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Fidelity National Is Sued Over Fees

By PEG BRICKLEY
January 24, 2008

A lawsuit filed against Fidelity National Information Services Inc. accuses the financial data-processing company of being a "secret puppetmaster" in bankruptcy courts, jacking up with improperly disclosed fees the price consumers must pay to avoid foreclosure of their homes.

The lawsuit, which seeks class-action status in U.S. Bankruptcy Court in Houston, contends that Fidelity National conspired with mortgage-servicing companies and law firms to "add to the indebtedness" of homeowners by tacking on secret fees -- some of which were allegedly "kicked back" -- that remain undisclosed for years.

A spokeswoman for Fidelity National, Michelle Kersch, said the "lawsuit is without merit, and appears to be an attempt to profit from the current wave of antilender sentiment created by the increase in subprime-mortgage foreclosures." Ms. Kersch said law firms don't pay kickbacks, but they do pay to access the company's Web-based technology, which gives them data on a particular mortgage.

The lawsuit involves the Jacksonville, Fla., company's default-management-services business, an area that handles bankruptcies and foreclosures for mortgage companies. Fidelity National, a publicly traded company that is unrelated to Fidelity Investments, said it handles default-mortgage servicing for 22 of the top 25 residential mortgage servicers, and 13 of the top 25 subprime servicers.

The lawsuit was filed by Houston homeowners Ernest J. and Mattie Harris, after their experiences with a Chapter 13 bankruptcy filing. Chapter 13 is a process designed for people who want to pay off their debts, but need time to do it. The Harrises owed about \$90,000 on their home when they filed for bankruptcy in 2003.

Twice, the Harrises said, they were forced to cover legal charges from the law firm that represented their mortgage company, Morgan Stanley's Saxon Mortgage Servicing Inc. unit.

Morgan Stanley paid the law firm, Mann & Stevens PC, \$200 to file an objection to the Harrises' Chapter 13 plan. It added the \$200 to their mortgage arrearages. "Then, under the 'network agreement,' Mann & Stevens kicked back \$50 of that fee to Fidelity -- secretly, outside the detection of this court," the lawsuit said.

In 2004, Morgan Stanley paid the law firm \$650 to file a motion that could have resulted in foreclosure. The Harrises wound up paying off the \$650 legal fee, with interest, in six monthly installments. Fidelity allegedly received \$150 from the law firm, the lawsuit said.

Fidelity National's practices, the lawsuit contends, run afoul of bankruptcy-court rules requiring the disclosure of fees and ethics rules banning fee-splitting by lawyers, a practice in which law firms pay for client referrals.

Morgan Stanley declined to comment. Diana Stevens, president of the law firm, declined to comment. Neither Morgan Stanley nor Mann & Stevens is a defendant in the Harrises' lawsuit.

Write to Peg Brickley at peg.brickley@dowjones.com

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