



MORTGAGE COMPLIANCE FORUM is a unique website, devoted to providing articles written by professionals and featured contributors who specialize in the area of residential mortgage compliance. Comments are encouraged!

[HOME](#)

[NEWSLETTER & ORGANIZATION](#)

[RECENT ARTICLES](#)

[CONTACT US](#)



Tuesday, April 19, 2016

## Skating into the Mortgage Meltdown

The mortgage meltdown goes on and on. Like a nuclear explosion that propagates in a gigantic, lethal plume and roils laterally in wave after wave across a huge landscape, leaving death and destruction in the wake, the financial crisis has yet to find its termination point in the mortgage origination world. Litigation is rife with claims and counterclaims. Billions of dollars in judgments, let alone the high cost of attorneys' fees, continue to blemish banks and Wall Street securitizers. Main Street has yet to recover, although some pockets of residential real estate seem to be stabilizing somewhat. And, of course, almost nobody has gone to jail!

So, the court of public opinion and the court of jurisprudence is where any resolution must find its grounding. Case in point is trustee U.S. Bank's claim that a UBS unit knowingly sold thousands of bad home loans into securitized trusts, costing investors \$2 billion. We get this conundrum courtesy of the rather unprecedented trial that commenced yesterday in New York, at the U.S. District Court. UBS has so much blood on its hands at this point that no bleach is strong enough! At the conclusion of this trial, UBS may wind up paying more than it has paid out altogether since the crisis hit. The bone of contention: mortgage bundling.

Here's the allegation made by U.S. Bank: it has "overwhelming, irrefutable and largely undisputed" evidence, including emails suggesting UBS Real Estate Securities Inc. knew it was bundling bad loans from "shady originators" in 2006 and 2007.

Those "shady originators" would be the once-upon-a-time premier, illustrious, esteemed originators known as American Home Mortgage Servicing Inc., Countrywide and IndyMac Bank. Did I mention that all

Pulse

[Share](#)



SUITE OF SERVICES



NEWSLETTER - FREE!

[Subscribe Now](#)



ARCHIVE

[2016 \(8\)](#)

[April 2016 \(2\)](#)

[Skating into the Mortgage Meltdown](#)

[Going after the Big Cheese \(PHH takes on CFPB's Di...](#)

[March 2016 \(1\)](#)

[February 2016 \(3\)](#)

[January 2016 \(2\)](#)

[2015 \(13\)](#)

[2014 \(1\)](#)

[2013 \(1\)](#)

three of them failed?

2012 (4)

2011 (2)



Further, U.S. Bank asserted that “UBS knew of the defects and decided to ignore them or – in some cases – turn[ed] a blind eye to them.” Recognizing that usually motivation precedes the crime, it is alleged that UBS was motivated by a fear that the originators (sic) would give their loans to other banks to bundle, so it declined to hold those originators to high standards even though it “didn’t trust them.”

POWERED BY

As U.S. Bank says, “UBS constantly disparaged these originators.” Oh for shame!

Emails are given as evidence of UBS’s naughty attitude. For instance, a UBS trader emailed that “HUGE delinquencies” in the securitized trusts, but joked that this was a “big surprise!” [Emphasis in original.]



Or how about a more poignant expression of substance, such as where another UBS trader received an email from a bank colleague that said the originators “run their deals like a sh-- show.”

One thing to denigrate the originators, but how about some due diligence here, please? It would seem that UBS allegedly did not investigate ridiculously absurd income claims. A particularly fine specimen of this debt-to-income fiasco is where a “pro skater” claimed to make \$12,000 per month but who actually earned \$15,000 a year – plus already had two unreported mortgages. Ouch!

Of course, one fraudulent loan does not a litigation make of this magnitude. How about 3,500? Yes, that is the alleged number of possible borrower fraud involving “stated income loans.”

UBS’s defense leaves me breathless: the evidence at trial will show that most of the loans were not materially deficient at the time of their origination. Say what?

I’ll let the judge’s question take the stage: “How did anybody ever think that was a good idea?”

But, says UBS’s defenders at bar, “hindsight is not the standard.” This gambit implies that loans later shown to be defective don’t impute liability to UBS. But, if that tactic doesn’t work, how about asserting that those naughty internal UBS communications cited by the plaintiff were “a distraction” and were “taken completely out of context.”

And, if that tactic doesn’t work, UBS wants to use the old *Tu Quoque* (you did it too) defense – like when a child fights with his brother and is punished by a parent, and the child says, ‘but he did it, too’! So, in its defense UBS states that it wasn’t the only “sophisticated party” (sic) in the transaction and asserted that the trustee, too, knew well of the inherent risks of “stated income” and other loans. Right! That gambit will work – perhaps in a parallel universe.

The court will likely focus on exactly in what instances UBS might bear liability, among other things, for failing to vet obviously false homebuyer income representations – such as the one offered by the “pro skater.”

This is a bench trial and will probably last a few weeks. But it is the first time a trustee has taken such claims to trial.

[Jonathan Fox](#)

President & Managing Director  
Lenders Compliance Group



Recommend this on Google

Labels: [American Home Mortgage](#), [Countrywide](#), [IndyMac](#), [Mortgage Fraud](#), [Mortgage Securitization](#), [U.S. Bank](#), [UBS](#)

## No comments:

[Post a Comment](#)

[Home](#)

[Older Post](#)

Subscribe to: [Post Comments \(Atom\)](#)

### Notice to Visitors

Information contained in this website is not intended to be and is not a source of legal advice. The views expressed are those of the contributing authors and commentators, as well as news services and websites linked hereto, and do not necessarily reflect the views or policies of any governmental agency, business entity, organization, or institution. Mortgage Compliance Forum makes no representation concerning and does not guarantee the source, originality, accuracy, completeness, or reliability of any statement, information, data, finding, interpretation, advice, opinion, or view presented herein.

### Mortgage Compliance Forum is a "discussion venue" that is designed to share information about residential mortgage compliance.

The discussions on Mortgage Compliance Forum do not constitute legal advice from or to other Mortgage Compliance Forum members or any other person. Mortgage Compliance Forum encourages an exchange of information and views, but is not responsible for the information, comments, advertising, products, resources or other materials of this site, any linked site, or any link contained in a linked site. The inclusion of any link does not imply endorsement. Your use of any linked site is subject to the terms and conditions applicable to that site. Mortgage Compliance Forum may be used for lawful purposes only. Please do not post content that is obscene, otherwise objectionable, in violation of federal or state law, or that encourages conduct that could constitute a criminal offense or give rise to civil liability; that discloses any non-public transactions, business intentions, or other confidential information; and, that infringes the intellectual property, privacy, or other rights of third parties. Material protected by restricted copyright, use, or other proprietary right may not be uploaded, posted, or otherwise made available to Mortgage Compliance Forum participants without the permission of the copyright owner, if such permission is required. The Mortgage Compliance Forum administrator reserves the right to remove content at any time and without notice that is deemed to be inappropriate and/or in violation of comment rules.



Ethereal template. Template images by [A330Pilot](#). Powered by [Blogger](#).

