

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Williams *et al.*

Civil: 09-CV- 1959 ADM JJG

Plaintiffs,

vs.

Geithner *et al.*

Defendants.

AFFIDAVIT OF NICOLA VIANA

1. My name is Nicola Viana. I work for the Washington County Housing and Redevelopment Authority (“Washington County HRA”) as a Homeownership Specialist.

2. I work specifically for Washington County HRA’s Foreclosure Prevention Counseling Program (“FPCP”). I hold a Certification in Foreclosure Intervention and Default Counseling through NeighborWorks America. I specialize in counseling homeowners who are delinquent or at risk of foreclosure. I help them write budgets, counsel their spending habits, and apply for loan modification programs such as HAMP.

3. As a part of my job with Washington County HRA, I counseled Mr. Johnson Sendolo. I have personal knowledge of the facts set forth in this affidavit, including information relating to the loan file of Mr. Johnson Sendolo.

4. Mr. Sendolo first contacted Washington County HRA on February 2, 2009. He contacted our organization because he was delinquent on his mortgage loan.

5. I first met with him on February 9, 2009. As part of our initial meeting, we discussed Mr. Sendolo’s goals and intentions, which were to keep his home and become current

on his mortgage. We discussed his income and expenses; he was over budget at first. I asked Mr. Sendolo to work on balancing his budget before applying for a work out option with Ocwen. I met with Mr. Sendolo on March 18, 2009, and he had cut his expenses so that his budget balanced. I called the Home Retention Department at Ocwen with Mr. Sendolo. I was told to email the following documents to mod@ocwen.com: Hardship Letter, two most recent pay stubs, tax return, and bank statements. I requested that Mr. Sendolo call Ocwen to ensure that the documents were received. Mr. Sendolo informed me that Ocwen did indeed receive the documents.

6. Once Mr. Sendolo sent in his initial application, he was asked to complete the Making Home Affordable modification application, which I helped him to fill out on March 30, 2009 and he mailed it back to Ocwen. I received a copy of the denial letter dated May 12, 2009 addressed to Mr. Sendolo.

7. After reviewing his budget, specifically his income and expenses, and knowing that Mr. Sendolo wished to remain in the home, we decided to re-apply for the HAMP loan modification.

8. As part of the application process, I helped Mr. Sendolo fill out the proper Ocwen HAMP loan application, and gather all the necessary documentation, including a Hardship Affidavit, tax returns, pay stubs, child support information, and homeowner's association dues information.

a. I helped Mr. Sendolo submit paperwork stating his current income, which was \$1,560 (monthly) in unemployment and \$608.40 (monthly) as a result of his part-time work. We also anticipated that his son would begin making rental payments of \$350 per month.

b. Mr. Sendolo's HAMP loan application also stated his unemployment income of approximately \$390 per week (\$1,560 per month). Mr. Sendolo and I knew that Ocwen did not recognize unemployment income as part of their HAMP calculations unless the borrower could show at least nine months of benefits from the time of application. However, we wanted Ocwen to have a complete financial picture, so we included this information.

c. After we submitted Mr. Sendolo's second HAMP application, his unemployment benefits increased. I informed Ocwen, via an e-mail to Mr. Ruiz on June 19, 2009, of this increase. I never received a returned e-mail indicating that the message was undeliverable.

9. We submitted the HAMP application to Ocwen on May 18, 2009. I received an e-mail from an Ocwen employee, Mr. Felipe Ruiz, on May 29, 2009 that stated, "[j]ust to update you the loan is under review and we should know something soon. I will be in touch with you next week."

10. I followed-up with two e-mails to Joanne Perez, another Ocwen representative, and to Mr. Ruiz (on June 18, 2009 and June 19, 2009 respectively), requesting that Mr. Sendolo's sheriff sale be postponed. I never received a returned e-mail indicating that the message was undeliverable.

11. I never heard back from Ocwen regarding Mr. Sendolo's HAMP loan application.

12. Typically, I follow-up with a phone call if I haven't heard back from a mortgage servicer, but I was at a HomeStretch training from June 22 – 26, 2009.

13. I later learned that Mr. Sendolo's home was sold at a sheriff's sale on June 29, 2009.

FURTHER YOUR AFFIANT SAITH NOT

Dated: 9-22-09

Nicola Viana
Nicola Viana

Subscribed and sworn to before me
This 22nd day of September 2009.

Joann Apman
Notary Public

