

Feb 3, 2008

Kenneth D. Lewis
Chairman, Chief Executive Officer and President, Bank of America Corporation

Keith Banks
President, Global Wealth & Investment Management, Bank of America Corporation
Risk & Capital Committee and Management Operating Committee

Teresa M. Brenner
Associate General Counsel

Amy Woods Brinkley
Global Risk Executive, Bank of America Corporation
Risk & Capital Committee and Management Operating Committee

Neil A. Cotty
Chief Accounting Officer

William J. Mostyn III
Deputy General Counsel
and Corporate Secretary

Joe L. Price
Chief Financial Officer, Bank of America Corporation
Risk & Capital Committee and Management Operating Committee

By Certified Mail
BANK OF AMERICA CORPORATION
Bank of America Corporate Center
100 North Tryon St
Charlotte, North Carolina 28255

RE: JAN 11, 2008 JOINT PRESS RELEASE OF BOA AND CFC, DUE DILIGENCE FOR PROPOSED PURCHASE OF CFC BY BOA (Exhibit 99.1 to SEC Form 8-K Period: JAN. 11. 08 Date Filed: JAN. 11. 08), AND NOTICE OF MATERIAL CLAIMS RELATIVE TO SUCH TRANSACTION.

Dear Bank of America Officer:

Please be noticed of the following information relative to the proposed purchase of CFC, Inc by Bank of America Corporation!

Attached is a letter I sent to selected faculty at Berkeley law school regarding proceedings of *Samaan v Zernik* (SC087400), currently heard at Los Angeles Superior Court, West District. I hold and believe that you owe your share-holders an in-depth investigation of this case and underlying claims by Defendant against Countrywide*. Defendant was prevented from filing claims against Countrywide in this case so far. Claims include, but are not limited to the following:

- a) That the Legal Department of Countrywide deliberately and knowingly, repeatedly produced false and misleading, fraudulent documents in response to subpoenas by Defendant in *Samaan v Zernik* in 2006 and 2007. Key contact in the Countrywide's Legal Department in this regard was Att Todd Boock.
- b) That such documents included, but were not limited to:
 - i. False and misleading blank, paper-based (as opposed to digital) San Rafael Branch Conversation Log forms, which according to information I obtained, had not been used in Countrywide since at least 1989. Such blank forms deceptively substituted for the deliberately omitted relevant email correspondence.
 - ii. Uniform Residential Loan Application Forms (1003) with double "**Date Received**" stamps, for which Countrywide refused to provide any explanation at all, denying existence of any support documents related to such adulterated documents.
 - iii. A loan file replete with false and deliberately misleading documents, reflecting multiple levels of fraud, including, but not limited to: mortgage fraud, wire/fax fraud against a financial institution, wire/fax fraud against an individual, and fraud attempt against Countrywide share holders
 - iv. A loan file submitted to funding by Countrywide bank, where

Please be noticed that in Meet and Confer communications, counsel for Countrywide claimed no knowledge of any explanation for all of the above, and denied the existence of any report such as Internal Audit Report, External Audit Report, Regulatory Agency Report, Imaging Report, Security Report, Pipeline Report, etc, related to this loan file.

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Please also be noticed that by January 2007, following my written complaints, an investigation was initiated by Office of Thrift Supervision against Countrywide Bank in this regard. I was informed that Countrywide Bank was cleared of any wrongdoing in this investigation, since it refused to fund the loan presented to it by the San Rafael Branch of Countrywide Home Loans. I was also informed, that Office of Thrift Supervision had substantial findings against Countrywide Home Loans in that investigation, but absent any regulatory authority over that subdivision, the Office of Thrift Supervision generated of its own volition a complaint against Countrywide Home Loans (on top of my own complaint, submitted in Jan 2007), which was submitted around March 2007 to Office of Trade Commission. My ongoing attempts to follow up on the details of such investigations and my Freedom of Information requests resulted in information that would be reasonably deemed by a person reviewing the documents as an attempt to mislead and cover up. Key contact person in this regard is Ms Belinda Carter at Office of Trade Commission.

Please also be noticed that based on the information provided in the Samaan loan file, combined with information derived from other sources, I estimated at the time that the small San Rafael Wholesale Branch of Countrywide Home Loans was engaged around 2004 in the funding of fraudulent, unworthy Government-back residential loans at \$5-10 billions per year. In filing in court Countrywide did not deny my claims, but stated that my estimates may not be accurate! Needless to say, I did not have full access to the relevant documents, but I am confident that I could provide a much more accurate estimate if I were allowed access to such.

Please also be noticed that Angelo Mozilo and Sandor Samuels, Officers of CFC, Inc, have been personally informed and personally provided with copies of key fraudulent documents from this loan file. Both were requested numerous time over many months to respond and either authenticate such documents as valid Countrywide documents, or confirm the claims of fraud relative to such documents. Both Mozilo and Samuels repeatedly refuse to respond to such questions.

Attorneys for Countrywide filed on **December 11, 2007** a **Notice of Interested Person** for **Sandor Samuels** in this *Samaan v Zernik*, and are also trying to enforce a non existent gag-order against me by having the court approve sanctions of over \$16,000 against me.

To the best of my knowledge no mention of such claims against Countrywide, as described above, was ever mentioned in any SEC report, and therefore it appears likely that no mention would be made in information provided to Bank of America as well. I am unqualified to assess such risk in the context of the proposed purchase. My only reference in this regard are events that preceded the announcement of the proposed purchase: The Jan 8, 2008, publication by Gretchen Morgenson in NYT regarding "**recreated letters**" filed by Countrywide in another court case, the subsequent precipitous drop in Countrywide share value on that day (representing 30%, or over \$1.3 billion in market capitalization lost in the course of a few hours), and the subsequent rumor mill regarding bankruptcy filing by that afternoon, which in turn required the issuing of official denials by Countrywide, and which was stopped only by news of Bank of America proposed purchase offer.

A side by side review of the case reported by NYT on Jan 8, 2008, and *Samaan v Zernik* is likely to show that the case published by the NYT was a light weight in comparison! Therefore, such claims as listed above clearly constitute substantial and material concerns relative to the proposed purchase.

Talking the other day with a switchboard operator at Bank of America (I was trying to confirm names and addresses for this letter), I half-jokingly asked for her opinion of the proposed purchase of Countrywide. To my amazement she had a brief, precise, and insightful response: She said that she was happy that such proposed purchase would not take place until the 3rd quarter of 2008, and expressed her trust that the Officers of Bank of America would have sufficient time until then to figure out the true and complete details and the extent of Countrywide's difficulties.

I would be glad to provide the Officers of Bank of America full and complete information in this regard.

Sincerely,



Joseph Zernik

CC:

SEC

Cleary, Gottlieb, Steen & Hamilton LLP

K&L Gates

Sandler O'Neill & Partners LP

Goldman Sachs Group Inc.

Wachtell Lipton Rosen & Katz

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Faculty at Berkeley Law School

Sir/Madam:

I am a Cal Berkeley parent - my daughter graduated from Berkeley last year (2007) as valedictorian in Philosophy, minoring in Italian. She plans on going to law school next, with a stated career goal of becoming a judge. My son is now enrolled as a freshman at Berkeley as well, after scoring #1 in California on the ACT test of his cycle. I am also a citizen of the United States and of California, and a resident the County of Los Angeles. You are addressed as a faculty member, based on your listing among Berkeley's experts on U.S. Constitutional law. Your help is requested in identifying potential counsel for my representation (for pay) in U.S. District Court in Los Angeles in an effort to protect and restore my civil rights for Free Speech, for Due Process, and for Possession, abused by Los Angeles Superior Court Judges operating under the colors of the State of California with no due authority for the benefit of Countrywide and others.

Please note: I have never applied for a loan from Countrywide, never issued a loan from Countrywide, and never had my loan serviced by Countrywide. There is nothing in the underlying litigation that pertains to any loan by me at all. This is not a foreclosure issue.

INTRODUCTION:

The case, *Samaan v Zernik*, SC087400, where I am defendant, stems from plaintiff's claims for property rights - specific performance, that refers to her failed attempt to purchase my Beverly Hills residence in 2004. Countrywide claims to be a non-party, although in Court documents it is listed at various times as Defendant, Plaintiff, Intervenor, Objector, and other designations, all without any legal foundation. Defendant has been claiming for many months that the case is founded on fraudulent false documents produced by Countrywide and fraudulent claims fabricated by Att Mohammad Keshavarzi of Sheppard Mullin for plaintiff in collaboration with Maria McLaurin, Countrywide Branch Manager in San Rafael California. Documents produced in this case show that Angelo Mozilo, President and Chair of Countrywide, and Chair of its Internal Audit Committee, and Sandor Samuels, Chief Legal Counsel have been repeatedly notified, in person, of such claims, but failed to adequately investigate or stop the fraud.

Countrywide's Position Re: *Samaan v Zernik*:

According to court documents and other communications, Countrywide's current position, and the position of Angelo Mozilo and Sandor Samuels as individuals is as follows:

- 1) *Countrywide, Angelo Mozilo, and Sandor Samuels are merely witnesses in Samaan v Zernik, but not a party to that litigation.*
- 2) *Any time later than discovery cut off date in Samaan v Zernik Countrywide, Angelo Mozilo, and Sandor Samuels have no obligation to answer questions or to disclose whether the documents in question, in particular two key documents presented by Zernik, which were produced by Countrywide in response to legal subpoena in this case, are valid Countrywide documents, or alternatively - false, fraudulent documents, .*

Zernik's Position RE: Countrywide's Position re: *Samaan v Zernik*

Defendant's position is that Countrywide's position, as stated above falsely, knowingly ignores the obligations of Countrywide, and Mozilo and Samuels:

- a) as a chartered banking institution and as officers of such institution, respectively, and
- b) as a publicly held corporation and as officers of such corporation, respectively.

Countrywide, Mozilo, and Samuels must immediately answer such basic questions pursuant to various regulations pertaining to banking institutions and publicly held corporations.

The Court routinely sided with Countrywide in this question so far. As detailed in my filings with the court, my rights pursuant to the U.S. Constitution are routinely and severely abused in the Los Angeles County Superior Court, by officials operating under the colors of the State of California, but lacking due authority.

References

- a. Early parts of the litigation, which eventually led to the recusal per CCP 170.3 of Judge Connor (Judge #2) were also reviewed by the office of Att Neville Johnson (310 975 1080). The conclusions of the report authored by the then associate, David Dushane, in early 2007, found the main cause of Zernik's unfavorable court position at that time to be "Errors in Adjudication".
- b. For months I have faced major difficulties in engaging any legal representation. Att Lovett (818 999 9397), a

sympathetic counsel who reviewed the case for potential representation and then declined, explained it as follows: I gained a "radioactive" status following the recusal per CCP 170.3 of several judges.

c. Att Jerry Serlin (Benedom and Serlin, 818-340-1950), who is likely to assume in the near future representation of my case in California appellate court, is familiar with the more recent aspects of this case.

CLAIMS UNDERLYING THIS WRITING ARE:

a) CFC has no interest whatsoever in the Zernik Beverly Hills residence or the litigation in *Samaan v Zernik* per se
b) Samaan loan 2004 application filed with Countrywide Home Loans, San Rafael Wholesale Branch, provides unique insights into the various techniques used by CFC to defraud the U.S. Government by funding hundreds of billions of dollars in unworthy residential home loans during the mortgage/refinance bubble of recent years, that has now come to an end.

c) Starting Aug 2006, CFC and its Legal Department produced hundreds of fraudulent documents to Joseph Zernik in response to subpoenas in *Samaan v Zernik*

d) Such fraud was perpetrated by CFC Legal Department as part of efforts to conceal the much larger scale fraud by CFC against the U.S. Government relative to the methods of funding of unworthy government backed uniform residential loan applications

e) Such fraud had to be coordinated with Samaan, who adjusted her claims in court accordingly.

f) The court has also been cooperating with Countrywide since at least November 2005

g) When it became evident that Zernik had carefully analyzed the CFC subpoena documents, and that Zernik had found out about the fraud against him and the fraud against the U.S. government, it became imperative for CFC, for Samaan, and for the Court:

- to refute any such Zernik claims by having Zernik's claims judged invalid, and having Samaan granted her claims in *Samaan v Zernik*

- to derail any further discovery in *Samaan v Zernik*

- to prevent any appearances of witnesses on the stand, and

- to conclude the litigation ASAP

- to cut off Zernik's ability to appeal or further pursue this matter

h) When Zernik managed to generate an investigation at Office of Thrift Supervision, which supported his claims, and even more so after Zernik managed to demonstrate that he had personally notified senior CFC officers Mozilo and Samuels of such fraud, thereby eliminating their plausible deniability, CFC decided:

- to stay the course and stick to the fraudulent claims originating in the fraudulent subpoena documents

- but increase the efforts in order to terminate the investigations by regulators, initiated by Zernik, to ensure concealment of any records of such investigations, and increase the efforts to derail Zernik's case in court.

- prevent any investigation stemming from Zernik

i) The irregularities observed in *Samaan v Zernik* are largely the products of such efforts.

IRREGULARITIES IN CASE MANAGEMENT IN SAMAAN V ZERNIK (SC087400):

The course of this case demonstrated substantial irregularities. The case is now heard by Judge Terry Friedman - judge #8. Disqualification papers in the case of 4 of the judges prominently featured Countrywide.

Recent Developments

Investigations against Countrywide are in progress in some four states, and others have filed class action claims against Countrywide and its officers, stemming from the tremendous losses to retirement funds in the current, still unfolding sub-prime crisis. On January 8, 2008, Pulitzer-prize winner Gretchen Morgenson, published in the New York Times a report of a real property rights case in New York, where Countrywide counsels admitted in court that letters filed in court as valid documents were in fact "*recreated letters*". On that day the share price of Countrywide suffered a major loss - 30% - it started the trading at \$7.80 and ended at \$5.47 - or a net loss of \$1.35 billions in market capitalization on that day alone. The precipitous fall in share price on that day was directly tied to the report by the NYT's Morgenson of the "*recreated letters*" admitted by Countrywide in court, and by afternoon media reported rumors that Countrywide was going to file for bankruptcy protection. Late that night, news was released of the preliminary agreement on the Bank of America take over, and that way that crisis was averted.

Therefore, whereas the value of the formal subject matter of *Samaan v Zernik* is insignificant for Countrywide, Mozilo, and Samuels, the value of the decisions, rulings, and judgments in *Samaan v Zernik* is extremely high.

The overall confusion in Court documents regarding party designation of Countrywide (Defendant, Plaintiff, Intervenor, Objector, etc, all with no legal foundation, at times two or more conflicting designations in the same court document)

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reflects the fact that even naming Countrywide as a party in the litigation has an extreme high cost to Countrywide, since it would require reporting to regulatory agencies, and would require investigation by Bank of America as part of due diligence. On the other hand, Countrywide is demanding and receiving full privileges of a party in the litigation.

Any ruling to the effect that Countrywide's Legal Department repeatedly perpetrated fraud relative to the subpoena productions, or any ruling that may just acknowledge the fact that Mozilo and Samuels as individual officers have been refusing for many months to answer regarding the alleged fraud in such documents, may be worth billions of dollars, or the difference between liquidity and bankruptcy, between viable deal with Bank of America, or a dead deal with Bank of America.

The case has been heard in LA Superior Court (West District, Santa Monica), since October 2005. As stated in recent court documents, defendant Zernik holds that by now this is a civil rights case (Free Speech, Due Process, and Property), and also a unique demonstration of the shift of balance between corporate and individual rights in the courts. The extent of civil rights violations in this case is routinely seen as unbelievable by attorneys reviewing the case. The California Court of Appeal, 2nd District, Division 5, this past week denied a writ petition challenging Judge Friedman's (judge #8) order striking my filing per CCP 170.3, based on Judge Friedman's refusal to explain his failure to disclose his ties to Countrywide's Samuels and recuse on that basis, and then his refusal to admit such ties when revealed or disqualify on that basis, and refusal to provide any answer regarding his missing assignment order for *Samaan v Zernik*. Appeal to the California Supreme Court is due in the next few days.

Highlights of Zernik's Civil Rights Abuses by the Judiciary and the LA Superior Court in *Samaan v Zernik* (SC087400)

Such abuses culminated in:

a) Judge Connor: November 2005

- Denying Zernik's demurrer on Statute of Frauds re: Samaan's claims filed with no contract, and failure to require Samaan to amend the claims

b) Judge Connor: April 22, 2007

- Discovery cut off earlier than expected relative to continued trial date under false pretenses

c) Judge Connor: July 23, 2007

- Gag Order issued against Zernik, to maintain a cover of plausible deniability for Countrywide, Mozilo, and Samuels

d) Judge Connor: July 24, 2007

- Entering a false and deliberately misleading notice on page 1 of *Samaan v Zernik's Case History in Sustain*, the Court's case management system:

"COUNTRYWIDE HOME LOANS - REAL PARTIES IN INTEREST"

e) Judge Connor: August 9, 2007

- Finding against Zernik in plaintiff's motion for summary judgment in complete disregard of the true facts in the matter, most notably:

- No claims of fraud could be ever accepted by Judge Connor, who dismissed such fraud claims, even when fully documented, without any valid legal argument to the contrary, as "*red herring*"

- Allowing a fraudulent contract document originating from Countrywide to be admitted as evidence in Samaan's Reply brief of her motion for summary judgment, and overruling objections to this document

f) Judge Connor: August 9, 2007

- Denial of Zernik's motion for leave to amend answers/claims, thereby protecting Countrywide and others from any claims filing against them

g) Judge Connor: August 21, 2007

- Holding an ex parte appearance for "*entry of judgment*", deliberately creating ambiguity regarding the entry of judgment,

- Generating an Aug 21, 2007 Transcript that was false and misleading record of that hearing.

h) Judge Connor: August 28, 2007

- Deliberately attempting to continue the ambiguity regarding entry of judgment

- Entering the judgment in Sustain on Aug 28, 2007, while deliberately and misleadingly back-dating it to Aug 9, 2007, to deprive Zernik of the right to file for reconsideration

h) Judge Connor: August 30, Sept 5, 2007

- Deliberately creating misleading records regarding the appointment of the referee

- Failure to notice the proposed referee of the purported Aug 30, 2007 Order Appointing a Referee for his appointment and of the Aug 9, 2007 Judgment by Court

i) Supervising Judge Rosenberg: August 31, 2007

- Repeated refusal to allow Zernik access to electronic court file records, in violation of California Rules of Court, and under false pretenses of an made up rule of court: "***Sustain data are privileged - for the Court only***"

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- Repeated refusal to notice Zernik of Orders for re-assignment of *Samaan v Zernik* to subsequent judges following Connor's disqualification.
- Overseeing the physical abuse of Zernik in his courtroom by sheriffs following Zernik's refusal to withdraw a legitimate written complaint filed with the court regarding denial of access to paper and electronic court file records.
- j) Judge Connor: Sep 5, 2007
 - Denying Zernik's application to stop the dishonest, wrongful and harmful denial of access to Minute Orders in the preceding two years of litigation
- k) Judge Connor: Sept 10, 2007
 - After disqualification that morning on claims by Zernik that mostly likely amount to willful misconduct, entered with no authority at all, an entirely fictitious, false and deliberately misleading Sept 10, 2007 Minute Order (for verification purposes - Compare to Sept 10, 2007 Transcript).
 - Used such fictitious minute order to disclose her disqualification.
 - Used such false, fictitious minute order to rule against Zernik on allegations of fraudulent documents by Countrywide!
- l) Judge Goodman: Sept 17, 2007
 - Refusal to resolve his missing assignment order for *Samaan v Zernik*
- m) Judge Goodman: Oct 1, 2007
 - Recalling a long-term close personal friendship with Countrywide's Samuels only 3 weeks after taking over the case with no due assignment order.
- o) Judge Segal: Oct 10, 11, 2007
 - Refusal to generate a valid assignment order, and presiding with no such order even after repeated applications by defendant
- p) Judge Segal: Oct 11, Nov 5, Nov 9, 2007
 - Refusing to cooperate with a referee for execution of the judgment,
 - Requiring plaintiff to submit a proposed order for the appointment of a receiver for execution of the judgment,
 - Signing an order for appointment of receiver lacking any reference to any section of the law, to the judgment, or to the purchase contract that is the subject of the judgment for specific performance,
 - Signing an order for appointment of receiver even after plaintiff's counsel explicitly stated in court that he did not recognize the Aug 9, 2007 Judgment by Court, and that the propose order for the appointment of a receiver was in effect aimed at executing something other than the Aug 9, 2007 Judgment by Court.
 - Signing an order appointing a receiver for execution of judgment which included provisions not allowed by law and never included in the judgment - such as indefinitely holding defendant funds from the proceed of the sale of his own home.
- q) Judge John Segal: Dec 4, 2007
 - Issuing a disqualification statement/order that within one document called Zernik's claimed that *Samaan v Zernik* was perverted by the judiciary to benefit Countrywide as "*conspiracy theory*", stated that Countrywide was merely "a witness", and included designation of Countrywide as both "Defendant" and "Intervenor" with no foundation at all.
- r) Judge Linda Hart-Cole: Dec 7, 2007
 - Collaborating with an unnamed attorney for an unnamed client in his incognito appearance in ex parte proceeding for a gag order against defendant in pro per Zernik, to prevent him from speech with Escrow and Title Companies that was necessary for conducting his defense.
 - A 30 min advance announcement in Beverly Hills (with no valid legal notice) of an ex parte appearance in Santa Monica on a gag order application against Zernik
- s) Judge Terry Friedman: Jan 11 & 14, 2007
 - Failure to disclose his ties to Countrywide's Samuels, and failure to recuse on that basis
 - Refusal to admit such ties to Countrywide's Samuels and refusal to disqualify on that basis even after disclosed by Samuels
 - Refusal to explain his missing assignment order
- t) Judge Terry Friedman: Jan 31, 2008
 - Denial of Zernik application for the release of Zernik's funds from the proceeds of the sale of his own home, and continuing the holding of such funds with no legal foundation at all
- u) Debbie Witts - Court Manager, and Office of the Clerk -
 - Continuing refusal to allow access to court file up to Aug 31, 2007
 - Deliberately slow and misleading access after that date: creating of a "**Volume IV Continued**" which was repeatedly hidden from Zernik
 - Continuing refusal to allow Zernik access to electronic court file records, in violation of California Rules of Court
 - Failure to maintain a standard Court File record in *Samaan v Zernik*, with continuous reshuffling of volumes, no logical, coherent start and end dates listed for volumes, addition of documents and re-shuffling of volumes previously closed

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- Refusal to certify key documents, or certify their absence from the court file.

CONCLUSION:

Study of this case may be found of interest to faculty or students. Detailed review of this case and others, may reflect a new reality, where gains - which appeared secured at the end of the robber barons era and the civil rights era - are no longer guaranteed.

Any comments or suggestions would be greatly appreciated.

Sincerely,



Joseph Zernik
Cell: 310 435 9107
(page and IM available, no voice mail)

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