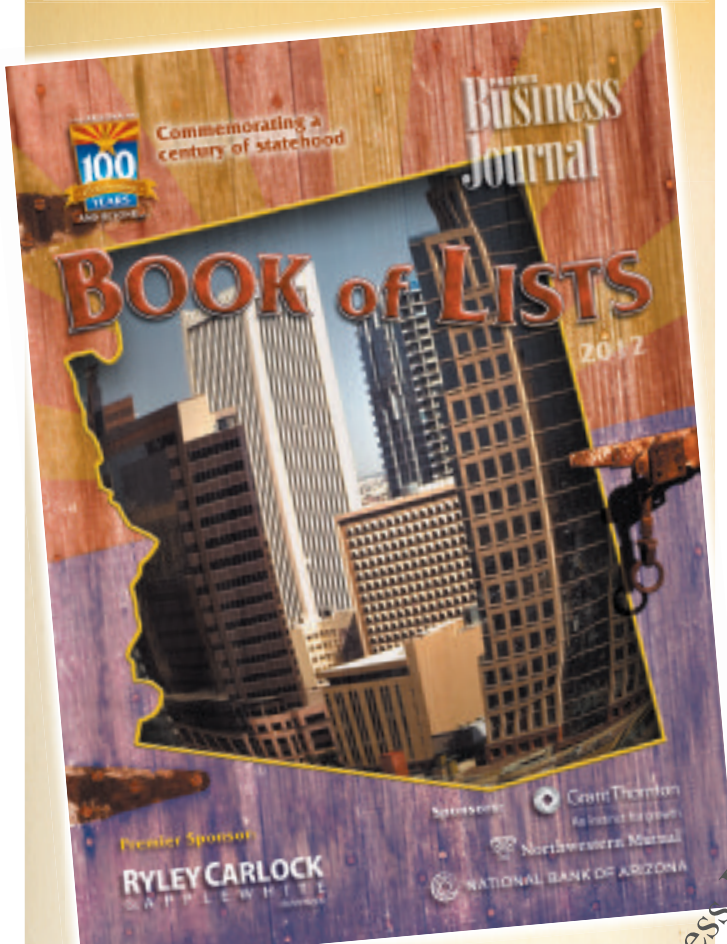


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# Arizona AG: Bank of America blocking state's investigation

BY JENNIFER A. JOHNSON  
Phoenix Business Journal

Bank of America Corp. is interfering with Arizona's investigation of its loan modification practices by requiring some Arizona consumers to sign agreements promising confidentiality and nondisparagement in exchange for mortgage modifications and cash payments, according to Arizona Attorney General Tom Horne.

"These settlement agreements forbid consumers from telling anyone — including law enforcement agencies such as the Attorney General's Office — about the terms of their settlement, or even saying anything negative about (Bank of America)," the state said in court documents released Jan. 11.

Horne's office is asking the court to block those agreements and to provide copies of the confidential settlements to the Attorney General's Office.

"The restrictions are clearly intended to silence consumers about their experiences with (Bank of America)," according to officials in the AG's Office.

A BofA spokeswoman declined to comment on the court proceedings. The lender's home loan press office said its only comment on the matter is its court filing.

According to court documents, BofA denies any wrongdoing and said it does not require a settlement agreement in exchange for a mortgage modification. It said a very small number of consumers have agreed to settle.

Bank of America attorneys argued that the state's request is "unwarranted and unnecessary," and that the lender has acted in good faith in its attempts to locate and produce settlement agreements with Arizona borrowers. Attorneys for the bank also said the terms of the settlement agreements vary widely, court documents show.

But Arizona officials said in court documents that BofA refused to identify consumers and to provide the AG's Office with information about how many consumers have been affected or when the practice began.

The AG's office said it became aware

in September that Bank of America was requiring some consumers to sign confidentiality agreements in exchange for modifications and cash.

Andrea Esquer, assistant director of the Homeowner Advocacy Unit of the Arizona State University Civil Justice Clinic, said she had not heard from any homeowners who were asked to agree to confidentiality or nondisparagement clauses in the context of a settlement with BofA.

"We are deeply concerned, however, about any potential impact of such clauses on the ability of public agencies to investigate allegations of wrongdoing," she said. "We are also concerned that homeowners are agreeing to provisions that are exposing them to future liability for no legitimate purpose."

Esquer said she hopes lenders such as BofA will cooperate by allowing the public access to information about how mortgage disputes are being settled.

The most recent court dispute is part of an earlier civil complaint against BofA filed in December 2010 by former Arizona AG Terry Goddard. The state alleged BofA and other servicers had violated a 2009 settlement, which resolved allegations that Countrywide Financial had engaged in widespread consumer fraud in its mortgage lending practices.

BofA acquired Countrywide Financial in 2008.

The AG's Office said it has received more than 1,900 complaints about BofA's mortgage practices since January 2009.

Arizona is part of national settlement negotiations between the largest mortgage servicers and state and federal officials, Bloomberg News reported, citing Arizona Assistant AG Carolyn Matthews.

The news agency also reported that if the state agrees to join the settlement, it would affect the state's lawsuit against BofA, and Arizona would not join unless it can resolve its own claims against the lender.

A hearing on the dispute is set for early February.

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Horne



Esquer

# CEO Shannon leaving St. Mary's

BY LYNN DUCEY  
Phoenix Business Journal

Terry Shannon, CEO of St. Mary's Food Bank Alliance, is retiring from the organization to move closer to family in Virginia, officials said.

Shannon announced his retirement on Feb. 1, with an effective date of June 30. He said his goal is to have a new leader in place prior to his departure so the non-profit will have a seamless transition.

St. Mary's Food Bank Alliance includes a staff and a cadre of volunteers that distrib-

uted more than 74 million pounds of food in 2011 across the state of Arizona.

"It's been incredibly rewarding, because I get to see the generosity (of the community) on one side and the impact of that generosity and the smiles on the other side," Shannon said. "Day in and day out, I get to see that."

Dr. Vicki Copeland, chairwoman of the group, said the organization has launched a national search for his replacement.

Shannon has led the organization for eight years and was named a Most Admired CEO by the *Phoenix Business Journal* in 2011. He plans to move this summer.

"I see plenty of golf in my future," he said.



Shannon