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Foreclosure

Law firm probed over 'false' documents filed in court cases

May 10, 2010

By: Paola Iuspa-Abbott

The Florida attorney general is investigating one of the nation's largest foreclosure law firms over allegations it falsified legal documents to expedite foreclosure cases filed by its lender clients.

Tampa-based Florida Default Law Group "appears to be fabricating and/or presenting false and misleading documents in foreclosure cases," according to the attorney general's Economic Crimes Division in Fort Lauderdale, which is leading the investigation.

[Read the judgment](#)

[Read the court order](#)



Defense Lawyer Thomas Ice

The office of Attorney General Bill McCollum is reviewing consumer complaints, taking depositions and researching the company's business practices to determine whether Florida Default has violated any state laws.

The investigation is based on allegations that Florida Default lawyers submitted misleading documents to judges hearing foreclosure cases. The documents included assignments of mortgage that "have later been shown to be legally inadequate and/or insufficient," according to an April 28 statement by the attorney general's office when the investigation was opened.

The attorney general's office has received dozens of complaints from homeowners about questionable court documents filed by Florida Default's lawyers, according to a source familiar with the probe.

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A call and e-mail to Florida Default president Michael Echevarria were not returned.

In announcing the Florida Default investigation, the attorney general's office pointed out that it is also investigating a Jacksonville-based provider of mortgage processing services for lenders that "appears" to be doing business with Florida Default. The investigation, opened on the same day, also centers on questionable court documents in foreclosure cases.

The attorney general is also investigating the relationship between Florida Default and an AG staffer who also worked for the foreclosure firm.

Firms like Florida Default, which handles thousands of cases on behalf of lenders, are known in the industry as "foreclosure mills." Their job is to do all the legal work lenders need to foreclose on homes.

Foreclosures usually aren't contested, so companies like Florida Default are rarely challenged over the validity of their affidavits and court filings. But homeowners are increasingly hiring foreclosure defense lawyers to scrutinize a lender's right to take their home.

Most lawyers request copies of notes and mortgages to verify that the lender actually owns the mortgage on a distressed property. These documents can be hard to find because loans are often bought and sold many times. As a result, lenders often don't have those documents available when they file a lawsuit.

Months into the litigation, they produce documents, like assignments of mortgage, that were recorded long after the suit was filed. Often, they produce affidavits that wrongly name the lender as the loan owner, according to defense lawyers.

Foreclosure defense lawyer Thomas Ice said the investigation into Florida Default is overdue. "It was a long time coming for a governmental agency to get involved in investigating what foreclosure defense lawyers are showing the courts every day," he said, adding that he often sees misleading affidavits and other court documents allegedly filed by foreclosure lawyers representing lenders.

WON DISMISSAL

Last year, Ice won dismissal of a foreclosure case after he showed that Florida Default had filed an affidavit that incorrectly named IndyMac Federal Bank, now OneWest Bank, as the owner of a West Palm Beach couple's mortgage.

And Florida Default has paid for improper filings. In October 2008, U.S. Bankruptcy Judge John Olson fined Florida Default \$95,130 for "repeated misrepresentations" to the court.

The firm had submitted documents claiming that Fort Lauderdale homeowner Fazlul Haque owed his lender, Wells Fargo, \$2,114 in prepayment penalties even though the mortgage, while in arrears, was still on its books.

Olson realized the fee was illegal since Haque had yet to pay off the delinquent loan.

"The notion that the debtor paid off his loan in full to the creditor is absurd," Olson wrote. "It is utterly perplexing to me how the creditor or its law firm could or did assert such claim."

In a recent interview with the Daily Business Review, Olson attributed the misrepresentations to "sloppiness" by the foreclosure firm rather than fraud.



In 2004, the Florida Bar reprimanded Florida Default president Echevarria for not properly supervising lawyers at his prior firm, Echevarria & Associates, according to the Florida Bar. Among the issues in the case, a lawyer at his firm notarized foreclosure-related documents without reviewing the foreclosure files despite signing affidavits affirming he had done so.

Until recently, an assistant attorney general with the Economic Crimes Division in Tampa worked part-time for Florida Default notarizing affidavits for the firm. Her work for Florida Default became an issue in a pending foreclosure lawsuit filed in Volusia County.

"That is a potential conflict," said Ice, whose West Palm Beach law firm Ice Legal is involved in the Volusia suit. "They should address that issue first before they continue with the investigation."

Ice questions the veracity of the documents notarized by the AG employee on behalf of Florida Default and asked for the court's permission to depose her.

Erin Cullaro, who joined the attorney general's office in March 2008, received permission from her supervisors to moonlight three nights a week for 15 minutes each night notarizing documents. The request didn't disclose the name of the firm she would work for.

Several foreclosure suits filed across Florida contain Florida Default affidavits signed by Cullaro, including the lawsuit filed in Volusia.

Ice says he has nine affidavits from different foreclosure cases purportedly signed by Cullaro in 2009. Ice contends each signature is different.

"There is a possibility that [Cullaro] is not signing all of the thousands of Florida Default affidavits that she has filed around the state," Dustin Zacks, an Ice Legal attorney, said in a March deposition on the pending Volusia foreclosure case. "Even the 20 or so that we have, have noticeably different signatures."

The attorney general's office is aware of Cullaro's side job, said spokeswoman Ryan Wiggins. "Any suggestion that one of our attorneys might have been involved in improper activities while engaged as a notary outside her scope of employment with this office is troubling," she said. "The attorney general has asked his inspector general to thoroughly investigate this matter."

Wiggins declined to discuss details of the investigation into Cullaro and Florida Default.

Cullaro did not return several phone calls seeking comment.

It is unclear why the AG's office linked its investigation into Florida Default with another investigation of Docx, the Jacksonville mortgage processing service company.

Docx parent company Lender Processing Services said in a filing with the Securities and Exchange Commission that its subsidiary made an "error in the notarization of certain documents, some of which were used in foreclosure proceedings across the country."

Docx "seems to be creating and manufacturing 'bogus assignments' of mortgage in order that foreclosures may go through more quickly and efficiently," according to the attorney general's office. "These documents are used in court cases as 'real' documents . . . when it actually appears that they are fabricated in order to meet the demands of the institution that does not, in fact, have the necessary document to foreclose."

The attorney general's office said it appears that Florida Default was a "client" of Docx, which is also under investigation by the U.S. attorney for the Middle District of Florida.

LPS spokeswoman Michelle Kersch said that Florida Default is a "vendor" of her company, but she declined to comment further about the two company's relationship.

Kersch said her company was cooperating in the investigations and had already dealt with its subsidiary's problem.

"The services performed by this small subsidiary were offered to a limited number of customers," she said. "LPS immediately corrected the business process and has completed the remedial actions necessary to minimize the impact of the error."

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Defense Lawyer Thomas Ice photo by Melanie Bell

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