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JON S. CORZINE
*Governor*

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September 17, 2009

Senator Robert Menendez
Committee on Banking, Housing and Urban Affairs
Washington, D.C. 20510

Dear Senator Menendez:

I look forward to the opportunity to testify on September 21 at your field hearing of the Senate Subcommittee on Housing, Transportation and Community Development. Governor Corzine has been a leader in developing a statewide mortgage foreclosure remediation program, and I believe my office has been among the most aggressive in the country to take both civil and criminal action against fraudulent mortgage and loan modification schemes.

I have enclosed for your committee and its members a copy of my prepared testimony for Monday's field hearing in Hackensack. I thank you again for the invitation to testify.

Respectfully,

Anne Milgram
Attorney General

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New Jersey Attorney General Anne M. Milgram
U.S. Senate Committee on Banking, Housing and Urban Affairs
Subcommittee on Housing, Transportation and Community Development
September 21, 2009
Hackensack, New Jersey

Helping Homeowners Avoid Foreclosure
Prosecuting Fraudulent Mortgage Hucksters and Modification Scams

Thank you, Chairman Menendez for this opportunity to speak at this Senate hearing examining the mortgage foreclosure crisis and how best the state and federal governments can respond.

As you know, the numbers are grim for New Jersey, as they are for the rest of the country.

Foreclosures in New Jersey rose to 31,603 in the first half of 2009, an increase of more than 31 percent, compared to the first half of 2008.

Another 5,692 foreclosures were filed in July. This was the largest number of foreclosures filed in a single month since before January 2008, and represents a 40 percent increase from July of 2008.

Earlier this year, we projected that more than 60,000 homeowners will go through foreclosure in 2009, and unfortunately we are above that pace for the first seven months of the year.

In 2008, there were almost 48,000 residential foreclosure filings in New Jersey (47,985) – a 39 percent increase over 2007, and a 108 percent increase over 2006.

Mortgage foreclosures exact a devastating toll on homeowners, their families, and their neighborhoods and communities. Some homeowners now owe more in mortgages than their homes are worth.

To meet these threats, Governor Corzine in January launched the first in the country state-wide MANDATORY mortgage foreclosure mediation program to combat the economic dislocation and heartache forced by foreclosures.

He brought together the Attorney General's Office, the Judiciary, the New Jersey Housing Mortgage Finance Agency, the New Jersey Public Advocate, the New Jersey Department of Banking and Insurance, Legal Services of New Jersey, and non-profit housing counseling agencies to work out mortgage modifications between stressed homeowners and lenders.

The Governor's program pays for HUD-certified housing counselors, trained mediators, and experienced lawyers to help distressed homeowners keep their homes. The state provides these services for free to any eligible homeowner who faces foreclosure. The state-sponsored counselors and lawyers work with homeowners to negotiate work-outs with lenders – work-outs that range from waiving penalties and fees to lowering interest rates and, in some cases, even to lowering principal.

And we know this program works to keep families in their homes. As of the end of August, 49.5 percent, or 719 of 1,450 completed cases, have been settled via mediation or pre-mediation negotiations.

And of this group, 505 homeowners have been able to keep their homes. Another 32 left their homes through a negotiated exit such as a short sale.

Another 1,800 New Jersey homeowners have mediation sessions pending. At current success rates, this will mean several hundred more New Jersey homeowners will soon be able to keep their homes because of the Governor's mediation program.

The program distinguishes New Jersey not only because it is the first statewide mandatory program, but because it remains one of the most successful. While more than half of New Jersey cases settle, New York's mediation program, by contrast, settles less than five percent of its cases.

We put a great deal of time, effort and funding into publicizing our program, and from my point of view, outreach has been essential.

Our experience so far teaches us that the difference between calling or not calling our foreclosure mortgage mediation hotline is the difference between keeping your home or losing your home.

There are abundant reasons for the economic crisis we are experiencing – the so-called Great Recession.

And abundant reasons for the housing crisis in particular – predatory lending, sub-prime mortgages, job losses, and deceptive mortgage rescue schemes.

As you know, the sub-prime residential loan market had a disproportionate impact on the number of residential foreclosures.

For example, while only 9 percent of loans serviced in New Jersey in the third quarter of 2008 were sub-prime, these sub-prime loans represented half of all residential foreclosures during that same quarter.

Without a doubt, many homeowners with sub-prime mortgages did so because of misleading marketing by mortgage brokers and lenders. In other words, they were victimized by a variety of predatory lending schemes.

In the last two years, my office has pursued both civil and criminal charges against more than 100 defendants engaged in a number of scams that were engineered with the sole purpose of looking to cash in on the financial troubles of others, defrauding consumers by stealing money from their pockets and equity from their homes.

The criminal cases have been brought by our Division of Criminal Justice. The civil suits have been pursued by the Consumer Protection Unit in the Division of Consumer Affairs and by a new Affirmative Litigation Unit that I established in our Division of Law.

Nearly $11 million in loans were involved in seven criminal cases we pursued involving 57 individual and banking businesses. Defendants stole people's identities to obtain mortgages and other loans, and to open up banking and credit card accounts.

Other schemes have involved phony broker and investment fees, or false information submitted to obtain mortgages.

In one instance, we charged a commercial loan broker falsified loan applications after collecting fees from business owners for the loan applications.

The scheme was uncovered when the one business person whose loan was approved defaulted on his loan.

It was then discovered that his loan application was fraudulent -- and so were the applications from four other business people that had been denied loans.

On the civil side, the state has filed 11 mortgage fraud lawsuits since June 2008 naming 102 individual and corporate defendants.

We have sought temporary restraining order and permanent injunctions against mortgage brokers, appraisers, and lawyers involved in fraudulent rent to own and sale leaseback schemes.

Consumers and homeowners have been victimized when they sought loans through a broker or sought to own investment properties. They have been victimized by for-profit companies running cold-calling boiler room operations falsely promising the ability to work out loan modifications or credit repairs.

The unifying thread among our cases is that the defendants not only stole people's money, they stole their hope. Consumers on the verge of losing their homes were promised financial solutions but, in the end, the defendants delivered only profits for themselves.

In March, we filed suit against New Hope Modifications of Bellmawr and Hope Now Financial Services of Cherry Hill for selling mortgage loan modification services that never materialized.

The obvious irony is in their names: They promised hope. They delivered anything but.

We charged these businesses collected substantial up-front fees from distressed mortgage holders for loan modification services, but did little or nothing to help them.

Both companies created the false impression they were affiliated with a non-profit foreclosure prevention program known as the Hope Now Alliance, which employs federally-approved counselors. Both companies were also subsequently charged by the Federal Trade Commission.

In April, we charged three individuals and two corporate defendants with promising to help distressed homeowners keep their homes but, instead, acquired their properties at exorbitant discounts, bound the victims to predatory "sale-leaseback" agreements, and, typically, evicted them before selling their homes to other buyers.

In July, we filed two separate lawsuits charging 10 individual and corporate defendants in connection with bogus loan modification and mortgage rescue schemes involving the sale of false hope to financially-strapped people struggling to remain in their homes.

Our two complaints charged the defendants with collecting thousands of dollars in unlawful “up front” fees for loan modification services that either never materialized, or made homeowners’ situations worse.

We also charged defendants with misleading consumers through false advertising and deceptive solicitations, and with engaging in debt adjustment activity without a license.

In one of the two suits filed, we alleged New Day Financial Solutions typically charged consumers in advance for loan modification services, delivered no results -- and often made no effort on customers’ behalf -- and failed to provide refunds.

One victim paid $2,500 for loan modification services and then learned through her lender that there was no record of any contact with New Day.

New Day had promised a 100 percent money back guarantee if it failed to modify her loan. She asked for her refund – but never got one.

The same defendants also created the American Financial Advisory Council, registered it as a non-profit, and established the Website www.lordsavemyhome.com .

The site described American Financial Advisory as working “with a select group of Christian-owned companies that are able to assist consumers who are experiencing financial hardships.”

None of the companies was licensed to engage in any type of debt adjustment activity in New Jersey.

As these examples show, we are committed to aggressively investigating and prosecuting this predatory conduct and holding those who take part it in it accountable.

Struggling to keep up with mortgage payments and fearing the loss of one's home is undeniably stressful.

But I urge anyone falling behind in their mortgage payments or facing possible foreclosure to proceed with caution in seeking help.

Before paying "up front" fees to anyone offering a solution, struggling mortgage-holders should contact our mortgage mediation hotline or our Division of Consumer Affairs.

If I may, Mr. Chairman, I'd like to put on the record that the New Jersey toll free mortgage foreclosure mediation hotline can be reached at 1-888-989-5277, or at www.NJForeclosureMediation.org.

Our division of consumer affairs can be reached at 1-800-242-5846, or, if calling from out of state, at 973-504-6200.

These tough economic times have put many of us under great financial and emotional stress. But I can't emphasize enough that we in New Jersey stand ready to help – whether it's working out mortgages or guarding against and prosecuting those who think nothing of exploiting our consumers and homeowners for ill-gotten gain.

In one recent instance, Martha Abraham of Newark – who had been living in her home for ten years – found herself temporarily behind in her mortgage payments due to unforeseen financial setbacks in 2006. She got back on track in 2008, but still her bank decided to foreclose.

She tried to work things out on her own. But it wasn't until her case went to mediation – under our mandatory mediation program – that Ms. Abraham could breathe easier.

Not only was the foreclosure action dismissed, Ms. Abraham received a loan modification which lowered her interest rate from 8.5 percent to 5.65 percent, with no increase in her outstanding balance.

It was a result for which we could all be grateful because it demonstrated how important and meaningful it is for the government to respond effectively to our current economic crisis.

Thank you, Mr. Chairman. I will be happy to respond to any questions.