

August 27, 2007

Office of Thrift Supervision, Treasury (OTS)

Docket ID: OTS-2007-0015

RIN 1550-AC17

Unfair or Deceptive Practices

Dear Sir or Madam:

The purpose of this letter is to communicate deceptive practices I encountered during my mortgage loan selection and application process. On several occasions, I e-mailed the Country Wide Mortgage Consultant, Beverly Effinger, about errors that I thought existed in the good faith estimates (GFE) that she prepared for me. She did not address my questions and assured me that after decades of working in the business, I did not have to worry because her closing cost estimates were always within \$100.

I continued corresponding with Ms. Effinger, and asking her specific questions about the GFE she prepared (e.g., why is the latest GFE \$1,000 more?) Ms. Effinger continued to ignore my questions. I have included copies of the e-mails that illustrate the unclear communication I received.

*Example 1: I asked Beverly about a PMI charge in one of the GFE. Her reply does not address my question.*

Beverly,

Would you take a look at the sample? I see a charge of \$138. 53 for PMI. Shouldn't this be zero since there is a second mortgage in this sample? The loan to value says 95%, is this a typo, shouldn't this say 80%?

Thanks, Zina

Zina,

See the attached 4 loan scenarios based on our conversation earlier. Two of the samples are based on 5% downpayment resulting in 95% mortgage loan with PMI (private mortgage insurance). The other two are based on a 5% downpayment, without PMI. This is accomplished by choosing the scenario using an 80% first mortgage (no PMI needed with 80%) and a second mortgage of 15% (proceeds used to pay down the first mortgage to 80%). This eliminates the necessity of PMI, results in a lower housing expense, while providing you with 2 tax write-offs versus. As discussed, you may buydown your interest rate by paying additional closing costs in the form of origination fee or discount points. The rates presented on the samples are subject to change on a daily basis but do represent current pricing. Call if any question. You need to know that Countrywide will always match competitors rates, however, we are typically the lender others try to match. Let me know if you have any question, as there is no "silly" question when making one of the largest investments of a lifetime. Congratulations, I'm very excited for you!

Beverly Effinger

*Example 2: Beverly acknowledges an error. However, she still does not address the question that I asked her originally, and is evident by the third example that follows. Note, the figures that Beverly provide do not include 2<sup>nd</sup> mortgage fees.*

Beverly,

No problem. Would you send me the revised 30 15 5 fixed good faith estimate?

Please remind me whether this product has a prepayment penalty?

This product has no PMI, correct?

Thank you, Zina

*Example 3: As illustrated by the following e-mail. Beverly has still not addressed by questions.*

Beverly,

Thank you for your clarification and invitation to meet with you personally. Once again, it would help me to have you resend the corrected 80-15-5 good faith estimate. The reason I asked about the PMI in my e-mail is because on the 80-15-5 file that I received from you, it has a charge on the PMI line for \$138.53.

Are there pre-payment penalties with the 2nd mortgage?

Thank you, Zina

*Example 4: Beverly provides a response, but it does not address the content of my e-mail. Beverly suggests that the contract I have with the seller is "open-ended and based on interpretation."*

Beverly, per our discussion, we agreed that you would adjust your lender fees so that I could take advantage of the tax benefits. You also stated that the estimated closing costs would remain relatively the same with this adjustment. Overall, the closing costs have increased \$1,057.

By reviewing the lender fee adjustment that you had made on your latest GFE, you gave a credit of \$1,293.50 (Cell O39). However, the total of the 1.0% origination fee and the .5 discount points is \$2,658 (cells E16 + E17). That's a difference of \$1,364.50. This is NOT equivalent to the previous GFE.

By working backwards, an equitable amount is a total of 0.7 points (origination and discount) to match the credit of \$1,293.50.

I would be ok with the costs described above, but not completely satisfied. Complete satisfaction would mean the 0.7 is included as discount points and that that be used to lower the interest rate on the first loan. At that point, I would feel you are matching that competitor.

Zina

Zina,

In order to process your loan in our system, I have to break down est. closing costs that lenders disclose in order to enable us to "converse" with the software. As I said before, the closing atty. quoted added charges from his side with some to be paid by the seller and some not to be paid by the seller in your behalf. The contract is a bit open-ended in determining all costs the sellers are in agreement to pay. This is based on interpretation. That is what prompted me to contact the attorney from the beginning "after" I recd. a copy of the sales contract. It may be a good idea to discuss this with the closing attorney before you go to closing, in order to be completely prepared. You will not pay more in closing costs than originally disclosed on your Good Faith Estimate with the exception of added costs quoted by the atty that are not disclosed by lenders. As a recap, my initial estimate with all customary charges/fees remains at \$2,619.33. You informed me that \$1,500 was being paid by the sellers in your behalf, leaving you \$1,119.33 + \$1,026.88 pre-pays = \$2,146.21 out of pocket

expense ( not including downpymt or credit for earnest \$ and \$385 lender. You asked me to convert to points/origination fees but to leave some extra room for the unknown fees charged by HOA, or attorney. I locked you in with total of 1.5 pts(\$2,658). This is in lieu of the customary charges, or perhaps may be determined as renaming these valid charges for your tax benefit. If no other charges are incurred, then the remaining "cushion amount (\$512.00)" will be applied to other costs as a lender credit at closing.

After receiving a copy of the contract and noticing some open-ended language, I was prompted to call the closing attorney that you designated to get his interpretation of seller's responsibility, as well as, to get a much closer picture of any added, increased, decreased charges, etc. Once done I asked the atty to send me a "sample" HUD-1 closing statement with the charges he quoted, denoting the charges he interprets as "customary buyers costs" to be paid by the seller. I will be more than happy to fax you a copy of this closing statement provided me. Again, let me reiterate that what was initially disclosed by me to you still remains the same. Call if you have any question or continued concern. If you wish to discuss any line items with the attorney, please advise if further charges are to be paid by the seller. Thank you. I will be happy to provide a copy of the settlement summary. You may reach me at 403-8447.

Beverly Effinger

*Example 5: I ask Beverly another question and follow-up with a phone call. She does not answer my question, but instead calculates multiple scenarios if I were to pay additional discount points.*

Beverly,

Thank you for meeting with us today. We were going to ask you one more question, but we ran out of time. Currently, the discount points shown are 0.5 based on the latest GFE. Can this discount point be used to buy down the interest rate from 6.75%?

If yes, can the 1.0% origination fee be moved to discount points (i.e. 0% origination fee, 1.5 discount points) to buy the interest down further?

I realize that the time is short, so I hope to hear from you soon. Will you send me the corrected gfe?  
Thank you, Zina

After two weeks of trying to get straight answers to my questions, I arranged an appointment to meet with Ms. Effinger (August 1, 2007). During the first 30 minutes of the meeting, Beverly provided explanations that the attorney fees accounted for the increased in closing costs which was not an answer to my question. I explained to Ms. Effinger that the attorney only totaled \$292.00, which was \$708 less than Ms. Effinger's GFE. Fortunately, my brother, who was participating in the meeting via telephone caught another mistake. Ms. Effinger was crediting me only .5% instead of the 1.5% of the Lender's Cost. The difference being credited 1.5% versus .5% was over \$800.

After alerting her to this error, additional errors were made by Ms. Effinger. The day prior to my closing, the title company informed me that my closing cost was \$4,000 over the closing cost Ms. Effinger had estimated and given to me. The title company staff member said that she would call Countrywide immediately. Next, Ms. Effinger returned my call and stated that my closing cost would be approximately \$4,000 less than what I was quoted over the phone by the title company. Ms. Effinger gave me another estimate, which was still incorrect. The title company's amount was \$700 over that amount

Beverly quoted me. The title company staff member explained that this was because Beverly had not included the costs of the second loan in the closing. Beverly had instructed the second loan amounts to be charged to the seller. A title company staff member called the seller and asked him if he was willing to pay for this. He said he was not. I was quite distressed after learning about this phone call to the seller. It finally became clear to me why Beverly wrote in her e-mail and stated to me over the phone and in person why my contract was "open-ended and based on interpretation." The seller and I wrote in the contract that he was paying \$1,500 toward my closing costs, not \$1,500 per loan. I was quite embarrassed and angry that he was asked whether he wanted to pay additional closing costs. This is a huge oversight when trying to compare competitors' loans.

Did Beverly fail to include these costs due to sloppiness, or were these costs purposefully not included so that Countrywide could appear to have the *best deal* above those of its competitors? This experience added additional stress to an already stressful life event.

Because of the slow down in the housing market, I hope that other Countrywide new and current customers do not have the same experience that I had. I have included copies of e-mail correspondence below. I have included my comments about these e-mails in red. I can be reached at the address and number above to discuss further.

Sincerely,  
Zina Yzquierdo