

September 12, 2008

Office of the General Counsel
Securities and Exchange Commission
100 F Street, NE
Washington D.C. 20549

Re: *McCloskey v. Ameriquest Mortgage*, ALJ Case No. 2005-SOX-93, ARB Case No. 08-123

To Whom It May Concern:

I would at this time like to request Commission *Amicus* participation in my pending case against Ameriquest Mortgage.

After assessing the Commission's factors for *Amicus* participation, I concluded that the SEC must be called upon in order to offer its views on important securities law issues surrounding the complex issuance of asset-backed securities. I am convinced that this case will set precedent for both the securities industry and the subprime mortgage industry.

In May of this year I had a meeting with Ms. Carol Rosenblatt of the S.E.C. at your Philadelphia branch. I gave her all relevant documents for *McCloskey v. Ameriquest Mortgage*.

The enclosed brief contains my most recent arguments on appeal for the case.

Here is the timeline of events for *McCloskey v. Ameriquest Mortgage* as I see them:

- 1) Start date: 11/24/2004 as an Account Executive (Loan Officer) Hired by the Area Manager, C**** S*****
- 2) Training in Lisle, Illinois Dec 5-10 2004 (mainly taught how to convince people to refinance by tossing around a "hot potato" (a toy ball) in order to come up with a sales pitch off of the top of our heads when cold-calling random people in order to coax them into refinancing their homes.. (Average call volume was 250-300 calls a day)
- 3) Branch was new, I worked under a newly-promoted branch manager (M**** S****), an eight-month rookie (Branch in Berwyn, PA)/ the branch did not get its license to do business until late January 2005 (once again, we spent our days tossing around a "hot potato")
- 4) After the Branch received its license, Mr. S***** blatantly asked the entire branch to offer kickbacks to appraisers, blatantly doctored title and credit reports and asked employees to forge documents
- 5) B*** B****, a fellow Account Executive, reported the behavior of Mr. S**** to upper management. However, he later "played both sides of the fence".

- 6) In February 2005, Mr. S***** was sent to Hawaii for “good salesmanship” (For his numbers as a loan officer prior to his rapid promotion to Branch Manager). While he was away, J**** M***** was left in charge of the branch. Mr. M***** was transferred from the Cherry Hill, NJ branch and was being molded to be a Branch Manager by the Area Manager, C***** *****
- 7) While in charge of the branch, Mr. M***** blatantly asked an Account Executive to forge a customer’s signature on a Borrower’s Authorization Form (violating RICO and RESPA laws). The Account Executive ultimately did not want to use his forged signature on the form and Mr. M***** said that he would find someone else to do it. I took the forged form out of the trash and sent it to local detectives to prove intent. The detectives sent it to John Abel of the PA Attorney General’s office (I had 2 face-to-face meetings with detectives during my lunch break). During this same time period, I contacted the Ari Gabinet at the local Philadelphia branch of the SEC to inform him about all of the blatant fraud being perpetrated by loan officers at my branch and possibly throughout the entire company.
- 8) Brad **** (Account Executive) arranged a meeting with fellow Account Executives and me, to explain how he had approached upper management about Mr. S*****. At the meeting, I harped on the fact that J**** ***** was just as guilty as Mr. S*****. I also informed everyone that I was meeting with detectives and having communications with the SEC about possible securities fraud.
- 9) The L.A Times article on Ameriquest makes national news, mirroring the fraud perpetrated at my branch. I had kept a notarized diary about all of the fraud that I witnessed prior to the article.
- 10) The Area Manager, C**** S***** , held a teleconference meeting with the entire branch. He explained that he, along with H.R., would interview all of the branch employees about Mr. S*****’s activity. He ensured us that the entire company was not like the L.A Times article. (Previously, during a fire drill at the branch, Mr. S***** told my entire team to go to the King of Prussia Mall to buy Rolex watches because we would be making “buckets of money”).
- 11) The day before the interviews, Jason M***** took me into the branch manager’s office and explained to me that it had been brought to his attention that I had a problem with him asking employees to forge documents. He informed me that it was not something that “he normally does” and that it would not happen again.
- 12) Human Resources interviewed most of the team. The Area Manager, C**** S***** , saw to it that he interviewed me personally. I informed him of the additional fraud committed by J**** M***** , and I informed him that the fraud committed by Mr. S***** and Mr. M***** was taught to them since they were both rookie loan officers. I my also informed Mr. S***** that I had been reading a website called www.rippoffreport.com, which had hundreds of blogs describing actions by other Area Managers, Branch Managers, and Account Executives which mirrored everything that was being investigated at my branch. I also stated it was blatantly obvious that I witnessed learned behavior.

- 13) Mr. S***** was terminated. After his termination, he threatened to kill Mr. S*****, and a security guard was hired to guard the office for a week.
- 14) The processor, C***** C*****, was terminated and replaced by a processor, who had been terminated at Mr. S*****'s former branch for refusing to process Mr. S*****'s loans because they were based on fraud. Mr. S*****, as the Area Manager, had direct knowledge of this and still promoted Mr. S***** to a Branch Manager's position after 8 months (Mr. S***** fit the description of several other Branch Managers in Mr. S*****'s Area, and throughout the entire company, i.e. under 30 with less than a year's experience).
- 15) The entire Area (Area 49) was required to attend a company rally at a Hilton in New Jersey. J**** M***** was awarded a trophy for good salesmanship (Mr. M***** was later appointed to the Dover Delaware branch as a Branch Manager by C**** S*****). When M***** and other loan officers and managers were on stage I loudly stated to my fellow branch loan officers and manager: "I wonder how many other document forgers are up there".
- 16) J*** K****, who was a temporary Branch Manager after Mr. S***** was terminated, was appointed the permanent Branch Manager.
- 17) Two weeks after my interview with C**** S*****, J*** K**** fired me. I was to be fired on Feb. 29, 2005, which would have been the last day of my 90-day probationary period. However, I left early on Feb 29, 2005 because of a snowstorm. I reported to work on March 1, 2005 and had an hour termination meeting with J*** K****. During that meeting, I informed Mr. K**** of the additional fraud that was perpetrated by J**** M***** and gave him the opportunity to report the fraud to his regional manager. Mr. K**** refused.
- 18) When I returned home on March 1, 2005, I sent an email to Mr. S*****, Mr. K**** and the Regional Manager, J**** T**** with an article about Sarbanes Oxley attached. They did not reply. I also contacted Ms. Carol Rosenblat of the SEC by email to inform her of the termination.
- 19) On March 2, 2005, I typed up a synopsis of the last two weeks of my employment to the PA department of Banking. I also received a letter from the S.E.C. informing me that SOX had a short statute of limitations, but it did not inform me to report my complaint to OSHA and the Department of Labor. I immediately sent an email to Carol Rosenblatt of the S.E.C. to him inform her of my termination, hence retaliation.
- 20) March '05- June '05 – I used due diligence to find an attorney. Every SOX attorney with whom I spoke with had a conflict of interest since Ameriquest had retained multiple firms that specialized in SOX. I finally stumbled upon a website that explained that I had 90-days to file with the OSHA and the Department of Labor.
- 21) I filed my complaint on June 16, 2005, 108 days after my termination. On July 14, 2005, the Secretary of Labor found that there was no reasonable cause that Ameriquest violated SOX, that I filed after 90-days and that Ameriquest was not publicly traded
- 22) I filed a request for a hearing and represented myself. The hearing took place on September 27, 2005 and Ameriquest did not attend the hearing. After reviewing my entire documentation, including my arguments for equitable estoppel

- (affirmative misconduct) and equitable tolling, the ALJ, Judge Ralph Romano, found that I had established a *prima facie* case of discrimination. The ALJ gave Ameriquest 15 days to show cause why they should not issue a default judgment in my favor and gave me 15 days to show how they were properly served.
- 23) Once again, Ameriquest did not respond and I established how I had served my former branch, per the ALJ's instructions. The rules of Sarbox clearly indicate that you can serve an individual. The individual responsible for service at every remote branch for Ameriquest was the Branch Manager. Each branch was set up with a FedEx account, email and fax in order to be served mortgage documentation at the branch in order to send the documentation to the corporate headquarters in California.
 - 24) I drafted my request for damages with two addendum letters and I served Ameriquest with two subpoenas, with the ALJ's stamp of approval, at my former branch. The subpoenas were returned to me and marked refused.
 - 25) Because I could not prove how much the position was worth since it was commissioned-based, the ALJ awarded me a paltry amount of \$8461.31 in back pay plus interest and \$706.00 for front pay. This was erroneously based on the 25K base pay, which was called a welfare check my managers at Ameriquest considering that loan officers made huge commissions.
 - 26) Subsequently through counsel, I filed an appeal for the award for damages. In April 2006, Ameriquest's attorneys at Buchalter Nemer finally responded. Their attorney, Laura Worsinger argued: *1. Respondent was never properly served 2. It is not a publicly traded company 3. Complaint filed by Complainant was untimely*
 - 27) On June 6, 2006, my attorney filed an answering brief to the Respondent's reply brief. In that brief, I introduced new evidence not readily available when the record was closed. The additional evidence (an ad for Barclays Capital in the WSJ) showed that the Respondent issued over 2 billion dollars worth of Asset-Backed Securities on the secondary market in 2005
 - 28) Buchalter Nemer subsequently filed a second reply brief outside of the ARB's briefing schedule. The reply brief was an emotion-based argument, which clearly showed that the opposing counsel had realized that they had lost on fact and law.
 - 29) During my tenure at Ameriquest and during my Sarbox complaint, I used www.secinfo.com to research how Ameriquest/Ameriquest Mortgage Securities issued and pooled their securities. I found documents, which clearly showed that the CFO of Ameriquest Mortgage/Ameriquest Mortgage Securities, John Grazer, had signed off as a Registrant and signed a 302 Certification under the Securities and Exchange Act of 1934 Section 12h3 & 15(d). Not only has Mr. Grazer signed off on these documents as a Registrant, the Vice President of Ameriquest, Adam Bass has as well. Mr. Bass is also a partner in Buchalter Nemer
 - 30) In August of 2007, I filed three complaint letters to the CA State Bar against Ms. Laura Worsinger and Adam Bass. The CA State Bar denied the complaint because there has not been a conviction against Ameriquest. However, federal rules under Sarbox supersede state rules.
 - 31) In December of 2007 I fired my attorney because he refused to update the Administrative Review Board about cases cited on appeal and because I did not

- feel that he deserved a contingency fee because I had coached him on all aspects of Sarbox. In fact, I was the actual author of all briefs on the record.
- 32) Feb. 29, 2008: The case is remanded back to an ALJ because of a service issue. This is significant because the ARB has thrown out over 90% of cases.
 - 33) March 2008: I sent a series of emails to Fitch ratings where I asked questions about the different transactions that took place between Ameriquest Mortgage/Amerquest Mortgage Securities. Fitch confirmed what Ameriquest Mortgage's Master Servicer rating was prior to having their assets acquired by Citibank. I copied Adam Bass of Ameriquest/Buchalter Nemer on all of the emails.
 - 34) March 2008: James Wright of Buchalter Nemer called me to ask me "If we could settle our differences". During the call, he asked me not to argue the case and then went on to ask me if I thought I had a case. He told me in a second phone call that my number "is too rich for his client's blood". I agreed to send him my three complaint letters to the CA State Bar to show him the real aspect of the case. I informed him that Ameriquest has falsified all of their 10K filings over the past 2 year because they did not list my case under legal proceedings or on the free writing prospectus.
 - 35) April 2008. ALJ issues timeline for respondent to file a brief. Ameriquest/Buchalter files at last minute.
 - 36) Ameriquest/Buchalter Nemer submits the same rehashed nonsensical argument (in my opinion), which failed dismally the first time. Ms. Diane Tiberend, the Senior Vice President and Counsel for ACC Capital Holdings (hence, the chief legal counsel for an issuer of ABS) submitted a declaration to show why default judgment should not be entered. She declared under penalty of perjury neither that Ameriquest nor its parent; ACC Capital Holdings file reports under section 12 or 15(d) of the Securities and Exchange Act of 1934. This is a classic false dichotomy because she conveniently forgot to mention that Ameriquest Mortgage Securites, a wholly owned subsidiary of Ameriquest Mortgage does. She also conveniently forgot to mention that Ameriquest Mortgage was the Master Servicer of billions of dollars worth of loans on the open market. She also failed to mention that Ameriquest was ranked as one of the largest issuers of ABS in the world.
 - 37) April 2008. I found the Edgar based document showing that Ms. Tiberend was a signatory in 2002 for Ameriquest Mortgage Securities. This clearly showed that Ms. Tiberend was well aware that Ameriquest Mortgage Securites was the issuer of securities before, during and after my tenure. It also shows that she is well aware that Ameriquest Mortgage was the Master servicer with a Master Servicer rating.
 - 38) April 2008. I attended a presentation on Sarbanes-Oxley at The Union League in Philadelphia. At the presentation, I spoke with Daniel M. Hawke, The Philadelphia District Administrator of the SEC, about the history of my case.
 - 39) May 2008. After speaking with Mr. Hawke, I was contacted by Ms. Carol Rosenblatt of the SEC. I had a teleconference with Ms. Rosenblatt and her colleague about the history of my case. We then had a face-to-face- meeting at the

Philadelphia Branch of the SEC, and I gave her copies of all briefs and email exchanges between myself, Fitch Ratings and my opposing counsel.

40) July 2008. I appealed the *Decision and Order of Summary Judgment Granting Respondent's Motion to Dismiss* dated July 16, 2006. In that brief, I outlined all of my arguments for the appeal.

Many lessons can be learned from this recent refinance boom. However, if the SEC does not pay extra special attention to *McCloskey v. Ameriquest Mortgage Company* and the complex issuance of MBS & ABS - two or three Ameriquests could emerge during the next refinance boom. From my experience, the country cannot afford that to happen – because Ameriquest's business model worked beautifully.

What was this business model? It was simple yet elegant:

- A) Set up hundreds of branches in various remote office locations in different areas of the country.
- B) Hire inexperienced candidates (The biggest percentage being young males under 30). Give them very poor training, offer to pay them buckets of money along with lavish perks. Identify what employees fit the mold of “the guy who will do what it takes to get the loan done” (i.e. forge documents, doctor title/credit, bribe the appraisers, and rush borrowers to the closing table ASAP). Once this is established, fire the employees that won't engage in these shady dealings, keep the rest and hire more bodies – then repeat the process.
- C) Originate, process and barely underwrite as many loans as possible. (The underwriting consisted of a two-page underwriting sheet, which was distributed to their loan officers)
- D) Turn a blind eye to the unwritten rules; which, again, consist of forging documents, doctoring title/credit and bribing appraisers. When all of this gets out of hand at an individual branch, conduct an internal audit, pin everything on the branch manager and/or certain loan officers, fire them and write them off as rogue employees. Why? Because they are expendable and can easily be replaced.
- E) Pool and issue the all of the loans (as ABS) into the company's own bankruptcy remote trust and then service the loans (including the loans that were originated by the so-called rogue employees). The idea is to churn out thousands of loans so they can be pooled and serviced (and the company makes even more money by servicing the loans) – because this is where the real money is (i.e. billions).

My description of this business model is not in the least bit specious and it is hardly conspiratorial (I have more than enough consequential evidence on the record to substantiate my claims). In my opinion, this business model represents the largest investment scam in our nation's history.

There were literally hundreds of loan officers that fit the description of my former Branch Manager (Michael Squillachie) and the loan officer who forged documents (Jason Mansell). There were also dozens of managers that fit the same description of my Area Manager (Corey Scandin). It is my belief that an investigation will reveal this.

I have also made accusations against attorneys at Buchalter Nemer for violations of Section 307 of Sarbox. It is quite possible that Ms. Diane Tiberend has also violated the ethical provisions of Sarbox by submitting a declaration that was clearly designed to be, at the very least, misleading and possibly perjurious. My allegations extended to Mr. Adam Bass because he was the Vice President of Ameriquest Mortgage.

I would also like to call your attention to an August 13, 2003 letter that was sent Mr. Giovanni P. Prezioso (General Counsel for The S.E.C.). The letter was prepared by the drafting committee of The Corporations Committee, Business Law Section of The State Bar of California. It was a letter in response to a public statement by an SEC official about the proposed rules of Section 307 of Sarbox. Mr. Keith Paul Bishop of Buchalter Nemer was part of the drafting committee for the letter. This is significant because I reported Buchalter Nemer's potential violations of Section 307 to the CA State Bar and copied attorneys at Buchalter Nemer, including the current lead attorneys involved in *McCloskey v. Ameriquest Mortgage* –which were ignored by them. The August 13, 2003 letter clearly shows that Ameriquest's counsel is aware of Section 307 on top of being well aware that Ameriquest was considered to be one largest issuers of ABS in the world.

I will forward The SEC a copy upon request.

In addition to these violations of Sarbox on appeal, Ameriquest/Ameriquest Mortgage Securities/Ameriquest Securities Trust failed to list *McCloskey v. Ameriquest Mortgage Company* on their 10K filings under legal proceedings over the past three years. They were obligated to do so because Section 302 & 806 are interwoven. Hence, they had a fiduciary obligation to disclose this case to their investors - whether they thought my case was valid or not. Since they completely denied their involvement in the issuance of ABS to the DOL (and the SEC), it was omitted.

In my opinion, a massive investigation and audit should be done by the SEC and the Department of Justice. Every loan that Ameriquest ever originated, processed and underwrote should be audited. Therefore, every loan pool would have to audited by the SEC. This would require a massive investigation by the federal government.

Enclosed is a copy of my piece called *Keeping the Industry Honest*. It was the lead article for the January 2007 edition of Scotsman Guide, which is a mortgage industry publication. My article outlines how Sarbox can be used to regulate the mortgage industry. In the piece, I gave my opinions about how Section 404 should be applied to non-publicly traded companies and how Sarbox can be applied to the industry. I am planning to write a piece about how issuers of ABS are already held accountable to Section 302 of Sarbox. However, I am going to wait until the outcome of *McCloskey v. Ameriquest Mortgage Company*.

I would also like to respectfully request a copy of a March 1, 2005 email that I sent to Ms. Carol Rosenblatt of your Philadelphia branch. This will show that I contacted the SEC about my termination (hence retaliation) during the 90-day statute limitations for

Sarbox whistleblowers (please review my arguments for estoppel and tolling in the enclosed brief). Ms. Rosenblatt was gracious enough to show me a copy of the email in our May 2008 meeting in Philadelphia.

I pray that the SEC grant my request for Commission *Amicus* participation.

Sincerely,

William John McCloskey
(Enclosure)