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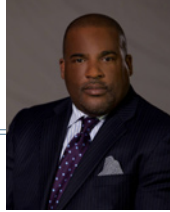
Wendell Allen



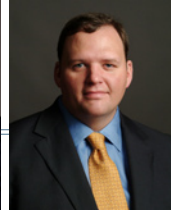
Michael Griffin



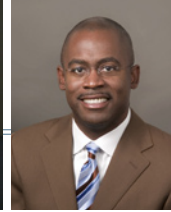
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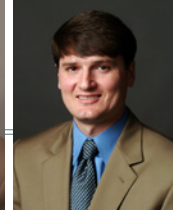
Dana Lumsden



Robert Maddox



Douglas J. Minor, Jr.



Brian D. O'Dell



BROKERING A \$25 BILLION DEAL

A Debevoise lawyer takes the lead in settlement negotiations over Big Banks' foreclosure errors.

ON FEBRUARY 9 ANDREW Ceresney was still in his office at 2:30 A.M. The Debevoise & Plimpton partner had been working for the better part of a year, along with a raft of other lawyers, to negotiate a deal between federal and state attorneys general and a handful of big banks. The banks were accused of “robo-signing”—allowing employees to approve legal documents without proper review—and other foreclosure errors. Five banks had made a \$25 billion proposal, but only got 40 attorneys general to sign on. Now, three days later, after further negotiations with crucial states like California and New York, a final draft that the others would approve was circulating by e-mail. “That’s when I knew we were finally there,” Ceresney says. The settlement marked what the U.S. Department of Justice calls the largest federal/state civil settlement ever obtained. As part of the settlement, the five banks that agreed to the deal—Ally Financial Inc., Bank of America Corporation, Citigroup Inc., JPMorgan Chase & Co., and Wells Fargo & Company—will be required to implement new mortgage servicing standards and dedicate \$20 billion of the settlement to borrowers for financial relief.

On paper, Ceresney’s client was JPMorgan. But lawyers involved in the negotiations say that Ceresney played a bigger role than that, acting as the primary go-between for the banks during talks with the Justice Department and state attorneys general. Amid a group of lawyers that included H. Rodgin Cohen of Sullivan & Cromwell and Ceresney’s partner Mary Jo White, the task of coordinating the banks’ positions and getting the feds and states on board with their proposals fell to the 40-year-old New Yorker.

“He organized and did a fair amount of the direct negotiating,” says Cohen.

He says the process was “unique” in terms of how the firms and the banks worked together. “I’ve got to say, even though the banks often had different interests, they often worked cooperatively,” says Cohen, who advised Ally along with lawyers at Bradley Arant Boult Cummings. Other firms working toward a deal included K&L Gates for Wells Fargo, and Wachtell, Lipton, Rosen & Katz; Wilmer Cutler Pickering

Hale and Dorr; and Allen & Overy for Bank of America. (Citigroup sent in-house attorneys, including CitiMortgage, Inc., general counsel Victoria Kiehl, to the talks.)

Each lawyer had their own role to play. K&L Gates partner Michael Missal, for example, advised on bankruptcy issues. But when it came to presenting a unified position, that task fell to Ceresney. “Andrew was involved in virtually every issue,” Missal says. While all the lawyers dealt with the government, if they wanted to communicate a position of the group, Ceresney frequently took the lead. “As we got closer to the end, Andrew seemed to be in constant communication with the government,” Missal says.

Across the table was Thomas Perrelli, then a U.S. associate attorney general who was the chief negotiator for the federal government. Other government officials leading the talks included Iowa attorney general Tom Miller, whose office coordinated the states, and U.S. Department of Housing and Urban Development secretary Shaun Donovan.

“One thing you have to understand was that there were a number of moments where this thing could have fallen apart,” says Ceresney. Talks hit snags in particular amid objections by several state attorneys general that earlier agreements were too favorable to the banks. One of the most vocal critics was Kamala Harris of California, whose state was ground zero for the foreclosure crisis. Harris objected to potential releases from lawsuits the banks were pushing for because she wanted to retain the ability to sue them under the state’s False Claims Act. These issues could have shrunk the total price tag. One source, speaking on the condition of anonymity, estimated that without California, a deal would have been about \$19 billion.

Toward the end, Ceresney in particular was focused on the language of the settlement. Even after the Justice Department announced the settlement February 9, another month would pass before the department filed it in federal district court in Washington, D.C., on March 12. Now Ceresney and the other lawyers can look forward to a bit more work, as Judge Rosemary Collyer decides whether or not to approve the deal.

—NATE RAYMOND