

Ad Hoc Mortgage Committee,

I want to thank each of you for giving of your time to come up with a reasonable fee for mortgage company attorneys to handle bankruptcy cases. While I understand that you may not all agree, there is a consensus that fees should not exceed \$500 for all work done up to confirmation. If you are seeking these fees through the filing of a post-petition notice of fees, we will object if the fees sought are in excess of \$500. In the future we will not sign off on orders where the approved fee is in excess of \$500 unless the Court has heard the matter.

Unfortunately, we now have a far more serious problem. In doing my due diligence in reviewing this matter, I had occasion to review a large number of promissory notes signed by the debtors. In about 90% of these documents, there is a condition precedent to the adding of attorney fees and expenses to the debtor's account. There must have been a demanded acceleration of the debt and the debtor must have received rather specific notice of this acceleration. Clear evidence that this requirement is being ignored is shown by the fact that mortgage attorneys are seeking fees on cases where the debtor is current. I am particularly concerned where both in-house and out-house attorneys are signing off on the proof of claims seeking large fees without a review of the underlying documents (probably the only legal work in the preparation of a proof of claim). I don't need to remind you of the consequences of 18 U.S.C. §152(4).

In light of this we will not agree to any fee going forward unless there is a sworn affidavit under penalty of perjury signed by an employee of the mortgage company setting out that they are familiar with the books and records of this particular account. The affidavit should contain the date of the account acceleration and a clear copy of the notice provided the debtor. In the alternative, you may choose to have them come to Court and testify.

Regarding past proof of claims including fees not authorized because the condition precedent has not been satisfied, nationwide, I suspect there have been hundreds of thousands of these questionable claims filed in the last 10 years adding untold millions of dollars to debtor accounts. I will be meeting with a large firm to study the options available to correct this very serious problem.

I will be happy to discuss this matter with each of you individually or as a group if you so choose. As I related on the webcast to the NACTT Mortgage Committee this project was initiated at the urging of the United States Trustee. I therefore feel compelled to share my initial findings with Sean Haynes, who is copied on this email. During that webcast, I discussed the new method of getting information to the Chapter 13 Trustees' offices early in the case so that we can ensure that the ongoing payment and arrearage numbers are set up correctly. This would eliminate the need to file most objections to confirmation and would help to mitigate the attorney fees. Unfortunately we have seen little response.

Please feel free to share the email with your clients and other interested parties.

George Stevenson  
Chapter 13 Trustee  
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