



Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

October 13, 2010

Trustee Name
Address
City, State Zip Code

RE: **Potential Unlawful Foreclosure Practices in Washington**

Dear Foreclosure Trustee:

I am writing to you regarding serious problems associated with foreclosures in the state of Washington that we have been observing. As a trustee responsible for conducting non-judicial foreclosures, you have a statutory duty to perform all foreclosures in good faith and you owe that duty to both the homeowner and the lender. Your duty includes assuring that every procedural step, every legal notice, and all mandated mediation opportunities are provided to homeowners facing foreclosure in fullest conformance with the law.

Our office has been investigating lenders, mortgage servicers and local trustees. We have discovered that problems related to foreclosure processing are not limited to the national banks and mortgage servicers. In Washington, we have found evidence that foreclosure trustees appear to be ignoring laws specific to our state and may be regularly using some of the same questionable practices used by national banks, such as:

- Employees of foreclosure trustees are signing documents posing as the corporate officer of multiple banks and mortgage servicers. This may misstate the signer's role in the process and be a conflict of interest contrary to the trustee's duties to the homeowner.
- The signatures of some trustees vary widely from document to document, which suggests that trustees are signing other person's signatures. This problem is compounded by the fact that the signatures are notarized with a statement that the signer is the actual person standing before the notary.
- Trustees may be foreclosing on homes when there is no clear chain of ownership for the loan or the security interest. Trustees must be sure that the lender has the authority to foreclose and that the documents which create the chain of ownership are accurate. One of the problems emerging nationally is that lenders are "reverse-

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engineering” the chain of title, including back-dating documents to make it appear as though the loan was passed from company to company on certain dates when no such assignment actually occurred.

- Since July 26, 2009, Washington trustees have been required to identify the actual owner of the loan and the company that is acting as servicer, with their addresses and a phone number for the servicer. Many default notices have gone out without this required information, which can make it harder for homeowners to contact and deal with their mortgage owners.
- Lenders with mortgages made between 2003 and 2007 must advise the borrower that he or she has the right to request mediation and, if requested, the loan owner will schedule the meeting to occur within fourteen days of the request. It is our understanding that lenders are regularly not telling homeowners about this right, which exists to help homeowners explore alternatives to foreclosure.

Your role as foreclosure trustee is to ensure that each foreclosure you conduct is completed in good faith and in full compliance with the law. Because Washington State law allows foreclosure without court oversight, you are the party most responsible for ensuring that foreclosures are done properly. Consequently, I ask you to suspend all foreclosures in which you have not yet confirmed that all foreclosure-related documents were lawfully signed, that the chain of ownership is clear and has been revealed to you in full, and that state consumer protection requirements have been followed.

Our Consumer Protection Division has already begun investigations regarding several trustees and I would ask for your cooperation when you are contacted. I have also directed our legal team to survey the foreclosure trustees that are not under investigation to determine whether and how they are reforming their practices to comply with the law.

Sincerely,



ROB MCKENNA
Attorney General

RMM:lra

cc: Mortgage servicers and sub-servicers