Statement Of Manhattan U.S. Attorney Preet Bharara On The Penalties Imposed By The Court On Countrywide, Bank Of America, And Rebecca Mairone For Engaging In Mortgage Fraud Totaling In Excess Of One Billion Dollars

FOR IMMEDIATE RELEASE
Wednesday, July 30, 2014

“Today, Judge Rakoff imposed stiff penalties in a case brought by this Office to punish and deter the fraudulent and reckless lending activities of a financial institution leading up to the financial crisis in 2008.

On October 23, 2013, after a four-week trial, a jury sent a loud and clear message to Wall Street that this kind of conduct will not be tolerated, finding that Countrywide and its former executive, Rebecca Mairone, committed mail and wire fraud by selling thousands of toxic mortgages to Fannie Mae and Freddie Mac with lies that they were quality investments.

Today that message was reinforced through the imposition of tough civil penalties against Countrywide, Bank of America, which purchased Countrywide in 2008, and Mairone. Judge Rakoff ordered Countrywide and Bank of America to pay $1,267,491,770, based on the amount that Countrywide falsely induced the victims, Fannie Mae and Freddie Mac, to pay for fraudulently misrepresented loans and ordered Mairone to pay a civil penalty to the Government of $1,000,000. In determining the penalty amounts, the Court highlighted the egregious nature of the fraud, stating that ‘[the bank’s] HSSL [loan] process . . .was from start to finish the vehicle for a brazen fraud by the defendants, driven by a hunger for profits and oblivious to the harms thereby visited, not just on the immediate victims but also on the financial system as a whole.’

Throughout a year-long litigation and month-long trial, Bank of America claimed that the Government had no case. After the jury said otherwise, Bank of America claimed that it should pay no penalty at all, arguing that the victims were not harmed and that the bank did not profit from this massive fraud. Judge Rakoff’s opinion squarely and emphatically rejects the bank’s claims which, besides ignoring the victims’ out-of-pocket losses, also ignored that the fraudulent conduct required penalties to be paid for punitive and deterrence purposes as well.

This is the first case in which a bank or any of its executives has been found liable under FIRREA for mortgage fraud leading up to the financial crisis, and now it is the first case in which civil penalties have been imposed upon a bank or any of its executives following such a finding. The jury verdict and subsequent imposition of penalties make clear that mortgage fraud cannot be viewed as simply another cost of doing business in the financial world. This Office will continue to investigate and vigorously prosecute mortgage fraud in all of its forms using all of the civil and criminal tools at its disposal.”

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