Luther Burbank-DOJ Fair Lending Settlement; Guild's Switch on FHA Streamlines; Bernanke's Baby Picture

By: Rob Chrisman | Tue, Sep 25 2012, 9:50 AM

Here is a story that attracts some notice: "Toys R Us said it will hire 45,000 seasonal employees across the United States to cope with the upcoming holiday season." The economy will recover with jobs and housing, housing and jobs. And the labor market is very tight in mortgage banking - either enough folks have left the financial services sector in the last five years, potential employees don't want to move, or the low rate environment is keeping everyone so busy and so profitable that they just don't want to move. Regardless, some companies continue to search.

In Orange County, CA, FDIC insured Peoples Bank is seeking a Processing Manager to help facilitate growth of the online division. The position requires someone with recent processing or processing management experience dedicated to improvements in efficiencies and growth. Duties include pipeline management, training and review of processing activities, coordination with underwriting and hiring and training of additional processing staff. The ideal candidate should be very computer savvy, have excellent communication skills and be prepared to work in an FDIC banking environment. Resumes should be sent to Dan Mason at dmason@bankingunusual .com.

And up in Northern California I have been retained by a retail mortgage banker/broker that is seeking a Chief Compliance Officer to manage all compliance and Quality Assurance for all channels. The ideal candidate should be knowledgeable in all aspects of mortgage compliance, fit well into a management/corporate officer roll, and be up to speed with the current regulatory environment. Interested candidates should send their confidential resume to rchrisman@robchrisman .com.

Successful residential lenders are obviously focused on the future, but it is always useful to learn from the past. Zillow posted an update on foreclosures, and how they are distributed among different price tiers. In 2009 Zillow asked, "Do foreclosures occur only among the bottom tier, meaning among homes whose value puts them in the bottom third of the housing market in their respective metro? No, we found that, at the time, foreclosures were actually getting more prominent in the mid- to high-end segments of the market." In updating its information through mid-2012, its staff found that compared to 2006 the share of foreclosures occurring among the middle and top tiers has increased. "Currently the bottom tier accounts for 48% of foreclosures, the middle tier accounts for 30% and the top tier accounts for 22%. Zillow notes that "it might appear that high-end homes as a percentage of all foreclosures is quite high nationally, but the reality is simply that areas with lots of foreclosures happen to be areas where home prices are higher."

Here in Colorado, and across the U.S., **claim forms are being mailed to borrowers who lost their homes to foreclosure between Jan. 1, 2008, and last Dec. 31, and who may be eligible for payment under the $25 billion national mortgage-foreclosure settlement**. Eligible borrowers had mortgages serviced by Ally/GMAC, Bank of America, Citi, JPMorgan Chase and Wells Fargo - the nation's five largest mortgage servicers that agreed to the settlement with the federal government and attorneys general for 49 states and the District of Columbia. The settlement earmarked about $1.5 billion in payments for 2 million borrowers nationwide who lost their homes to foreclosure during that period and had their loan serviced by one of the settling servicers. The exact payment will depend on the number of borrowers who participate. Colorado has $51 million to divvy up, and the forms must be returned by Jan. 18.

Speaking of settlements, **the Department of Justice announced that it had settled its case against Northern California's Luther Burbank Savings**. The case challenged Luther's minimum loan amount policy, and, per the announcement, "demonstrates the DOJ's continued focus on fair lending. The settlement underscores the need for lenders to have their lending policies reviewed by counsel for compliance with fair lending laws and to be prepared to defend such policies against fair lending challenges." "The DOJ's complaint alleged that from 2006 through mid-2011, Luther enforced a $400,000 minimum loan amount policy for its wholesale single-family residential mortgage loan program. The DOJ charged that the policy violated the Equal Credit Opportunity Act and the Fair Housing Act because it had a disparate impact on the basis of race and national origin. Using Home Mortgage Disclosure Act data reported by Luther and other residential mortgage lenders, the complaint alleged that Luther originated significantly fewer single-family residential mortgage loans to African-American or Hispanic borrowers or in majority-minority tracts throughout California than comparable prime lenders. The settlement, which must be approved by the court, requires the bank to make available at least $1.1 million in a special financing program designed to increase Luther's residential mortgage loans to qualified California borrowers seeking loans of $400,000 or less. Luther must also spend at least (1) $450,000 on partnerships with community-based organizations that provide credit and financial services to minorities, (2) $300,000 on targeted advertising and marketing to minorities, and (3) $150,000 on credit counseling, financial literacy, and other consumer education programs. Luther is prohibited from establishing or implementing a $400,000 minimum loan amount policy and must notify the DOJ before increasing its current $20,000 minimum loan amount (which took effect in 2011 after the lawsuit was referred to the DOJ by the Office of Thrift Supervision). The settlement also requires Luther to provide fair lending training to its employees and to offer such training to brokers who refer loans to the bank."

Legal firm **Ballard Spahr** reminds us that, "As a possible harbinger of future DOJ actions, the DOJ last month announced the settlement of a 'pattern or practice' fair lending lawsuit against GFI Mortgage Bankers, Inc., that restyled a disparate impact case as a 'knew or should have known' disparate treatment case. The settlement required GFI to pay a total of $3.555 million, consisting of $3.5 million in monetary damages to aggrieved borrowers and a $55,000 civil penalty. Our prior legal alert about that settlement questioned the DOJ's attempt to use disparate impact evidence to establish that GFI had engaged in intentional discrimination." **Ballard Spahr will be conducting a webinar on "Fair Lending Lessons from the DOJ's Settlement with GFI"** on Wednesday, October 10, from 12-1 EST. To register, send an e-mail to questions@ballardspahr .com.

The vendor, investor, agency, and lender updates have been a deluge in September. As always, it is best to read the actual bulletin, and "good luck" if you're looking for less documentation, lower net worth, or easier processing.

Guild Mortgage's wholesale group told brokers, "Effective immediately we are suspending origination of FHA Streamlines in conjunction with 3-4 unit properties. Any loans currently in your pipeline that have NOT already funded must be processed as a FHA Streamline with an Appraisal. Must be full FHA Appraisal, form 1025 with a 216 form. LTV will be limited to 97.75%. Mortgage calculation is limited to UPB, plus 30 days interest less MIP Refund. Borrowers must also have three months PITI from their own funds. Property must meet FHA's self-sufficiency test: The maximum mortgage amount for three and four unit properties is limited so that the ratio of the monthly mortgage payment divided by the monthly net rental income does not exceed 100%, regardless of the occupancy status."

With regard to **SunTrust's** new Lender Paid Comp which is in effect now: each state has its own Comp level and only CA is 1.375, most states are averaging 1.8, and FL is highest at the 2.5 overall cap. It can be reset every 90 days and BP now must match LP level for that state. SunTrust also spread the word that for conventional loans, an FHA-approved condominium project may be eligible if the condominium project meets Agency condominium project approval requirements. Hence, an FHA- approved condominium project is only ineligible for conventional loans if the condominium project fails to meet Agency condominium project approval requirements.

KB Home, one of the largest home builders in the U.S., swung to a fiscal third-quarter profit. (Good thing, since its stock price has doubled this year.) From a lending perspective, in the summer of 2011 BofA ended the relationship between KB Home and the bank's **Countrywide** unit, and KB Home replaced Countrywide with MetLife as the preferred lender for its buyers. But we all know what happened to **MetLife**. In May, KB hooked up with Nationstar Mortgage Holdings (third time's a charm?), 80%-owned by private-equity fund Fortress Investment Group LLC. For the third quarter ended Aug. 31, KB Home posted a profit of $3.26 million compared to a loss of $9.6 million a year earlier. From Nationstar's perspective, new-home deliveries rose 7.3% from a year earlier, while the cancellation rate was unchanged at 29%. Orders climbed 3.4% to 1,900 homes, and backlog, an indication of future business, spiked 33%.

And another builder, Miami-based **Lennar** reported a profit of $87.1 million for the quarter ending 8/31, up from $20.7 million a year earlier. The quarter included a $12.8 million income-tax benefit related to the reversal of deferred tax assets. New-home deliveries increased 28% to 3,655 homes, while the cancellation rate was 17%. The average selling price climbed 4.5% to $258,000. Orders jumped 44% to 4,198 homes, and the company's backlog, an indication of future business, grew 79% to 4,513 homes.

Provident Funding got the word out to clients that its "lock policy has been updated to accommodate the increased G-Fees. G-Fee pricing adjustments: Conforming and Super Conforming 30, 25 and 20 Fixed: +0.625%, Conforming and Super Conforming 15 and 10 Fixed: +0.25%, and Conforming and Super Conforming ARM: +0.375%. Effective immediately, the G-Fee pricing adjustments shall be applied to: New locks in which the lock expiration date will be after November 9, 2012. Lock extensions on loans that were initially locked without the above G-Fee pricing adjustments and which the lock extension will extend the lock expiration date past November 9 the G-Fees will be included in the rate sheet base price at a future date, at which time the G-Fee pricing adjustments will no longer apply."

Provident Funding also has just released an **iPhone app** for its wholesale mortgage brokers. "The new app takes full advantage of the latest in smartphone technology to equip mortgage brokers the tools needed to do business out in the field. The PF MBA (Provident Funding Mortgage Broker App) lets brokers view PF's latest news items, manage pipeline, view rates, lock rates, price out loans, and create cases." There is a "landing page" with more information about the iPhone app which can be downloaded today for free in the iTunes app store.

How 'bout those rates? Yes, overnight rates will be near 0% for years to come, and the Fed will be buying twice as many agency MBS as lenders produce for many months. It will be hard for mortgage rates to go up much in that environment. But day-to-day fluctuations happen. Monday agency (versus non-agency, like jumbo) MBS prices improved by about .250, although not all of that made it onto rate sheets for borrowers. Even Treasury rates improved somewhat, with the 10-yr closing around 1.72%.

For today we will have the Case Shiller home price index for July (yes, a two month lag) that is expected +0.8. And at 10AM EST we'll have Consumer Confidence for September, expected to improve, and they July FHFA house price index at +0.7 (unchanged from last report). And for supply the 2-yr note auction ($35 billion) comes off at its customary 1PM time-slot, with nothing on tap thereafter. **Early on the 10-yr is down to 1.70% and MBS prices are about .125 better.**

My team of expert researchers has managed to uncover a rare baby photo of Ben Bernanke: http://i.imgur.com/XaiUx.gif.

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