

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

LAURA J. SANDOVAL, on behalf of herself)
and all others similarly situated,)
)
) Plaintiff,)
)
) v.)
)
) WASHINGTON MUTUAL, INC.;)
) WASHINGTON MUTUAL BANK, F.A.,)
) BANK UNITED CORP.; BANK UNITED OF)
) TEXAS, FSB, and DOES 1-100,)
)
) Defendants.)

No. 01-2-06488-1

NOTICE OF PENDENCY OF
CLASS ACTION AND
PROPOSED CLASS
SETTLEMENT

TO: Bank United borrowers whose loans were insured by the United States Department of Housing & Urban Development (“HUD”) and who were assessed at least one property inspection fee by Bank United between January 1, 1999, and June 1, 2001, but excluding any borrower whose HUD-insured Bank United loan has been foreclosed.

READ THIS CAREFULLY

YOU MAY BE ENTITLED TO A RECOVERY UNDER THE TERMS OF THIS PROPOSED SETTLEMENT

IF SO, YOU WILL BE REQUIRED TO RETURN A CLAIM FORM AS DESCRIBED BELOW

1. WHY SHOULD I READ THIS NOTICE?

Your rights may be affected by this litigation. The purpose of this Notice is to inform you that there has been a proposed settlement of claims asserted in this action with respect to property inspection fees assessed by Bank United (“BU”) between January 1, 1999, and June 1, 2001, which the Court has preliminarily approved. The Settlement would benefit a class of BU borrowers, and it appears you may belong to this class. This Notice summarizes essential information concerning the Settlement and your potential rights under the Settlement.

2. WHAT IS THIS LAWSUIT ABOUT?

U. S. Department of Housing & Urban Development (“HUD”) regulations require that in certain circumstances lenders perform physical inspections of properties securing HUD-insured loans that are more than 30-days past-due. The inspections are intended in part to verify that the properties are not vacant or abandoned and in acceptable condition. HUD guidelines permit a lender to charge the borrower fees incurred in conducting these inspections.

Laura J. Sandoval filed this lawsuit on March 16, 2001. She alleged that BU had made various errors in servicing her loan and, in addition, that it had assessed property inspection fees to her account improperly. Ms. Sandoval claimed BU had not followed HUD guidelines in conducting property inspections and assessed fees even when BU was in contact with borrowers and had no reason to inspect the property securing its loan. Ms. Sandoval asserted claims for breach of contract, violation of the Washington Consumer Protection Act and unjust enrichment. Ms. Sandoval brought the action as a purported class action.

Washington Mutual Bank, FA (“WMBFA”), is the primary defendant in the case because it acquired BU in early 2001. WMBFA has denied all allegations of wrongdoing and liability. WMBFA has asserted that BU had assessed property inspection fees only in compliance with HUD guidelines. WMBFA has denied that BU breached its contracts, violated the Washington Consumer Protection Act, or been unjustly enriched.

The Court has not made any rulings on the merits of Ms. Sandoval’s claims or on any of WMBFA’s defenses.

3. WHO IS COVERED BY THIS SETTLEMENT?

The Settlement Class consists of all BU borrowers whose loans were insured by HUD and who were assessed at least one property inspection fee by BU between January 1, 1999 (when BU began assessing property inspection fees), and June 30, 2001 (when BU loans were integrated into WMBFA’s loan servicing system). The Class excludes any borrower whose HUD-insured BU loan has been foreclosed by BU or WMBFA.

You have been sent this notice because WMBFA’s records indicate that you probably belong in the Class.

4. WHAT ARE THE TERMS OF THE SETTLEMENT?

(a) WMBFA has agreed to waive or refund property inspection fees assessed to those members of the Class who were in regular contact with BU during any period in which the Class member’s BU loan was in default for 30 days or more, and whose property securing the HUD-insured loan was not vacant or abandoned during any such periods of default. To be eligible for a refund or waiver, a Class member must return a claim form representing under oath that the Class member satisfies these criteria. The details of the claim form are set forth more fully below, and a claim form is attached.

(b) Class members will release WMBFA, as well as all of its parents, affiliates, subsidiaries, predecessors in interest (including BU), successors and/or assigns, and all of their present and former officers, inside and outside directors, attorneys, accountants, agents, representatives, vendors, insurers, employees, and assigns, from any and all liability for any claims concerning the assessment of property inspection fees by BU between January 1, 1999, and June 30, 2001.

(c) Plaintiffs’ Class Counsel will seek an award of attorneys’ fees and expenses in the amount of \$290,000, subject to approval by the Court. The award of fees and costs will not reduce the amount paid to the Class, unless the total of the claims received by WMBFA and the amount awarded by the Court for fees exceeds \$927,374, in which case the per-claim amount will be reduced proportionately so that WMBFA’s liability under the Settlement will not exceed \$927,374.

5. DO I NEED TO DO ANYTHING TO REMAIN A CLASS MEMBER?

If you fit within the description of the Class set forth above, you will automatically remain a member of the Class, unless you take the steps to exclude yourself described below. If you remain a member of this Class, then the Plaintiffs’ counsel listed in this Notice will act as your representatives and counsel for purposes of this Settlement. You may also appear by your own attorney, at your own expense.

6. WHO REPRESENTS THE SETTLEMENT CLASS?

(a) For purposes of this Settlement approval process, the Court has designated Laura J. Sandoval, a BU borrower who paid property inspection fees, as the representative of the Class. Subject to Court approval, and in compensation for the time, effort, and risk Ms. Sandoval undertook in pursuing this class action, the Settlement provides that WMBFA will make a provisional modification of the terms of

Ms. Sandoval's note; if Ms. Sandoval fails to comply with the terms of the provisional modification, WMBFA will pay Ms. Sandoval \$2500.00 as compensation for her service as class representative.

(b) The Court has appointed the law firms of Green & Jigarjian, LLP; Lieff, Cabraser, Heimann & Bernstein; Cohen, Milstein, Hausfeld & Toll, PLLC; and the National Consumer Law Center as Class Counsel for the Settlement approval process. Class Counsel must represent the interests of the Class.

7. HOW DO I GO ABOUT FILING A CLAIM?

You may be eligible for waivers or refunds under the Settlement, but only if you return the attached Claim Form attesting under oath that (a) you were in regular contact with BU during any period in which your HUD-insured BU loan was in default for 30 days or more, (b) the property securing your HUD-insured BU loan was not vacant or abandoned during any such periods of default, and (c) you have not lost the property securing your HUD-insured loan through foreclosure by BU or WMBFA.

You must return your Claim Form to the address shown on the Claim Form within sixty (60) days of the date of this Notice. In other words, it must be postmarked by no later than **July 14, 2004**. The Settlement provides a mechanism for prompt resolution of any disputes over the validity of a claim.

8. WHAT WILL I RECEIVE IF I AM ELIGIBLE FOR PAYMENT AND RETURN A VALID CLAIM FORM?

A Class member who meets all the prerequisites to payment and timely submits a valid claim form is entitled to a refund or waiver of all those property inspection fees actually assessed to that Class member that have not already been refunded or waived. This amount will be different for different Class members because, among other things, some borrowers may have had more than one fee assessed, some borrowers may have had one or more fees waived already, and BU assessed fees to Class members in varying amounts, generally ranging between \$7.25 and \$25 per inspection. (Roughly 75% of the assessments were either \$7.25 or \$15.)

If the total amount of claims plus attorneys' fees and costs exceeds \$927,374, the per claim amount will be reduced proportionately. This means your actual refund or waiver may be less than 100% of the amount of property inspection fees BU assessed to you.

9. HOW CAN I EXCLUDE MYSELF FROM THE CLASS?

If you do *not* want to remain a member of the Class and participate in the Settlement (if approved), then you must sign and return an exclusion request to Katie P. Brown, Green & Jigarjian, LLP, 235 Pine Street, 15th Floor, San Francisco, California 94104, postmarked by not later than **July 14, 2004**. The exclusion request must include the following statement: "I am opting out of participation in the proposed class in *Sandoval, et al. v. Washington Mutual Inc., et al.*, No. C01-2-06488-1, and I hereby exclude myself from participation in any Settlement approved in that action."

By electing to be excluded from the Class, (1) you will not share in any recovery if the Settlement is approved; (2) you will not be bound by any further orders or judgments entered for or against the Class; (3) you will have no right to object to the Settlement or be heard at any hearing scheduled for the Court's consideration of the Settlement; and (4) you may present any claims you have against WMBFA by filing your own lawsuit at your own expense, or by seeking to intervene in this lawsuit as an individual plaintiff at your own expense.

10. WHAT IS THE SETTLEMENT APPROVAL PROCEDURE?

The Court will hold a hearing on **July 30, 2004**, at 9:00 a.m., in the Courtroom of the Honorable Katherine M. Stolz, Pierce County Courthouse, Tacoma, Washington, to consider whether (1) the Settlement should be approved as fair, adequate, and reasonable and in the best interests of the Class; and (2) Class Counsel's request for an award of fees and costs and the proposed compensation to the Class Representative is fair and reasonable. Without further notice to the Class, the Court may adjourn or continue this hearing and approve changes to the Settlement Agreement.

If you exclude yourself from the Class, you are not entitled to object to or comment on the Settlement or counsel's fee request, or to be heard at the fairness hearing. If you decide to remain in the Class, and you wish to object to or comment on the Settlement, you may submit your comments in writing to the Clerk of the Court, Pierce County Superior Court, County-City Building, Tacoma, Washington 98402, with a copy to Katie P. Brown, Green & Jigarjian, LLP, 235 Pine Street, 15th Floor, San Francisco, California 94104 (Class Counsel); and to Stephen M. Rummage, Davis Wright Tremaine, LLP, 1501 Fourth Avenue, Suite 2600, Seattle, Washington 98101 (attorneys for WMBFA), post-marked not later than **July 14, 2004**. Your written comments or objections should reference *Sandoval, et al. v. Washington Mutual, Inc., et al.*, No. 01-2-06488-1.

If you wish to appear at the hearing and be heard, you must also indicate your intent to do so in writing. In that case, you must provide the Clerk with an additional copy of any materials you submit, marked for delivery to Judge Katherine M. Stolz. If you do not comply with these procedures, you will not be entitled to be heard at the fairness hearing or otherwise to contest the approval of the Settlement or Fee Amount, or to appeal from any orders or judgments of the Court.

If the Court approves the Settlement, the approval will bind all members of the Class, except those who exclude themselves, and the judgment will release and dismiss all Class members' settled claims.

11. WHEN WILL REFUNDS OR WAIVERS BE PROVIDED?

Refunds and/or waivers cannot be provided until approximately 30 days after Court approval becomes final, as provided in the Settlement Agreement.

12. WHERE DO I GET ADDITIONAL INFORMATION?

If you decide to remain a member of the Class and you want to communicate with Class Counsel, you may write to Katie P. Brown, Green & Jigarjian, LLP, 235 Pine Street, 15th Floor, San Francisco, California 94104, or send an e-mail to BankUnitedSettlement@classcounsel.com. **PLEASE DO NOT CONTACT THE COURT.**

The foregoing is only a summary of the lawsuit and the proposed Settlement. For more detailed information, you may review the pleadings, records, and other papers on file in the lawsuit, which may be inspected during regular business hours at the Clerk's Office, Pierce County Superior Court, Tacoma, Washington. Copies of the Complaint, the Settlement Agreement, and the papers filed in support of approval of the proposed Settlement and Fee Amount are available upon request to Class Counsel, at the address stated above.

DATED: March 30, 2004.

The Honorable Katherine M. Stolz
Superior Court Judge