



## State of North Carolina

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October 5, 2010

Edwin P. O'Keefe  
General Counsel  
Bank of America  
Bank of America Corporate Center  
100 North Tryon Street  
Charlotte, NC 28255

Re: Foreclosure Practices

Dear Mr. O'Keefe:

This office has received information regarding Bank of America's questionable submission of affidavits to support home mortgage loan foreclosure actions. In particular, we are in possession of a deposition where a Bank of America employee admitted that she routinely signs such affidavits without even reading them. We have also learned of at least one instance where Bank of America apparently pursued foreclosure proceedings, and obtained a foreclosure, in a situation where the homeowner had paid cash for the house and there was not even a mortgage involved.

We are very concerned about these practices. The use of unverified affidavits to obtain legal relief strikes at the heart of the integrity of the legal process and could constitute a fraud upon the court. Moreover, submitting defective affidavits could possibly result in consumers losing their homes to foreclosure without a valid underlying basis. In addition, in North Carolina, Bank of America's submission of defective affidavits could also mean that Bank of America is asserting that it has communicated with the debtor and attempted to resolve the matter voluntarily before the foreclosure proceeding without having a valid basis for that assertion.

We are informed that Bank of America has halted foreclosure proceedings in twenty-three (23) states while it reviews its foreclosure documentation procedures. We understand that North

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Carolina is not one of these states despite the fact that North Carolina requires a quasi-judicial proceeding before a foreclosure sale can be conducted and the fact that affidavits are frequently and commonly used in such proceedings. If Bank of America has halted foreclosure proceedings in other states due to flaws in its affidavit process, we do not understand why Bank of America should routinely continue with foreclosures with the same flaws in North Carolina. We request that Bank of America extend its voluntary foreclosure moratorium to North Carolina and that it immediately refrain from instituting or completing foreclosure actions in this State, including foreclosure sales and evictions, until it can show that its affidavit procedures have been fully reviewed and reformed to be in compliance with the law.

As soon as possible and by no later than the close of business on October 8, 2010, please confirm that Bank of America has halted foreclosure proceedings in North Carolina. In addition, please provide us with a brief description as to how information supporting a foreclosure of a home loan in North Carolina (including creditor holder status and borrower default and the good faith efforts made to resolve the matter with the debtor prior to the foreclosure) is verified and documented before it is submitted in a legal proceeding, including Bank of America's specific policies and procedures for the preparation and execution of affidavits.

We look forward to your cooperation.

Sincerely,



Philip A. Lehman  
Assistant Attorney General  
CONSUMER PROTECTION DIVISION



Adam Hartzell  
Senior Deputy Attorney General  
CONSUMER PROTECTION DIVISION