



Mortgage Satisfactions: The (Possibly) High Cost of Non-Compliance

As Bankers Trust found out the hard way, mere negligence in a very simple task could result in a significant expense...

Financial institutions, like other businesses, face tough budget decisions. The cost/benefit decision to allocate revenue toward operations is often difficult to quantify. The result may be to run a very lean operations department. However, because of this, the institution may be unable to satisfy operational requirements.

Pennsylvania has specific mortgage satisfaction statutes that require a mortgage to be satisfied within 45 days after it has been paid and the mortgagor has requested a satisfaction. According to 21 Pa.C.S.A. §681 and §682, the failure to meet the satisfaction time frame subjects the mortgage to a penalty not to exceed the mortgage amount.

A Luzerne County Court of Common Pleas awarded damages in the amount of \$13,000,000 for failure to satisfy mortgages within the 45-day limit. In *Kornfield v. Atlantic Financial Federal*, Bankers Trust purchased loans that, in the aggregate, totaled \$8,400,000. The borrower requested the mortgages be satisfied; however, the bank did not satisfy the mortgages within the 45-day time frame. Bankers Trust argued that the borrower's oral requests for satisfaction were vague and

insufficient to justify the award, as the failure to satisfy was not due to any wanton or malicious refusal to satisfy the mortgages.

The Court found that the mere neglect to satisfy within the time frame is sufficient to create liability. Bankers Trust requested a remittitur of the verdict.

The Court denied the request, and Bankers Trust appealed to the Superior Court.

In August 2004, the Superior Court ruled that the correct measure for damages was the original amount of the loan (\$8,400,000) because the lower court incorrectly included unrelated mortgages in the calculation of damages. It remanded the case to the Court of Common Pleas only for the recalculation of damages.

The *Kornfield* case serves as a warning to financial institutions to pay attention to operations and to properly evaluate the risks associated with ministerial tasks.

Maiello Brungo & Maiello's Banking and Financial Services group can assist you in evaluating your operations to determine any potential risk areas. Contact Michael O'Rorke at 412-242-4400 or at mao@mbm-law.net.

Maiello Brungo & Maiello, LLP does not offer legal advice on or through mbm-law.net. The materials available on or accessible through mbm-law.net are offered for information purposes only. Do not act or rely upon any of the information available on or accessible through mbm-law.net without first seeking professional legal advice. All laws, including the cases, rules, regulations and statutes that may be referenced on mbm-law.net are subject to revision and interpretation. Unless otherwise noted, Maiello Brungo & Maiello, LLP makes no representation, warranty or claim that the information available on or accessible through mbm-law.net is current or accurate. You should contact an attorney for guidance before making any decisions or taking any action with respect to the information available on or accessible through mbm-law.net. Articles may not be reproduced without express written permission by the author and Maiello Brungo & Maiello. ©Maiello Brungo & Maiello, LLP, 2005.