

**Testimony of Prentiss Cox
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**Before the United States Senate
Committee On Commerce, Science and Technology**

**“Consumer Protection and the Credit Crisis”
February 26, 2009**

Thank you Chairman Rockefeller and members of the Committee, including my home state Senator Amy Klobuchar, for the opportunity to testify on the nation’s consumer protection agenda in the wake of this great flood of foreclosures. While there is much to say about why we have a human-made disaster of this proportion, millions of American families are just desperately trying to cope with the reality of default or foreclosure on their mortgage loans, or are worried about looming difficulties in meeting their mortgage payments. I will try to address the unfair and deceptive practices targeting homeowners in foreclosure and how government can help protect these families in a time of intense distress.

Prior to joining the University of Minnesota Law School faculty in 2005, I had the privilege of working as an Assistant Attorney General and Manager of the Consumer Enforcement Division in the Minnesota Attorney General’s Office. A primary focus of my work in that Office was combating mortgage fraud and attacking predatory conduct against homeowners in foreclosure. Along with my colleagues Giulia Palumbo and Julie Aoki-Ralston, I worked with homeowners in foreclosure who had succumbed to solicitations promising to save their homes. These homeowners often faced eviction as a result of complicated and frequently fraudulent transactions. In 2004, we helped draft legislation enacted by the Minnesota legislature designed to regulate these foreclosure rescue scams. Since that time, I have worked with numerous state legislators and consumer advocates seeking to pass similar legislation and with legal aid and other attorneys engaged in litigation to help foreclosed homeowners.

I also have been asked to appear before you on behalf of the National Association of Consumer Advocates (NACA), a non-profit association of consumer law attorneys and consumer advocates. NACA members include attorneys from a variety of types of practice, including the public sector, legal services, fee-

generating attorneys and the academy. NACA is a remarkable efficient and strong advocate for the protection of consumers in the marketplace.

I. Anatomy of Foreclosure Rescue Scams

Foreclosure rescue scams target homeowners at their most vulnerable moment. Perpetrators of these scams use fraud and false promises to take desperately needed cash from these homeowners.

A. Experience of Homeowners Entering Foreclosure

If you want to find an area ripe for consumer fraud, look for one or more of the following three factors: substantial amounts of money at stake; complexity of transactions; and vulnerability of the consumer. Families in foreclosure present all of these characteristics in one place. The largest and most important investment made by the typical American family is their home. It is almost impossible to find a consumer transaction more complex than the financing and legal obstacles facing a family in foreclosure. And these families often are desperate to save their homes.

Foreclosure rescue scams provide a ready-made opportunity for the perpetrators of scams because the potential victims appear in the public record of foreclosure filings, and critical information such as estimated home value and the amount of liens on the property also are readily available in the public record or on the internet. As soon as a house enters the foreclosure process, the homeowner in foreclosure typically is subject to an avalanche of mail, phone calls and personal visits from people promising to help the homeowner.

It is difficult to describe the desperation felt by many homeowners with whom I have worked who were facing the loss of their homes through foreclosure. My colleagues and I worked with one family that had three small children and their home had been passed through two prior generations of the family. I recall another homeowner who had personally built most of his home. He and his wife and children were evicted by a foreclosure rescue buyer on Christmas Eve. We were eventually able to help them regain possession of the home. More than one homeowner with whom we worked succumbed to the stress of the foreclosure process.

B. Two Types of Foreclosure Rescue Operations

The individuals and companies that descend on homeowners in foreclosure have a common theme of purporting to help the homeowner “save your home” and ending the nightmare of foreclosure. Acquirers claim to have special expertise to help the homeowner resolve the foreclosure. A typical solicitation letter is as follows:

We lookout for your interests.

We can stop the foreclosure process.

We can help you restore your credit.

We can help you save your homestead.

...Let us try and help you figure out solutions so you can sleep at night.¹

Many foreclosure rescue operations also rely heavily on affinity appeals, such as race or religious similarity.

Foreclosure rescue operations can be grouped into two broad categories: foreclosure reconveyance transactions and foreclosure “consultants.”

1. Foreclosure Reconveyance Transactions

Foreclosure reconveyance transactions involve the transfer of title from the homeowner in foreclosure to a “purchaser” and an alleged second transfer, or reconveyance, of an ownership interest back to the homeowner. There are several variations of this type of reconveyance deal.² In some instances, the “purchaser” promises to return ownership to the homeowner through a land sale contract or a lease with purchase option. Other forms of the reconveyance scheme involve a third party “white knight” who takes title to the home and promises to complete the reconveyance to the homeowner.

¹*State v. HJE*, No. 03-cv-05554 (D.Minn.) (Complaint filed October 16, 2003). For other example solicitations, see Steve Tripoli and Elizabeth Renuart, NATIONAL CONSUMER LAW CENTER, DREAMS FORECLOSED: THE RAMPANT THEFT OF AMERICANS' HOMES THROUGH FORECLOSURE “RESCUE” SCAMS (2005); available at <http://www.consumerlaw.org/news/content/ForeclosureReportFinal.pdf>.

² For a detailed description of the types of foreclosure reconveyance scams, see Steve Tripoli and Elizabeth Renuart, *supra* note 1; Prentiss Cox, *Foreclosure Equity Stripping: Legal Theories and Strategies to Attack a Growing Problem*, CLEARINGHOUSE REVIEW JOURNAL OF POVERTY LAW AND POLICY (Mar.-Apr. 2006).

A substantial number of these transactions involve outright fraud. Forged signatures on deeds, blatantly false representations about the character of documents presented for signature by the homeowner, and false statements that the deal is really a mortgage refinancing are common in these transactions. For example, I worked with a Saint Paul, Minnesota family in foreclosure who were told that they would receive a mortgage loan refinancing. The person soliciting them referred the family to a company representative who gave them a business card stating “loan administrator” and an appraiser was sent to the home. In reality, the person conducting the scam fraudulently obtained a warranty deed from the family by telling them that the documents they were being asked to sign were paperwork to get the refinancing loan started. Without the family’s knowledge, the perpetrator of this scheme transferred the property to a third party who obtained a mortgage loan that provided cash to the perpetrator. The family was told the refinancing was complete and they even made a few payments to the perpetrator before they received a “rent” demand from the third party who purportedly held title to the home. After many difficult months for the family and countless hours of investigation and litigation, we were able to have the title restored to the family.

Many of these reconveyance transactions, however, do not involve such blatant fraud—the foreclosed homeowner knows that some sort of reconveyance transaction is occurring. But these deals are designed to fail for the homeowner. The perpetrators of the schemes use the desperate hopes of the homeowner combined with misleading promises about future refinancing opportunities, or the like, to obtain agreement to complex transactions that would be hard to grasp for most average homeowners even in the best of circumstances. Unlike the type of loan modification that makes sense for these homeowners, based on the principles of restructuring payments cognizant of the payment ability of the homeowner, foreclosure reconveyance almost invariably increase the homeowner’s monthly payment over the payment amount that led to foreclosure. One missed payment means the deal is quickly cancelled and the home is gone.

The loss of homeowner equity in these reconveyance transactions can be substantial. The typical loss in these deals exceeds \$20,000, in my experience. Some victims, such as elderly homeowners with modest mortgages, have lost in excess of \$100,000.

Foreclosure reconveyance transactions occur partly because these deals almost never involve cash investment by the “purchaser” in the foreclosed property. The “purchaser” simply takes title to the property from the homeowner, or arranges for a third party to take title. Once title is transferred, the “purchaser” or third party

title holder obtains a mortgage refinance loan and pulls cash out of the property. So there is an up-front pay-off for these actors. After the homeowner is evicted, the perpetrators of the scheme sell the home and may profit from a “back-end” of the deal, as well.

2. Foreclosure Consultants

The other type of foreclosure rescue operation involves solicitation of foreclosed homeowners by “consultants” who promise to assist the homeowner in negotiating a resolution of the problem with the foreclosing lender. The foreclosed homeowner has to pay a substantial advance fee for these services, usually about a thousand dollars or more. While the monetary loss to these homeowners is not as substantial as with the reconveyance transactions, a four figure sum of money usually is a critical amount for homeowners trying to maintain control of their homes and pay other debts.

Unlike foreclosure reconveyance scams, there are many worthwhile providers of foreclosure prevention services who offer important help to homeowners attempting to evaluate the difficult choices presented by the initiation of a foreclosure proceeding. The non-profit organizations affiliated with the National Federation of Credit Counselors, for example, have an excellent reputation for providing advice and services to mortgagors and other consumers in debt.

Yet deceptive and unfair conduct is pervasive in this area.³ As discussed below, state attorneys general have brought dozens of actions against foreclosure consultants since the onset of the foreclosure crisis. Some of these companies just disappear with the money. Even when the company is not a complete sham, the services provided often are of little use to the homeowner and the outcomes promised at the time of solicitation are illusory. Better, affordable services generally are available to foreclosed homeowners through legitimate non-profit counselors.

Foreclosure consultants thus present a very similar regulatory problem to debt settlement services. While the underlying service is useful, often vitally important, the degree of fraud and misleading promises in the industry make it likely that a homeowner who pays up-front for these services will be losing cash desperately needed to manage the foreclosure process or its aftermath.

³ John Leland, SWINDLERS FIND GROWING MARKET IN FORECLOSURES, New York Times (January 15, 2009).

II. The Changing Reality of Foreclosures and the Market For Rescue Scams

Consumer protection regulators and advocates began to see a sharp rise in foreclosure reconveyance scams in the early 2000s. A wave of problems with foreclosure consultants appeared later, rising concurrently with the foreclosure crisis that became apparent within the last three years. This shifting pattern is largely explained by the gyrations in the real estate market.

Attached as Exhibit A to this testimony is a graph of median home prices over the last twenty years. You probably don't have to look to know what it shows. Steady but slow appreciation gave way in the late 1990s to an ahistoric, sharp rise in home prices, followed by a crash in values starting in mid-2006. This pattern, likely not coincidentally, closely mirrors the explosion and collapse of nonprime mortgage lending.⁴

The graph of foreclosures attached as Exhibit B, on the other hand, looks like a hockey stick. Foreclosures began a slow rise through the 1980s and 1990s, then rose exponentially starting in 2005. While we all understand this pattern, the rapidity and height of this foreclosure explosion is startling.

Putting this information together explains the change in the most common type of foreclosure rescue scam. The "market" for perpetrators of foreclosure reconveyance transactions was as ripe as it may ever be in the early to mid 2000s. Foreclosures were slightly higher than the historic average, but foreclosed homeowners owned properties that had substantially appreciated since the loan in foreclosure was originated, and their properties were continuing to appreciate almost by the month.

Therefore, the number of homeowners in foreclosure with substantial equity in the property was at an historic high during the early 2000s. This is the necessary condition for a foreclosure reconveyance transaction to yield proceeds to the perpetrator of the deal. The purchaser obtains an upfront payment from the deal only if there is sufficient equity to yield proceeds after the purchaser closes on his or her mortgage loan. During the high tide of foreclosure reconveyance transactions, the inappropriately loose underwriting criteria of most lenders and the

⁴ Ellen Schloemer, Wei Li, Keith Ernst, and Kathleen Keest, *Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners*, Center for Responsible Lending, Dec. 2006, available at <http://www.responsiblelending.org/pdfs/CRL-foreclosure-rprt-1-8.pdf>.

failure of self-regulation by appraisers and others involved in real estate settlement services contributed to the ease of completing foreclosure reconveyance transactions.

Conversely, the current environment is ideal for foreclosure consultant schemes. Foreclosure consultants thrive when the number of foreclosures is high and when foreclosed homeowners feel that they have few options for dealing with the situation. Plummeting real estate values have left the overwhelming majority of homeowners in foreclosure with negative equity. Credit markets have tightened in many sectors, but have all but disappeared for foreclosed homeowners. Various public sector and industry pronouncements about purported loan modification programs have added to confusion on the part of foreclosure homeowners about their available options. In this situation, foreclosed homeowners are ripe for “consultants” promising big results while demanding upfront payment.

III. Consumer Protection Enforcement with Foreclosure Rescue Scams.

Consumer protection regulation is not a one-size-fits-all proposition. It is essential to tailor the regulatory requirements to the problem at hand. The problem of foreclosure rescue scams presents a challenge of drafting appropriate substantive restrictions on the conduct and ensuring that enforcement of those laws is effective and efficient. State legislatures and state attorneys general have already taken significant steps in addressing these issues.

A. The Right Tool for This Job: State Laws Attacking Foreclosure Rescue Scams

The Federal Trade Commission (“FTC”) and multiple states have used their broad UDAP (unfair and deceptive acts and practices) authority to attack the problem of foreclosure rescue scams. Starting in the early 2000s, state attorneys general brought a series of UDAP actions against entities engaged in foreclosure reconveyance schemes.⁵ When the foreclosure crisis spawned a flood of foreclosure consultants, state attorneys general brought UDAP cases against these

⁵ See generally Steve Tripoli and Elizabeth Renuart, *supra* note 1.

parties.⁶ More recently, the FTC has initiated multiple legal actions against deceptive foreclosure consultant conduct.⁷

One disadvantage of UDAP cases is that they usually require extensive investigation and resources to prosecute. States have tackled this problem by enacting legislation to restrict the conduct of foreclosure purchasers in reconveyance transactions and restrict the behavior of foreclosure consultants. In 2004, Minnesota enacted a law regulating both types of foreclosure rescue scams. Maryland enacted this law in 2005, followed by New York and Illinois in 2006. Massachusetts and the District of Columbia have regulations prohibiting foreclosure reconveyance transactions. Today, more than 20 states have laws regarding foreclosure rescue scams, the vast majority based on the Minnesota model. *See Exhibit C (listing state foreclosure rescue scam laws).*

The key to the Minnesota model law regulating foreclosure reconveyance transactions is substantive restrictions on the deals. The foreclosure purchaser must have verified proof that the homeowner in foreclosure has the ability to pay for the land sale contract or purchase option required for the reconveyance end of the transaction. If the deal fails to result in the return of title to the property to the foreclosed homeowner, the law requires payment by the purchaser to the foreclosed homeowner if total consideration paid to the homeowner is 82% or less of the home's value. The law has numerous other protections, including a required formal closing of the transaction and an extended right to cancel the deal.⁸

State foreclosure consultant laws also attack the core of that problem. The crucial protection in this part of the state foreclosure rescue scam laws is a prohibition on the foreclosure consultant receiving "...any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure

⁶ *See* Testimony of Federal Trade Commission on Foreclosure Rescue Fraud, United States Senate Special Committee on Aging (2/13/08) at p. 7 n.29; *infra* note 9.

⁷ *Federal Trade Commission v. National Foreclosure Relief, Inc. et al.*, No. SACV09-117 (C.D.Calif 2/2/09), available at <http://www.ftc.gov/os/caselist/0823067/090211nfrcmpt.pdf>; *Federal Trade Commission v. United Home Savers, LLP, et al.*, No. 8:08 CV 01735 (M. D.Fla. 9/3/08), available at <http://www.ftc.gov/os/caselist/0723251/080903unitedhomesaverscomplaint.pdf>; *Federal Trade Commission v. National Hometeam Solutions, LLC.* (E.D.Tex 2/29/08), available at <http://www.ftc.gov/os/caselist/0823076/080229nationalfinancialsolutionscmplt.pdf>; *Federal Trade Commission v. Foreclosure Solutions, LLC.* (N.D.Ohio 4/28/08), available at <http://www.ftc.gov/os/caselist/0723131/080428complaint.pdf>.

⁸ Minn.Stat. §§ 325N.10-.18 (2008).

consultant contracted to perform or represented he or she would perform.” This requirement obviously provides simple recourse against the scammer who just takes money and never promises the service. This requirement also puts the homeowner in control of whether to pay foreclosure consultants who perform far fewer or less effective services than promised.

These state foreclosure rescue scam laws provide state attorneys general and other state enforcement entities with an efficient and swift means of attacking the rescue scam problem. States that have brought actions against foreclosure rescue scams in the last few years have relied primarily on violations of the express requirements of these statutes rather than having to prove UDAP violations.⁹

Enacting these laws clearly did not eradicate the problem of foreclosure rescue scams. Enforcement resources rarely are sufficient to stop every violator of the law. Of course, the entities conducting these scams purposefully or inadvertently find loopholes in the law, which has led states to evolve these laws to adapt to the changing patterns of the rescue perpetrators. Yet the laws put the right tools in the hands of state consumer protection enforcement authorities to efficiently pursue most foreclosure rescue fraud scams. State attorneys general retain UDAP authority as a basis for action against any exceptional conduct.

In addition to public enforcement actions, numerous private attorneys have contributed substantially to helping foreclosed homeowners caught in rescue scams. Most of these laws also include a private right of action so that homeowners in foreclosure have remedies to recover losses suffered in these transactions. The size of the losses with foreclosure reconveyance transactions, combined with the existence of an immovable asset that cannot be moved beyond the reach of the homeowner’s attorney, have made it possible for private attorneys

⁹ See, e.g., Press Release, Missouri Attorney General’s Office, *Madigan Sues Seven Companies For Mortgage Rescue Fraud* (11/18/08), available at http://www.illinoisattorneygeneral.gov/pressroom/2008_11/20081118.html; John Rebchock, *Suthers Cracks Down on Mortgage Fraud*, Rocky Mountain News (11/18/08), available at: <http://www.rockymountainnews.com/news/2008/nov/18/suthers-cracks-down-mortgage-fraud>; Press Release, Minnesota Attorney General’s Office, *Lori Swanson Sues Two More Out-Of-State Mortgage “Foreclosure Consultants” -- Bringing To A Total Of Ten Such Companies Her Office Has Now Sued In This Area*, available at <http://www.ag.state.mn.us/Consumer/PressRelease/080821ForeclosureConsultants.asp>; Press Release, Maryland Attorney General’s Office, *Attorney General Gansler Announces Consumer Protection Division Files Complaint Against Operators of Alleged Foreclosure Rescue Scam* (7/10/08), available at <http://www.oag.state.md.us/Press/2008/071008.htm>.

to effectively utilize these laws in many cases.¹⁰ Legal services attorneys have been on the forefront of this work. Many of the earliest cases attacking foreclosure reconveyance transactions, for example, were brought by local legal aid offices attempting to help seniors and other homeowners who had lost control of their homes and their home equity.

In Minnesota, we have established a highly successful collaborative approach to attacking these scams. The Minnesota Equity Stripping Task Force was organized in 2003 by the Volunteer Lawyer's Network (VLN) and Mid-Minnesota Legal Services. Task Force membership includes local legal services attorneys, pro bono attorneys, private attorneys handling cases for a fee and representatives of public agencies. Cases are accepted by an appropriate Task Force member based on legal aid income eligibility, the potential for fee generation and the concerns of public enforcement agencies. The 2004 Minnesota foreclosure rescue scam law has been used effectively by attorneys on the Task Force to assist homeowners victimized by predatory foreclosure reconveyance deals.

B. A Lesson from Federal and State Consumer Protection Enforcement Relating to Mortgage Origination

An analysis of the past failure of the regulatory system to control problems in mortgage origination is beyond the scope of this testimony. But one lesson from this failure is directly relevant to confronting the problems for consumers resulting from the current credit crisis. We need to use all the resources, talents and creativity of both state and federal authorities. Accordingly, there is no place for federal preemption of state consumer protections and state enforcement efforts.

The explosive rise of abusive nonprime mortgage lending in 1998 was not accompanied by a substantial enforcement reaction from public regulatory authorities. The exception was a small group of state attorneys general and state financial regulators who pursued a series of cases against the largest of the nonprime mortgage originators -- First Alliance Mortgage Corporation (state actions from 1998-2005), Household International (state investigations and action in 2001-2002) and Ameriquest Mortgage Corporation (state investigations and actions in 2003-2006).

¹⁰ Kristen Siegesmund and Leah Weaver, Minnesota Statutes Chapter 325N: A model For Substantive Consumer Protection, 33 Wm. Mitchell L. Rev. 223 (2006).

It is not a coincidence that state entities with a central consumer protection focus were the only public agencies that made substantial efforts to identify and address rampantly imprudent mortgage lending practices in the period from 1998 through 2006. These consumer protection enforcement actions typically arise from observations and reflected experience of individuals who work closely with consumers who are in distress. In the case of nonprime lending, consumer protection regulators received complaints showing a pattern of mortgage loans whose terms revealed a disconnection between cost and risk, and in which homeowners repeatedly expressed misperception of the actual terms of the mortgage. These state entities receive and evaluate large volumes of complaints by borrowers, and have expertise in analyzing such data for patterns of conduct. The more aggressive state agencies also have close ties to credit counselors, legal aid organizations and other public interest organizations who reflect the experience of an even larger number of borrowers. State actions against nonprime mortgage lenders were brought despite limited resources, limited legal authority, and a wide range of competing consumer protection concerns.

Federal entities with authority to establish rules for residential mortgage origination, especially the Federal Reserve Board, made little or no contribution to attacking the problems in nonprime origination. Federal banking regulators were worse than idle. They actively impeded state actions by expansively interpreting their authority to preempt state consumer protection laws and declaring that state agencies had no authority to enforce non-preempted state laws as to federally-chartered financial institutions or even operating subsidiaries of those institutions.¹¹

The FTC, which has a positive history of cooperating with state attorneys general in UDAP enforcement, did not take a leadership role in confronting mortgage origination abuse by nonbank institutions.

A constructive federal role in tackling consumer problems arising from the credit crisis should recognize the importance of fully empowering state consumer protection enforcement efforts and the creative learning potential from allowing states to experiment with varied approaches to regulating unfair and deceptive practices.

C. Possible Federal Action on Foreclosure Rescue Scams

¹¹ Amanda Quester and Kathleen Keest, *Looking Ahead After Watters v. Wachovia Bank: Challenges for Lower Courts, Congress and the Comptroller of the Currency*, 27 *Review of Banking and Financial Law* 187 (2008).

There are numerous options for federal action related to this problem. Examining the problem of foreclosure rescue scams offers an opportunity to review the tools and resources available to the FTC. While FTC UDAP authority can be and has been brought to bear on the problem, the experience of the states is that regulation aimed directly at this conduct is more efficient than treating each case as a new UDAP investigation. The FTC began to bring actions against these scams substantially after state attorneys general had attacked the problem and after state legislatures had developed statutory restriction on their operation.

Current FTC rule-making on UDAP matters is restricted to cumbersome and slow Magnuson-Moss procedures. Foreclosure rescue scams are prolific in number and often rapidly adapt solicitation strategies. Reform of FTC rule-making authority to make it more flexible and prompt would allow for a stronger and more effective federal response to this and similar consumer protection problems.

The federal government also can support proven, effective work by legal services attorneys that have been the front line of defense for embattled homeowners. Unwinding or otherwise providing remedies for individual homeowners subject to foreclosure rescue scams, especially reconveyance transactions, can require substantial legal resources. In many situations, these are not cases that fee-generating attorneys are likely to undertake. Legal services attorneys have been a reliable source of assistance for victims of rescue scams. A substantial number of the early warning cases in this area were brought by legal services attorneys.

Congressional legislation could assist with controlling foreclosure rescue scams in at least two areas. First, a federal law patterned on the state laws that have addressed these issues could be helpful for both FTC enforcement actions and by providing recourse for state enforcement agencies and individuals in states lacking a foreclosure rescue regulatory scheme. It may prove more difficult, though not impossible, to enact federal foreclosure reconveyance restrictions because they are more closely tied to state real property regimes. Foreclosure consultant regulation, however, is clearly amenable to federal action. In terms of coordinated federal and state regulations, this type of law could be similar to the relationship between the federal Credit Repair Organizations Act (CROA) and state credit services laws. As noted above, it would be crucial to ensure that any federal law sets a floor on the conduct of foreclosure consultants, rather than preempting in any way state protections or enforcement efforts.

Second, and of less current importance, Congress could consider clarifying that foreclosure reconveyance transactions, including sale-leaseback arrangements, are

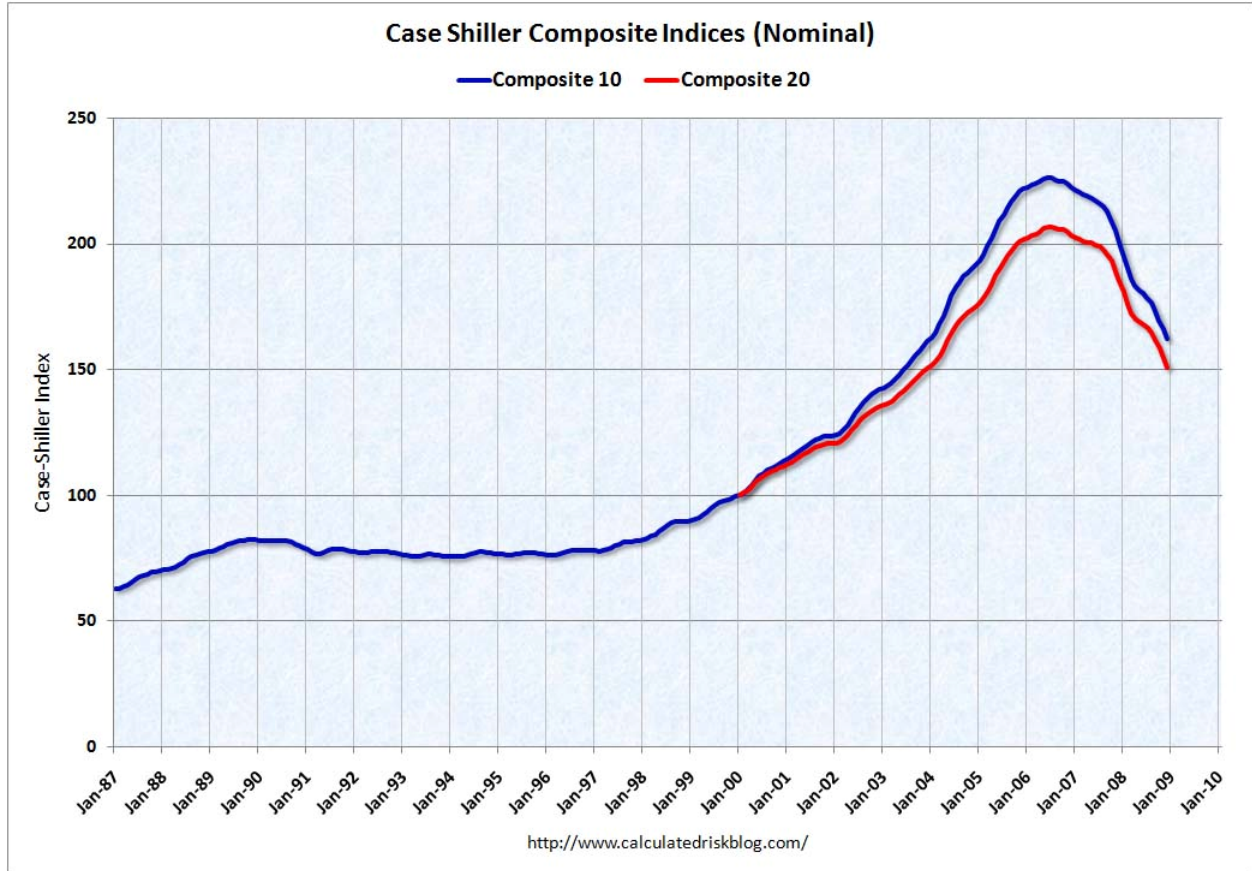
clearly within the scope of the Home Ownership Equity Protection Act (“HOEPA”). Current HOEPA language and rules make this result possible, but not certain, depending on the structure of the reconveyance transaction.

IV. Conclusion

Foreclosure rescue scams can be constrained by concerted efforts at the federal and state level. Distressed homeowners deserve a government response to rescue scams better than the largely unregulated approach to mortgage lending that helped create the reality of an extraordinary number of foreclosures facing America today.

EXHIBIT A

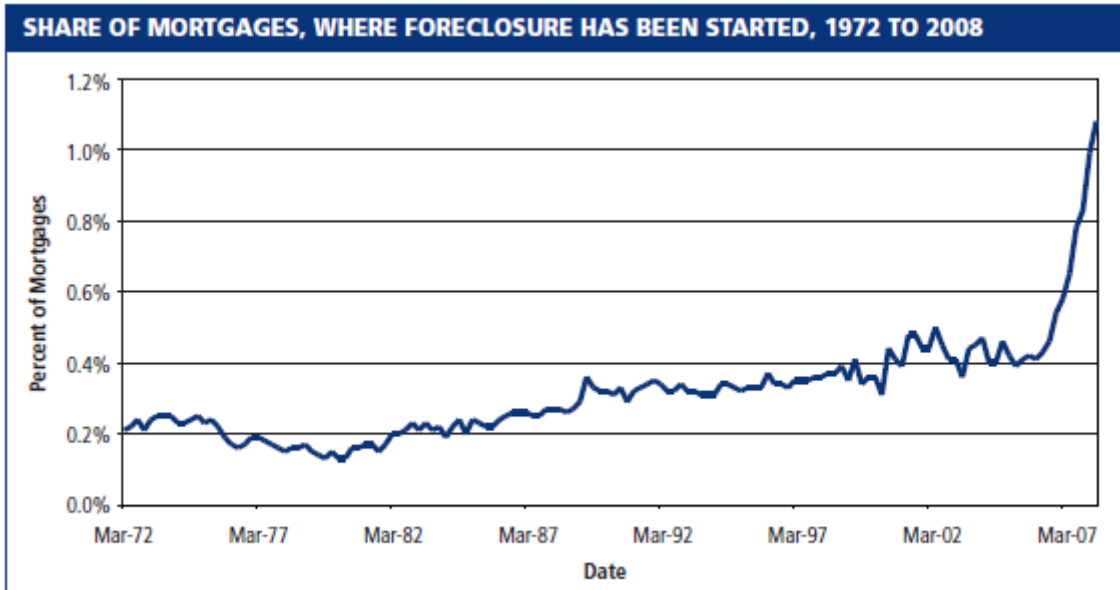
HOUSING PRICE APPRECIATION, 1987-2008



Data from Case-Schiller Index Composite 10 represents the housing prices in the following metropolitan areas: Boston, Chicago, Denver, Las Vegas, Los Angeles, Miami, New York, San Diego, San Francisco, and Washington DC. Composite 20 includes the Composite 10 cities plus the following metropolitan areas: Atlanta, Charlotte, Cleveland, Dallas, Detroit, Minneapolis, Phoenix, Portland, Seattle, and Tampa.

EXHIBIT B

MORTGAGE FORECLOSURES



Source: Mortgage Bankers Association, 2008, National Delinquency Survey, Washington, D.C.: MBAA.

Graph Source: Center for American Progress, Economic Data for September 2008
http://www.americanprogress.org/issues/2008/09/econ_snapshot.html

EXHIBIT C
STATE LAWS REGULATING FORECLOSURE RESCUE SCAMS

I) STATES WITH FORECLOSURE PURCHASER/RECONVEYANCE LAWS

A) Older Laws:

- California: CAL. CIV. CODE §§ 1695.6, 1695.13.
- Colorado: COLO. REV. STAT. ANN. §6-1-1117.
- Georgia: GA. CODE ANN. § 44-14-180.

B) Minnesota Model (2004 and after):

- Arizona: ARIZ. REV. STAT. § 44-7701
- Delaware: 6 D. Code ch. 24B
- Florida: FL. STAT. § 501.1377
- Hawaii: Act 137 (to be codified at title 26)
- Iowa: IOWA CODE ANN. § 714F
- Illinois: 765 ILL. COMP. STAT. ANN. 940/50
- Indiana: IND. CODE ANN. § 24-5.5.
- Maine: ME REV. STAT ch. 80-B
- Maryland: MD. CODE ANN., REAL PROP § 7-310
- Minnesota: MINN. STAT. § 325N.10-.18
- New Hampshire: N.H. REV. STAT. ANN. § 479-B
- New York: N.Y. REAL PROP. LAW § 265-a
- Oregon: HB 3630 (to be codified)
- Rhode Island: R.I. GEN. LAWS § 5-80-8.
- Washington: RCW § 61.34.020

C) Bans on Foreclosure Reconveyance Transactions:

- Massachusetts: By Order of the Attorney General
- District of Columbia: Act A17-0205

D) Other Recent Laws/Actions:

- Idaho: ID CODE § 45-1601
- Nebraska: LB123
- Nevada: -NEV. REV. STAT. ANN. § 645F.300

II) STATES WITH FORECLOSURE CONSULTANT LAWS

- Arizona: ARIZ. REV. STAT. 44-7701
- Delaware: 6 D. Code ch. 24B
- Florida: FL. STAT. ch. 79
- California: CAL. CIV. CODE § 2945(a)(1).

- Colorado: COLO. REV. STAT. ANN. § 6-1-1101(4)(a).
- Hawaii: Act 137 (to be codified at title 26)
- Iowa: IOWA CODE ANN. § 714E.
- Illinois: 765 ILL. COMP. STAT. ANN. 940.
- Indiana: IND. CODE ANN. § 24-5.5
- Maryland: MD. CODE ANN., REAL PROP. § 7-305
- Minnesota: MINN. STAT. §§ 325N.01-.09
- Missouri: MO. ANN. STAT. § 407.935(2)(a).
- Nevada: -NEV. REV. STAT. ANN. § 645F.300
- New Hampshire: N.H. REV. STAT. ANN. § 479-B
- Oregon: HB 3630
- Rhode Island: R.I. GEN LAWS § 5-79-1(a).
- Virginia § 59.1-200.1
- Washington: RCW § 61.34.020