



# **SUBPRIME MELTDOWN THE UNPRECEDENTED RESPONSE**

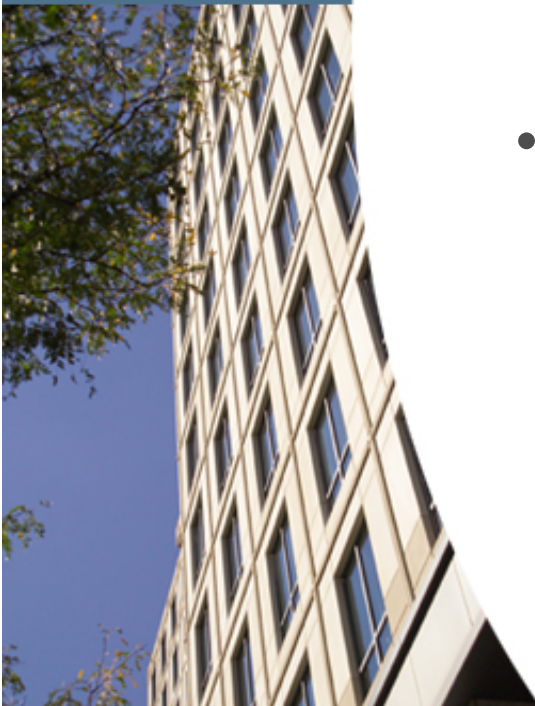
**BENNET S. KOREN  
MCGLINCHEY STAFFORD PLLC**

# SUBPRIME MELTDOWN THE UNPRECEDENTED REGULATORY RESPONSE

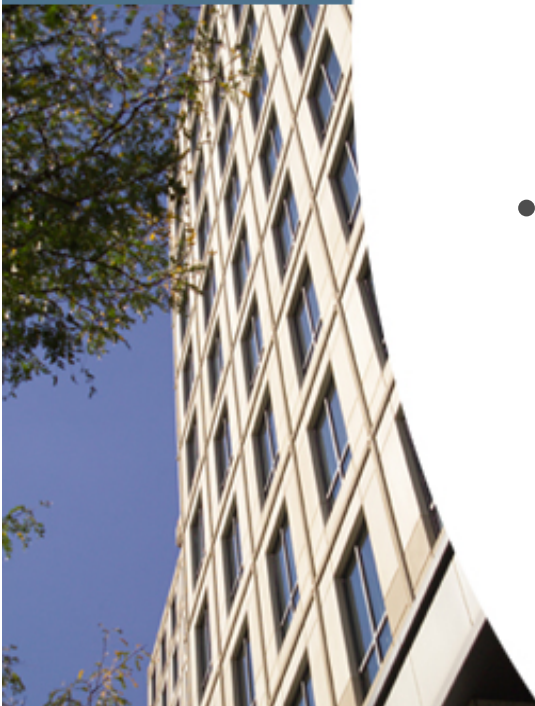


- **The response to the subprime meltdown has been comprehensive and intense on many fronts.**

# ATTORNEY GENERAL ACTIONS



- IOWA - Attorney General Settlement with Ameriquest over high pressure tactics used to sell refinancings.
- Massachusetts - Attorney General sues Lehi Mortgage for submitting to lenders fabricated or inflated information on applicants.
- Connecticut - Attorney General subpoenas bond insurers for enabling the subprime crisis by failing to adequately evaluate risks.



- New York - Attorney General, Andrew Cuomo, attacks appraisal process, enters into agreements with Fannie Mae and Freddie Mac requiring them to buy loans from banks that meet standards to insure independent appraisals.
- New York - Attorney General sues First American Corporation – allowing lenders to manipulate appraisals to permit additional closings.
- Florida – Attorney General charges executives of Argent Mortgage with elaborate scheme for submitting 300 falsified loan applications.



- State Foreclosure Prevention Working Group (37 states) to prevent unnecessary forecloses.
- Illinois – Attorney General files actions against mortgage rescue companies.



# FEDERAL BUREAU OF INVESTIGATION

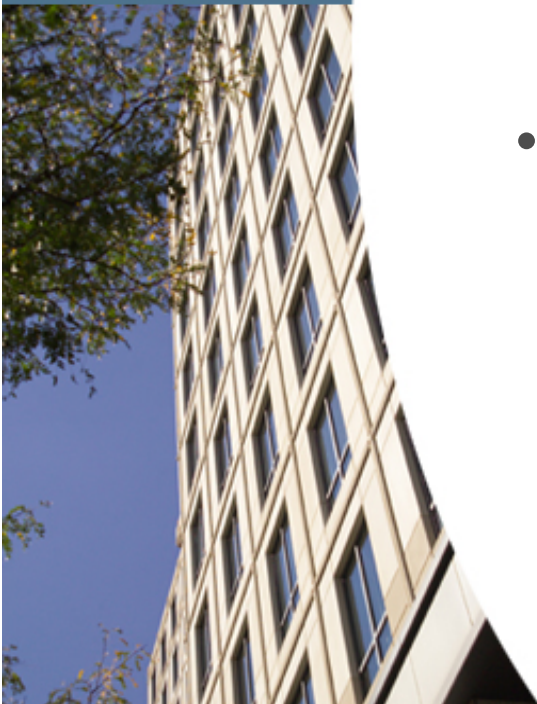


- Investigation of the operations of 14 subprime mortgage lenders and investment banks for fraud.
  - Fraud for profit involving straw borrowers, appraisals, flipping.
  - Concentrated in California, Texas, Arizona, Florida and Ohio.
  - Whether investment banks concealed subprime risks from investors.



- Pursue suspicious activity reports by banks who suspect loan applications have been falsified.





- FORECLOSURE FRAUD SCHEMES:
  - 1. Phantom Help: A mortgage broker might promise to stave off foreclosure and save your house. What he really wants, though, is to get his hands on any remaining equity or even the deed itself.
  - 2. Bust Out Scheme: Where an individual in foreclosure agrees to turn over their house to another individual in exchange for paying rent on the home.



- FORECLOSURE FRAUD SCHEMES, continued:
- 3. A simple bait and switch: Where a troubled homeowner is lured in with a tempting refinance offer. But if the scam goes to plan it is the fraudster who ends up holding the deed.

# MUNICIPAL ACTIONS



- Cleveland and Ohio – Action against lenders, investment banks, brokers for public nuisance.
- Baltimore and Maryland – Action against Wells Fargo for violation of Fair Housing Act.
- Ordinances and suits forcing lenders to pay for upkeep on properties in foreclosure.

# SECURITIES AND EXCHANGE COMMISSION

- Subprime Task Force agency-wide.
- Subprime Working Group led by Cheryl Scarborough, Enforcement Division.

» Three main areas of inquiry:

### 1. Securitization Process

- Whether bank holding companies and securities firms made proper disclosures.

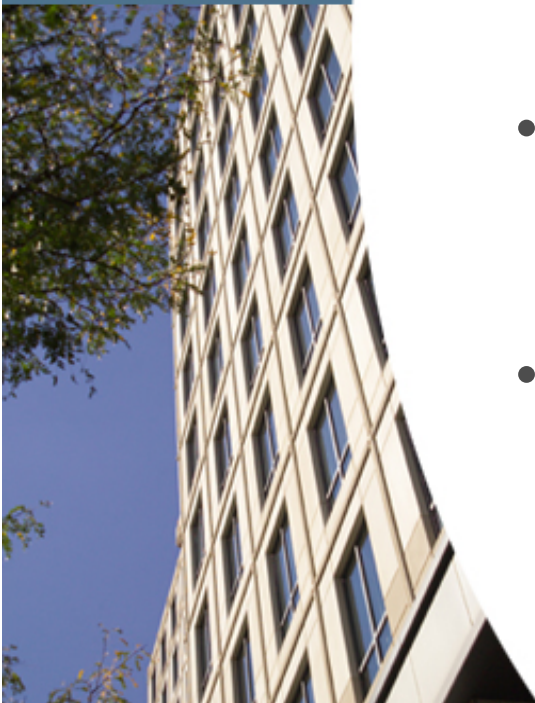
### 2. Origination Process

- Whether brokers followed suitability requirements.

### 3. Retail Area

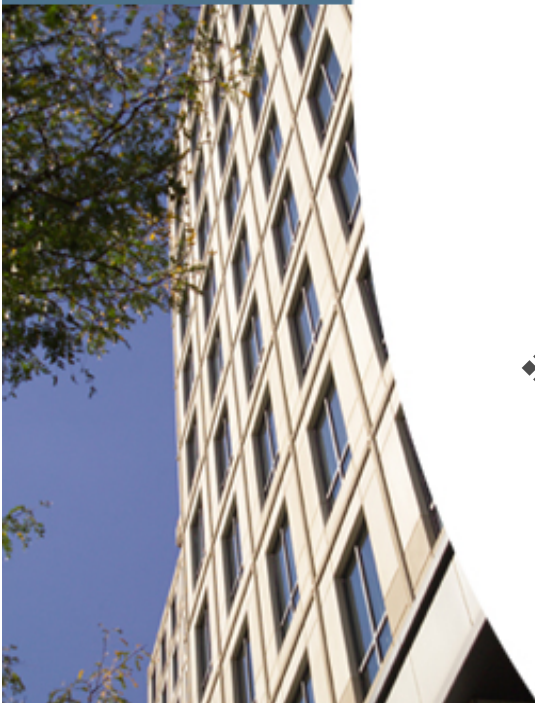
- Whether insiders used non-public information to bail out of these securities.

# OTHER REGULATORY AGENCIES



- OCC
  - » Statement on Subprime Mortgage Lending.
- FED
  - » New HOEPA Amendments.
- FTC
  - » Unfair or Deceptive Acts and Practices.
  - » Fair Lending Laws.
- HUD
  - » Proposed RESPA Amendments.
  - » Encouraged HOPE NOW alliance.
- FDIC
  - » Advocacy of loan modifications and restructuring.
  - » Fremont Corrective Action Directive.

# SUGGESTIONS



- ❖ Carefully screen job applicants – criminal background checks?
- ❖ Hands-on due diligence when buying loans – do not rely on reps and warranties.
- ❖ Enhanced risk management
  - Companies that stopped making subprime loans still bought the mortgage backed securities or marketed them to others.
- ❖ Appraisals.