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The Due Process Advocate

"No Person shall be . . . deprived of life, liberty, or property without the due process of law"
- Fifth Amendment of the United States Constitution

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FANNIE MAE EMPLOYEE GOES TO JAIL, BUT WHAT ABOUT HUNDREDS OF OTHERS THAT DID THE SAME THING SHE DID?

One of the most frequent comments received by The Due Process Advocate is that very, very few of the crooked bankers (who walked away with millions in the wake of the National Housing and Foreclosure Crisis) went to jail.

Time and time again, news reporters and law enforcement authorities have exposed the criminal wrong-doing of homeowners and others related to the sub-prime mortgage crisis; but not the "bankers" - and certainly not the upper management of the government sponsored enterprises like Fannie Mae and Freddie Mac.

Note: Government sponsored enterprises (GSEs) are quasi-governmental entities created by acts of Congress that provide public financial services despite being privately owned.

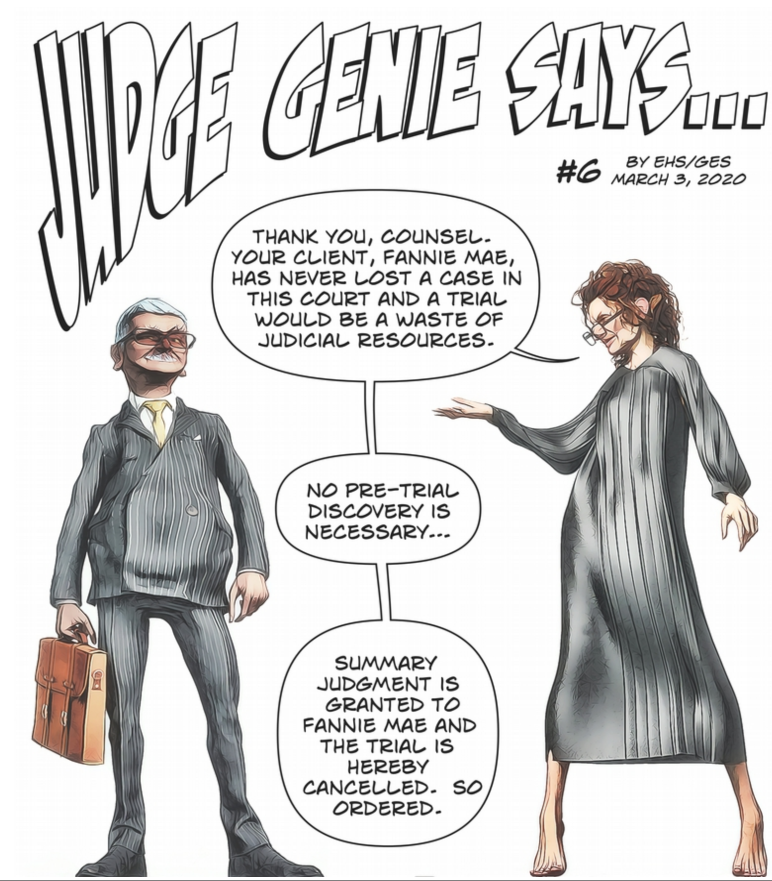
Last month, Shirene Hernandez, a former Fannie Mae employee was sentenced to over 6 years in federal prison for being found guilty in a multi-million dollar scheme involving property listings and the approval of below-market sales; all as described in the February 14, 2019 release by the U.S. Attorney's Office for the Central District of California Department of Justice.

On the surface, this seems like evidence that some justice has finally been served, but it hasn't. The case is just another prime example of the "too big to fail and jail" policy that has perpetuated the fraud that was tacitly endorsed by the powers-to-be during the entire duration and aftermath of the national housing crisis that brought the U.S. economy to its knees and resulted in the 2007 recession.

Here's how and why:

In Hernandez' case, the original October, 2017 Grand Jury charges against her included a description of the fraudulent scheme she operated. That description began with (in paragraph 3a): "Defendant Hernandez provided favorable official action at Fannie Mae to herself and other co-schemers by steering Fannie Mae REO sales listings to brokers and agents who paid defendant Hernandez bribes and kickbacks ("bribing brokers") so that they could earn commissions on the sales and pay her bribes and kickbacks in exchange."

Despite the fact the Hernandez' behavior was certainly illegal, it most certainly was not uncommon. The Due Process Advocate has reviewed many cases where exorbitant "wind-fall" profits were orchestrated and realized by and through the maze of agents, brokers, and attorneys whose mission was to knowingly (and routinely) "flip" the properties sold by the likes of Hernandez to unsuspecting buyers who believed they were buying a post-foreclosure property from the "bank" at a discount off the foreclosure-auction price when, in fact, they were buying the property from a "straw" or "initially-undisclosed" post-foreclosure buyer of the property who was netting a huge profit.



One similar New Hampshire case, involving a foreclosed home, worked like this:

1. The subject property was worth in excess of $400,000;
2. The homeowner facing foreclosure offered to save his property by refinancing the property for $475,000;
3. The homeowner's refinance offer was refused and the bank foreclosed.
4. At auction, the bank bought the property from itself for $289,785.79.
5. The bank then sold the property to a private investor for $120,700; and
6. The private investor then sold the property to a couple for $325,000.

The unsuspecting couple believed they were buying the property at a substantial discount off the advertised $439,000 sales price; and were no doubt unaware that the seller had acquired the property for $120,700 pursuant to employing a very sophisticated fraudulent scheme called "flopping." This occurs when a seller (in this case the bank's servicer) unloads the home for the sandbagged price to an accomplice (in this case the private investor), who can then clean it up and flip it for a quick gain.

The bottom line here is that the private investor bought a $400,000 property, through a scheme of inside dealings, for $120,700; and the sold the property for $325,000. Everyone was happy and the deal was even endorsed by a local judge (who previously represented the private investor before he became a judge); all except the original homeowner who got fleeced out of his home.

While Fannie Mae did not participate in this specific case, The Due Process Advocate has reviewed many cases where properties were "assigned" to Fannie Mae to orchestrate a host of questionable foreclosures and post-foreclosure conveyances by creating an almost impenetrable maze of unidentified agents, brokers, servicers, and attorneys to flop and flip properties to make windfall profits.

The truth of the matter is that Hernandez is likely to be only one of, literally, hundreds of employees operating illegally under the same "tacit approval" by their employers (who are some of the largest financial institutions in the country).

Hernandez got caught and deserves to be in jail. However, there are hundreds of others (including a lot of attorneys working for foreclosure mills) who just didn't get caught or were (and still are) simply protected by the local courts.