THE NEXT CHAPTER:
The SFT Bankruptcy Newsletter

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Bankruptcy Article of the Week

Challenging Mortgage Claims in Bankruptcy (and Out)

Courts, bankruptcy courts included, have long accepted mortgage claims at face value. But—in this arena, at least—it appears that the old adage "the truth will out" holds true, and what's coming out now is bad news all around for the mortgage investment industry and potential good news for bankruptcy clients facing mortgage foreclosure.

By now we're all familiar with Judge Boyko's ruling in the Northern District of Ohio: a ruling that dismissed multiple pending mortgage foreclosure cases because the plaintiffs were unable to provide assignments showing the plaintiff to be the "owner of the rights, title and interest under the Mortgage at issue as of the date of the foreclosure complaint."

It seems that in the frenzy to get in on the profits, someone got a little sloppy. Well, perhaps nearly everyone got a little sloppy. While a few attorneys like April Charney in Florida had earlier successes in challenging the sliced, diced and flipped mortgages, the victories haven't been nearly so widespread as the problem.

Now, though, the word is out.

And it doesn't end there.

Just yesterday, major media outlets broke the news that Countrywide Financial had "re-created" documents it submitted to a Pennsylvania bankruptcy court. Naturally, the company asserted that there was no material misrepresentation. A Countrywide spokesman was quoted as saying, "It is not Countrywide's policy to create or 'fabricate' any documents as evidence that they were sent if they had not been. We believe it will be shown in further discovery that the Countrywide bankruptcy technician who generated the documents at issue did so as an efficient way to convey the dates the escrow analyses were done and the calculations of the payments as a result of the analyses." The judge wasn't impressed, though, and about 300 bankruptcy cases in which Countrywide has asserted claims are reportedly under review.

These two events are just the tip of the iceberg, but they've provided an excellent opening for bankruptcy and consumer attorneys who dig a little deeper into their clients' mortgage histories. We already knew that a huge percentage of mortgages included overblown or wholly fictitious fees, discrepancies in application and hazy transfer records, but with these recent high-profile revelations judges and trustees across the country can't help but know it too. The ball is rolling and it's up to all of us to keep the pressure on and keep finding those cracks and turning the spotlight on them.

A Special Announcement

We are proud to announce that Start Fresh Today Instructional, LLC has been re-approved by the U.S. Trustee as a provider of pre-discharge debtor education through January 2009 in all 50 states for both online and telephonic personal financial management instructional courses.

Start Fresh Today also offers credit counseling briefings fulfilled by U.S. Trustee approved agencies. Our online credit counseling briefing is available for $30 and the telephonic version is $50. The online debtor education course is available for $49 and the telephonic version is $59.

Save even more money by taking advantage of our online and telephonic credit counseling and debtor education *packages*. The online credit counseling briefing and debtor education course is $69 and the telephonic package is only $99.

Simply visit Start Fresh Today to purchase what you need today.

A Friendly Reminder

As detailed a few weeks ago in Issue 21, the National Association of Consumer Bankruptcy Attorneys (NACBA) will be holding its annual members-only Capitol Hill Meeting January 29-30, 2008 in Washington, D.C.

Act fast if interested in attending this event, which will include meetings with members of Congress in an effort to voice NACBA's suggestions and concerns about upcoming mortgage modification bills.

If you are already a member of NACBA, you can still register online for this event. If you are not a member, learn how you can join NACBA.

Need More Client Inserts?

Utilize our new order form to request more copies of our credit counseling and debtor education inserts for your client intake folders.

Begin by letting us know whether you are or are not a SFT customer and then fill in the required fields as noted by a red *. Once you complete this step, simply click "Submit" for our SFT team to receive your request.

As always, we will ship out your new inserts free of charge as soon as possible. All we ask is that you include your new inserts in your client intake folders. Thanks again for your cooperation!

Kevin's Corner

Practice Management Tip of the Week:

"It's tax time, and that means that many of your potential clients have an excellent opportunity to get a fresh start for the new year.

"Bankruptcy fees have always been a hurdle for many clients; after all, if they had ready cash they probably wouldn't be considering bankruptcy. An income tax refund can provide the perfect opportunity to take control and get a fresh start, but many consumers make big mistakes with that money.

"Some are simply so used to being strapped for cash that they see it as a bonus and go out and buy themselves a gift—something unnecessary that eats up most of the money. Perhaps even worse off are those who think that the income tax refund is going to be the thing that 'catches them up.' We all know that for most, that one-time infusion of cash will only buy a little time, keeping the balls in the air for another month or two but not moving one step closer to a real solution.

"Take the initiative to let your prospective clients know that this is a great opportunity for them. Every bankruptcy attorney has seen numerous people in his office who weren't sure, or who didn't have the funds available to get started: most of us see them every day.

"Federal law requires that W-2s be mailed by January 31, so the timing is right to send out a letter pointing out how that income tax refund could be the turning point. You might even consider a bonus for those who pay their fees in full—a 10% discount, perhaps. Your clients will get the fresh start they need, and you'll get their attention and their business."

-Kevin Chern
President, Start Fresh Today

Foreclosure Legislation in the News

At the end of December, President Bush signed the Mortgage Forgiveness Debt Relief Act of 2007, legislation that would give a tax break to homeowners who had mortgage debt forgiven as part of a foreclosure or renegotiation of a loan in 2006.

In the past, forgiven debt has typically been treated as taxable income, leaving some families with a huge and surprising tax bill for their forgiven debt.

Under the new mortgage legislation, retroactive to January 1, 2007, homeowners who had mortgage debt relieved last year would not have to pay tax on it.

This tax relief will expire at the end of 2009.

The Numbers Game

Consumer bankruptcy filings were up roughly **40 percent** in 2007 as compared to the year before.

There were more than 801,000 personal bankruptcy filings in 2007, according to statistics collected by the National Bankruptcy Research Center and released by the American Bankruptcy Institute late last week.

In comparison, there were more than 573,000 personal bankruptcy filings in 2006.