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For foreclosure processors hired by mortgage lenders, speed equaled money

Washington Post Staff Writers
By Ariana Eunjung Cha and Zachary A. Goldfarb
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Millions of homes have been seized by banks during the economic crisis through a mass production system of foreclosures that was set up to prioritize one thing over everything else: speed.

With 2 million homes in foreclosure and another 2.3 million seriously delinquent on their mortgages - the biggest logjam of distressed properties the market has ever seen - companies involved in the foreclosure process were paid to move cases quickly through the pipeline.

Law firms competed with one another to file the largest number of foreclosures on behalf of lenders - and were rewarded for their work with bonuses. These and other companies that handled the preparation of documents were paid for volume, so they processed as many as they could en masse, leaving little time to read the paperwork and catch errors.

And the big mortgage companies overseeing it all - including government-owned Fannie Mae - were so eager to get bad loans off their books that they imposed a penalty on contractors if they moved too slowly.

The system was so automated and so inflexible that once a foreclosure process began, homeowners and consumer advocates say, there was often no way to stop it.

"The problem is when you try to fight back against this machine, well, it's a machine," said Michael Alex Wasylik, an attorney for homeowners in Dade City, Fla. "You have to be able to get your case off the mass production line and to someone who will take the time to read what they file, but in many mortgage firms that person doesn't exist."

The financial incentives show that the problems plaguing the foreclosure process extend well beyond a few, low-ranking document processors who forged documents or failed to review foreclosure files even as they signed off on them. In fact, virtually everyone involved - loan servicers, law firms, document processing companies and others - made more money as they evicted more borrowers from their homes, creating a

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system that was vulnerable to error and difficult for homeowners to challenge.

"This was a systemic problem. It's not like a few renegade employees made mistakes," said lawyer Peter Ticktin, who defends Florida homeowners facing foreclosure. "It was industry-wide and pervasive, and everyone knew about it."

$1,300 per case

The law firm of David J. Stern in Plantation, Fla., for instance, assigned a team of 12 to handle 12,000 foreclosure files at once for big financial companies such as Fannie Mae, Freddie Mac and Citigroup, according to court documents. Each time a case was processed without a challenge from the homeowner, the firm was paid $1,300. It was an unusual arrangement in a legal profession that normally charges by the hour.

The office was so overwhelmed with work that managers kept notary stamps lying around for anyone to use. Bosses would often scream at each other in daily meetings for "files not moving fast enough," Tammie Lou Kapusta, the senior paralegal in charge of the operation, said in a deposition Sept. 22 for state law enforcement officials who are conducting a fraud investigation into the firm. In 2009 alone, Stern's law firm handled over 70,000 foreclosures.

"The girls would come out on the floor not knowing what they were doing," Kapusta said. "Mortgages would get placed in different files. They would get thrown out. There was just no real organization when it came to the original documents."

Fannie Mae, Freddie Mac and Citigroup said they no longer do new business with Stern's firm.

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Law firms were rewarded with additional bonuses from document processing companies if they met deadlines for preparing and filing foreclosures in courts. One of the nation's major processors, Lending Processing Services in Jacksonville, Fla., confirmed that it had paid such bonuses but said it no longer offers them. The company is under investigation by federal and state law enforcement.

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Meanwhile, Fannie Mae imposes a $100 fee on contractors for each day they fail to notify the firm that the foreclosure process was a success and that it has the right to move ahead with the resale of a home. On top of that, Fannie charges a penalty - which escalates for larger mortgages - on contractors who delay selling off such properties.

Fannie declined to comment on these fees. But in a memo to loan servicers dated Aug. 31, Gwen Muse-Evans, Fannie Mae's chief risk officer, warned mortgage servicers that fees may be imposed based on "the length of the delay and any costs that are directly attributable to the delay."

Speed is also rewarded by the nation's credit-rating agencies, which give higher grades to mortgage service firms that accelerate the foreclosure process and generally hand out lower grades to those who hold onto delinquent loans. A Fitch Ratings manual calls the speed of foreclosures "the key driver in the servicer rating," according to a report by the National Consumer Law Center.

Untrained hires

To keep up with the crush of foreclosures, document processors and mortgage service firms rushed to hire anyone they could - hair stylists, Wal-Mart clerks, assembly-line workers who made blinds - and gave them key roles in their foreclosure departments without formal training, according to court papers.

A number of these employees have testified that they did not really know what a mortgage was, couldn't define "affidavit," and knew they were lying when they signed documents related to foreclosures, according to depositions of 150 employees for mortgage companies taken by the law firm run by Ticktin, the Florida lawyer.

These problems were compounded as banks began to rely more heavily on computer systems to quickly move people through the foreclosure process. That automation came at a price for the homeowners who had difficulty fighting incorrect decisions by inexperienced, anonymous employees who took what was in the computer as fact even when homeowners said there were data-entry errors.

"These guys were caught off-guard with the onslaught of foreclosures," said Clifford Rossi, a former chief risk officer for consumer lending for Citigroup who now teaches at the business school at the University of Maryland. "So there were a lot of errors."

In one case in Fort Lauderdale in July, for instance, Bank of America foreclosed on a man after a computer glitch and resold his home even though he had paid his mortgage in full.

Homeowners and their attorneys say the automated system especially hurts borrowers who may qualify for loan modifications through federal rescue programs.

Chandra Anand, 59, a telecommunications consultant from Germantown, called his lender in the fall of 2008, before he missed any payments, to warn the company that his wife's open-heart surgery might cause the family financial difficulty. He was told that in order to qualify for a loan modification he needed to miss payments. So he did and applied for a modification. He never heard back from his lender until he got a foreclosure notice in January 2009.

Every time he calls his lender to resolve his situation, an official tells him "to be patient, that it could take 60 more days to review things," Anand said. "It's now been a year and a half."

Andrea Bopp Stark, a lawyer with the Molleur Law Office in Biddeford, Maine, said that a number of her clients should be eligible for loan modifications through a Treasury Department program but that servicers "are in such a state of disarray that they often can't give homeowners basic answers about the state of their loan modification request."

Then a few weeks or months later, the same servicers evict homeowners as if those applications were never filed.

"Their whole bureaucratic procedure," Stark said, "is working against helping homeowners."

chaa@washpost.com goldfarbz@washpost.com

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