



Is there a solution to the mortgage foreclosure crisis?

Yes

by Linda Sunkle-Pierucki

There is a solution to the mortgage foreclosure crisis, but it is not a quick fix. And the first order of business is to more completely understand what has happened and why. The real villain here may not be who you think.

The reason the solution to the mortgage foreclosure crisis is not obvious is that the problem is not obvious. Unless one is personally involved in a mortgage problem, all one will hear is the constant haranguing by the financial gurus and media talking airheads that people made poor loan choices and now can't pay their mortgages. This is not the whole story-nowhere close:

The real problem behind the mortgage fiasco appears to be actions to de-regulate the financial industries in the past thirty years. Once Congress decided to let the financial sector regulate itself, the proverbial fox-in-the-henhouse situation began to occur. As the Federal Government encouraged the loosening of credit to prop up an economy that showed signs of damage from a torrent of globalization and outsourcing, financial markets took that as tacit permission to play fast and loose with everybody's money. Perhaps it was that sign that caused the current problem. Certainly, a lack of business ethics contributed greatly. Once again, Middle-America pays for the mistakes, theft and simple poor judgment of the Big Boys. Mortgage fraud has been rampant and semi-respectable in the banking industry for several years. This is the dark underbelly of the foreclosure problem.

Statements that deadbeat borrowers created their own problems is simplistic at best and the protestations of the greedy guilty at worst. Of course, there will always be deadbeat debtors. However, much of the foreclosure mess revolves around speculators-those that bought real estate to flip, using easy credit and balloon mortgages to parlay a piece of their inheritance or 401(k) or even a loan into what they hoped would be a good investment. Many of these investors-I won't call them homeowners because they are a different breed entirely-used money gained from speculative stocks to purchase Mc Mansions, with a little down and an assumption that they would turn it over at a huge profit before the balloon payment came due. Victims of the Dotcom bust constitute the first wave of foreclosures-their overgrown homes sit, unfinished and deteriorating in many upscale developments. Even among these more savvy investors, mortgage fraud found victims.

That these borrowers have been abused by the system is obvious, although they were partly to blame for their later problems. However, there are other common procedures occurring that created the real problems, particularly in the sub-prime market: one is that brokers and loan originators have been given tacit approval to mis-lead and outright lie to consumers-a group of consumers least likely to be financially educated and able to afford good legal representation. Both groups have encouraged prospective buyers to buy more house than they could afford, fudged numbers behind the scenes and tossed unexpected legalistic paperwork at unsophisticated buyers at closing. This bum's rush has resulted in many buyers, often lower income and less educated in financial matters to end up signing things they did not understand and may well have been lied to regarding the particulars. Technically, it IS the buyers problem. Ethically, it is the lender, the broker, the loan originator who basically scammed these people into signing something they could never afford to pay. Just like the old confidence game' scams, these buyers believed they could trust their lender. Exactly the same thing happened in the home equity loan market. In both cases, the lender, the broker and the loan originator took their money and ran like the devils they are.

Even more egregious is the fact that certain large lending institutions seem to have turned a blind eye to employees who forged the borrowers' signatures on changes in the paperwork, changed numbers and generally turned it into a more profitable transaction for the lender and themselves. As judges, attorneys and other officials typically believe the bank wouldn't lie, borrowers caught in these schemes-lets call them crimes, because they are-had little recourse. The soon found themselves in foreclosure. One sad story recently in the news involves Edward Jordan, a retiree in Brooklyn who is in danger of foreclosure based on a home equity loan he took out that mis-represented his adjustable rate. His story can be found in the links below.

Most people with common sense cannot figure out how a lender would want to foreclose on a property as the profit factor is hard to see. A bit more digging uncovers where the profit factor comes in. It is the profit generated in servicing' fees. This complex slight-of-hand trick relies on a mortgage being over 30 days behind in payments and has evidently generated a great deal of effort to make sure many mortgages end up in servicing'. In a nutshell, a servicing corporation is formed and spun off from the mortgage company as a separate entity, although still a part of the lending institution. The servicing corporation charges fees-which are billed to the borrower, passed back to the main mortgage holder and thus generates

profits over and above the expected interest paid every month. Added fees make homeowners fall farther and farther behind, particularly if they are in one of the tricky adjustable rate deals so prevalent with these loans. Soon, fees escalate as homeowners try to salvage their home from foreclosure. The fees compound so steeply and with such speed they can never catch up. The real trick is that neither the servicing corporation nor the mortgage company OWNS the mortgage; the mortgages have been bundled and sold to other entities, often overseas at inflated prices and end up on the REIT stocks lists. The buyers of these bundled mortgages are also charged fees for servicing' the account, often fraudulently. Again, relaxation of banking laws and oversight has resulted in every dollar being leveraged up to 30 times within the market, driving investment, profits and the fraud behind it all.

I realize the entire scenario is very complex-I barely understand it myself as I don't have a financial background and certainly cant explain it well as I don't have the specialized vocabulary to describe it. In that sense, I am much like the victimized sub-prime borrowers at the heart of this scheme. But, due to the fee structure, the founding of corporations within corporations and the derivatives market, it becomes profitable to lenders to make foreclosure happen and take the loss, as the principle has already been paid to them when they sold the mortgage at an inflated value. In the process, however, they have broken several laws and often defrauded the IRS right along with the home owner. It is for these reasons that the FBI has announced it is investigating seventeen banking institutions. A complete listing of those under investigation has never been published, but financial institutions mentioned in news articles include Morgan Stanley, Goldman Sachs, Bear Sterns, Wells Fargo, Countrywide and Citi Group. These are not small, fly-under-the-radar corporations; they are the leading financial institutions in the United States! The Securities Exchange Commission-another regulatory agency evidently lax in overseeing the investing corporations, is also investigating them, as is the IRS. Some of these slight-of-hand actions even defrauded the taxman. . .the one thing that will call down the wrath of the government.

Two cities, Baltimore and Cleveland, have actually filed suit against Wells Fargo for fraudulent foreclosures that have devastated those cities. The mayor of Cleveland has gone so far as to call the entire mess 'Organized Crime' and threatened to sue under the RICO Act. Judges in several states have been throwing foreclosure suits out of court because they finally realized the corporation bringing the foreclosure action is not the owner of the mortgage-it has been sold to overseas investors. By law, foreclosure action can only be brought by the owner of the mortgage. As a mortgage is sold, the borrower is supposed to be served notice the action has occurred. In most cases, these lenders have been working night and day trying to generate enough paper to provide a false record that this has been done as required by law. Borrowers are disputing that it ever occurred. In many cases, the required paperwork can not be produced for the court or is obviously fraudulent and the actual owner of the mortgage cannot be determined. Therefore, there is no one who can legally sue for foreclosure.

The fact that any of this has been discovered and put together so Joe Public could understand it somewhat is the work of one teen age kid in Texas. Cyrus Rafizadah began his own investigation of Wells Fargo after his mother, a commercial realtor was bankrupted by a predatory lending scheme. This extremely bright lad has investigated deeply and thoroughly the shady dealings going on in the real estate financing field and developed a unique and thorough website dedicated to uncovering the shenanigans in the field. He uncovered such items such as IRS fraud and the pass-thru entities that have been created to generate profits and has brought them to the attention of somewhat reluctant government regulators. Cyrus, an early entrant into the University Of Texas School Of Law will be graduating this spring with a Bachelors degree and hopes to specialize in consumer issues. His investigation of a single case has uncovered a financial fraud that brought the worlds' financial structures to its knees. Go, Cyrus!

As to how to fix the on-going foreclosure crisis, one way is to make public to all borrowers the laws surrounding foreclosure and who can file for it. Many courts are not aware of the frauds being perpetrated by these original lenders and service companies. Every Legal Aid office, every Pro Bono attorney needs to become familiar with this scheme. Congress could work to limit adjustable rate hikes. Money spent helping borrowers get rid of fraudulent charges and set up livable payment plans would go far. The worst thing Congress could do is what it is planning to do-provide funds for people to buy foreclosed homes: this simply makes it even more likely lenders will foreclose. Congress needs to act immediately to strengthen regulation of the financial sector and force criminal indictment of CEO's that profited from these schemes within their institutions. If you rob a bank, you go to prison for lots of years. Why not the same punishment for a bank that robs YOU? Transparency in lending and mortgage servicing must be forced on these institutions as it is apparent they will break laws and defraud the poorest of citizens if they can get away with it. Bail-outs of investment houses such as Bear Sterns and loans to investment bankers need to stop immediately.

Oversight is the job of Congress. Indeed, it is such an important job that members of the House Banking Committee need to be under increasing scrutiny for the poor decisions and rules they have made. We have strong fiscally-responsible people in Congress that could do a great job of stopping the quasi-legal drain on the taxpayers-why aren't they on the committee? The Federal Reserve, supposedly the entity that was supervising these renegade bankers, certainly should NOT be given more control over their actions , as a private, for-profit financial entity, it's supervision inherently leads to a conflict of interest. We have seen how they supervise'. Unfortunately, a bail-out of Bear Sterns is probably necessary at this time to avoid total collapse. But, financial entities need to be responsible for operating under fiscally-sound management: borrowers certainly have paid the price. We should expect no less of lenders.

For those who are interested in reading more about the inner workings of the foreclosure industry, I suggest you read Cyrus's excellent website at [www. Predatorix.com](http://www.Predatorix.com).

Edward Jordan's story: <http://abcnews.go.com/Nightline/story?id=3892797&page=1>

Morgan Stanley (MS, Fortune 500), Goldman Sachs Group (GS, Fortune 500) and Bear Stearns (BSC, Fortune 500) all disclosed in regulatory filings Tuesday that they are cooperating with requests for information from various, but unspecified, regulatory and government agencies.

[http://www.predatorix.com/files/documents/CNNmoney %201-29-08%20FBI%20Investigates%20Subprime%20Fraud.p df](http://www.predatorix.com/files/documents/CNNmoney%201-29-08%20FBI%20Investigates%20Subprime%20Fraud.pdf)

Wells Fargo, BofA, others sued by city of Cleveland over foreclosures

[http://www.predatorix.com/files/documents/SanFranTimes%201-11-08%20Cleveland%20Sues%20Wells%20Fargo.pd f](http://www.predatorix.com/files/documents/SanFranTimes%201-11-08%20Cleveland%20Sues%20Wells%20Fargo.pdf)

Baltimore sues Wells Fargo

<http://www.predatorix.com/files/cases/wellsfargo/BaltimorevsWellsFargoComplaint.pdf>

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200 Brickstone Square Andover, MA 01810 USA