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Ocwen, Assurant to pay \$140 million to settle force-placed insurance suit

Class-action suit accused Ocwen of artificially inflating costs

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Ocwen Financial ([OCN](#)) and **Assurant** ([AIZ](#)) have agreed to pay \$140 million to settle a massive class-action lawsuit, which accused Ocwen of artificially inflating the cost of force-placed insurance in exchange for kickbacks from Assurant.

The settlement agreement, which is awaiting final approval from federal court in Florida, resolves claims of 399,843 homeowners who took part in the class-action suit.

Under the terms of the settlement, Ocwen and Assurant will pay more than \$140 million in monetary relief, which constitutes 50% to 100% of the “best-case scenario damages recoverable by the class had the parties proceeded to trial,” according to court documents obtained by HousingWire.

The settlement agreement states that Ocwen is prohibited from charging inflated premiums for force-placed insurance for five years. The settlement agreement also prohibits Ocwen from accepting commissions for force-placed insurance; entering into quota-share reinsurance arrangements with Assurant or any other insurer; and using Ocwen affiliates to place force-placed insurance coverage for a period of five years.

Ocwen’s use of its associated companies, including **Altisource Portfolio Solutions** ([ASPS](#)), and Assurant for force-placed insurance was the subject of an [August letter](#) from the **New York Department of Financial Services**, which alleged that Ocwen may have been funneling as much as \$65 million to Altisource even though the NYDFS [previously raised concerns](#) about potential conflicts of interest between such entities.

Those stated conflicts and other servicing failures ultimately led to the [NYDFS fining Ocwen \\$150 million](#) and forcing Ocwen Chairman William Erbey to resign from his position.

According to the NYDFS, Erbey did not recuse himself from the approval process of transactions between the related companies. “Mr. Erbey, who owns approximately 15% of Ocwen’s stock, and nearly double that percentage of the stock of Altisource Portfolio, has participated in the approval of a number of transactions between the two companies or from which Altisource received some benefit, including the renewal of Ocwen’s force-placed insurance program in early 2014,” the NYDFS said.

Altisource announced it was discontinuing its force-placed insurance program [in November](#), citing “uncertainties with industry-wide litigation and the regulatory environment.”

The class-action suit was originally filed in March 2014 in Florida federal court, accusing Ocwen and Assurant of “breach of contract, breach of implied covenant of good faith and fair dealing, unjust enrichment, breach of fiduciary duty, violations of Florida’s Deceptive and Unfair Trade Practices Act, tortious interference with a business relationship and violations of the Racketeer Influenced and Corrupt Organizations Act.”

According to the lawsuit, Ocwen’s standard form mortgage agreements require the borrower to maintain hazard, wind, and, where applicable, flood insurance on the property securing a mortgage loan, and provide that the lender or servicer may force new coverage on the property at the borrower’s expense in the event of a lapse.

The lawsuit also states that the mortgage agreement also advises the borrower that the cost of the coverage obtained might significantly exceed the cost of the borrower’s voluntary coverage. The plaintiffs had insurance coverage force-placed on their properties by Ocwen, and subsequently challenged Ocwen’s alleged arrangement with Assurant and their subsidiaries or affiliates, to artificially inflate borrowers’ premiums with costs well beyond the cost of coverage.

The plaintiffs alleged that these costs include kickbacks to Ocwen or its affiliates, subsidies for below-cost servicing, and other costs unrelated to the procurement of new coverage.

According to the settlement order, the monetary relief will compensate class members for a significant part of the allegedly inflated portion of the force-placed insurance premiums that they either paid or were charged.

The filing states that borrowers will receive a payment of 12.5% of their insurance premiums, which is “roughly the amount of the unwarranted ‘commission’ or kickback paid by borrowers subject to other lenders’ force-placed insurance schemes with Assurant.”

According to the proposed settlement order, the settlement agreement provides relief to all borrowers who had mortgage loans serviced by Ocwen and were charged amounts for force-placed insurance hazard, flood, flood-gap, or wind coverage issued by Assurant or its subsidiaries between January 1, 2008, and January 23, 2015. This includes borrowers with homes in foreclosure, negotiated short sales, deeds in lieu of foreclosure, or modified loan terms.

In a statement, Ocwen stated that it established a reserve for its portion of the settlement in the third quarter of 2014 and believes it is “adequately reserved” to pay out the settlement claims.

“The Lee settlement is similar in structure to the settlements other servicers have used to settle force-placed insurance claims. Under the proposed settlement, there is a claims process whereby borrowers who were charged for force-placed insurance and either paid all or a portion of the charge or still owe the charge can submit a claim for settlement benefits,” Ocwen said in a statement.

“Ocwen decided to settle this matter to avoid prolonged and distracting litigation,” the company said. “The company does not admit any liability or wrongdoing with respect to this matter. The company believes a settlement is in the best interests of the company, its borrowers, employees and shareholders. Ocwen remains committed to full compliance with all legal and regulatory requirements and helping homeowners.”

In a separate statement, Assurant also said that it does not acknowledge any wrongdoing.

“As indicated in the court filings, we are working toward a settlement of this case, although we cannot comment further on the details at this time,” Assurant Senior Director of Communications Robert Byrd said in a statement. “We do not acknowledge any wrongdoing in this case, but feel it's in the best interest of our company to attempt to resolve the matter.”



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