

The seal of the South Carolina Department of Consumer Affairs is a circular emblem. It features a central figure of a woman standing on a globe, holding a scale of justice. The globe is inscribed with the word "SPES". Above the figure is a banner with the Latin motto "IN PROSPERIS SPIRO SPERO". The outer ring of the seal contains the text "SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS" at the top and "OPIBUSQUE PRAE" at the bottom. The year "1776" is also visible at the bottom of the seal.

**SOUTH CAROLINA DEPARTMENT
OF CONSUMER AFFAIRS:
MORTGAGE FRAUD
REPORT**

March 2007

Written By: Charles M. Knight, Staff Attorney
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TABLE OF CONTENTS

WHAT IS MORTGAGE FRAUD?.....1
WHAT IS CAUSING THE INCREASE IN MORTGAGE FRAUD?.....2
WHO PAYS FOR MORTGAGE FRAUD?3
WHAT IS THE EXTENT OF MORTGAGE FRAUD?3
WHAT HAVE WE DONE IN SOUTH CAROLINA?4
HOW DO WE COMBAT MORTGAGE FRAUD?5
RECOMMENDATIONS6
TIPS TO PREVENT YOU FROM BECOMING A VICTIM OF MORTGAGE FRAUD.....7
KEY TERMS.....8
**COMPARISON OF SOUTH CAROLINA AND NORTH CAROLINA LAWS
RELATED TO THE MORTGAGE INDUSTRY.....9**
US MAP SHOWING STATES THAT REGULATE MORTGAGE BROKERS10
**US MAP SHOWING STATES THAT REGULATE
MORTGAGEBANKERS/LENDERS.....11**
US MAP SHOWING STATES THAT REGULATE MORTGAGE SERVICERS.....12
APPENDIX13

Letters from the South Carolina Mortgage Fraud Taskforce:

- South Carolina Attorney General*
- The US Attorney, South Carolina District*
- The FBI, Columbia Division*
- South Carolina Field Office, HUD*
- The Internal Revenue Service, South Carolina Office*
- South Carolina State Housing Finance and Development Authority*

Stop Mortgage Fraud: A Call to Action Brochure

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 The Honorable Mark Hammond, Secretary of State, Columbia
 The Honorable Barbara B. League, Greenville
 The Honorable Louis Mayrant Jr., Pineville
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South Carolina General Assembly and their staff

Mortgage fraud is one of the fastest growing crimes in the United States. In their latest report, the Federal Bureau of Investigation (FBI) identified South Carolina as one of the top ten "hot spots" for mortgage fraud in the United States. **The South Carolina Attorney General further indicates that South Carolina has directly and disproportionately been targeted for this type of fraud.**

WHAT IS MORTGAGE FRAUD?

Mortgage fraud is a material misrepresentation, misstatement or omission that is relied upon by an underwriter or lender to fund, purchase, or insure a loan. Mortgage fraud is insidious, robbing homeowners and seniors of the equity in their homes and preventing first time home buyers from buying a home - the American Dream. Mortgage fraud also hurts the economy, since the housing industry has been its driving force in recent years. Therefore, we all lose. There are generally three motives for mortgage fraud: fraud for profit, fraud for housing and fraud to support or hide other criminal activity.

Fraud for profit is generally perpetrated by those inside the housing and mortgage industry. To be able to perpetrate the fraud requires the insiders to work together, resulting in a conspiracy. The list of those involved includes real estate agents and brokers, loan originators for mortgage brokers and lenders, homebuilders, appraisers, title insurance agents and closing attorneys, as well as others. **Cases in the last three years prosecuted by the United States Attorney's Office in South Carolina have resulted in convictions or plea agreements of over 80 individuals who were insiders as described above.** The fraudulent schemes include property flips, loans based on fictitious properties, misrepresenting investment property as owner-occupied property, misrepresenting or using the personal identity of others (identity theft), using false or forged documents very often through "straw buyers" to obtain a loan, and creating fictitious or nonexistent payees.

Fraud for housing is generally initiated either by a homebuyer or with their assistance so they can purchase or refinance a home. This type of fraud, although assisted by the homebuyer, generally results in huge profits for the insiders. Typically, the borrower will misstate income and/or expenses or forge documents to qualify for a mortgage or lower interest rates.

Fraud to support or hide other criminal activity, usually involves criminals using the mortgage industry to launder money or using the proceeds from a mortgage fraud scheme to fund other criminal activity. The fraudulent schemes include drug traffickers purchasing homes at inflated prices to launder money, terrorists buying safe houses and homes purchased for other criminal

activity, such as drug manufacture, prostitution, “chop shops” or counterfeiting. According to the FBI, criminals see the large sums of money in the mortgage industry as more profitable and less risky than other crimes.

WHAT IS CAUSING THE INCREASE IN MORTGAGE FRAUD?

The following information is excerpted from various reports on the mortgage industry and provides a historical perspective on the changes that are attributable to the increases in mortgage fraud experienced today.

The mortgage industry used to be a highly regulated business. Most mortgages were originated “in house” by banks and savings and loan companies. “In house” means bank employees originated the mortgages and the bank retained and serviced the mortgages. The banks and savings and loan companies were all highly regulated, primarily by federal regulators, however with the collapse of the savings and loan companies, new players entered the market. These new players included mortgage brokers and mortgage bankers. The mortgage brokers essentially took the place of the “in house,” employee/originators, and the mortgage bankers provided the funding, wholesale lenders. Mortgage bankers either sell their mortgages in the secondary market or hold them. If they hold the mortgages they will either service them or sell the servicing rights to others. Other new players include joint ventures between banks and others in the housing industry, for example, real estate agents/brokers, homebuilders and others. The mortgage bankers, brokers and joint ventures, in most cases, are only regulated by the individual states. Until recently, most states did not regulate these industries, or if so, only minimally.

The mortgage industry has seen phenomenal growth, grossing approximately \$400 billion in 1999 to between \$2 and \$4 trillion in 2006. Based on recent history, it appears this growth will continue. Additionally, the mortgage industry is very competitive; forcing those in the industry to cut their costs, reduce the time from origination to closing and to introduce new products. Cost cutting has seen a shift from quality control to production. Quality control is where you would expect questionable loans to be identified. Reducing the time to close has taken the human element, the experienced eyes that would detect fraud, out of the process. Additionally, the shift to automated underwriting, again takes quality control out of the equation. In some cases, the new products, such as low documentation and no documentation loans (low doc and no doc) being offered are more prone to fraud. Low doc and no doc loans require less or no verification of the applicant’s income or assets.

With these conditions and the possibility of making extraordinary amounts of money, the industry attracts unsavory characters with little or no experience or regulatory oversight.

WHO PAYS FOR MORTGAGE FRAUD?

We all pay, directly or indirectly. Homeowners and homebuyers pay directly through increased costs for mortgages and higher property taxes as fictitious appraisals and property flips increase property values. Indirect costs include taxes and lender costs to fight and/or prevent such crimes. Lenders also pass on their increased costs to consumers.

WHAT IS THE EXTENT OF MORTGAGE FRAUD?

The short answer is we do not know. Primarily because there is not a single repository or clearing house for mortgage fraud information, the extent of mortgage fraud is unknown. This need has been recognized by the FBI, industry and state regulators as a shortfall.

The FBI obtains their information based on Suspicious Activity Reports (SARs), however, only federally regulated entities are required to file SARs. Regardless, there is an increase in the number of SARs filed nationally, from 62,388 in 1996 to 522,655 in 2005. The latest report from the FBI states 279,703 SARs were filed in the first six months of 2006, with the expectation that 2006 will break all records. Also in this report, the FBI indicated South Carolina is one of the "Top Ten Hot Spots" for mortgage fraud. Additionally, the report shows that the foremost occupations for the fraudsters as finance related, including mortgage brokers, lenders and their employees. The types of fraudulent mortgage loan activity reported included falsification of the loan application, identify theft/fraud, misrepresentation of loan purpose or misuse of loan proceeds, appraisal fraud, fraudulent flipping of property and fraud involving multiple loans.

The Mortgage Asset Research Institute (MARI) is another source of information on mortgage fraud. MARI receives information primarily from subscribers, primarily mortgage lenders, therefore the data is not complete, but it paints a bleak picture as well. MARI attributes some of the reported mortgage fraud on the following factors: high origination volumes have strained lenders quality control processes, companies concentrating on production demands, assigning new, less trained staff in production where seasoned employees might detect mortgage fraud and the introduction of non-traditional products with less

quality control. MARI ranks individual states based on a mortgage fraud index. From 2001 through 2004, MARI reported South Carolina in the top ten in the United States in mortgage fraud. However in their latest report South Carolina has moved to number nineteen. An improvement, but we should not be satisfied, last place is our goal. To achieve this goal, we need to move forward with additional measures to further reduce mortgage fraud.

The FBI and MARI both agree that mortgage fraud is on the increase. A concerted effort is necessary to combat mortgage fraud; otherwise it could cripple the industry and prevent every American's dream of home ownership.

WHAT HAVE WE DONE IN SOUTH CAROLINA?

On June 3, 2003, South Carolina's Governor signed the South Carolina High Cost and Consumer Home Loans Act (the Act), with an effective date of January 1, 2004. This historic legislation's purpose was to curb abusive residential mortgage lending practices in South Carolina. Added to the Consumer Protection Code, the Act gave the Department of Consumer Affairs (Department) the primary responsibility for its enforcement. The Act is very similar to the Predatory Lending Act (PLA) in North Carolina. However, North Carolina soon realized that the PLA was not enough. Additional legislation was required to set minimum standards for all elements of the industry - lenders and brokers alike; and to give the State the authority necessary for enforcement. The solution was the Mortgage Lending Act (MLA). The MLA was a collaborative effort of consumer advocates, industry leaders and lawmakers. Without this comprehensive licensing law, authorities were unable to find those in violation of the PLA. In South Carolina, we find ourselves facing the same problem.

On January 13, 2005 Act Number 7, amendment to Title 40 Chapter 58, Licensing Requirements Act of Certain Brokers of Mortgages on Residential Real Property became law. The amendment required the licensing of originators for Mortgage Brokers and established minimum standards to be licensed. These standards provided a threshold for a segment of the industry and the Department enforcement authority. Prior to passage of this legislation no minimum standards, in experience or education, or a mechanism to check even state criminal records for originators employed by mortgage brokers existed. However, this was only the first step necessary for regulation and enforcement in the mortgage industry. **Mortgage lenders and their originators are basically unregulated. There is no oversight by the State. Additionally, first mortgages and junior liens less than 12% have little or no protections for consumers under the Consumer Protection Code. Most mortgages in today's market are funded and in some cases originated by non-depository mortgage bankers,**

who in most cases are only regulated by the individual states. In South Carolina, that regulation is missing.

The South Carolina Department of Consumer Affairs, in coordination with the North Carolina Commissioner of Banks, the Georgia Department of Banking and Finance, the Florida Office of Financial Regulation and the Department of Housing and Urban Development (HUD) (Southeastern Region) sponsored a mortgage fraud conference in Savannah, Georgia on June 22, 2006. The conference, Stop Mortgage Fraud, Spot it! Stop it!, was attended by state and federal regulators and law enforcement, including the sponsors, the FBI, the US Attorney for SC and NC, other law enforcement and regulators, and industry professionals. The conference resulted in increased cooperation and information sharing between all participants to combat mortgage fraud. As an example, the Department has referred several cases to the FBI, IRS and the Secret Service in recent months and routinely shares information with other state regulators.

(SEE ATTACHMENT)

In addition, the Department has sponsored and conducted numerous classes on detecting and preventing mortgage fraud. These classes were given to mortgage professionals in South Carolina. Also the Department participates in other educational events such as the Palmetto Affordable Housing Forum. Lewis Burns, Chair of the Department's Mortgage Broker Advisory Board said, "We still have a lot of work to do and I look forward to working with the Department in making South Carolina a state free of mortgage fraud."

HOW DO WE COMBAT MORTGAGE FRAUD?

We combat mortgage fraud by using a two-pronged approach: First, identify and prohibit known perpetrators from engaging in business, then investigate and prosecute the perpetrators.

To identify and prohibit known perpetrators (fraudsters), requires a licensing process that includes national records checks, including FBI and state criminal records and adjudicated enforcement actions by licensing authorities in other states. Fraudsters are known to be mobile, moving from one state to another, and migrating from one industry to another. For example, an investment adviser in South Carolina lost his securities license as a result of converting an investors funds to his own. This person then changed to the mortgage industry and was recently prosecuted for mortgage fraud. The licensing must include loan originators whether employed by mortgage brokers or lenders, first and second mortgage lenders and mortgage servicing companies. **(See Comparison of SC and NC licensing laws at Attachment)** The mortgage industry has become for the most part, national and even international in scope but regulation and enforcement should remain with the state where the actual

damage is felt. We looked at other states' laws, including North Carolina, and believe that there can be a balance between necessary regulation and any burden to the industry. **(See Attachment that show states that regulate mortgage brokers, lenders and services)**

We have also been working with our national associations, American Association of Residential Mortgage Regulators (AARMR) and the Conference of State Bank Supervisors (CSBS) to develop a National Licensing System. It is intended to be a web-based licensing application system that would be used by all states and make available licensing and adjudicated actions against a licensee to all states in which a license is sought. This will help curb fraudsters and bad actors from moving from one state to another as they do now.

The member states are also working to increase uniformity for licensing and regulation of the mortgage industry. We believe that this initiative will help lessen the burden on the industry as well. HSBC's Presentation to the National Conference of State Legislatures reinforces this concept. Furthermore, another area of concern is mortgage servicing. The Department receives a significant number of consumer complaints related to mortgage servicing, another part of the mortgage industry that is essentially unregulated, but affects our largest investment, our home.

To effectively prosecute requires a clearinghouse for all suspected mortgage fraud and a coordinated effort to investigate and prosecute the perpetrators, including local, state and national authorities. The Department is already working with state and national authorities, including the Attorney General of South Carolina, the FBI, the Secret Service, the IRS, the US Attorney's Office and HUD in this effort. We have formed a mortgage fraud task force and have started sharing information. More needs to be done; we need the assistance of local and state law enforcement and solicitors in the investigation and prosecution of perpetrators. In addition, state and local law enforcement need clear authority and guidance on the crime of mortgage fraud. And finally, the Department needs the law changes previously identified to assist in enforcement actions and identifying the fraudsters.

RECOMMENDATIONS

- Enact a Comprehensive Mortgage Lending Act
- Consider Participation in the National Licensing System
- Continue working with other states to develop uniformity in licensing and regulation of the Mortgage Industry
- Assist in establishing a National Clearinghouse for Reporting suspected mortgage fraud that includes a toll-free number.

TIPS TO PREVENT YOU FROM BECOMING A VICTIM OF MORTGAGE FRAUD*General Tips:*

If it sounds too good to be true – it probably is!

Never sign a blank document or a document containing blanks. This leaves you vulnerable to fraud.

Don't sign anything you don't understand.

Mortgage Fraud Prevention Tips:

Get referrals for real estate and mortgage professionals. Check the licenses of the industry professionals with state, county, or city regulatory agencies.

Be suspicious of outrageous promises of extraordinary profit in a short period of time.

Be wary of strangers and unsolicited contacts, as well as high-pressure sales techniques.

Look at written information to include recent comparable sales in the area and other documents such as tax assessments to verify the value of the property.

Understand what you are signing and agreeing to. If you do not understand, re-read the documents or seek assistance from an attorney.

Make sure the name on your application matches the name on your identification.

Review the title history to determine if the property has been sold multiple times within a short period. It could mean that this property has been "flipped" and the value falsely inflated.

Know and understand the terms of your mortgage. Check your information against the information in the loan documents to ensure they are accurate and complete.

KEY TERMS OF FRAUD SCHEMES

Backward Applications: After identifying a property to purchase, a borrower customizes his/her income to meet the loan criteria.

Air Loans: These are non-existent property loans where there is usually no collateral. An example would be where a broker invents borrowers and properties, establishes accounts for payments and maintains custodial accounts for escrows. They may set up an office with a bank of telephones, each one used as the employer, appraiser, credit agency, etc., for verification purposes.

Silent Seconds: The buyer of a property borrows the down payment from the seller through the issuance of a non-disclosed second mortgage. The primary lender believes the borrower has invested his money in the down payment when, in fact, it is borrowed. The second mortgage may not be recorded to further conceal its status from the primary lender.

Nominee Loans: The identity of the borrower is concealed through the use of a nominee who allows the borrower to use the nominee's name and credit history to apply for a loan.

Property Flips: Property is purchased, falsely appraised at a higher value, and then quickly sold. What makes property flipping illegal is that the appraisal information is fraudulent. The schemes typically involve fraudulent appraisals, doctored loan documents, and inflation of the buyer's income.

Foreclosure schemes: The subject identifies homeowners who are at risk of defaulting on loans or whose houses are already in foreclosure. Subjects mislead the homeowners into believing that they can save their homes in exchange for a transfer of the deed and up-front fees. The subject profits from these schemes by re-mortgaging the property or pocketing the fees paid by the homeowner.

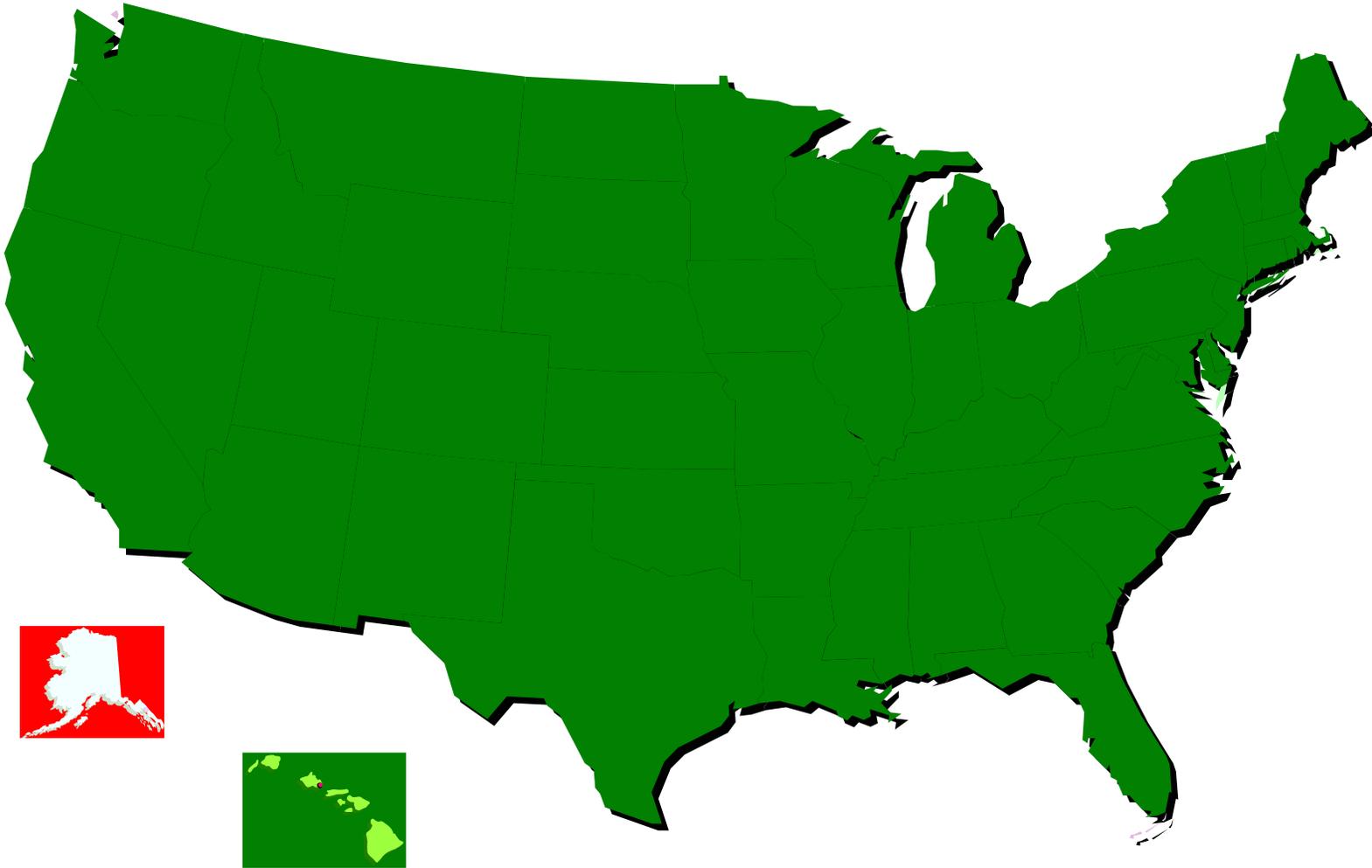
Equity Skimming: An investor may use a straw buyer, false income documents, and false credit reports to obtain a mortgage loan in the straw buyer's name. Subsequent to closing, the straw buyer signs the property over to the investor in a quit claim deed which relinquishes all rights to the property and provides no guaranty to title. The investor does not make any mortgage payments and rents the property until foreclosure takes place several months later.

**COMPARISON OF SOUTH CAROLINA AND NORTH CAROLINA LAWS
RELATED TO THE MORTGAGE INDUSTRY**

Mortgage Brokers	South Carolina	North Carolina
Broker License	Yes	Yes
Originator License	Yes	Yes
Licensee Testing	No	Yes
Prelicensing Education	No	Yes
Continuing Education	Yes	Yes
Criminal records check	SC only, no fingerprints	NC and FBI, requires fingerprints
Surety bond	\$10,000	\$50,000
Registration for exemptions	No	Yes

Mortgage Bankers/Lenders	South Carolina	North Carolina
Lender License	Only for 2 nd Mortgages greater than 12% (Supervised Lender)	Yes
Originator License	No	Yes
Licensee Testing	No	Yes
Prelicensing Education	No	Yes
Continuing Education	No	Yes
Criminal records check	No	NC and FBI, requires fingerprints
Surety bond	0	\$150,000
Registration for exemptions	No	Yes

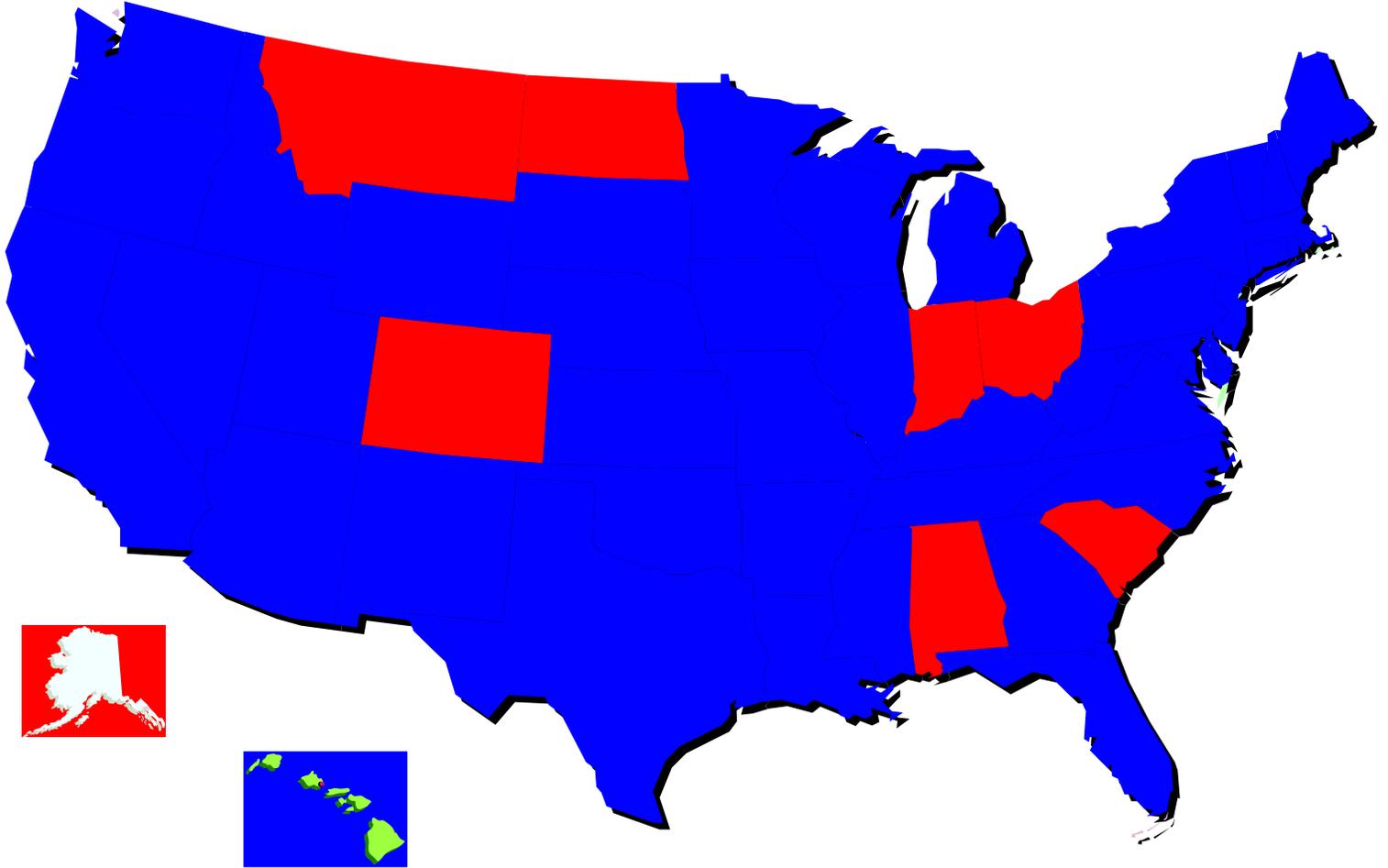
US MAP SHOWING STATES THAT REGULATE MORTGAGE BROKERS



 States that regulate Mortgage Brokers are shown in green

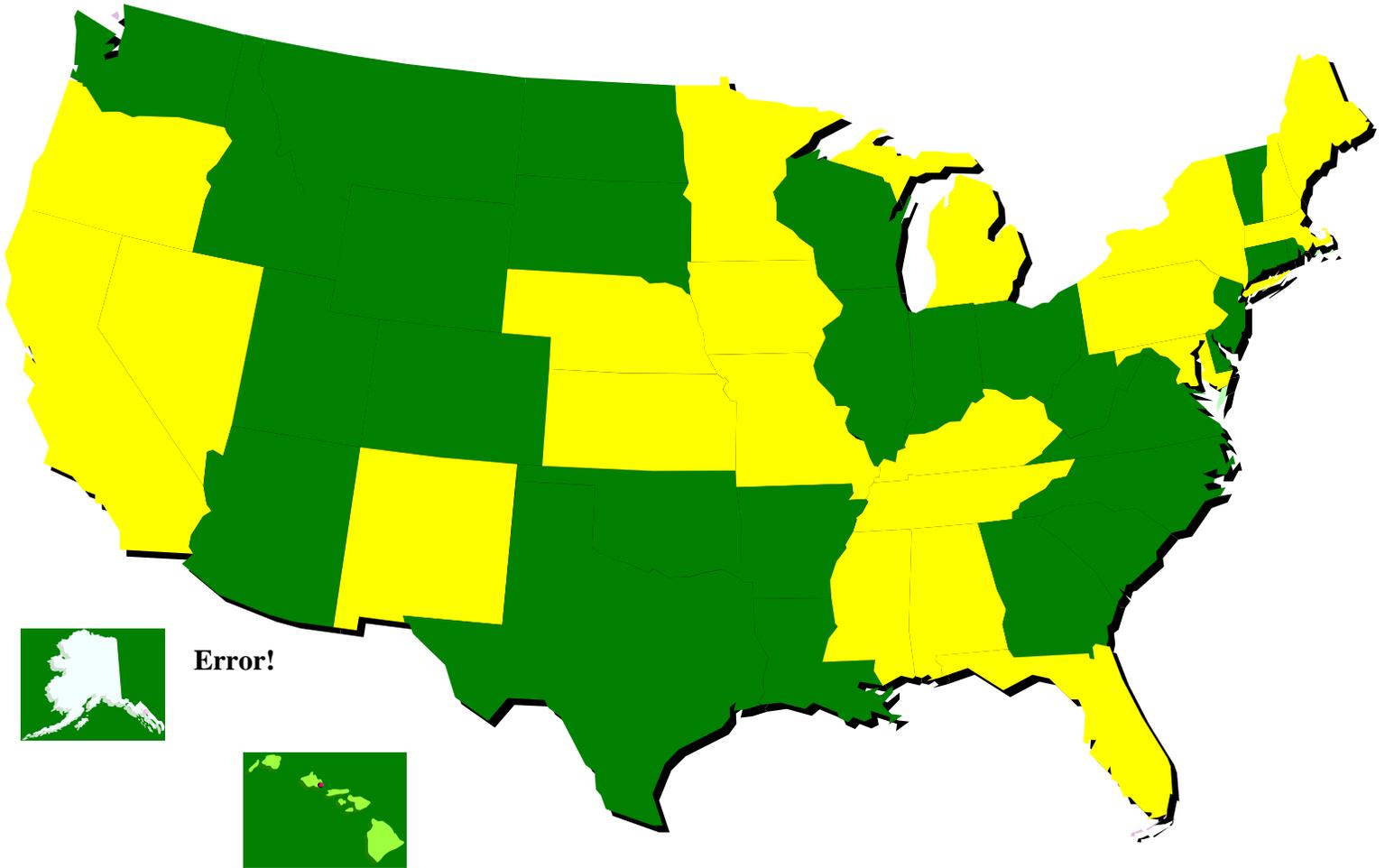
 States that do not regulate Mortgage Brokers are shown in red

US MAP SHOWING STATES THAT REGULATE MORTGAGE BANKERS/LENDERS



-  States that regulate Mortgage Bankers/Lenders are shown in blue
-  States that do not regulate Mortgage Bankers/Lenders are shown in red

US MAP SHOWING STATES THAT REGULATE MORTGAGE SERVICERS



-  States that regulate Mortgage Servicers are shown in yellow
-  States that do not regulate Mortgage Servicers are shown in green



**SOUTH CAROLINA
STATE HOUSING
FINANCE AND DEVELOPMENT AUTHORITY**

Division: Special Projects

Subject: High Cost Home Loan Counseling Program

Calendar Year 2005 Update

The Legislation

On June 3, 2003, Governor Mark Sanford signed into law the South Carolina High Cost and Consumer Home Loans Act (Act No. 42) in an effort to protect consumers from predatory lending practices. Under the new law, borrowers seeking a “high cost home loan” must be advised by the lender that free counseling by an approved counselor is required before securing the loan. Along with definitions and procedures, the law also includes provisions for both enforcement and education. These are key provisions for the success of the law. Subsequently, the South Carolina Department of Consumer Affairs was tasked with enforcement of the law and the South Carolina State Housing Finance and Development Authority was tasked with educating consumers about the law, primarily in the form of consumer counseling.

The Loan

The law addresses loans that include home mortgages, such as first mortgages, mobile home and land, purchase money and home improvements and manufactured homes without land, auto title lenders and mortgage brokers. Aside from traditional loan closing procedures, those loans that are considered “high cost home loans” also have additional requirements specifically related to borrower counseling. That counseling is facilitated by the use of a checklist. The checklist is a list of items each counselor will cover with the borrower including questions regarding the borrower’s individual circumstances, the terms of the loan, the fees of the loan and any other information deemed appropriate.

A High Cost Home Loan has the following components: having a principal amount that does not exceed the Fannie Mae conforming loan size limit for a single-family dwelling; is incurred for primarily personal, family, or household purposes; is secured either by a security interest in a manufactured home or a mortgage on real estate upon which there is or there is to be located a structure designed principally for occupancy for 1-4 families and which will be occupied primarily as a principal dwelling; and meets one of two thresholds. The thresholds are: Interest Threshold, first mortgage – 8% over US Treasury securities, second mortgage and manufactured housing – 10% over US Treasury securities; or, Points and Fees Threshold, loans greater than \$20,000 – 5% of the loan, loans less than \$20,000 – 8% of the loan, non-real estate manufactured homes – 3% of the loan.

The Borrower

The law was enacted to protect South Carolina’s most vulnerable citizens. Typically, “high cost home loan” borrowers fall into one or more of the following categories: poor credit and/or insufficient collateral and either thinks or actually is incapable of being financed by a more traditional lender; good credit, but thinks he/she has bad credit; good credit, but trusts the high cost lender more or is hesitant to use a traditional lender; or, needs money quickly and feels a traditional lender would be too slow. It is because of these perceptions and ‘feelings’ that the role of the counselor becomes so critical. Some may be completely inaccurate and burden the borrower with unnecessary risk.

The Counselor

A High Cost Home Loan Counselor is primarily an educator. According to the law, the counselor is to counsel “...on the advisability of the loan transaction and the appropriate loan for the borrower.” The South Carolina Department of Consumer Affairs has interpreted this to mean that “...the counselor’s role should be that of an educator, facilitating the borrower’s awareness of the loan’s terms and costs.”

The criteria for becoming a counselor is experience in housing counseling, credit or financial counseling, or a background in the mortgage lending industry – although a counselor must not have any current interest or affiliation with any lenders – attendance of a training session and signing of the Counselor’s Assurance, which assures that the counselor will act in the best interest of the borrower, will neither collude with nor act on behalf of any lending institution and will conduct themselves professionally. With tools such as the Truth in Lending Disclosure, a good faith estimate of closing costs and a copy of the borrower’s credit reports, the counselor educates the borrower on the terms of the loan, the importance of credit and other financial implications. It is the end-goal of the counselor, though, that is the most critical: to convey to the borrower the risks associated with high cost home loans.

The Program

The inception of the High Cost Home Loan Counseling Program was January 1, 2004 when the South Carolina High Cost and Consumer Home Loans Act became effective. For the first year, counselors were volunteers and were not compensated for their sessions conducted. In January 2005, The Board of Commissioners of the Authority decided to begin compensating counselors for their efforts. Compensation was set according to a determined schedule. Aside from these actions and the increase in recruitment with corresponding training, no major changes were instituted in the program in 2005.

Following is a review of the program since its inception.

Table 1. Measures of High Cost Home Loan Program Since Inception Presented by Calendar Year

Measure	2004	2005	2006	2007
Number of Sessions for	200	142		

Calendar Year				
Number of Sessions for First Quarter	37	38		
Number of Sessions for Second Quarter	63	35		
Number of Sessions for Third Quarter	54	42		
Number of Sessions for Fourth Quarter	46	27		
Number of Counselors	74	73		
Percent of Counselors Participating	51%	29%		
Number of Counties with Sessions	28	*		
Percent of Loans Less Than \$20,000	69%	63%		
Percent of Loans Greater Than \$50,000	8%	3%		
Percent of Loans for Debt Consolidation	43%	30%		
Percent of Loans for Home Improvement	29%	21%		
Percent of Loans for First Lien	85%	92%		
Percent of Loans for Refinance	32%	32%		
Average Amount Borrowed	\$16,583.00	\$18,741.00		
Highest Amount Borrowed	\$180,000.00	\$258,504.00		
Least Amount Borrowed	\$2,300.00	\$2,907.00		
Cost of Counseling Program**	\$0.00	\$7,590.00		

* Data is not available for the referenced year.

** Cost is based solely on invoices submitted to SCSHFDA by High Cost Home Loan Counselors. In 2004, counselors were volunteers.

Conclusion

The activity in the High Cost Home Loan Counseling Program seems to have dropped significantly, as has the participation of the counselors. Most of the other indicators for 2005 appear to be of an approximate level with 2004, varying more in the mix of the categories than in the categories themselves. The Authority staff will continue to develop more appropriate measures of the effectiveness of the program, including conducting open sessions for discussing issues that have arisen for counselors in the course of their provision of services, periodic updates to participating counselors and inclusion of information sessions during the Palmetto Affordable Housing Forum. Since the nature of the responsibility of the Authority in this legislation is to provide consumers with adequately trained counselors who can advise them on the appropriateness of the loan, no effort has been made to gather information on the effectiveness of the legislation; merely on the effectiveness of the educational program.



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Reply to: Columbia

October 2, 2006

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Re: Mortgage Fraud Consumer Report

Dear Ms. Pinkston:

As you prepare your report on mortgage fraud to consumers in South Carolina, please consider for inclusion the following from the United States Attorney's Office, District of South Carolina:

The United States Attorney's Office, District of South Carolina, has actively prosecuted individuals involved in mortgage fraud, with approximately 80 convictions obtained over the last three years across the state. Federal law prohibits providing false information to a bank in connection with a mortgage loan, and authorizes sentences of up to 30 years in prison and a fine of \$1,000,000.00. Federal agencies that investigate mortgage fraud include the FBI, Secret Service, IRS, the Postal Inspector, and the Department of Housing and Urban Development (HUD).

Those prosecuted in South Carolina for mortgage fraud include mortgage brokers, loan officers, developers, appraisers, real estate agents, closing attorneys, paralegals, and borrowers. In each case, the individual convicted played a role in misleading the mortgage lender as to the true nature of the transaction at issue, and usually a coordinated effort was undertaken by two or more individuals in the deception. For example, in Columbia last year a developer and appraiser conspired to fraudulently inflate the value of a residence, while in Anderson a mortgage broker and loan officer conspired to hide from the bank a borrower's debts on loan applications. In both cases, the respective lender was misled by the false

information, and those involved were held responsible.

Recent cases handled by the U.S. Attorney's Office included frauds involving: (1) false submissions to lenders concerning the creditworthiness of borrowers; (2) inflated appraisals; (3) illegal flip transactions, in which properties were bought at low prices, then immediately resold at falsely inflated prices; and (4) fraudulent refinancing transactions. In each case, false information was relied upon by the lender in making loans to otherwise unqualified borrowers to purchase or refinance over-valued houses. The illicit proceeds were often taken by the perpetrators as bogus repair or renovation costs, unearned commissions, or false creditor pay-offs. The borrowers victimized by these mortgage frauds found themselves owing more on their houses than they were worth, and saddled with monthly mortgage payments they couldn't afford. They ultimately defaulted on their mortgages and abandoned their homes, which adversely affected the values of neighboring homes.

Consumers considering a real estate transaction should be wary of unscrupulous individuals that purport to be working for the consumer, but who in fact are only interested in obtaining a share of the bank's loan proceeds for themselves. These individuals may attempt to convince potential mortgage loan borrowers that there is nothing wrong with omitting poor credit information on loan applications, or providing the lender with documents that misrepresent the condition and value of properties to be purchased. Consumers should realize that such activity is illegal, and can result in federal prosecution for a knowing participation in mortgage fraud. A key point for consumers to remember is that honest real estate professionals will never ask potential borrowers to lie about anything. Should such a request be made, borrowers are urged to contact law enforcement and the S.C. Department of Consumer Affairs immediately.

I hope this submission proves helpful. If you require anything further, please contact me.

Sincerely,

REGINALD I. LLOYD
UNITED STATES ATTORNEY

By 
Kevin F. McDonald
Chief Assistant United States Attorney
General Crimes Section
1441 Main Street, Suite 500
Columbia, South Carolina 29201
(803) 929-3000



Mr. William Dudley Gregorie, Former Field Office Director, US Department of Housing and Urban Development (HUD) stated that “Mortgage fraud was one of the fastest growing crimes in America” with the number of pending cases nearly doubling in the past three years.” One of the most common mortgage fraud schemes is to sell a home at a hugely inflated price, relying on phony appraisals.

A property is acquired at a low or modest price and little or no rehabilitation repairs are performed. The house is then placed on the market at a much higher price of up to several times the acquisition cost. The new price is supported by a bogus appraisal. This type of property flipping is a crime that takes the collusion of several parties to pull off,” Gregorie states. “That’s why when you see cases of flipping mortgage fraud, you’ll usually find some combination of real estate brokers/agents, appraisers, and mortgage brokers involved.

New anti-flipping rules instituted by HUD for FHA mortgages have taken effect that restrict property flipping. Properties must be owned for ninety days before resale and the costs of repairs and improvements must be documented. These changes in policy have reduced mortgage fraud in property flipping resales.” Mr. Gregorie also cited the work of HUD’s approved Housing Counseling Agencies through their homebuyer education programs. “More knowledgeable purchasers have contributed to a reduction of Mortgage Fraud in South Carolina.”

The U.S. Department of Housing and Urban Development, Atlanta Region and its partners including the South Carolina Department Consumer Affairs Office sponsored free symposium for Mortgage Professionals on “Stop Mortgage Fraud”. Recent published and broadcast news reports highlight many cases of mortgage fraud. Georgia, Florida, North Carolina, South Carolina are among the top five states in the Nation where mortgage fraud was most prevalent. The Symposium and the news media increased awareness of fraud by identifying all types of fraud within the single family housing industry, fostered relationships with other industry partners, and raised consumer awareness.

IRS Nationwide Enforcement Actions Real Estate Fraud

Real Estate Fraud: Facts, Figures and Closed Cases

IRS Criminal Investigation (CI)
October 2006

Special agents with IRS Criminal Investigation are uniquely equipped to investigate mortgage fraud and illegal real estate crimes.

When times are booming, you can expect to see increases in frauds and schemes that victimize people and businesses, including struggling low-income families lured into home loans they cannot afford, legitimate lenders saddled with over-inflated mortgages and honest real estate investors fleeced out of their investment dollars.

IRS criminal investigators find common real estate schemes, which include:

- **Property Flipping** — A buyer pays a low price for property, and then resells it quickly for a much higher price. While this may be legal, when it involves false statements to the lender, it is not.
- **Two Sets of Settlement Statements** — One settlement statement is prepared and provided to the seller accurately reflecting the true selling price of the property. A second fraudulent statement is given to the lender showing a highly inflated purported selling price. The lender provides a loan in excess of the property value, and after the loans are settled, the proceeds are divided among the conspirators.
- **Fraudulent Qualifications** — Real estate agents assist buyers who would not otherwise qualify by fabricating their employment history or credit record.

In these real estate fraud cases, the income earned from these schemes is often laundered to hide the proceeds from the government. Money laundering is simply a process of trying to make money earned illegally to look like it was legitimately earned. Many criminal tax investigations focus on money laundering because it is often inseparable from tax evasion.

In addition, the IRS has thousands of returns under audit involving individuals and entities associated with the real-estate business.

As the following statistics indicate, IRS criminal investigations of real estate

fraud continue to be an area of concern.

**IRS Criminal Investigation
Real Estate Fraud Statistics**

	FY 2004	FY2003	FY2002
Investigations Initiated	194	215	194
Prosecution Recommendations	148	117	148
Indictments/Informations	102	94	102
Convictions	89	81	89
Sentenced	78	65	78
Incarceration Rate*	92.3%	87.7%	92.3%
Avg. Months to Serve	41	46	41

*** How to Interpret Criminal Investigation Data**

Since actions on a specific investigation may cross fiscal years, the data shown in cases initiated may not always represent the same universe of cases shown in other actions within the same fiscal year. Therefore, in fiscal year 2004, the data should reflect an increase in convictions and sentenced due to the fiscal year 2003 increase in case initiations, prosecution recommendations and indictments.

*Incarceration may include prison time, home confinement, electronic monitoring, or a combination.



**Savannah International Trade
and Convention Center**

**Thursday, June 22, 2006
8:00 a.m. to 5:00 p.m.**



STOP MORTGAGE FRAUD: A CALL TO ACTION

Savannah, Georgia

June 22, 2006

8:00-9:00 Registration & Exhibits Open

9:00-9:40  Opening Session

Introduction of Mayor Pro-Tem



Pattie Wainwright
President, Mortgage Bankers Association of Georgia, Savannah Chapter

Welcome to Savannah



Edna Jackson
Mayor Pro-Tem, Savannah, Georgia

Welcome



"Everyone pays for mortgage fraud."
Bob Young
Regional Director, Region IV, Department of Housing and Urban Development

Why Are We Here



"You can't stop mortgage fraud if you don't know what it is."
Brandolyn Thomas Pinkston
Administrator, South Carolina Department of Consumer Affairs

9:50-12:10  Where Fraud Begins

Moderator



"Mortgage fraud has been rapidly increasing over the last several years, and in North Carolina, we believe that the government and industry must work together to address the problem."

Tami Hinton
Director of Consumer Affairs, NC Office of the Commissioner of Banks

Money Laundering - How to Spot It



"Don't let dirty money ruin your reputation, your business, or your profession."
John Atkinson
Assistant Vice President, Federal Reserve Bank of Atlanta

Mission Possible: Preventing Fraud from a Lender Perspective



"Fraud: The dirty side of our business. Don't be a victim or a participant."
Susan Billings
CTX Mortgage

Recent Interviews: Prevention of Fraud from the Real Estate Agents View



"Zero Tolerance"
Grant Simon
President, First Florida Home Loans

Tainted Transactions



"Because that's where the money is."
Seth Weissman
General Counsel, Georgia Association of REALTORS

Regulatory Compliance Investigation and Inflated Property Values



"The real estate and lending regulatory agencies are at war with an elusive enemy identified as fraud, and currently it is believed by many that fraud is winning."

Larry Disney
President, Association of Appraiser Regulatory Officials

10:50-11:10 Break - Exhibits Open

Prevention from the Victim's View

"Mortgage fraud is a crime that devastates neighborhoods and destroys naive 'investors'. It can only be stopped by the combined efforts of each segment of the industry using every available tool and resource."

Ann Fulmer
Vice President, Industry Relations, Interthinx

Results of Fraud- Who Is the Real Victim

"When interest rates rise, the potential for fraud also rises."

Debbie Kidd
Housing Director, Homeownership Resource Center, Family Services, Inc.

Over Reliance on Technology - What Lenders are Missing

"Because quality loans come from quality lenders."

Arthur Prieston
Chairman, The Prieston Group

ID and Income Fraud Detection

"Although technology intended to improve consumer services, it has also supported a new boldness by perpetrators of misrepresentation. There's a growing selection of powerful tools that lenders can use NOW to detect and protect against loss."

Robert Knuth
President, NCS/ National Credit-reporting System, Inc.

Questions and Answers**12:10 - 1:25 Luncheon - Exhibits Open**

"I firmly believe that one of the best ways to prevent fraud is to have educated consumers. That's why we at FHA are trying very hard to get the word out about FHA products. FHA products are designed to protect the consumer and the more folks know to ask for an FHA loan, the better off they are."

Brian Montgomery
FHA Commissioner, Department of Housing and Urban Development

Mortgage Fraud 2005 Trends

"Mortgage Fraud - Where and What's Hot"

Merle Sharik
Manager, Business Development, Mortgage Asset Research Institute, Inc.

1:25-3:00**How Fraud Gets To Closing - Everyone's Obligations****Moderator**

"Fighting mortgage fraud—government and secondary market expectations"

Alfred Pollard
General Counsel, Office of Federal Housing Enterprise Oversight

What Is Being Done To Resist Mortgage Fraud

"Preventing mortgage fraud takes commitment AND imagination."

William Brewster
Director, Anti-Fraud Initiatives, Fannie Mae

What Expectations are of Market Participants

"If it sounds too good to be true, it IS too good to be true."

Jenny Brawley
Lead Fraud Investigator, Freddie Mac

Top Ten List: What Brokers Can Do to Stop Mortgage Fraud, "The Buck Stops Here!"

"To combat mortgage fraud, each party to the transaction must adhere to the motto, 'The Buck Stops Here!'"

Loretta Salzano
President, Franzen and Salzano, P.C.

The Role of Closing Attorneys in Mortgage Fraud and Expectations of State Regulators

"In S.C. you cannot have meaningful mortgage fraud without the assistance, whether knowingly or unknowing, of an attorney."

Henry Richardson
Disciplinary Counsel, Office of Disciplinary Counsel, Supreme Court of South Carolina

Fraud Affects All Market Participants*"Mortgage fraud - not a victimless crime."*

Paul Lee

Chief Investigator, Office of Disciplinary Counsel, Supreme Court of South Carolina

"Mortgage Fraud-- Stealing the American Dream & Working Together to Stop It."*"Mortgage fraud is stealing the American Dream."*

Charles Knight

Staff Attorney, South Carolina Department of Consumer Affairs

Questions and Answers2:55-3:15 **Break**

3:15- 4:55

**Enforcement- After the Crime****Moderator***"We owe it to the American public to constantly be alert for those who prey on the mortgage industry to illegally enrich themselves. Law enforcement and the industry must cooperate with one another and hold offenders accountable."*

Michael Stephens

Deputy Inspector General, Department of Housing and Urban Development

"Stings by the FBI"*"One of the cornerstones of the American way of life is home ownership. Confronting and prosecuting those who strive to defraud and manipulate this aspect of American life is a priority for the FBI."*

Brian Lamkin

Special Agent in Charge, Columbia Division, Federal Bureau of Investigation

"Shell Companies - Moving Money Off The HUD 1"*"The Shell Saga, a/k/a "scheme du jour:" the current alternative to the Classic Flip where fraudulently inflated loan proceeds are disbursed to shells companies listed on the HUD 1."*

Gale McKenzie

Assistant U.S. Attorney, Northern District of Georgia, U.S. Attorney's Office

"Professionals Making Money Through Fraud"*"We prosecute dishonest brokers, appraisers and lawyers who participate in mortgage fraud because such schemes cannot succeed for long without their help and complicity."*

Michael Savage

Chief, Criminal Division, Western District of North Carolina, U.S. Attorney's Office

"Flipping Schemes"*"Joining Forces and Combining Resources Can Significantly Impact Flipping Fraud."*

Ruth Valdes,

Assistant Special Agent in Charge, Office of Inspector General, Miami Office, Department of Housing and Urban Development

"Crooked Sellers and Builders"*"Sellers, particularly builders, are the newest culpable group to join the ranks of mortgage fraudsters - happily selling homes at grotesquely inflated values and then kicking money back to other fraudsters."*

David McLaughlin

Assistant Attorney General, Office of the Attorney General of Georgia

"Role of State Regulatory Agencies in Preventing Fraud"*"Mortgage Fraud - It can be prevented with your help!"*

Andy Grosmaire

Financial Administrator, Bureau of Finance Regulation, State of Florida

Quality Control*"Mortgage Fraud- is like an infectious disease, if left untreated it will continue to spread."*

Verlon Shannon

Director, Quality Assurance Division, Atlanta Homeownership Center, Department of Housing and Urban Development

Questions and Answers

4:55-

Closing Remarks and Wrap Up

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 Georgia
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 South Carolina Mortgage
 Brokers Association

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 Georgia Association of Mortgage Brokers
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 Federal Deposit Insurance Corporation
 Interthinx
 NAREB
 NeighborWorks
 Verification Bureau, Inc./Prevent Mortgage Fraud
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