

How Bank of America and Ginnie Mae Concocted A Scam Against Taylor, Bean & Whitaker Homeowners

Written by: Isabel Santamaria, Bank of America victim.

On August 3, 2009, the FBI raided Taylor, Bean & Whitaker's headquarters in Ocala, Florida. There were approximately 2,000 employees. Taylor, Bean & Whitaker (TB&W) was the fifth largest issuers of GNMA (Ginnie Mae) securities. A few days later on August 14, 2009, TB&W terminated all the employees at their headquarters and ceased operations. On August 24, 2009, TB&W filed for bankruptcy. The massive fraud that was uncovered before the raid by the FBI, eventually sent TB&W executives to prison for securities fraud, bank fraud, wire fraud and conspiracy to commit fraud. Lee Farkas the majority owner of TB&W, was convicted by a federal jury in Alexandria, Virginia on April 11, 2011.

The massive fraud committed by TB&W and its subsidiary Ocala Funding not only affected investors but the TB&W homeowners whose mortgages were double and triple-pledged and also due to "sweeping funds" from account to account.

I am a victim of not only TB&W's fraudulent lending and servicing practices but I am also a victim of Bank of America and Ginnie Mae's scheme to foreclose on me and other TB&W homeowners who were hung to dry after TB&W closed down.

Completely unaware of the FBI raid and bankruptcy of TB&W, I submitted my September 2009 payment to TB&W. I was current on all my payments with TB&W who was my original mortgage lender. However, I was completely unaware that Bank of America was my servicer now. I did not receive any transfer notice from TB&W or Bank of America. I only became aware of the transfer when my biweekly mortgage payment plan contacted me. How can I not be notified of this important change? Well, I was not the only TB&W customer that did not receive a notice. Apparently, most TB&W homeowners did not. So far, it is only speculation of why Bank of America failed (on purpose or not) to notify thousands of TB&W but since Bank of America is involved, anything is possible.

Shortly after I became aware of the transfer, I began receiving payment statements from Bank of America notifying me that I was one month behind on my payments because they did not receive my September 2009 payment. I eventually found out that TB&W forwarded my September 2009 payment and I was also provided a check number for the payment. And so it begins, the scam in which Bank of America co-participates in with Ginnie Mae.

I, like many other homeowners, tried to apply for a loan modification with Bank of America. My husband and I were struggling financially with higher living expenses and less income than before. We just found out that our children are autistic and our medical and living expenses were a major factor now. Like many others, we were given the run-around by Bank of America and every excuse under the sun. We finally pre-qualified for a loan mod in January 2010 after we were asked to default in order to prove hardship (I only missed one payment) and start submitting all documents required. I was told at times that my documents were received, documents were incomplete, that documents were never received and that they were awaiting a response from my so-called investor. Every time I would ask who my investor was, Bank of America's representatives would tell me that they could not disclose that information. What? My home is in the hands of an incompetent Bank of America company as my servicer and my investor is some mysterious and unreachable entity? It was worse than trying to speak to the Wizard of Oz and see who was behind the curtain. I also felt like I was hitting a brick wall every time I would ask any question related to my loan modification.

I began to see a pattern now. Bank of America starts to send me "Notice of Intent to Accelerate" immediately after qualifying for my loan modification. Did this notice say that I was behind one month? Oh no. I am being told that I owed three months along with fees and \$100.00 of "uncollected costs". I begin getting very frustrated when asking Bank of America to fix the errors on my account. When I would ask Bank of America what those "uncollected costs" were about, I would never get a straight answer only that they were miscellaneous fees. Miscellaneous fees? I think I have the right to know what those fees are if I am expected to pay it but they never told me. I would continue to get Notices of Intent to Accelerate with more money owed and fees. At one time I was advised that I owed six

months even though I continued to make all my payments. My escrow account was also being severely tampered with. I had no idea what I really had in my escrow account anymore because my beginning balance for August 2009 after being transferred from TB&W to Bank of America changed several times. Yes, Bank of America was embezzling money from my escrow account too.

In April 2010, after Bank of America refused to stop the fraud, threats, harassment and becoming ill due to the severe stress, we hired an attorney. In May 2010, our attorney begins to notice that Bank of America did not post three payments in their corresponding months but then post those three payments on the same day, April 20, 2010. Bank of America was not posting my payments even though I was submitting them early every month but they decided to post all three when we hired an attorney. Our attorney was lied to and given conflicting information regarding our payments, escrow and loan modification. My attorney even told me: "Bank of America does not want to cooperate. They must really want your house". Even though our attorney was helpful, she felt that litigation was the only solution because Bank of America refused to cooperate.

My attorney was right about them wanting our home. After many months of being lied to consistently and being threatened with foreclosure even though I was awaiting a loan modification and continued to make our payments, Bank of America denies our loan modification because we did not submit documents. Are you kidding me? I felt violated. Not only was I consistently and unnecessarily verbally abused and threatened by Bank of America and their minions, these people had the social security numbers of my husband, my children and myself, they had all our financial information, tax returns, utility bills and personal information several times over floating around somewhere and now they say I am being denied because they did not receive my documents? Unreal.

The deeper I go into this rabbit hole, the more fraud I start unraveling and this is where Ginnie Mae (GNMA) comes in. I sent Bank of America a qualified written request, asking among other things, the name of my investor. After some time, I get a response and their response is "GNMA". I had no idea who GNMA was and start investigating. It is Ginnie Mae. My loan was an FHA loan and one of the

many loans that were fraudulently produced and serviced by TB&W. I start to do my detective work for many months and start seeing a pattern. Many of the homeowners that had TB&W GNMA loans and now have Bank of America were induced to default and many of them were foreclosed on. If I would not have hired an attorney, wrote letters to my Attorney General, Congressman and the OCC, I would have also been foreclosed by now. Having an FHA loan requires that the servicer can only begin foreclosure proceedings after three months of default by the homeowner and other options to avoid foreclosure have been unsuccessful. That would explain why Bank of America eventually pre-qualified me for a loan mod and eventually denied us like if we were responsible for not complying with the terms of the loan modification process by not submitting paperwork. That would also explain why Bank of America would make it appear that we were many months behind even though we were not. On paper, it appeared that Bank of America had done everything possible to help us stay in our home when the exact opposite was true. They were not helping any homeowners even though the government settlement required them to do so.

Here comes the kicker! Recently, a dear friend of mine who also had TB&W and Bank of America has been her servicer, is also fighting to keep her home. She forwarded me some interesting information regarding Ginnie Mae. The document she sent me is **GAO-12-49 Ginnie Mae's Capacity to Manage Growth** and was titled "Ginnie Mae Risk Management and Cost Modeling Require Continuing Attention". This report was forwarded to Congressional Requesters. You can find the actual document here: <http://www.gao.gov/assets/590/586247.pdf>. This report outlines Ginnie Mae's plan regarding TB&W loans and how they would quickly foreclose on these loan in order to be reimbursed for their investment leaving thousands of homeowners out in the streets. Look at this interesting excerpt from page 42 of this document which includes the footnotes:

*"During 2005-2010, Ginnie Mae defaulted 21 issuers and took over the portfolio for approximately \$28.8 billion in mortgages (see fig. 13). While the number of issuers defaulting has varied from two to five in recent years, the number of loans involved increased during this period. In 2009, Ginnie Mae defaulted a large issuer, **Taylor, Bean & Whitaker Mortgage Corporation** and took over the portfolio for approximately \$26.2 billion in*

*mortgages. In general, the actual cost of a defaulted portfolio for Ginnie Mae cannot be determined until insurance or guarantee claims are processed and the number of **fraudulent or delinquent mortgages** determined. As of June 2011, Ginnie Mae's disbursed \$7.4 billion as a*

*Footnotes: When a borrower defaults on an acquired mortgage, Ginnie Mae seeks reimbursement from the federal agency that insured or guaranteed the mortgage. In some instances, **some mortgages that are in pools may not be insured due to fraud or error**. According to its 2010 financial statement, Ginnie Mae determined that about \$4.5 billion of the loans in the defaulted issuer portfolio, **including those from Taylor, Bean & Whitaker Mortgage Corporation, were delinquent**. Ginnie Mae used its reserve fund to buy these mortgages from its MBS pools and now owns the loans; however, **it expects to recover the majority of these funds through foreclosure and filing claims with FHA**. That is, **as owner of the loans, Ginnie Mae can conduct foreclosure proceedings on delinquent borrowers and file claims with FHA to recover the insured portion of the mortgage not recovered during foreclosure proceedings.**"*

Interesting so far, huh? The document has other interesting tidbits but the fact that Ginnie Mae not only acknowledges that a large amount of Taylor, Bean and Whitaker loans were delinquent, fraudulent and fraudulently pooled (mine included) but that they were intentionally trying to foreclose on fraudulent and on so-called defaulted loans is despicable to say the least. Nowhere on this document do they even mention trying to help homeowners however, they are very interested in being reimbursed for loans that were fraudulent to begin with. However, the Supreme Court has issued opinions regarding fraudulent contracts or documents which would include mortgages: "There is no question of the general doctrine that **fraud vitiates** the most solemn **contracts, documents**, and even judgments". (*United States v. Throckmorton*, 98 U.S. 61).

Mystery solved. Ginnie Mae took over the portfolio for billions of dollars of mortgages including those of TB&W and they cannot even determine the actual costs of defaulted portfolio until insurance claims are processed. Ginnie Mae wanted its investment back and quickly by foreclosing on these properties, mine included. Who better than Bank of America to drive former TB&W homeowners to the brink of insanity by committing fraud regarding loan modifications and payments and therefore concocting the plan to foreclose? Yes, Bank of America clearly assists GNMA and other investors in quickly getting back their investments

by causing defaults and other fraudulent activities against clueless homeowners, such as myself. I had a forensic audit performed on my mortgage by a reputable company and my mortgage was flooded with fraud from beginning to end. Remember this statement above: ***"In some instances, some mortgages that are in pools may not be insured due to fraud or error"***? Nonetheless, I had mortgage insurance on my loan even though it was fraudulent.

I recently submitted another qualified written request to Bank of America and they now say that my alleged investor is U.S. Bank. U.S. Bank? Who knows when that happened but I don't doubt that GNMA already got paid by FHA and now U.S. Bank, another fraudulent bank who is foreclosure-happy, allegedly purchases my loan and wants their piece of the pie. As for now, Bank of America sends me threatening letters stating that I am "now" in foreclosure even though I have never been served with a summons which is required since I live in a judicial state, Florida and I do not see anything filed against us. Bank of America's latest letter wants me to pay a lump sum of \$187,974.12 to release the lien in order to avoid being in foreclosure when I only owed \$138,000.00. The ridiculous amount of fees and other payments that were never posted are obviously included in this inflated amount. It really hurts, especially when we spent our life saving in this home which included a \$24,000.00 down payment and remodeling and repairs that were paid cash that amounted to more than \$60,000.00. Yes, we threw almost \$90,000.00 down the toilet on a home that we thought we would be living in for a long time until Bank of America and Ginnie Mae's scheme kicked in. It doesn't matter how much fraud was committed against us or the fact that we are about to become homeless with two autistic children, these criminals will reach their objective soon.

Oh, and you might want to know what the \$100.00 for uncollected costs were, right? Well, it seems that I received a document from Bank of America recently that stipulates fees assessed on my account for 2010. The "uncollected costs" of \$100.00 was listed as a "vacant property fee" in January 2010. My house was never vacant and I had just received a pre-qualification for a loan mod in January 2010. I had only missed one payment at the time and my family and I were clearly occupying the property and continue to do so for now. Why would Bank of America do this when the property was not vacant? Were they advising FHA that we left the property so that they could get paid through our mortgage insurance? Was it a clear indication that we were being set up by Bank of America for

foreclosure? My guess would probably be all of the above and eventually we will find out the answer but I am willing to bet that whatever the answer is, it involves fraud.

My horror story with Bank of America is very long and it would take me a book to write it all. It includes pro se lawsuits that were dismissed even though my pleadings were considered plausible and the Bank of America attorneys tricking us many times since we were pro se. I have a mountain of evidence against Bank of America but I guess our justice system is so pro-bank that they just don't care. I am now living in limbo and waiting for Bank of America to make their next fraudulent move so that I can defend myself against all the massive fraud committed against my family and I. My only hope is that we get a fair judge when the time comes. After investing approximately \$90,000.00 from our life savings on our home that is only worth a little more than that at the moment, we feel cheated and deceived in every possible way. There is no other way to say it but we are "crime victims".

Do not be fooled by loan modifications especially when Bank of America is involved. Be weary of judges and some attorneys who are in cahoots with the enemy. I have seen and heard it all from many homeowners who have experienced the destruction of their lives at the hands of Bank of America, other fraudulent banks and our justice system. Many have told me how they go to court and have heard the bank's attorney role playing with the homeowner's attorneys on what to say and what motions they will be using or striking. These are "opposing" attorneys practicing amongst themselves! It seems like the homeowner doesn't even have a chance. We are swimming in the shark-infested waters of the court system, blindly giving attorneys our money and we are losing our homes anyway. I am not saying that this applies for every attorney, judge or every case but it would explain why homeowners still lose their homes even when they have been victims of fraud. For those who are wondering why they were foreclosed on after they did everything possible to avoid it, the answers are clear. So far, only the banks win and it is up to us, the homeowner, to stop the bleeding fraud. Sadly, we are on our own.

My children are constantly asking me: "Mommy, are we going to live in the streets?" They sometimes do not understand the severity of the situation because of their autism but they are always worried about not having a place to live and

they have expressed that to their psychologist and psychiatrist many times. Ultimately, the damage that Bank of America, Ginnie Mae and Taylor, Bean & Whitaker committed against my family is irreparable and even though I feel that I do not have much strength left, I will fight for my family to the very end.

*If you would like to contact me, Isabel Santamaria, please email me at Isabel-1229@hotmail.com. I am not an attorney and do not profess to give legal advice. I am a victim just like many others but I am hoping that the evidence at hand can help many homeowners fight the fraud committed against them by the banks.