JP Morgan Chase Loses Federal Injunction Alleging Predatory Lending Practices

(SE) Chris Ryan February 27, 2012

This is a landmark case, which could open the door to blowing the lid off of predatory lending as the catalyst of mortgage crisis

JP Morgan Chase (NYSE:JPM) lost a preliminary injunction motion alleging predatory lending practices on February 23, 2012 in , the United States District Court for the Central District of California, which granted a preliminary injunction in Case No. CV-116809 DSF, to cease any attempts by the bank to collect on a home equity line of credit (HELOC) or to supply any negative information based on the HELOC to credit reporting agencies, in a case that marks a blow to the successor of Washington Mutual Bank's (WAMU) alleged predatory real estate loans prior to the Economic Crash of 2008.

In a first amended complaint, filed by the Law Firm of Kenneth Eade, on January 6, 2012, the plaintiff alleges that WAMU issued both a first mortgage and the HELOC in what Eade alleged as a predatory loan practice, to cover the purchase price of a home in Southern California, according to the first amended complaint in the case. As a result of the real estate crash, both loans went into foreclosure in 2008. Despite the fact that the plaintiff obtained a buyer on a short sale for the property, WAMU ignored the short sale offer and foreclosed, according to the first amended complaint. According to the Court order, on September 25, 2008, nine days after the foreclosure sale, WAMU was seized by the FDIC and its banking assets were purchased by JP Morgan Chase. However, despite the California anti-deficiency statutes, which bar collection of a deficiency on purchase money mortgages after foreclosure, JP Morgan Chase attempted to collect nearly a $250,000 deficiency on the HELOC, and reported it negatively on the plaintiff's consumer credit profile. The first amended complaint in the case alleges a violation of the California Consumer Legal Remedies Act (CLRA) and the federal Fair Credit Reporting Act (FCRA).

In the reply memorandum to the opposition to the injunction filed February 16, 2012, Eade contended that it was "in the public interest that JP Morgan Chase should not be permitted to report outstanding deficiency balances that are barred from collection by state statutes that were enacted to provide those same consumers with relief. Such statutes were enacted to balance the equities between the consumer and the banks; to protect the consumer and give him power against entities such as the defendant, one of the largest banks on the world... The California legislature enacted the anti-deficiency statutes in light of the foreclosures and abusive deficiency judgments obtained by lenders during the Great Depression. Spangler v. Memel, 7 Cal. 3d 603 (1972).   Eade contended in the reply that the real estate lending practices of the large banks were a huge contributing factor to the Economic Crisis of 2008, and the Defendant should not benefit from the result of these practices, especially in light of the ban on collection of deficiency balances in California."

Eade also stressed in the reply memorandum, "*the importance of fairness to the consumer is a vital element of the legislative history of the Fair Credit Reporting Act. Cases where creditors are able to exercise non judicial remedies to recover their collateral to loans and then seek deficiencies, such as in this case, it is essential that consumers such as the Plaintiff have a remedy for creditors who break the law.*"

The granting of the injunction today serves as a major win for people who believe they were victims of predatory lending practices. A preliminary injunction is an extreme remedy and it is only issued when the Court find that the plaintiff establishes a likelihood of success on the merits of his case.   The Court found that Chase is providing derogatory information to reporting agencies based on a debt that it is likely legally barred from collecting and enjoined it from doing so pending the outcome of the case, according to the Order.

To learn more about how this lawsuit, please visit http://kennetheade.net of contact the Law Office of Kenneth Eade at (323) 782 8802