, management and oversight of home

foreclosures in the State of Oklahoma, on information and belief, the Defendants have violated the OCPA by:

- a. failing to properly identify the foreclosing party;
- b. charging improper fees related to foreclosures;
- c. preparing, executing and notarizing or presenting false and misleading documents, filing false and misleading documents with courts and government agencies, or otherwise using false or misleading documents as part of the foreclosure process;
- d. preparing, executing and filing affidavits in foreclosure proceedings without personal knowledge of the assertions in the affidavits and without review of any information or documentation to verify the assertions in such affidavits; and
- e. inappropriately dual-tracking foreclosure and loan modification activities and failing to communicate with borrowers with respect to foreclosure activities.

26. That the conduct of Defendants as described herein resulted in injury to citizens of the State of Oklahoma.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs, State of Oklahoma and Oklahoma State Banking Department, pray for relief as follows:

27. That the Court adjudge and decree that the Defendants have engaged in the conduct complained of in this petition.

28. That the Court adjudge and decree that the Defendants' acts and practices as described in this petition are in violation of Oklahoma law.

29. That the Court assess a civil penalty pursuant to 15 O.S. 2011 § 761.1(C) of up to \$10,000.00 per violation against each Defendant for each and every violation of the OCPA caused by the conduct outlined in this petition.

30. That the Court make such orders pursuant to 15 O.S. 2011 § 756.1 as it deems appropriate to provide for restitution or damages to consumers of money acquired by the Defendants as a result of the conduct outlined in this petition.

31. That the Court award and allow the Plaintiffs to recover from the Defendants the costs and expenses of this action, including reasonable attorneys' fees and investigative costs as provided by 15 O.S. 2011 § 761.1(D).

32. That the Court enter such other relief as the Court may deem just and proper to fully and effectively dissipate the effect of the conduct complained of in this petition or which may otherwise seem proper to the Court.

DATED this 12th day of March, 2012.

E. SCOTT PRUITT
ATTORNEY GENERAL



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