

New Approaches to Anti-Abusive Lending Protections

Robert Lotstein, Esq.,
Managing Partner, Lotstein Buckman LLP

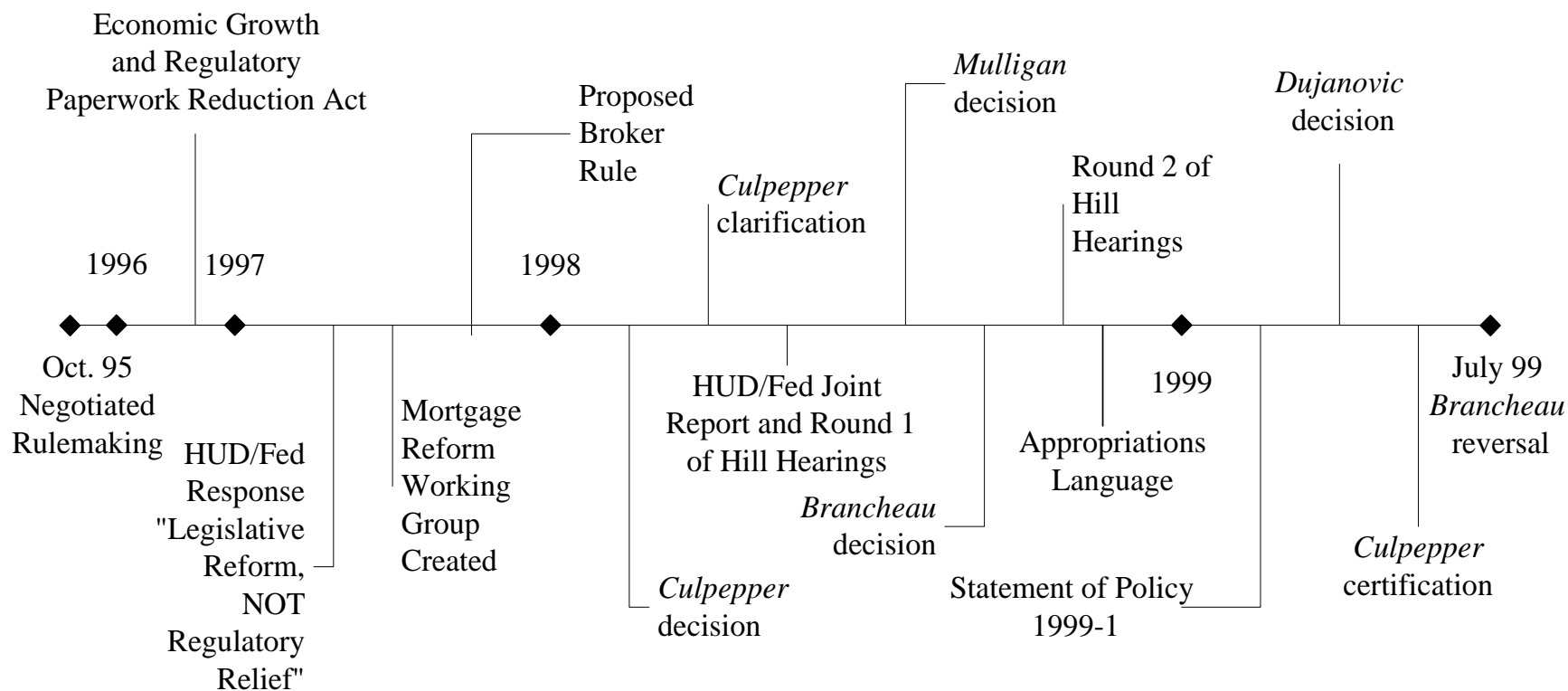
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A T T O R N E Y S A T L A W ^{LLP}

RELEVANT DEFINITIONS

- **FIDUCIARY DUTY:** A duty to act for someone else's benefit, while subordinating one's personal interests to those of the other person.
- **AGENCY:** The fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act.
- **SUITABILITY STANDARD:** Definitions vary, but include:
 - » A standard requiring a mortgage loan originator to determine whether a borrower can repay a mortgage loan based on the borrower's current financial status. (*Jack Guttentag*)
 - » Standard imposed on the lending industry to insure that borrowers are obtaining mortgages that are in their best financial interest. (*MBA Press Release*)

TIMELINE OF RESPA REFORM EFFORT AND CLASS ACTION CERTIFICATIONS



WHICH STATES IMPOSE DUTIES UPON BROKERS?

GOOD FAITH	FIDUCIARY	SUITABILITY
<ul style="list-style-type: none">•North Carolina•South Carolina	<ul style="list-style-type: none">•California•Massachusetts•Missouri•Nevada•Ohio•Pennsylvania•Vermont•Washington	<ul style="list-style-type: none">•Minnesota

CURRENT INITIATIVES

STATE	FEDERAL	JUDICIAL
<ul style="list-style-type: none">•Minnesota HB 1004•Illinois HB 1478•Maine LD 1869•Nevada AB 440•North Carolina HB 1817•33 Jurisdictions have adopted the CSBS/AARMR Guidance on Non-Traditional Mortgage Products	<ul style="list-style-type: none">•House Financial Services Committee holding hearings, considering legislation regarding mortgage industry•Senate Committee on Banking, Housing, and Urban Affairs holding hearing regarding mortgage industry•Senator Chris Dodd (D-CT) hosted a Homeownership Preservation Summit in April to address foreclosures	<ul style="list-style-type: none">•<i>Hennessy et. al., v. Dawson</i>