



MORTGAGE BANKERS ASSOCIATION ANNUAL REGULATORY COMPLIANCE CONFERENCE

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2005-2006 State Enforcement Update

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ATTORNEY GENERAL ENFORCEMENT IN GENERAL.

- Organization of the State Attorneys General.
 1. 50 states and 6 territories.
 - * 44 state AGs elected.
 2. All belong to National Association of Attorneys General (“NAAG”)
 - * Made up of 5 projects including the Business Regulation
 - Consumer Protection, and
 - Antitrust
 - * Large network of communities and task forces.
 - NAAG Consumer Protection Committee
 - 26 Attorneys General are formal members
 - Several key sub-committees including the consumer finance sub-committee
 - Chair – Tom Miller (Iowa A.G.)



ATTORNEY GENERAL ENFORCEMENT IN GENERAL. (cont'd)

- State Unfair and Deceptive Acts or Practices Laws.
 1. “Mini FTC Acts.”
 2. Business specific acts.
 3. Prohibit false, misleading or deceptive acts or practices.
 4. Broadly interpreted by the Courts
 - * Couple with broad enforcement practices.
 5. Administered by State Attorneys General.



- Nat'l Assoc. of Attorneys General List of Top 10 Consumer Complaints for 2005 –
 1. Automobile/Car Repair
 2. Home Repair/Construction
 3. Internet Goods and Services
 4. **Telecommunications/Slamming/Cramming**
 5. Credit Reporting
 6. Retail Sales
 7. **Telemarketing/Do Not Call**
 8. **Debt Collection (incl foreclosure avoidance counselors)**
 9. Contests/Sweepstakes/Prize Promotion
 10. Furniture/Appliances/Home Furnishings



- 2005-2006 AG Enforcement Actions brought against Mortgage-Foreclosure "Protectors" in:
 - * **Ohio** [WJW Enterprises, Inc. and owner James J. Warsing (July, 2006)]
 - * **Texas** [Bobbie Heckard, et al. (September, 2005)]
 - * **Illinois** [HomeSavers USA, Inc. of North Carolina; David Moakler, CEO; Advantage Mortgage Consulting, Inc.; Platinum Investment Group, LLC; First Chicago Real Estate Group, LLC (February, 2006)]
 - * **Missouri** [HomeSmartz Mortgage; Doug and Stephanie Heckard (February, 2006; June, 2006)]



- **August 4, 2006 – Illinois Governor Blagojevich announces shutdown of major mortgage rescue scam. Victims unwittingly signed over ownership to dishonest lender.**
- Illinois Department of Financial and Professional Regulation issued emergency suspension of loan originator registration of Charles T. White, Jr. and revoked the license of Mutual Trust Funding Corporation. 7 title insurance agencies, all owned in part by Christy and/or Patricia Jepson, shut down and charged with complicity in the “mortgage rescue” operation.
- IDFPR advises homeowners to be wary if a foreclosure “rescuer” or mortgage “broker” discourages homeowner from contacting the mortgage company or an attorney. Never sign away ownership of property; it does not relieve you of obligation to repay the loan.



- **July 24, 2006 -- Ohio Attorney General Jim Petro** today praised Friday's court judgment against WJW Enterprises, Inc. and owner James J. Warsin for failing to deliver promised mortgage foreclosure prevention services and repeatedly misrepresenting that consumers in foreclosure could save their homes by using his services.



- 2005-2006 AG Enforcement Actions Against Debt-Elimination Scammers and Credit Repair in:
 - * **Texas** [David Jason West and Pydia, Inc. dba Bankopp.com (July, 2006)]
 - * **California** [MyPerfectCredit, PathwayData, Inc. and owner David Coulter (February, 2006)]



- 2005-2006 AG Enforcement Actions Against Credit Counselors in:
 - * **Maryland** [DebtWorks, Inc. and Michael Kiefer (September, 2005)]
 - * **Maryland** [Debtscape, Inc. fka Neway, Inc. and Accucredit, Inc. (November, 2005)]
 - * **West Virginia** [Debt Management Credit Counseling Corp. (February, 2006)]



- **July 11, 2006 – Ohio Attorney General Jim Petro today sued Robert E. Haines dba Debt Freedom Foundation for deceiving and bullying area consumers into paying him thousands of dollars for “credit counseling” services he didn’t perform and didn’t have authority to sell in Ohio, violating the Consumer Protection Law.**



State Department of Insurance Actions Brought Against the Title Industry

- **Nationwide Settlement [reported by the Arizona Republic (April 27, 2005)]** - First American Title Co., accused of being involved in a national kickback scheme with homebuilders, brokers, lenders, and real estate agents on title reinsurance policies. The California based title firm admitted no wrongdoing and will refund \$24 million to home buyers who bought policies during the past 4 years. Colorado DOI has taken the lead in investigating title reinsurance. Other states insurance departments including **Arizona** have launched probes.



State Departments of Insurance Actions Brought Against the Title Industry (cont'd.)

- **July 20, 2006** - Insurance Commissioner John Garamendi announced today that he has proposed new regulations that could lower the amount Californians pay to title insurers by \$1 billion annually. Consumers, on average, would save 23% on the cost of title insurance, equating to savings of up to \$2,370 on a \$600,000 home. The action comes after numerous studies – including one ordered by the Commissioner last year – have found that little to no competition exists in the \$4.5 billion California title insurance industry. According to the Commissioner, a system so rife with illegal kickbacks and gratuities essentially forces homebuyers, and those looking to refinance, to pay excessively high premiums.
- **August 1, 2006** - **California Insurance Commissioner John Garamendi** today announced an agreement with Orange Coast Title Company that requires the firm to pay \$800,000 and immediately cease giving illegal inducements to generate more business.



- 2005-2006 AG Enforcement Actions Against Mortgage Lending Marketers in:
 - * **Wisconsin** [First American Funding, LLC; for violating state Do Not Call Law (April, 2006)]
 - * **Idaho** [S.D. Pacific; for violating Do Not Fax Law (July 2006)]



- 2005-2006 AG Enforcement Actions Against Mortgage Lenders in:
 - * **South Carolina** [HomeGold Financial; Karen Miller, CFO (September, 2005)]

[HomeGold Financial; John M. Sterling, CEO; for Securities Fraud (May, 2006)]
 - * **Massachusetts** [Michael W. O'Donnell dba Setter Financial (December, 2005)]
 - * **50 States** – Ameriquest Mortgage Company and its retail affiliates (February, 2006)



- **April 28, 2005 [Office of Financial Regulation] – Florida Chief Financial Officer Tom Gallagher** announced the arrests of three Miami residents charged with racketeering, unlicensed mortgage brokering, first-degree grand theft, exploitation of the elderly or disabled, and fraudulent acknowledgments by a notary public in charges stemming from their involvement in a predatory lending scam that targeted senior citizens. The defendants are alleged to have used their business, **Prevention Foreclosure Services, Inc.**, as a vehicle for defrauding Miami residents out of their money and homes.



- **Will "Predatory Lending" make NAAG's 2006-2007 list?**
- **State "Hot Spots" –**
 - * **Cook County, Illinois** – State AG has informally made assertions that lenders pulling out of Cook County as a result of HB 4050 could be investigated for housing discrimination.
 - * **Ohio** – SB 185 provides State AG investigative authority under Consumer Sales Protection Act.
 - * **Montgomery County, Maryland** – County Ordinance makes “predatory lending” a civil rights violation. AFSA ruling pending.



Post - Ameriquest Settlement, Risk Factors For State AG Investigation of Lending Practices

- You are a wholesale lender, Nation's Top 10-20.
- You operate in Iowa, Illinois, New York, Florida, Massachusetts, Washington, Minnesota and/or California.
- You have been the subject of state AG investigation in recent years.
- Your affiliates are or have been the subject of state AG prosecution.



- **AG Consumer Education Initiatives and Alerts –**

Colorado Attorney General John Suthers announced the findings of the Mortgage and Foreclosure Fraud Task Force. The findings included an educational brochure including tips on how to avoid becoming a victim of foreclosure scam.

Illinois Attorney General Lisa Madigan conducted a Community Roundtable on Predatory Lending to discuss predatory lending issues with central Illinois ministers and community leads. (May 11, 2006). “Mortgage rescue fraud has become a new favorite of predatory lending scam artists.” She urged the Governor to sign the Mortgage Rescue Fraud Prevention Act (and he did). Among the other “predatory lending” issues discussed were negotiating and refinancing mortgages.

Louisiana Attorney General Charles Foti announced a series of fraud prevention workshops to empower consumers to recognize predatory lending and avoid becoming victims of fraud. (July, 2006).



- **AG Consumer Education Initiatives and Alerts – (cont'd.)**

Ohio Attorney General Jim Petro today warned Ohio military personnel and their families that they may be targeted by predatory lenders. “I have sent out letters to all military branches in Ohio offering our educational materials and training.” His press statement defined what is predatory mortgage lending and advises military personnel to look out for loans with certain characteristics. (July 28, 2006).



STATE AG ENFORCEMENT REMEDIES

- Investigation
 1. Use of Civil Investigative Demands
- Lawsuits/administrative actions
 1. Cease & desist orders
- Injunctive relief
 1. Asset freeze & receiver
 2. Civil penalties
 3. Attorneys fees
 4. Restitution & corrective advertising
- Other dangers – Reputational Risk

