



PICO National Network | *Unlocking the Power of People®*

January 20, 2010

Treasury Secretary Timothy Geithner
United States Department of Treasury
1500 Pennsylvania Avenue, Washington, D.C. 20220

Dear Secretary Geithner,

Over the past year, PICO National Network has helped lead a national campaign to stop preventable foreclosures and stabilize neighborhoods devastated by the housing crisis. While we were hopeful when the HAMP program was put in place last spring, we have been disappointed by servicers' unwillingness to move more swiftly and aggressively to make sustainable loan modifications. Even more, we are outraged by servicers' ongoing violations of HAMP guidelines, and the fact that they are not being held accountable for these violations.

Across America, families who are eligible for loan modifications under HAMP continue to receive auction notices. Many of our own families, who qualify for HAMP and are in the process of applying for a loan modification with Bank of America and other banks, have had their homes put on the auction block, with no notification whatsoever from their servicers. It has only been through their work with PICO that they have been able to fight the bank and prevent their homes from being sold right out from underneath of them.

Over the last 6 months, we have had the opportunity to meet with Assistant Secretary of the Treasury Michael Barr, Assistant Secretary Herbert Allison, and staff from the National Economic Council to discuss ways to improve HAMP. We continue to advocate for concrete improvements to HAMP (including a new initiative to assist homeowners who have lost their jobs and are at-risk of losing their homes) that we have outlined in previous letters to you (dated July 28, 2009 and October 14, 2009).

With this letter we are now taking the step of making a formal request that the Treasury Department impose financial penalties on those banks and servicers that violate HAMP guidelines and continue to inflict such needless pain and suffering upon our families and communities. The Treasury must use the powers it has to penalize servicers that are systematically violating the terms of Servicer Participation Agreements.

Of the major servicers participating in the HAMP program Bank of America has by far the worst performance. Bank of America signed a \$800 million HAMP Servicer

Participation Agreement with the Federal Government on April 17, 2009, but has failed to live up to that agreement. Bank of America has consistently lagged far behind other lenders in offering permanent and trial modifications to homeowners. As of the December 2009 HAMP performance report Bank of America had offered permanent modifications to just 98 homeowners out of nearly one million who are potentially eligible for loan modifications under HAMP. On its face, the failure to extend permanent modifications to more than a tiny fraction of homeowners after nine months of participation in the HAMP program constitutes a violation of their agreement to participate in the program in good faith.

Specific violations by Bank of America include:

1. **Referring borrowers to foreclosure and proceeding with foreclosure on borrowers who have trial modifications and on borrowers who are in the process of applying for modifications.** The HAMP program guidelines require that “any foreclosure action will be temporarily suspended during the trial period, or while borrowers are considered for alternative foreclosure prevention options.” Bank of America has consistently undertaken foreclosure proceedings against borrowers in the process of trying to save their homes.
2. **Denying eligible borrowers access to the HAMP program.** Under its agreement with the Treasury Bank of America must consider all eligible loans for the HAMP program. Nonetheless, there is extensive documentation that Bank of America has consistently solicited borrowers to participate in its own private loan modification program, diverting them from consideration under the HAMP program. Indeed, Bank of America CEO Brian Moynihan claimed on January 13, 2010 that the Bank had modified 440,000 mortgages in 2009, even though Treasury data shows just 98 permanent loan modifications under the HAMP program during the past year. For documentation of letters sent to borrowers that steer them away from the HAMP program see:
<http://wonkroom.thinkprogress.org/2009/11/18/andrew-bofa/>.
3. **Consistently losing paperwork and requiring homeowners to submit the same documentation multiple times.** As the Treasury is well aware, the stories of lost paperwork by Bank of America are legion. Under its participation agreement Bank of America must certify that it has “performed the Services required under the Program Documentation and the Agreement in accordance with the practices, **high professional standards of care, and degree of attention used in a well-managed operation**, and no less than that which the Servicer exercises for itself under similar circumstances.”
4. **Failing to convert trial modifications into permanent modifications. Under the design of HAMP trial modifications should last three months.** Most borrowers have seen their trial modifications go on for months and

months longer, damaging their credit and financial condition. Bank of America has failed to act in good faith in converting trial modifications into permanent ones, and has failed to meet the performance criteria set out by the Treasury.

5. **Wrongly denying modifications to eligible homeowners.** Bank of America has repeatedly denied modifications to homeowners who should be eligible.

We understand that the Treasury has received extensive reports on violations of HAMP by Bank of America and other servicers and we would be happy to provide additional specific examples for each of these well-documented violations. The Federal Government has significant powers to enforce performance standards in the HAMP program. It needs to move immediately to use those powers.

Specifically, we request: (a) that the Treasury immediately impose a \$80 million financial penalty (representing 10 percent of the value of the agreement), as provided in the Servicer Participation Agreement, on Bank of America; (b) that an additional \$80 million penalty be applied to Bank of America each month that it fails to bring itself into compliance with the HAMP guidelines; and (c) that the Treasury set specific performance guidelines that require Bank of America to extend permanent loan modifications to all eligible homeowners within the next three months or be determined to be in default of the Servicer Participation Agreement.

We look forward to continuing to address this, and other important issues, with the Treasury Department during our series of ten community meetings with Treasury officials in cities across the United States.

Sincerely,

A handwritten signature in cursive script that reads "Lucy Kolin". The signature is written in black ink and is positioned to the left of a vertical line.

Rev. Lucy Kolin
PICO National Network Steering Committee
Co-Chair, Oakland Community Organizations