

March 29, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

In re: FTC “Mortgage Assistance Relief Services” Rulemaking,
Rule No. R911003, 75 Fed. Reg. 10707 (March 9, 2010)

Dear Sir/Madam:

The Oregon State Bar objects to the FTC’s current proposed rule regarding “Mortgage Assistance Relief Services.” We suggest that the Commission consider amending this rule to exempt licensed attorneys who are practicing law and those acting under their direction. This rule is counterproductive in its current form, and may not be in the best interests of clients. We reiterate and support the comments made by the American Bar Association, which offer a more thorough explanation of our concerns.

The proposed rule undermines the confidential attorney-client relationship and interferes with traditional state court regulation of lawyers in several important ways. First, it subjects lawyers to burdensome recordkeeping and then presumably makes that confidential information available to the Commission.

Secondly, the rule prohibits lawyers from giving their clients who live in another state appropriate legal advice by prohibiting them from advising these clients not to communicate directly with lenders.

Finally, it creates a perverse incentive for clients to file a bankruptcy petition or a lawsuit instead of negotiating an informal resolution of their mortgage dispute. It does so by prohibiting lawyers from charging an advance fee for helping their clients renegotiate their mortgages or avoid foreclosure if a bankruptcy petition or lawsuit is not filed. This unnecessary ban on advance fees also increases the risk that consumer clients may not get necessary legal representation because lawyers may not get paid for their services.

Respectfully,

Stephen Pucci, Public Affairs Committee Chair