

## GMAC Insurance Scheme Bilked Homeowners, Suit Claims

By **Max Stendahl**

Law360, New York (May 2, 2012, 12:38 PM EDT) -- GMAC Mortgage LLC was hit Monday with a putative class suit in New York alleging it received kickbacks from a hazard insurer that forced homeowners to obtain expensive policies, joining the ranks of top lenders to face such claims.

Plaintiff Landon Rothstein says GMAC bought force-placed insurance coverage for his Texas home from Balboa Insurance Co., which in turn paid kickbacks to GMAC. The kickbacks inflated GMAC's premiums, the cost of which was passed on to Rothstein in the form of higher reimbursement charges, the suit claims.

Balboa's kickbacks were falsely labeled as commissions and funneled through a bogus GMAC subsidiary called GMAC Agency Marketing, according to the complaint.

"These profits have been made off the backs of mortgage borrowers and the owners of the loans being serviced," the suit said.

The profits GMAC reaped from the scheme also came from pension funds that invested in its mortgage portfolios, the suit contends. Some loans in those portfolios are owned by Fannie Mae, meaning GMAC also bilked taxpayers, according to the complaint.

Rothstein seeks to represent a class of all residential mortgage borrowers who paid GMAC for costs related to force-placed insurance policies since March 6, 2003. The suit alleges breach of contract and violations of the Racketeer Influenced and Corrupt Organizations Act, among other claims.

GMAC is the fifth-largest residential mortgage servicer in the U.S., according to the complaint. It has outsourced its force-placed insurance business to Balboa since 2003, the suit says.

Representatives for GMAC and Balboa did not immediately respond Wednesday to requests for comment.

Force-placed insurance has come under fire recently from consumer advocates and some lawmakers who claim the policies are unreasonably expensive and generate kickbacks for banks in the form of commissions that run as high as 40 percent of the premiums charged.

With Monday's suit, GMAC joins a growing list of top mortgage servicers to face claims over force-placed insurance. The other targets include Bank of America NA, Wells Fargo Bank NA, HSBC Mortgage Corp. and Ocwen Financial Corp.

In March, a California federal judge refused to throw out unfair competition and contract claims against two JPMorgan Chase & Co. subsidiaries over purported commissions they received from American Security Insurance Co.

New York's Department of Financial Services has been investigating force-placed hazard practices. In April, it said that insurers owned by three multibillion-dollar conglomerates — Assurant Inc., QBE Insurance Group Ltd. and Zurich Insurance Group Ltd. — were likely charging homeowners too-steep rates for required policies and sending the profits back to the banks that issued the loans.

The Consumer Financial Protection Bureau has also taken up the issue. The agency said in April it was considering rules requiring mortgage servicers to warn homeowners before purchasing force-placed mortgage insurance on their behalf.

Rothstein is represented by Mark A. Strauss and Edward M. Varga of Kirby McInerney LLP.

Counsel information for the defendants was not immediately available.

The case is Landon Rothstein v. GMAC Mortgage LLC et al., case number 12-cv-3412, in the U.S. District Court for the Southern District of New York.

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