



Litigation Exposure Points and Avoidance
MBA Regulatory Compliance Conference

September 15, 2008

Washington, DC

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RESPA

- Bait n' switch GFE vs HUD-1
- “Kickback” as finance charge
- Inaccurate HUD-1; state UDAP claim
- Title 9; title insurance agency

Forced Place Insurance

- Servicing
 - receipt of borrower acquired policies
 - inadequate notices
 - crossing in the mail
 - VSI

Title Insurance Charges

- Refinance/reissue rate discount
- Finance charge error
- UDAP/FTC Act

Fiduciary Duty

- State law treatment
- Oral marketing/representations
- Homemade disclosures
- Advertising

Servicing

- Multiple forms of notes, mortgages
- New pre-foreclosure programs, moratorium

Closing Agent Errors

- Insured closing letter
- Who does the closing agent represent?

Mortgage Broker Errors

- Fiduciary duty
- Agent of lender
- Reading litigation example

Reliance on Appraisals

Repurchase Demands

- Who underwrote?
- Oral representations by investor employees
- Correspondent contracts

Discretionary Pricing

- LO representations
- Advertising
- TILA and other disclosures

State/Local Human Relations Commissions

- Meet your new regulator

LO Practices

- Income/asset assertions
- Bait n' switch
- Product vs oral disclosures

Wrongful Lending

Political/Economic/Press Environment