

Testimony of Larry Britt
Hearing before the Senate Judiciary Committee
February 1, 2011

Thank you Senator Whitehouse and committee members for taking part in this important hearing.

My name is Larry Britt and I have owned my home in Riverside, Rhode Island since 2003. I bought the home as a permanent residence in which to spend my final working and future retirement years. My home purchase wasn't an attempt to get in on the crazy real estate boom of the times. I work in metro Providence as an adult educator teaching workplace readiness, English proficiency, and US Citizenship Preparation skills.

One month from now, I'll be entering my third year of the mortgage modification process.

When I started the process in March of 2009, I had never been late paying any bills to any creditors and my credit score was near perfect. Since entering into a modification process with BofA, the bank has ruined my credit rating and has been the major contributor of uncertainty about my future. As of November 2010, my credit score had dropped 160 points as a consequence of improper credit payment reporting by BofA. During the process I subscribed to a credit score monitoring service and I received weekly e-mail notifications of continuing negative impacts to my credit score. Also during that time, two creditors closed my accounts and three radically lowered my available credit limits. Equally, I'm concerned about rescinded and denied credit that my elderly mother and other family members have suffered as a consequence of their financial relationships with me.

BofA told me that I was told my credit score would be adversely impacted but could not provide documentation that proves I was told of this consequence when I started the modification process. I received documentation from the bank that contradicts my assertion *after* I contacted Senator Whitehouse as well as the Office of the Comptroller of Currency.

Because of legitimate financial hardships that I have documented, I entered into BofA's Mortgage Modification program hoping I could avoid prospective financial problems. In the past 24 months I have immediately replied to all BofA inquiries and requests for documentation. If we have the time, I could read through a chronology of my interactions with Bank of America from March 2009 to May 2010. In short, the chronology lays out a repeated cycle of applications, providing documentation, approvals, denials, mixed messages, and multiple departments and customer service representatives that left me unsure about my modification status.

- In March 2009 – As advised by news reports, I went to Rhode Island Housing and submitted an application for mortgage modification. This allowed RI Housing to act as my agent for mortgage modification with BofA. At this time I was not behind on my mortgage or other debt obligations. I entered the program knowing that it would be difficult for me to continue making payments at this level. I thought I was doing the responsible thing to avoid problems down the road.
- Next in March 2009 – As required, I met with Money Management International, an approved credit-counseling agency. This organization determined that I was managing all of my finances correctly and that my only issue was my large monthly mortgage payment and under water mortgage.
- In late March 2009 – I provided copies of all required documents to RI Housing for forwarding to BofA.
- From March 2009 to October 2009 - I called RI Housing biweekly to check the status of my modification. Each time I called, I was told that there was a backlog and I should wait to hear something.

- On October 5, 2009 – I was informed by RI Housing that BofA did not accept me into the loan modification program because I was not late or behind on my mortgage payments. RI Housing informed me to visit a BofA branch so that I could apply for a refinance of my mortgage.
- On October 8, 2009 – I went to a BofA branch and as advised, formally applied to refinance my loan. The refinance was denied that day. As I found out, the refinance step was a formality I needed to go through before I could apply for a mortgage modification with BofA a second time.
- On October 20, 2009 – I received notice that I had been accepted into BofA's Trial Modification program and I was given a new monthly payment amount for a 3 month trial period.
- On October 24, 2009 – I mailed all requested documentation to BofA.
- From November 2009 to May 2010 – I paid BofA my new monthly payment on or before the due date.
- From October 24, 2009 to February 22, 2010 – I checked the status of my modification on a weekly basis to be sure the company had received my documentation. I was repeatedly assured that BofA had received all information that had been requested of me.
- February 23, 2010 – I received a letter from BofA requesting that I mail them all of the same documentation that I had already provided twice before.
- February 23, 2010 – I sent via FedEx and FAXED every requested piece of documentation that BofA wanted.
- From February 24, 2010 to May 7, 2010 – I called BofA weekly to check the status of my modification and to be sure that the bank had all of my required documentation. Each time I was assured that all requested documents had been received by BofA and that the modification was "being reviewed".
- On April 14, 2010 – I received a "Notification of Default and Mortgagees Right of Foreclosure" from BofA.
- On April 15, 2010 – I called BofA and the Customer Service Representative told me to ignore the letter, continue my modified payments and that I will continue to receive notices like this during the Modification Review process.
- On May 7, 2010 – I received a letter from BofA stating that I had been denied a mortgage modification because all requested documentation had not been received by the bank.
- On May 8, 2010 – I called BofA and was told to disregard the letter dated May 7. The Customer Service Representative stated that according to BofA records "all documentation was complete and received as of March 29, 2010".

At that time, I became truly frightened at the prospect of losing my home. I had mailings from BofA stating that I was about to go into foreclosure and that I was not eligible for mortgage modification. Two BofA Customer Service Representatives had told me to ignore the letters, yet I had nothing in writing from them that assured my case was still under review.

That's when I contacted the Senator Whitehouse's office and gratefully got an immediate response from Karen Bradbury, a case worker in the Senator's Providence office.

Karen's efforts resulted in a connection for me with the Department of Treasury's HAMP Solution Center. At first, my HAMP case worker sounded like the answer to my ongoing problem. The HAMP representative told me that he would be an advocate for me with BofA. At that time, the HAMP representative told me that he had learned from BofA that I was "under review for the Making Home Affordable Second Look" program. Throughout July and August 2010, I contacted the HAMP Solution Center 7 times. Each time, the HAMP Solutions representative told me that his updates directly from BofA said that my modification was still under review and that I had complied with all requests for documentation as well as honored my agreement to make on-time modified monthly payments.

Honestly, after a few months with HAMP, I felt like they were reading from the same script as the banks. When I checked in with them, there was never any update and there were never any outstanding bank requests for documentation from me. Yet, once a month or so over this same period, I received additional requests from the bank for repeat documentation.

I continued to make on-time mortgage modification payments, and the bank continued to report me as delinquent on payments. Consequently, my credit score and available credit continued to go down.

Last September, I started to work on filing forms with all 3 credit reporting agencies in an attempt to get my BofA modified payments re-classified as modified payments rather than delinquencies. The credit reporting forms strongly encouraged trying to get the creditor in question to correct the problem. So on 10/04/2010, I called BofA's Making Home Affordable Modification Program and the following occurred:

- I asked the BofA representative to review my account and confirm that I had made all of the modified payments that I agreed to.

- The customer service representative told me that my mortgage was in default as of May 7, 2010 and that I had been sent a letter saying I was not eligible for the Making Home Affordable Modification program because I did not provide BofA with requested documents. The representative also said that I had been sent a letter requesting the documentation. I never received this letter. I explained the following to the representative:

- When I received the notice announcing my ineligibility for the program on May 10, 2010, I called the customer service number on the denial letter immediately. The BofA representative, who would only give her first name, looked up my account and told me that I was still in "modification status" and that I "should disregard the letter of denial and continue making my previously agreed upon modified payments": This representative also told me that "all requested documents had been received by BofA as March 29, 2010".

- I recounted to the customer representative at BofA's Making Home Affordable Modification that indeed I had received the letter of ineligibility from BofA but was instructed by phone by another BofA customer representative on May, 10, 2010 to disregard the letter and continue with my modified payments.

- The Making Home Affordable representative told me he could be of no further help because I was in default.

- I asked to speak to the representative's supervisor. I was so upset, I didn't get her name, but I explained the entire situation again. She told me that she had my phone records and she saw no call from me on the day I was

told to continue with my modified payments. My personal phone records would prove her wrong. Next, the supervisor told me that she didn't have time to waste on me and hung up on me.

- Again, panicked about the prospect of losing my home, I reconnected with Rhode Island Housing.
- On October 18, 2010, RI Housing determined from BofA that I was not eligible for any modifications. On the same day, I received mail notification from BofA stating, as I understood it, that late fees, penalties, and interest were accumulating on my mortgage balance and that regardless of my outcome with the modification program, I would be liable for these charges.
- On the following day, October 19, I received a Modification approval from BofA via FedEx.
- So, after working with BofA from March 2009 to October 2010 as well as the HAMP solutions center from June 2010 to October 2010, BofA told me within a 2-day period that I was both ineligible AND approved for a mortgage modification.

Since my first modification agreement with the bank in October 2009, I have been paying my modified monthly payment on time. However, since the bank considered my payments to be incomplete, this most recent modification agreement states that my modified principal balance has been increased by over \$11,000. As the bank specified in a prior mailing, the modification agreement states this amount includes "unpaid and deferred interest, fees, escrow advances and other costs". The agreement also states that "interest will now accrue on the unpaid interest that is added to the outstanding principal balance, which would not happen without this agreement". Had the bank honored its terms of the October 2009 modification agreement with me and permanently modified my loan after I had made the agreed upon trial modification payments, my principal loan balance would include 3 months of deferred interest and fees rather than the 16 month total of \$11,000.

As with past modification agreements, I've once again provided all of the same paperwork and once again made 3 on-time Trial Modification payments. Unlike past modifications agreements with BofA, I now have a Customer Advocate from the bank's Office of the CEO and President. She has a first and last name, and I can talk to her when needed. Sadly, I believe it took the advocacy of my Senator to receive the level of customer service that all consumers deserve.

I guess I should be happy and I am truly grateful to the Senator's office and RI housing for what I hope is a final resolution. However, given the past 24 months of misinformation, can I be sure that BofA's "approval" is for real? Does another BofA division have me slated for foreclosure? I just can't be sure and the 24 month process has forced me into deeper financial trouble and emotional distress.

I know this story may be hard to follow. It's taken me untold hours to keep track of and compile the scores of interactions I've had with the bank and HAMP Solutions Center.

If needed, I can document all of my activities, phone calls, documents sent, and the names of customer service representatives.

Thank you again for your time and consideration. I would be happy to answer any questions or elaborate on any points that I've made.