

# Exhibit 5

**DECLARATION OF RECORDA SIMON**

IN THE COUNTY OF DALLAS

STATE OF TEXAS

1. My name is Recorda Simon. I am over the age of twenty-one (21), have not been convicted of a crime involving moral turpitude, and am not otherwise disqualified from making this declaration.

2. I have personal knowledge of all facts set forth herein. These facts are true and correct.

3. From the period beginning in August, 2010 to January, 2011, I worked as a temporary "Home Retention Specialist," in Bank of America's Texas call center located in Fort Worth.

4. As a Home Retention Specialist, I was trained by Bank of America on its policies for collecting delinquent mortgage debts from homeowners. Although I was called a "Home Retention Specialist" my job was to collect as much money as possible from homeowners.

5. My job duties generally involved taking calls that were initiated by Bank of America through an autodialer. The call would be transferred to me if the borrower picked up an auto-dialed call. I also took incoming calls from borrowers seeking information about the status of their loan modifications.

6. The autodialer made many thousands of calls an hour. My understanding is that it was loaded with telephone numbers of borrowers who Bank of America considered delinquent.

7. I personally handled approximately 6 calls an hour. During my employment, I was often told that my call times were too long. I was told that the average call time I was supposed to meet was just seven minutes. Other call center employees were told the same thing. We were told that failure to handle calls quickly enough would affect our team's bonus compensation.

8. Although as a temporary employee, I did not qualify for bonus compensation, our team received bonuses based on the number of calls made and "talk time," (the length of the call itself). The more calls made and the shorter the length of the calls, increased the amount of individual bonuses members of our team would receive.

9. Many of the borrowers I spoke to claimed they were not delinquent because they had either temporary or permanent mortgage modification agreements with Bank of America.

10. As part of my job, I had access to various Bank of America computer systems that allowed me to check customer account records. For many of the calls I handled, I could confirm in Bank of America's system that the borrower contacted was in a temporary or permanent modification status in Bank of America account records and that the borrower was current on payments under that agreement.

11. Approximately 4 in 10 of the borrowers I spoke with had been set up on temporary modifications and were current on their modification payments but had not received a permanent modification. The borrowers, with a few exceptions, had made more than three monthly payments and had returned all of the requested supporting documents, but had not received permanent modifications.

12. Approximately 2 in 10 of the borrowers I spoke with had permanent modifications noted in the system and were current on their payments as modified

13. Despite having modification agreements and making their payments, these borrowers were shown in Bank of America's systems as delinquent. Among other things, this was why their phone numbers were placed in the auto-dialer for collection calls.

14. In the case of temporary modification under HAMP, I could see the terms of the agreement in the system and whether payments were being made as scheduled.

15. In the case of permanent modifications, I could see in the system when Bank of America granted a permanent loan modification to a borrower. I could also see that the account had not been updated and payment amounts were showing as delinquent despite the modification. In other words, the modified terms of the loan were not properly reflected in Bank of America's account records.

16. The borrowers with temporary or permanent modification agreements were angry that Bank of America was treating them as if they were delinquent. Because they were current on their payments as temporarily or permanently modified, they believed they should not have been receiving collection calls. Those who had temporary modifications under HAMP also wanted to know why they were not getting permanent modification agreements required by HAMP.

17. I saw instances where Bank of America sent borrowers who were current on their permanent loan modifications foreclosure notices. In some cases, where Bank of America did not update its system to implement the terms of a permanent modification, Bank of America foreclosed on homes of borrowers who were not delinquent on their permanent loan modification payments.

18. Although I understood that it was not Bank of America's policy that I do so, I often attempted to assist borrowers by trying to obtain updated information about the status of the their loans.

19. Among other things, I would check computerized account records and call Bank of America loan modification underwriters.

20. I was often instructed to give borrower misinformation about the status of a modification application. I was told to tell borrowers that their applications were still under review even after a decision to grant to deny the application was already noted in the system. I was also told to tell borrowers that their applications were incomplete because Bank of America did not have all of the required documentation even when I could tell that all the documentation was in Bank of America's system.

21. Many borrowers I spoke with were angry about being told to send the same documentation over and over again. This was a very common concern.

22. There were hundreds of Home Retention Specialists in the Texas Call Center and no single point of contact for any borrowers. If a borrower spoke to me, there was no way that the borrower would be able to contact me again directly. Numerous different underwriters worked a particular borrower's file making it difficult for borrowers to speak to someone at Bank of America who could give them information about the status of their loan modification. Many loan modification applications were in limbo.

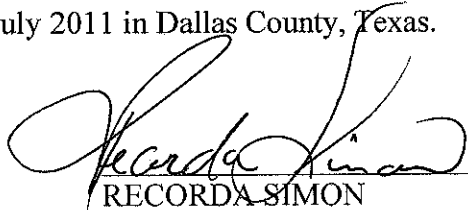
23. By telling borrowers that they were "still under review" for a loan modification rather than having to explain denial reasons to them, Home Retention Specialists were able to keep their call times to a minimum. We were encouraged by our

superiors to lie to borrowers to get them off the phone. Bank of America maintained “scorecards” which contained information about the number of calls and call times of the contacts made by Home Retention Specialists.

24. Many borrowers complained to me about receiving a high volume of collection calls from Bank of America.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 9th day of July 2011 in Dallas County, Texas.

  
RECORDA SIMON