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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NORTHWEST TRUSTEE SERVICES, INC.,

Defendant.

Civil Action No. 2:17-cv-01686

COMPLAINT

The United States of America (“United States”) alleges as follows:

I. NATURE OF THIS ACTION

1. The United States brings this action under the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. §§ 3901-4043, against Northwest Trustee Services, Inc. (hereinafter referred to as “Defendant”) for violating the Section 3953 of the SCRA by completing foreclosures, without court orders, of at least 28 homes owned by servicemembers who took out mortgage loans prior to entering military service. *See* 50 U.S.C. § 3953. These servicemembers had either received orders to report for active duty, were on active duty, or had recently completed active duty at the time of the foreclosures. All were protected by the SCRA.

III. DEFENDANT

6. Defendant is a Washington corporation, with a principal place of business at 13555 SE 36th St., Bellevue, Washington. Defendant is a trustee company providing default services to mortgage lenders in the Western United States. Defendant conducts foreclosures without court orders (also known as non-judicial foreclosures) on behalf of mortgage lenders in Alaska, California, Idaho, Montana, Nevada, Oregon, and Washington.

IV. FACTUAL ALLEGATIONS

7. Between January 1, 2010 and the present, Defendant initiated and completed at least 28 foreclosures, without court orders, of real property owned by SCRA-protected servicemembers.

8. At the time of the foreclosures, the individuals who owned the foreclosed properties were servicemembers who were in military service, as defined by 50 U.S.C. § 3911(1) and (2), had completed a period of military service within the past year (or nine months for foreclosures before February 2, 2013), *see* 50 U.S.C. § 3953(c), or were members of a reserve component who had been ordered to report for military service, as defined by 50 U.S.C § 3917(a).

9. Defendant conducted non-judicial foreclosures even when it knew or should have known that borrowers were SCRA-protected servicemembers.

10. The Department of Defense provides those seeking to comply with the SCRA an automated database run by the Defense Manpower Data Center (“DMDC database”), to check whether individuals are SCRA-protected servicemembers. Defendant failed to take adequate steps to identify protected servicemembers.

11. On December 6, 2006, Jacob McGreevey, a Marine veteran who had served three tours of duty in the Middle East, most recently in Iraq, refinanced his home mortgage loan for his

1 house in Vancouver, Washington with PHH Mortgage Corporation (“PHH”). On May 18, 2009,
2 Mr. McGreevey was called to active military service in the United States Marine Corps, to serve
3 a fourth tour of duty, again in Iraq. Defendant, as trustee for PHH, had begun foreclosure
4 proceedings on the property prior to Mr. McGreevey’s active service, on January 16, 2009, but
5 those proceedings were placed on hold in November 2009 due to an attempt at a loss mitigation
6 workout. Defendant again began non-judicial foreclosure proceedings on May 20, 2010, while
7 Mr. McGreevey was serving in support of Operation Iraqi Freedom.

8 12. On June 21, 2010, Mr. McGreevey was released from active service. On August
9 20, 2010, Defendant completed a foreclosure sale on PHH’s behalf. In completing the foreclosure,
10 Defendant did not obtain a court order. Defendant maintained notes of the foreclosure process,
11 which show that Defendant knew that Mr. McGreevey had recently left military service. The
12 relevant entry, dated August 19, 2010, states: “SCRA Search - Active Duty No – Active Duty End
13 Date 6/21/2010.”

14 13. On May 6, 2016, Mr. McGreevey filed a lawsuit against PHH in this Court, alleging
15 SCRA violations, among other claims. Also on May 6, 2016, Mr. McGreevey submitted a
16 complaint to the Department of Justice’s Servicemembers and Veterans Initiative website, at
17 www.servicemembers.gov. The United States did not learn, and reasonably could not have known,
18 about Defendant’s conduct with regard to Mr. McGreevey’s property until after Mr. McGreevey
19 submitted his complaint to DOJ. On September 23, 2016, after receiving information from PHH
20 about Defendant’s role in the foreclosure, Mr. McGreevey filed an amended complaint adding
21 Northwest Trustee Services as a defendant. Defendant moved to dismiss Mr. McGreevey’s lawsuit
22 on statute of limitations grounds. On December 15, 2016, the Court granted Defendant’s motion
23 and dismissed the amended complaint.

1 14. After the dismissal of Mr. McGreevey’s suit, on February 2, 2017, the Department
2 of Justice notified Defendant that it was opening an investigation into Defendant’s foreclosure
3 practices, and obtained documents and information from Defendant. The documents and
4 information revealed that Defendant had conducted unlawful foreclosures against Mr. McGreevey
5 and at least 27 other protected servicemembers.

6 **V. CLAIM FOR RELIEF**

7 15. Paragraphs 1 through 14 are re-alleged and incorporated by reference.

8 16. The SCRA provides that, for an “obligation on real or personal property owned by
9 a servicemember that – (1) originated before the period of the servicemember’s military service
10 and for which the servicemember is still obligated; and (2) is secured by a mortgage, trust deed, or
11 other security in the nature of a mortgage,” 50 U.S.C. § 3953(a), “[a] sale, foreclosure, or seizure
12 of property for a breach of [such] an obligation...shall not be valid if made during, or within one
13 year after,¹ the period of the servicemember’s military service except – (1) upon a court order
14 granted before such sale, foreclosure, or seizure with a return made and approved by the court; or
15 (2) if made pursuant to an agreement as provided in section 3918 of this title.” 50 U.S.C. § 3953(c).

16 17. By the conduct referred to in the foregoing paragraphs, Defendant has engaged in
17 a pattern or practice of violating Section 3953 of the SCRA, 50 U.S.C. § 3953, by foreclosing,
18 without court orders, upon at least 28 homes owned by SCRA-protected servicemembers.

19 18. Defendant’s violations of Section 3953 of the SCRA, 50 U.S.C. § 3953, including
20 the foreclosure of Mr. McGreevey’s home, raise issues of significant public importance.

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¹ Between July 30, 2008 and February 2, 2013, servicemembers were protected for nine months after the period of military service, rather than one year.

1 19. The servicemembers whose homes were foreclosed upon without court orders in
2 violation of the SCRA are “person[s] aggrieved” pursuant to 50 U.S.C. § 4041(b)(2) and have
3 suffered damages as a result of Defendant’s conduct.

4 20. Defendant’s conduct was intentional, willful, and taken in disregard for the rights
5 of servicemembers.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the United States prays that the Court enter judgment against Defendant
8 and requests relief as follows:

- 9 1. A declaration that Defendant’s conduct violated the Servicemembers Civil Relief
10 Act, 50 U.S.C. § 3901, *et seq.*;
- 11 2. An injunction against Defendant, its agents, employees, and successors, and all
12 other persons and entities in active concert or participation with them, prohibiting
13 them from:
 - 14 a. selling, foreclosing upon, or seizing the real property of SCRA-protected
15 servicemembers without court orders, in violation of the SCRA, 50 U.S.C. §
16 3953;
 - 17 b. failing or refusing to take such affirmative steps as may be necessary to restore,
18 as nearly as practicable, each identifiable victim of Defendant’s illegal conduct
19 to the position he or she would have been in but for that illegal conduct; and
 - 20 c. failing or refusing to take such affirmative steps as may be necessary to prevent
21 the recurrence of any illegal conduct in the future and to eliminate, to the extent
22 practicable, the effects of Defendant’s illegal conduct;

- 3. An award of monetary damages to each identifiable victim of Defendant’s violations of the SCRA, pursuant to 50 U.S.C. § 4041(b)(2);
- 4. An assessment of a civil penalty against Defendant in order to vindicate the public interest, pursuant to 50 U.S.C. § 4041(b)(3); and
- 5. Such additional relief as the interests of justice may require.

Dated this 9th day of November, 2017.

Respectfully submitted,

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