



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

June 30, 2010

By Electronic Mail

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

Re: Mortgage Assistance Relief Services Rulemaking, Rule No. R911003

Dear Sir/Madame:

The Office of the Illinois Attorney General submits this comment in response to the Advanced Notice of Proposed Rulemaking for Mortgage Assistance Relief Services issued by the Federal Trade Commission ("FTC") on May 29, 2009. This comment supplements the July 15, 2009 and April 5, 2010 comments submitted by the National Association of Attorneys General and the December 17, 2009 comments submitted by our Office. We write as the primary Illinois law enforcement agency that handles consumer complaints against companies offering mortgage assistance relief services and enforces laws designed to help protect consumers from unfair and deceptive practices perpetrated by these companies. Our previous comments focused on, among other things, specific problems we have observed with attorneys involved with mortgage foreclosure consultant companies. This supplemental comment provides additional data about those problems and information about the success rates of various mortgage foreclosure consulting companies we have sued.

**Attorney Involvement with Mortgage Foreclosure Consultant Companies**

Our Office reviewed information about 342 mortgage foreclosure consultant companies to determine the extent, if any, of attorney involvement. Based on this review, we determined that:

- 60 (17.5%) of the companies were owned in part or whole by attorneys;
- 50 (15%) of the companies had relationships with attorney partners, networks or affiliates;
- 21 (6%) of the companies had evidence of attorneys on their staffs; and
- 211 (61.5%) companies had no evidence of attorney involvement.

In short, roughly 38.5% of the companies analyzed appeared to have some attorney involvement. This analysis shows roughly the same percentage of attorney involvement as indicated in our December 17, 2009 letter, although it appears that there is a rise in companies pairing with attorney partners or affiliates. This data, coupled with the abysmal success rate of mortgage foreclosure consulting companies, illustrates that any regulation on this issue must have either no or a limited exemption for attorneys.

### **Success Rates of Mortgage Foreclosure Consulting Companies**

We analyzed information received from eight of the mortgage foreclosure consultant companies that we have sued to determine how successful the companies were in obtaining loan modifications for consumers. Disappointingly, our analysis showed that these companies either failed to complete work at all or were only able to provide assistance for a very small percentage of the consumers from whom they took money.

*People of the State of Illinois v. Homeowner's Assistance Association et al* (2007 CH 37752, Circuit Court of Cook County, IL)

On December 20, 2007, we sued Homeowner's Assistance Association and various individuals affiliated with the company. In the course of litigation, we found that over 100 people paid HAA for loan modification assistance. We attempted to contact these consumers in between January and October 2009 to determine if they had received promised services. We were only able to reach 24 consumers and found that Defendants had only provided assistance to one of them.

*People of the State of Illinois v. Eyes Have Not Seen (also doing business as Happy Investors)* (07 CH 05645, Circuit Court of Cook County, IL)

We sued Eyes Have Not Seen and various related entities on February 28, 2007. We received information from roughly 40 consumers who told us that defendants promised to assist them with staying in their homes through "sale-leaseback" transactions. In these transactions, the consultants arrange for an investor to purchase the consumer's home with a provision allowing the consumer to re-purchase the home within a year or two. None of the consumers were able to repurchase their homes. In fact, the transactions were structured such that there was no reasonable likelihood the consumers would have been able to re-purchase their homes. The defendants took roughly \$1.2 million in stolen home equity from Illinois consumers.

*People of the State of Illinois v. Victory Consultants & Investments Inc. and Walter C. Armstrong* (08 CH 12893, Circuit Court of Cook County, IL)

On April 7, 2008, we sued Victory Consulting and Investments Inc. and the company's general manager, Walter C. Armstrong. Through the course of our investigation, we learned of 12 consumers who had paid the defendants for assistance in staying in their homes through either "sale-leaseback" transactions as described above or loan

modification negotiations. By the time our suit was filed, however, 10 of the consumers had already lost their homes through foreclosure. Defendants similarly failed to help the remaining two consumers, but our Office was able to assist them with obtaining loan modifications. The consumers paid at least \$177,065 to defendants in these transactions. This does not account for the hundreds of thousands of dollars the consumers lost in the equity they had in their homes.

*People of the State of Illinois v. Foreclosure Experts and Gail Strong* (2008 CH 43266, Circuit Court of Cook County, IL)

On November 17, 2008, we sued Foreclosure Experts and Gail Strong, the president of the company. Prior to filing suit, the defendants provided us with a list of 15 consumers they had promised assistance. We later learned that the defendants failed to contact the consumers' lenders to negotiate loan modifications or give the consumers any assistance whatsoever.

*People of the State of Illinois v. Loan Mod One, LLC* (09 CH 46946, Circuit Court of Cook County, IL)

We sued Loan Mod One on November 23, 2009. After we filed our lawsuit, an attorney who had been working in partnership with the company gave us a list of 120 consumers who had entered into contracts for loan modification assistance between January and August 2009. We sent letters to these consumers on August 21, 2009. Of the 43 consumers who responded to our letter, none received assistance. The consumers lost roughly \$107,285 in these transactions.

*People of the State of Illinois v. Cash VIP and Fernando Rios* (2009 CH 15159, Circuit Court of Cook County, IL)

We sued Cash VIP and Fernando Rios, the president of the company, on April 6, 2009. We learned that at least 113 consumers had paid money to the defendants between 2007 and April 2009 for, among other things, loan modification services. Defendants provided information about the consumers pursuant to a temporary restraining order entered by the court. This information showed that by mid-April 2009, only four consumers (0.036%) had received either temporary or permanent loan modifications from defendants.

*People of the State of Illinois v. Loan Modification Inc. and Edward J. Galowitch* (2009 CH 23443, Circuit Court of Cook County, IL)

On July 15, 2009, we sued Loan Modification Inc. and the founder and president of the company, Edward J. Galowitch. Defendants told consumers that they could obtain loan modifications for them within 60 to 120 days. Between January and July 2009, defendants had taken over \$70,000 from 63 consumers. In August 2009, we learned that although Defendants had started working on loan modifications for at least 28 consumers in March 2009, they still had not obtained a modification for any of them. In fact, when we received a list of consumers from the company on September 18, 2009, only 25 had

actually received either permanent or trial loan modifications. Of this number, five consumers received modifications of little value, i.e. forbearance agreements, repayment plans or modifications with balloon payments, or paid significantly more for the modification than the value they received. For example, one consumer was charged \$2500 for a modification that lowered her monthly mortgage payment \$89.30. Although we allowed the defendants to attempt to obtain modifications for the files supposedly "in progress," they determined they would be unable to do so by March 3, 2010. Therefore, the success rate for this company is at best 40% and more likely 32%.

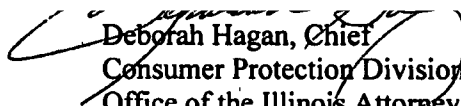
*People of the State of Illinois v. Centurion Loss Mitigation and Carlos Gomez* (2009 CH 15160, Circuit Court of Cook County, IL)

We sued Centurion Loss Mitigation and Carlos Gomez, the president of the company, on April 6, 2009. Pursuant to a temporary restraining order entered by the court and through discovery, we obtained a consumer list from the defendants showing that 1317 consumers had paid for loan modification services between roughly January 2008 and April 2009. At that point, a significant number of the consumers' files had been "in progress" since July or August 2008. Due to the large number of consumers, we attempted to work with the defendants to allow them to complete any pending modifications. Nonetheless, by early 2010, we determined that only 121 consumers, or 9.2%, had received either temporary or permanent loan modifications.

#### **Conclusion**

As shown above, the experience of the Illinois Attorney General's Office is that the vast majority of companies and individuals in the mortgage modification industry are unable to provide any real assistance to borrowers. Moreover, an increasing number of companies are partnering with attorneys, presumably to take advantage of the exemptions for attorneys in state mortgage rescue fraud statutes. We encourage strong action by the FTC to prevent unscrupulous mortgage foreclosure consultants from continuing to victimize consumers.

Very truly yours,

  
Deborah Hagan, Chief  
Consumer Protection Division  
Office of the Illinois Attorney General

Veronica L. Spicer  
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