

Lehman Residential Mortgage-Backed Securities Settlement Likely to Spur Additional Claims

Article By:

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On March 8, the Bankruptcy Court for the Southern District of New York concluded a lengthy “claims estimation” trial to determine the appropriate final settlement price for a resolution of lawsuits filed on behalf of investors in residential mortgage-backed securities (RMBS) created by Lehman Brothers Holdings prior to its bankruptcy in September 2008. The judge determined that the final settlement value of this particular set of claims was \$2.38 billion – down from the \$37 billion initially demanded, and the \$11.4 billion sought by the plaintiffs in this claims estimation trial. A separate group of plaintiffs that had previously settled with Lehman Brothers Holdings had resolved their claims for approximately \$2.4 billion.

The resolution of the claims estimation trial is significant for businesses that sold residential mortgage loans to Lehman, for at least two reasons. First, lawsuits that Lehman filed against more than 100 loan originators and sellers in this same bankruptcy court had essentially been on hold for the last several months while the estimation trial was proceeding. We can reasonably expect that those existing cases, which relate to Lehman’s 2014 settlements of claims against it by Fannie Mae and Freddie Mac, will become more active once again with that trial now completed.

Second, the RMBS settlements will almost certainly soon trigger new alleged “indemnification” claims by Lehman against loan originators/sellers. We believe there are strong legal and factual defenses to such claims, and originators/sellers need to be aware of the range of defenses that may be available to them. With new claims on the horizon, it is clear that Lehman’s 2008 bankruptcy continues to generate litigation over what are now very old loan sale transactions.

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National Law Review, Volume VIII, Number 78

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