

Whistleblower lawsuit takes on banks nationwide that cheated taxpayers, veterans out of hundreds of millions of dollars

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ATLANTA - October 4, 2011 - Many of the nation's largest banks and mortgage companies – including Wells Fargo, Bank of America Corp., JPMorgan Chase and GMAC Mortgage Corp. – have cheated military veterans and taxpayers out of hundreds of millions of dollars by hiding illegal fees in veterans' home mortgage refinancing transactions, according to a whistleblower lawsuit made public today.

The “qui tam” (whistleblower) lawsuit, brought under the False Claims Act by two whistleblowers, seeks to recover this money on behalf of the U.S. government from 13 banks and mortgage companies:

Wells Fargo Bank, Bank of America, JPMorgan Chase Bank, GMAC Mortgage, CitiMortgage, Suntrust Mortgage, Washington Mutual Bank, PNC Bank (which acquired National City Mortgage Co.), Countrywide Home Loans, Mortgage Investors Corp., First Tennessee Bank (which acquired First Horizon Home Loan Corp.), Irwin Mortgage Corp. and New Freedom Mortgage Corp.

“This is a massive fraud on the American taxpayers and American veterans,” said co-lead counsel in the case, James E. Butler, Jr., of the Atlanta law firm Butler, Wooten & Fryhofer LLP. “Knowing they weren't allowed to charge the fees, the banks and mortgage companies inflated allowable charges to hide these illegal fees without telling the veterans who were the borrowers or the VA they were doing so.”

Butler Wooten & Fryhofer is teaming with Wilbanks & Bridges LLP of Atlanta and Phillips & Cohen LLP of Washington, DC, to pursue the lawsuit on behalf of the whistleblowers and the government. The three law firms have won record verdicts and settlements and have extensive experience in whistleblower cases.

“The false statements and fraudulent conduct are blatant,” said co-lead counsel Marlan Wilbanks of Atlanta. “The banks simply reduced the charges for unallowable fees to zero, and then added those fees in the spaces where allowable fees were to be shown. Veterans don't know what the usual and customary charges for those allowable fees are, and the VA understandably relied upon the banks to comply with VA regulations, rather than digging into every loan transaction. The banks took advantage of that reliance to cheat veterans and taxpayers.”

As alleged in the lawsuit (posted at www.vamortgagefraud.com), this is how veterans and taxpayers were cheated for at least 10 years in refinancing transactions:

The Veterans Administration (VA) helps eligible veterans get cheaper home loan refinancing with fewer requirements. The government, on behalf of American taxpayers, guarantees up to 25 percent of each loan if a veteran defaults or forecloses.

VA rules state that lenders may charge veterans for recording fees and taxes, fees for a credit report and other “reasonable and customary amounts,” but they cannot charge attorneys’ fees or settlement closing fees in refinancing transactions involving VA loans.

In settlement statements they gave to veterans and the VA, the banks claimed they weren’t charging the illegal fees. In actuality, banks charged attorney’s fees by hiding them in “title examination fees.”

In hundreds of thousands of refinancing transactions, the banks collected from unsuspecting veterans an additional \$300 to \$1000 per loan. In the last ten years, more than 1.2 million of these refinanced loans have been made to veterans and their families. Up to 90 percent of them may have been affected by the alleged fraud.

“By concealing the unallowable fees they charged, the banks benefited in two ways,” said Mary Louise Cohen, a Washington, DC, attorney who is also representing the whistleblowers. “The banks collected the illegal fees from veterans, and they obtained hundreds of millions of dollars in loan guarantees they otherwise wouldn’t have received.”

Taxpayers also got cheated because the law is clear: When unallowable fees are charged, any VA guarantee of the loan is void. Federal rules specifically prohibit the VA from issuing a guarantee for any loan that violates its rules. Yet banks have billed the VA for reimbursement under the VA guarantee when the loans containing unallowable fees went into default and foreclosure, according to the lawsuit, costing taxpayers hundreds of millions of dollars.

The whistleblower lawsuit was filed in 2006 in federal district court in Atlanta, Ga., by two mortgage brokers. For more information about the case and examples of fraudulent refinancing transactions, visit www.vamortgagefraud.com.