

LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

AN ALT & ASSOCIATES NEWSLETTER

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**CALIFORNIA DEPARTMENT OF REAL ESTATE CONSUMER
ALERT REGARDING “MASS JOINDERS” AND/OR CLASS
LITIGATION**

It seems as though the scammers always have a response to governmental efforts to curtail their efforts.

Many individuals and companies participated in the loan modification scams of a couple of years back resulting in a slow but reasonably comprehensive government reaction, both Federal and State. These practices have largely been curtailed.

Next we had the “forensic loan audit” and other foreclosure avoidance scams. Again, because of government actions and in our experience, court refusal to hear many of the claims, these also seem to be greatly reduced.

As you recall these practices were a focus, through Senate Bill 94 passed in 2009, of California’s response to the scams, primarily through the regulation of advance fees. This was followed earlier this year by the advance fee ban issued by the Federal Trade Commission (“FTC”). This FTC ban contains a narrow and conditional carve-out for attorneys, but even then it requires that

any advance fees be placed in a client trust account until such time as the funds have been earned.

Now we have a new scam.

As a result, Wayne Bell who is the Chief Counsel for the California Department of Real Estate has issued a consumer alert. Mr. Bell's article was published on March 14, 2011 and can be found on the California Department of Real Estate website, www.dre.ca.gov by clicking on "News Flash". Mr. Bell wrote that the Alert was issued to warn consumers about marketing companies, lawyers and so called attorney affiliated entities that offer so called "mass joinder" or class litigation that will supposedly result in extraordinary home mortgage relief. This is usually accompanied by a request for upfront fees.

The Alert states that these new scammers call themselves "Foreclosure Defense Experts", "Mortgage Loan Litigators", "Living Free and Clear Experts", or some other impressive title. They make a wide variety of claims and sales pitches offering litigation services with extraordinary remedies:

- Some suggest that homeowners can join in a mass joinder or class action suit already filed, and then stay in their home while discontinuing their payments to their lender.
- Others contend that mortgage loans can be stripped entirely from their house.

As Mr. Bell points out through many more examples, the list of extraordinary claims is long. He quotes one internet advertisement as "the damages sought on your behalf are nothing less than a full lien strip or, in other words, [sic] a free and clear house if the bank cannot produce the documents that they own the Note on your home."

We suggest that you review Mr. Bell's article when you have the opportunity. For once, consumer advocates and the mortgage lending industry are on the same page. Also, it will divert your mind from Loan Origination rules for a moment.

HAPPY ST. PATRICK'S DAY

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