

**SHIELDS, from page 1**

would grant immunity for fraudulent dealings.

**J.Z.:** *The national mortgage settlement will net Oregon an estimated \$230 million, the bulk to be distributed from homeowners who were victims. But \$30 million goes to the state of Oregon. How would you like to see that applied?*

**C.S.:** That's a good question. I think it should go to the homeowners themselves to buying down principle, so people can afford their mortgages.

**J.Z.:** *What is your reaction to the House Republican's refusal to bring up several foreclosure bills for discussion?*

**C.S.:** At the end of the day, there are two currencies in politics, one is money and the other is people power a lot of times money wins, but not all the time. So it's going to depend on people calling on their state representatives, particularly those who live in East Multnomah County and areas outside of Portland, to call on their representatives to say this is important. We've got to stand up to the banks. The Oregon attorney general should have the right to sue banks when they engage in fraud in these matters. At the end of the day, the Republicans will weigh who is more important to them — the banks or their constituents. It will be up to the constituents to make their concerns known to their legislature. At the end of the day, people power does win out; it just takes a

hell of a lot of work.

**J.Z.:** *What's the survival rate for these bills?*

**C.S.:** I'd say 50/50.

**J.Z.:** *You'd have to get the support of the house to sign off on it at some point. What do you say to Republicans who suggest that these efforts amount to overregulation of the industry and won't help Oregonians avoid foreclosure?*

**C.S.:** Going back to the fact that the modification bill has come out unannounced, I don't know if it's true the Republicans think it's too much regulation. The Senate Republicans on my committee agree with me that having a modification mediation program just makes good common sense. The question is whether the House Republican leadership will listen to the people or listen to the banks.

**J.Z.:** *Have the banks and lenders been aggressive on this in Salem?*

**C.S.:** Yeah, there is a group that's called the United Financial Lobby. They've been very aggressive in trying to kill any type of mortgage relief for everyday people.

**J.Z.:** *How much further are state lawmakers willing to go to manage this market in the future, to keep this crisis from happening again?*

**C.S.:** We definitely need to do more. Part of the challenge is that we are preempted from doing a lot on federally chartered banks, and so in many respects, this is a U.S. Congress issue. But I think that to the degree that we can continue to stand up for consumers, I'm sure that my committee can push the ball forward.

**"At the end of the day, people power does win out; it just takes a hell of a lot of work."**

## Oregon to sue banks over benefits

STAFF REPORTS

On the heels of the national mortgage settlement against banks for defrauding homeowners, Oregon Treasurer Ted Wheeler and Attorney General John Kroger announced that they were heading up a class action lawsuit to recover at least \$15.7 million from Bank of New York Mellon Corp.

The money will recoup what was lost to the Oregon Common School Fund and Oregon Public Employees Retirement Fund.

In the announcement from the Attorney General's office, the state also seeks to help other similarly situated investors recover losses fraud engineered by the New York-based financial institution.

A motion filed Monday in U.S. District Court in New York seeks to make Oregon a co-lead plaintiff in an

existing securities fraud class action case. The losses were triggered by a foreign currency exchange manipulation scheme, which came to light after whistleblowers alleged that Bank of New York Mellon was rigging prices to obtain higher profits.

The lawsuit alleges that instead of buying and selling foreign currency at the "best execution standards," as promised, BNY Mellon would charge clients the least favorable rates and pocket the difference in profits.

Oregon did not have any foreign currency transactions through BNY Mellon. However, the Common School Fund and Oregon Public Employee Retirement Fund (OPERF) were damaged because the fraudulent practices and subsequent outrage caused the value of Oregon's holdings of BNY Mellon stock to plummet.

The Oregon State Treasury and Oregon Investment Council bought and sold shares in BNY Mellon between April 2008 and June 2011 on behalf of OPERF and the Oregon Common School Fund. In that span, the value of those shares fell from \$42.06 to \$24.86, a decline of 41 percent.

OPERF lost more than \$14.5 million and the Oregon CSF lost approximately \$1.2 million.

According to Kroger's office, during that period of time, BNY Mellon misled investors by failing to describe what was actually happening inside the company: Specifically, that as much as 69 percent of the profit from foreign exchange trading was derived from an illicit price manipulation scheme, according to the complaint.

## What the national mortgage settlement does beyond the \$25 billion

The landmark national mortgage settlement was reached between 49 states, the federal government and five major lenders: Ally/GMAC, Bank of America, Citi, JPMorgan Chase and Wells Fargo. The settlement will provide as much as \$25 billion in relief to distressed borrowers, and for signing states and the federal government.

It also establishes the following new standards for operations regarding loan modifications and foreclosures. The devil is in the details, which have yet to be released, but here are the highlights:

- Puts an end to robo-signing, the signing of affidavits filed with the court without personal knowledge. Affidavits/sworn statements utilized in foreclosure proceedings **must be accurate** as to the amounts owed and the standing of the bank/servicer to file for foreclosure and must be based on the signor's personal knowledge of the facts. The affiant must **actually review** the bank/servicer records before signing. And banks/servicers shall not pay incentives to employees or third parties to encourage speed in the signing of affidavits.

- Requires pre-foreclosure referral notice to borrower of their loan status **14 days before** a delinquent loan is referred to a foreclosure attorney. The notice shall contain facts supporting the bank's/ servicer's right to foreclose along with other information about the loan history, terms and the amount required to bring the loan current.

- Establishes new protections to **ensure accuracy of borrower's account information**, including posting payments within two days and accepting partial payments when they're within \$50 of the scheduled payment.

- Requires **quarterly reviews** of foreclosure documents to ensure compliance with the agreement and third-party oversight of actors and agents involved in the foreclosure process.

- **Restricts dual-track actions** under which foreclosures could move forward even during the mediation process. Once a loan has been referred to foreclosure, the agreement allows for suspending the foreclosure process if the borrowing receives a loan modification and files in a timely basis.

- The bank/servicer shall establish an easily accessible **single point of contact** assigned to each homeowner who reaches out to the bank/servicer due to difficulty making their loan payments.

- Banks/Servicers shall **develop loan portals** where borrowers can check, at no cost, the status of their loan modifications, to be updated every 10 business days.

- Requires the loan modification denial notice to contain the reasons for denial and inform homeowner that he/she has 30 days to rebut the denial.

- All default, foreclosure fees and bankruptcy related service, including third-party **fees shall be bonafide, reasonable in amount, and disclosed to the borrower in detail**. Likewise, attorneys' fees charged in the foreclosure shall only be **for work actually performed** and shall not exceed reasonable and customary fees.

Source: [www.nationalmortgage-settlement.com](http://www.nationalmortgage-settlement.com).

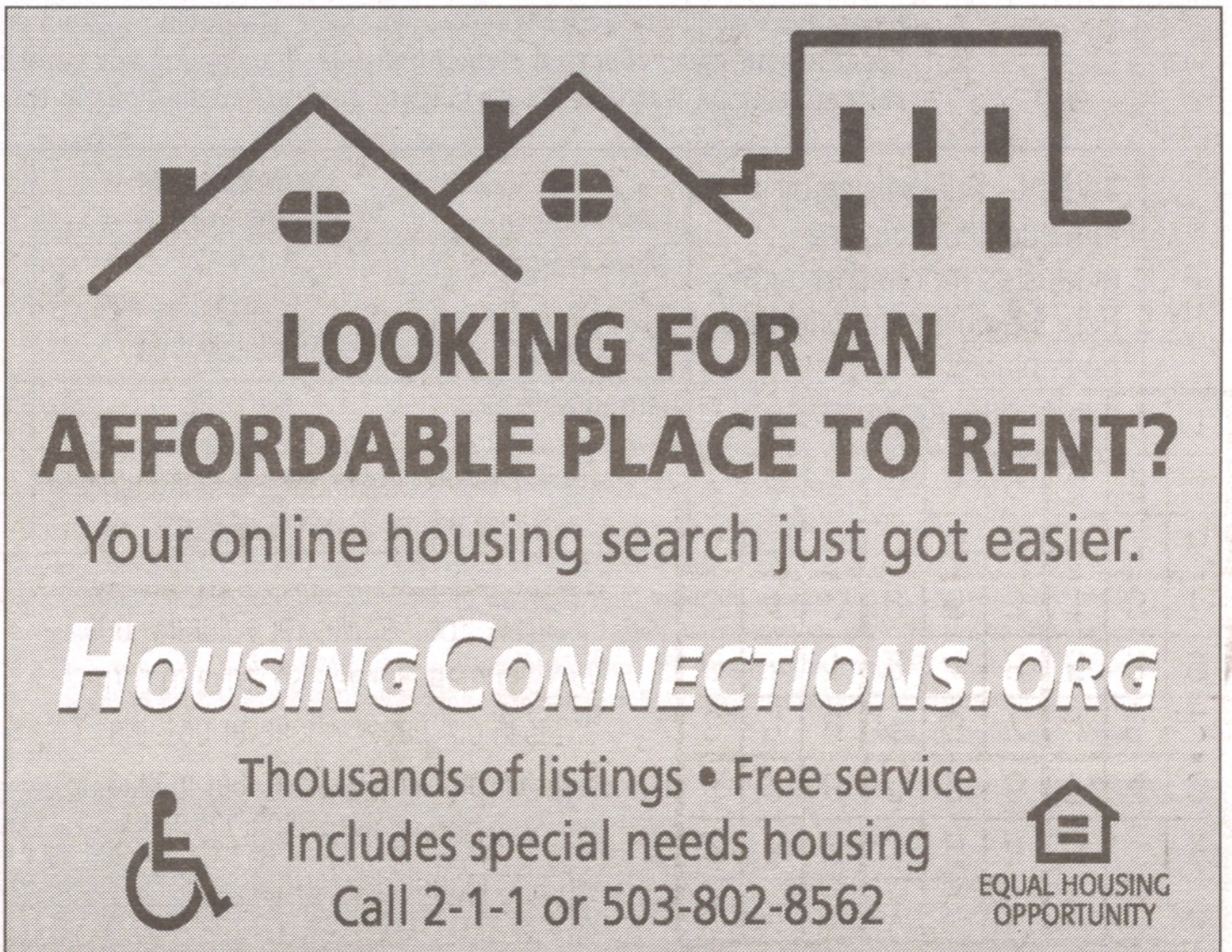


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