

Court Approves Department of Justice Fraud Case Against Bank of America By Nahal Bahri, J.D. Candidate 2015

U.S. District Judge Max Cogburn made a [ruling](#) on the Department of Justice’s (“DOJ”) complaint against Bank of America Corp. (“BoA”) that would allow the alleged fraud case to move forward. Judge Cogburn allowed the DOJ to amend its complaint within 30 days.

The DOJ filed its case against BoA on August 6, 2013, alleging fraud among other issues. Attorney General Eric Holder brought the case, [arguing](#) “that Bank of America lied to investors about the relative riskiness of the mortgage loans backing the residential mortgage-backed securities (RMBS), made false statements after intentionally not performing proper due diligence and filled the securitization with a disproportionate amount of risky mortgages originated through third party mortgage brokers.”

This case attempts to pursue efforts to advance “President Obama’s Financial Fraud Enforcement Task Force’s RMBS Working Group.” The President [established](#) the Interagency Financial Fraud Enforcement Task Force through an Executive Order on November 17, 2009. The Task Force is led by the DOJ and includes efforts by the SEC, Department of Treasury (“DOT”), and the Department of Housing and Urban Development (“HUD”) to “investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, address discrimination in the lending and financial markets and recover proceeds for victims.”

In following the mission of the Task Force by holding perpetrators accountable for bringing about the global financial crisis, Attorney General Holder sued BoA in 2013 for its alleged fraudulent practices. The complaint [alleges](#) that BoA and its affiliates “made intentionally false statements, failed to perform due diligence on loans and packed securitization deals with a “disproportionate amount of risky mortgages originated through third party mortgage brokers.”

The case was nearly dismissed in [March](#) when U.S. Magistrate Judge David Cayer suggested there was insufficient evidence to prove the alleged fraud that the DOJ argued took place. However, on Thursday, Judge Cogburn allowed the case to move forward.

This decision came hand in hand with the approval of a similar case brought by the SEC. There, Judge Cogburn also ruled that the case brought by the SEC could move forward.