



The Florida Bar



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March 31, 2010

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

Re: FTC "Mortgage Assistance Relief Services" Rulemaking,
Rule No. R911003, 75 Fed. Reg. 10707 (March 9, 2010)

I write on behalf of the 87,000+ members of The Florida Bar to echo the concerns expressed to you by the American Bar Association regarding the lawyer exemption now contained in the Commission's proposed rule for "Mortgage Assistance Relief Services."

We request that you amend this proposed rule to exempt licensed attorneys who are practicing law and those who are acting under an attorney's direction. We otherwise endorse the comments of the ABA, tendered to you by letter of March 29, 2010, which provides a more complete explanation of our concerns.

Like the ABA, The Florida Bar believes this proposed rule would undermine the confidential attorney-client relationship and interfere with traditional state court regulation of lawyers. The proposal subjects lawyers to burdensome recordkeeping and apparently makes such confidential information available to the Commission. Additionally, this proposed rule prohibits lawyers from giving out-of-state clients necessary legal counsel by prohibiting them from advising those consumers not to communicate directly with lenders. Further, this suggested provision creates a questionable incentive for a client to file a ~~bankruptcy petition or lawsuit instead of negotiating an informal resolution of any mortgage dispute.~~ The measure would do so by prohibiting lawyers from charging any advance fee for helping their clients renegotiate their mortgages or avoid foreclosure if a bankruptcy petition or lawsuit is not filed. Such a ban on advance fees seems unnecessary and also increases the risk that clients may not receive appropriate legal representation because lawyers may not get paid for their services.

The Florida Bar urges the FTC to modify this proposal as the ABA suggests, to exempt licensed attorneys engaged in the practice of law, as well as those attorneys' employees and agents – all of whom help consumers to either renegotiate their residential mortgage loans or to otherwise avoid foreclosure.

Sincerely,

Jesse H. Diner