

November 1, 2010

**MORTGAGE LENDING AND FRAUD PREVENTION TASK FORCE LEGISLATIVE
REPORT PURSUANT TO IC 4-23-30-6**

Overview

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held a public meeting every month in 2010. Representatives from the Indiana Department of Financial Institutions, the Indiana Office of the Attorney General, the Indiana Secretary of State-Securities Division, the Indiana Department of Insurance, the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board were present. Each meeting included a public session followed by a closed executive session. Some members participated by phone as permitted by IC 4-23-30-5(2).

Investigator/Examiner Training - The continuing legal education course (“CLE”) that the Task Force provided in 2009 described the agencies that comprise the Task Force, the jurisdiction of those agencies, and how they work together to combat mortgage fraud. The CLE was targeted to an audience of attorneys employed by the Task Force agencies as well as attorneys outside of Indiana State Government. After the success of the course, the Task Force decided to provide training at a different level. Beginning on October 12, 2010, the Task Force set up a program by which investigators and examiners of the different investigatory agencies would provide training to investigators and examiners in other agencies. The goal of the training is to inform the investigators and examiners in other agencies of the “red flags” that each agency looks for when examining a loan file or complaint received from the public. That way, when any agency examines one of its licensees, it will be more likely to be aware of the red flags that the first agency sees as indicative of potential mortgage law violations. For example, the Secretary of State, Securities Division investigated and examines loan brokers. After it provides its training, a Department of Financial Institutions in the course of one of its lender examinations may discover one of those potential loan broker red flags that could lead to a violation of the Indiana Loan Broker Act. Through these trainings, the Task Force agencies will become more efficient at discovering mortgage law violations and relaying them to the agencies that can act on those violations.

The trainings are part of the closed session of the monthly Task Force meetings. The Secretary of State, Securities Division will provide the training on October 12, 2010, followed by the Office of the Attorney General on November 9, 2010, the Department of Financial Institutions on December 14, 2010, and the Department of Insurance on January 11, 2011.

Shared Knowledge and the RREAL IN Database - Pursuant to Indiana Code 27-7-3-15.5, beginning January 1, 2010, all persons or entities that close one of the aforementioned transactions, are required to include detailed information, regarding professionals, organizations and agencies that are involved in the transactions, in the Residential Real Estate Acquisition of Licensee Information

and Numbers (RREAL IN) database. Users entering information into the database include Lending Institutions, Title Agencies, Mobile Notaries and Attorneys that close the qualifying transactions.

All required information must be entered into the Residential Real Estate Acquisition of Licensee Information and Numbers Database (RREAL IN), within 10 business days of the transaction closing date. Currently, there are no exclusions for licensed professionals, companies, agencies or institutions, from providing the required information and being recorded as part of the transaction, if they are involved in the transaction.

The RREALIN database makes information readily available to a variety of state agencies. Current state agencies that have established access to the RREALIN database, for research, investigative and reporting purposes include: The Department of Insurance, Attorney General's Office, Department of Financial Institutions, Secretary of State, and the Indiana Professional Licensing Agency.

Training on the RREAL IN database and the subsequent processes, were conducted from September 2009 – February 2010. Potential users were given the option to attend training seminars, at various locations throughout the state. In addition, training efforts continue via online training, and conference call. Training via conference call is offered by request and is often conducted for lending institutions, non-resident licensees, and new registered users. Additional training and communication may be needed, to help increase awareness of the tool it's processes.

An Agency Referral process has been initiated, to assist agencies with identifying “red flag” transactions. Transactions which include notes from the closer, identifying questionable practices, whistle blower comments, violations or lack of licensing, are referred internally via the Agency Referral process. Agency referrals can result in voluntary investigations and formal inquiries, based on the information contained in the transactions. State Agencies also have the option to search the RREAL IN database for information, on a specific licensees or transactions.

Several enhancements and fixes have been implemented to the RREALIN database. This was a result of a change in the functional requirements and additional information needed, to complete the value of information submitted. An amendment to the related Indiana Code, is needed to ensure the requirement and integrity of the information submitted.

Current RREAL IN Database statistics:

Registered User Accounts	YTD Transactions Submitted
1880	111,000

YTD Inquiries	YTD Transaction Edits/Additions Request	Request for Password Resets
1018	984	84

For more information regarding the RREALIN database, please visit the website at:
http://in.gov/apps/in_rreal/Login.aspx

In 2010, the Task Force collectively supported amending IC 27-7-3-15.5(b)(2) to reflect changes in state law as a result of the Secure and Fair Enforcement Act (“SAFE Act”). The SAFE Act required that states license all mortgage loan originators whether working for a loan broker or for a state licensed lender. The database language was changed to reflect that the Department of Financial Institutions was also licensing mortgage loan originators, and IC 27-7-3-15.5 now requires those names and license numbers be added to the database.

The following information is required by IC 4-23-30-6 to be placed into a Legislative Report and submitted to the Legislative Services Agency on or before November 1, 2010.

I. Information on the regulatory activities of each agency described in subsection (b), including a description of any:
(A) Disciplinary or Enforcement Actions Taken from January 1, 2010 through October 16, 2010

Indiana Office of the Attorney General

The Indiana Office of the Attorney General- Licensing Enforcement & Homeowner Protection Unit has jurisdiction to investigate and prosecute the activities of professional licensees and seek discipline of their licenses. Discipline ranges from revocation to a letter of reprimand. In addition, the Indiana Office of the Attorney General has jurisdiction to bring civil actions against any person who commits deception or misrepresentation in the home buying process, any person committing unlicensed practice, and any person acting as a credit services organization or foreclosure consultant who is not in compliance with Indiana law. The Indiana Office of the Attorney General also has authority to bring civil and/or administrative actions concerning individuals and entities committing the unlicensed practice of a regulated profession.

Civil Complaints and Assurances of Voluntary Compliance Filed January 1, 2010 – October 15, 2010

Case Name	Filing Date	County of Filing	Brief Case Summary
State of Indiana v. Home Relief Services	2/10/2010	Allen	Home Relief Services was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Home Relief Services did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Peoples First Financial, Inc.	2/10/2010	Johnson	Peoples First Financial, Inc. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Peoples First Financial, Inc. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. The court ordered an injunction and a judgment in the amount of \$125,345.
State of Indiana v. CSA Homebuyers, Inc. & Scott Steffek	2/10/2010	Lake	CSA Homebuyers, Inc. and Scott Steffek were allegedly acting as a property management company without the requisite real estate licensure. The court ordered an injunction, civil penalties (\$16,500), and investigative costs (\$1,050).
State of Indiana v. Modify Loan Experts, LLC	3/3/2010	Marion	Modify Loan Experts, LLC was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Modify Loan Experts, LLC did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. An Assurance

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			of Voluntary Compliance was filed and Modify Loan Experts, LLC paid \$500 in attorney's fees.
State of Indiana v. USMAC Law Group & Christian Dillon	3/19/2010	Elkhart	USMAC Law Group and Christian Dillon were allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that USMAC Law Group and Christian Dillon did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in their contracts for foreclosure consulting services.
State of Indiana v. Diversified Mitigation Services, LLC	3/24/2010	Lake	Diversified Mitigation Services, LLC was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Diversified Mitigation Services, LLC did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. An Assurance of Voluntary Compliance was filed and Diversified Mitigation Services, LLC paid \$250 in attorney's fees.
State of Indiana v. Unsecured Solutions, LLC	3/24/2010	Marion	Unsecured Solutions, LLC was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Unsecured Solutions, LLC did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. An Assurance of Voluntary Compliance was filed and Unsecured Solutions, LLC paid \$500 in attorney's fees.
State of Indiana v. Legal Loan Modification, Inc.	4/21/2010	Johnson	Legal Loan Modification, Inc. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State

			alleged that Legal Loan Modification, Inc. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Community Home Solutions, Corp.	4/21/2010	Hendricks	Community Home Solutions, Corp. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Community Home Solutions, Corp. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. A settlement was reached whereby Community Home Solutions, Corp. agreed to an Assurance of Voluntary Compliance and the payment of \$2,195.
State of Indiana v. Chase Colby Loan Modification	4/21/2010	Marion	Chase Colby Loan Modification. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Chase Colby Loan Modification did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. USA Mortgage Aid	5/6/2010	St. Joseph	USA Mortgage Aid was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that USA Mortgage Aid did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Dan Shrader <i>et. al.</i>	5/7/2010	Hamilton	Dan Shrader allegedly engaged in the practice of real estate brokering and property

			management without a license. In addition, the Shrader allegedly committed numerous violations of the Home Loan Practices Act and Foreclosure Consultant Act. The court ordered a preliminary injunction against Shrader and his numerous LLC's.
State of Indiana v. Empire Modification, LLC d/b/a Jared W. Beschel & Associates, P.C.	5/7/2010	Marion	Empire Modification, LLC d/b/a Jared W. Beschel & Associates, P.C. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Empire Modification, LLC d/b/a Jared W. Beschel & Associates, P.C. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in their contracts for foreclosure consulting services. An Assurance of Voluntary Compliance was filed and Empire Modification, LLC paid \$500 in attorney's fees.
State of Indiana v. United Law Group, Inc.	5/11/2010	Monroe	United Law Group, Inc. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that United Law Group, Inc. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. The court ordered an injunction and a judgment for \$79,100.
State of Indiana v. Thomas J. Parkes, Jr.	5/20/2010	Fountain	Parkes was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Parkes did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in his contracts for foreclosure consulting services. An Assurance of Voluntary Compliance was filed and Parkes

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			paid \$500 in attorney's fees.
State of Indiana v. Law Office of James A. Cioffi, P.A.	5/26/2010	Marion	Law Office of James A. Cioffi, P.A. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Law Office of James A. Cioffi, P.A. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in his contracts for foreclosure consulting services. An Assurance of Voluntary Compliance was filed and the Law Office of James A. Cioffi, P.C. paid \$500 in attorney's fees.
State of Indiana v. Foreclosure Assistance USA, Inc. a/k/a American Foreclosure Professionals, Inc.	5/27/2010	Allen	Foreclosure Assistance USA, Inc. a/k/a American Foreclosure Professionals, Inc.. was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Foreclosure Assistance USA, Inc. a/k/a American Foreclosure Professionals, Inc. did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.

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State of Indiana v. Mortgage Modifiers, LLC	6/22/2010	Vanderburgh	Mortgage Modifiers, LLC was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Mortgage Modifiers, LLC did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Nationwide Financial Solutions	6/28/2010	Marion	Nationwide Financial Solutions was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Nationwide Financial Solutions did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. PFS Financial Corp. d/b/a US Loan Assistance Center	6/29/2010	Harrison	PFS Financial Corp. d/b/a US Loan Assistance Center was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that PFS Financial Corp. d/b/a US Loan Assistance Center did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services. A settlement was reached whereby Community Home Solutions, Corp. agreed to an Assurance of Voluntary Compliance and the payment of \$2,450.

State of Indiana v. FHA All Day	8/6/2010	Bartholomew	FHA All Day was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that FHA All Day did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Home Loan Modification	8/6/2010	Hamilton	Home Loan Modification was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Home Loan Modification did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Foreclosure Relief Services National, Inc. and Patrick Kirby	8/6/2010	Marion	Foreclosure Relief Services National, Inc. and Patrick Kirby as allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Foreclosure Relief Services National, Inc. and Patrick Kirby did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.

Real Estate Appraiser Administrative Cases Filed January 1, 2010 – October 15, 2010¹

Total Number of Cases Filed	Revocation	Suspension	Probation	Civil Penalty	Letter of Reprimand	Pending
21	5	11	10	\$47,366	20	

Real Estate Administrative Activities Cases Filed January 1, 2010 – October 15, 2010

Total Number of Cases Filed	Revocation	Suspension	Consumer Restitution	Probation	Civil Penalty	Letter of Reprimand	Pending
9	5	4	\$29,465	12	\$23,350	14	

In the period January 1 – October 15, 2010, the Indiana Office of the Attorney General has received one (1) consumer complaint concerning the improper influence of an appraiser. The case currently is under investigation.

The Indiana Office of the Attorney General actively uses the RREAL IN database administered by the Indiana Department of Insurance. The data is used to assist in on-going investigations and utilized to identify proactive cases. As of October 15, 2010, the Indiana Office of the Attorney General has proactively opened eight (8) investigations based upon data inputted into the RREAL IN database. As the data in the RREAL IN database continues to populate and additional enhancements are made, the Indiana Office of the Attorney General anticipates proactively opening many additional investigations.

Indiana Secretary of State-Securities Division

The Indiana Secretary of State, Securities Division has jurisdiction concerning administrative enforcement of the Indiana Loan Broker Act (IC 23-2-5) (“Act”). The Act gives the Securities

¹ In the period 2005 – October 15, 2010, the Office of the Attorney General filed 403 administrative complaints against real estate appraisers licensed in Indiana. This translates into the Office of the Attorney General seeking discipline on the real estate appraiser licenses of approximately 15% of the entire licensed real estate appraiser population in Indiana between 2005 – October 15, 2010.

Commissioner the authority to deny, suspend, or revoke the license of any licensee and issue orders such as cease and desist orders, orders requiring loan brokers to appear for a hearing, and other notices. After the opportunity for a hearing, the Commissioner may order other remedies including a civil penalty up to ten thousand dollars (\$10,000), restitution for victims, and other remedies to recoup financial losses for victims if the Commissioner determines that a person has violated the Act.

Loan Broker and Loan Originator Cases Filed January 1, 2009 – October 16, 2009

Total Number of Cases Filed	Revocation of Licenses	Denials of Licenses	Cease & Desist Orders ²	Orders to Show Cause ³	Consent Agreements ⁴	Civil Penalties Ordered
174	68	2	19	6	90	\$209,700

Through its compliance audit program, the Division has completed 122 audits of Indiana licensed loan brokers in 2010.

Indiana Department of Insurance

The Title Insurance Division filed 6 administrative actions from October 16, 2009 through October 15, 2010. Some of these have gone to final disposition and are outlined below. Others are still pending. Of the Final Orders listed below (some of which include more than one Respondent or sanction), some of these were originally filed in 2009 and others were filed in 2010.

² Cease and Desist Orders are orders issued by the Securities Commissioner for the Respondent to immediately cease and desist from violating the Indiana Loan Broker Act.

³ Order to Show Cause is an order issued by the Securities Commissioner for the Respondent to appear at a hearing and show cause why a loan broker or originator license should not be revoked or why civil penalties should not be levied against the Respondent.

⁴ Consent Agreement is an order signed by the Securities Commissioner outlining an agreement between the Securities Division and a Respondent in response to potential violations; frequently includes civil penalties from the Respondent.

Title Insurance Final Orders Issued October 16, 2009 – October 16, 2010

Final Orders Issued⁵	Revocation	Suspension	Fines collected
8	7	5	\$85,000

Title Insurance Agency Examinations Initiated October 16, 2009 – October 16, 2010

Title Insurance Agency Examinations Initiated	Title Insurance Agency Examinations Completed
118	62

(B) Criminal Prosecutions Pursued**Indiana Office of the Attorney General**

In addition to its administrative and civil jurisdiction, the Indiana Office of the Attorney General partners with law enforcement in the investigation and criminal prosecution of mortgage fraud.

Defendant Name	Prosecuting Agency	Charge Information	Case Status	Sentence
Beverly Ross	United States Attorney's Office - Southern District of Indiana	Indictment filed on 1/30/08. Charged with 31 Counts of Wire Fraud and One (1) Count of Conspiracy to Commit Wire Fraud.	Pled guilty to one count of wire fraud on 8/13/2009	Sentenced on 2/12/2010 to 63 months incarceration and ordered to pay \$5.6 million in restitution to 21 victim lenders.
Donella Locke	United States Attorney's Office -	Indictment filed on 1/30/08. Charged with 31 Counts of Wire Fraud and	Jury trial – guilty on five	Sentenced on 1/27/2010 to 71

⁵ Since multiple Respondents that may be contained in each Final Order, the collective sanctions are not intended to be tabulated to equal the number of Final Orders issued for the relevant time period.

	Southern District of Indiana	One (1) Count of Conspiracy to Commit Wire Fraud.	counts of wire fraud on 9/18/2009.	months incarceration and ordered to pay \$2.3 million in restitution to 13 victim lenders.
Kelly Sherwood	Marion County Prosecutor's Office	Charges filed on 3/16/2010. Charged with four (4) counts of Theft	Pending	
Jody Bence	Hamilton County Prosecutor's Office	Charges filed on 9/14/2010. Charged with one (1) count of Fraud on a Financial Institution.	Arrest Warrant issued - Pending	

Indiana Secretary of State-Securities Division

Secretary of State Todd Rokita created the Prosecution Assistance Unit (“PAU”) in 2004, which is a unit of investigators and attorneys with law enforcement experience, who investigate violations of the Securities Act and Loan Broker Act with a plan to present those cases for criminal prosecution to county prosecutors or United States Department of Justice. Most violations of the Loan Broker Act are a Class C felony, but it is a Class B felony if the violation occurs against an individual over the age of sixty (60).

Defendant Name	Prosecuting Agency	Indictment Date	Case Status	Sentence
Jason Keigley	Marion County Prosecutor	February 2009	Pending	
Jason Keigley	Henry County Prosecutor	November 2008	Pending	
Christopher Meeks	Henry County Prosecutor	July 2009	Pending	

Christopher Meeks	Rush County Prosecutor	August 2009	Pending	
Joseph Garretson	Allen County Prosecutor	December 2009	Conviction	11 ½ years in prison, 2 years probation \$3,457,249.75 in restitution
James Hudson	Clinton County Prosecutor	March 2010	Pending	
Majik Moore	Marion County Prosecutor	April 2010	Pending	
Robin Hunt	Allen County Prosecutor	July 2010	Pending	
Lane Miller	Allen County Prosecutor	July 2010	Pending	

Jason Keigley - In February 2009, the Marion County Prosecutor's Office has charged Jason Keigley with fourteen (14) felony counts, including six (6) counts of acting as an unlicensed loan broker and six (6) counts of loan broker fraud. The case is currently pending. Jason Keigley also faces three (3) counts of acting as an unlicensed loan broker and three (3) counts of loan broker fraud in Henry County from a case filed in November 2008. That case is also currently pending.

Christopher Meeks - Christopher Meeks also has two criminal cases pending, including Henry County, where he faces one (1) felony count of acting as an unlicensed loan broker and two (2) felony counts of loan broker fraud. Mr. Meeks has been charged in Rush County as well with one (1) felony count of acting as an unlicensed loan broker and one (1) felony count of loan broker fraud. Both cases against Mr. Meeks are currently pending.

Joseph Garretson – Joseph Garretson was charged with three counts of loan broker fraud in December 2009 in Allen County along with other felony charges related to mortgage activity. On June 25, 2010, Mr. Garretson plead guilty to three felonies including one felony for failure to register as a mortgage loan originator. Mr. Garretson was sentenced to eleven and a half years in prison with an additional two years of probation, and Mr. Garretson was also ordered to repay \$3,457,249.75 in restitution to those victimized by his crimes.

James Hudson – James Hudson has a criminal case pending in Clinton County. Mr. Hudson has been charged with one count of loan broker fraud. The case against Mr. Hudson is currently pending.

Majik Moore – The Securities Division filed an administrative case against Majik Moore in August 2009 for violations of the Indiana Loan Broker Act and the Indiana Uniform Securities Act. In April 2010, the Marion County Prosecutor’s Office filed charges against Mr. Moore, which included six counts of theft and four charges related to securities. These charges arose from the case that the Securities Division filed in 2009.

Robin Hunt – Robin Hunt was charged on July 7, 2010, in Allen County with six counts of loan broker fraud. Mr. Hunt’s case is connected to Joseph Garretson and Lane Miller. His case is currently pending.

Lane Miller – Lane Miller was charged on July 7, 2010, in Allen County with three counts of conspiracy to commit loan broker fraud. Mr. Miller’s case is connected to Joseph Garretson and Robin Hunt. The case is currently pending.

Indiana Department of Insurance

The Indiana Department of Insurance has communicated with local prosecutors and law enforcement regarding some possible criminal behaviors exhibited by title agents and/or title agencies. For the time period of October 16, 2009 and October 15, 2010, two such communications have resulted in criminal charges being filed against title insurance producers. Both cases involved fraud and defalcation. One case prosecuted, resulted in a 12 year prison sentence. The outcome of the other case, is still pending.

(C) Policies Issued (Rules, Bulletins, Consumer Advisories)

Indiana Office of the Attorney General

American Escrow was a private escrow company. American Escrow entered into contracts with individual consumers in various Indiana counties to provide property tax and homeowner’s insurance escrow and payment services. American Escrows used incoming payments from consumers to pay outstanding tax and insurance obligations, rather than place the money in escrow as required. In or around the fall of 2008, American Escrow was no longer able to satisfy tax and insurance payment obligations with incoming payments and failed to make property tax payments

that came due for consumers. Approximately 100 Indiana consumers were harmed by American Escrow.

On January 1, 2010, the Indiana Office of the Attorney General was awarded a judgment against American Escrow. The court ordered \$533,500 in civil penalties, \$125,943.74 in consumer restitution, and \$2,250 in costs. There was no evidence that American Escrow would be able to satisfy the judgment in any capacity, therefore another solution was needed to keep these harmed Hoosier consumers from having to pay their property taxes and homeowner's insurance twice. The General Assembly fashioned a remedy that demonstrated the inter-agency cooperation exhibited by the Task Force. Monies from the Secretary of State's restitution fund were set aside to make the victims of American Escrow whole. As a result of this legislative initiative, all identifiable American Escrow victims were 100% made whole.

Indiana Secretary of State

The Division has not issued any formal policies related to loan broker regulation in 2010. However, the Division has been in constant contact with its licensees related to federal requirements that have come into effect through the course of 2010. All loan brokers and mortgage loan originators are licensed through the Nationwide Mortgage Licensing System. In July 2010, all mortgage loan originators and principal managers were required to pass the mortgage loan originator exam mandated by the Secure and Fair Enforcement Act. To prepare licensees for this deadline, the Division initiated thirteen (13) separate communications by mail, email, and telephone to its licensees. The Division prepares a quarterly message to all licensed individuals describing recent changes in state law, federal law, and the industry as a whole.

The Division hosted mortgage loan broker compliance meetings in 2008 and 2009, which was attended by over five hundred (500) mortgage loan brokers and mortgage loan originators. Continuing with this successful method of communication, the Division again hosted a compliance meeting in early October 2010. Through these meetings, the Division was able to communicate with its licensees about issues discovered in compliance audits, recent statutory changes that affected the licensees, and procedures for applying for a license through the NMLS as the 2010 renewal time approaches. The compliance meetings have been a great success for the Division as it communicates and assists its licensees.

(D) Legislative Recommendations Made

Indiana Office of the Attorney General

During the 2010 legislative session, numerous laws were enacted that would have a positive effect on the ability of the Homeowner Protection Unit to fight mortgage fraud and predatory lending in Indiana.

- Cease and Desist - The most notable change starting July 1, 2010 will be how the OAG handles unlicensed practice cases. Historically, the OAG had to file a civil action alleging that an individual or company committed the unlicensed practice of a regulated profession. Starting July 1, 2010, the OAG will file cease and desist motions before the board or commission that regulates the profession. By filing these actions before the board or commission that regulates the profession at issue, these individuals or companies will be adjudicated more quickly and efficiently than in the past.
- Being a bad foreclosure consultant is a crime – There will now be a criminal penalty associated with acting as a foreclosure consultant without complying with Indiana law. Class A misdemeanor.
- Abandoned records – There have been cases where regulated professionals will abandon their clients or patients records. This could happen for many reasons. The practitioner could have his/her license revoked, he could die, or he could just not care about his patients/clients personal information. The law was unclear regarding who should take possession of those records. As you all know, the attorney general is passionate about preventing Hoosiers from becoming victims of identity theft. This new law establishes procedures for the attorney general to seize, store, and destroy abandoned health records and other records containing personally identifying information.
- Appraisal Management Companies – AMCs will now be required to register with the real estate appraiser licensure and certification board. The board may impose a civil penalty against those who do not register. The AMC is required to insure that the appraisal complies with USPAP.
- Private escrow companies – There can no longer be a private escrow company in Indiana.

Real Estate Broker under ES – Under current law, if a real estate principal broker's license is revoked the IREC can take over the escrow account. The law did not afford the same consumer protection if the principal broker's license was summarily suspended. Effective July 1, 2010, that will no longer be the case.

Indiana Secretary of State – Securities Division

During the 2010 Session of the Indiana General Assembly, House Enrolled Act 1332 provided the Securities Commissioner with the authority to seek civil remedies in circuit or superior court. The civil remedies include receiverships, asset freezes, accountings, and writs of attachment. This provision mirrors the Securities Commissioner's authority under the Indiana Uniform Securities Act.

In the 2011 General Session, the Securities Division intends to examine the use of the bonds required for licensed loan brokers with the intention of making them available for the collection of civil penalties for the state. The Indiana Secretary of State – Securities Division also will continue to work with the Indiana Department of Financial Institutions on issues that affect the licensees of both agencies.

Indiana Department of Financial Institutions

The Passage of state law statutory changes ensured the consistency with Title V of the Housing and Economic Recovery Act #3221 of 2008. This is the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE). All states will have to update their mortgage statutes to ensure consistency with the federal law or face pre-emption.

DFI legislation to achieve SAFE compliance failed during the regular 2009 General Assembly session. During the 2009 General Assembly special session, DFI gained authority to address SAFE with emergency rule powers. Under Title 750 IAC, Article 9, the DFI adopted a SAFE Rule compliant with the federal act, with an effective date of July 1, 2010. This rule is available at the DFI website under: <http://www.in.gov/dfi/SAFERuleFinal.pdf>

Additional SAFE statutory changes were made in the 2010 General Assembly session. IC 24-4.4 amendments effective July 1, 2010 to achieve consistency with the federal SAFE law includes:

- A. Modifications to exemptions section to exclude:
 - 1. a transaction made by an entity using funds provided by HUD under Title 1,
 - 2. extensions of credit by depository institutions and their subsidiaries (depositories are still subject to limited provisions under IC 24-4.5 if the transaction is deemed made in Indiana).
 - 3. an individual who negotiates terms of a mortgage for a family member or for the sale of their own residence,
 - 4. an attorney negotiating a mortgage for a client as an ancillary matter
- B. MLO must be a W-2 employee of a licensed mortgage lender or company exempt from licensure (a credit union service organization is exempt from licensing but their mortgage loan originators must be state licensed).
- C. The bond amount to be determined by DFI based on MLO volume

IC 24-4.5 amendments effective July 1, 2010 to achieve consistency with the federal SAFE law includes:

- A. First lien mortgage transaction means a loan or a consumer credit sale secured by a dwelling.
- B. Regularly engaged means at least one extension of credit a year that is a mortgage transaction
- C. Licensing requirement under the act applies to consumer credit sales that are subordinate lien mortgage transactions.
- D. MLO must be a W-2 employee of a licensed mortgage lender or company exempt from licensure (a credit union service organization is exempt from licensing but their mortgage loan originators must be state licensed).
- E. The bond amount to be determined by DFI based on MLO volume

Under the SAFE Rule adopted by Indiana DFI, effective July 1, 2010, 2,281 individuals have a Mortgage Loan Originator (MLO) license status of approved, as of October 11, 2010. Another 525 applications are in a pending status, waiting for the MLO to complete a SAFE requirement. There

have been no revocations. Two applications were denied licensure based on criminal background information, and both are on appeal.

RREAL Indiana Database: The closing agents are responsible to register all real estate loans closed after January 1, 2010, with the RReal Indiana Database maintained by the Indiana Department of Insurance in accordance with IC 27-7-3-15.5. Based on a sampling of loans at time of examination of mortgage lenders licensed with DFI, many of the real estate mortgages were not entered or not accurately entered into the RREAL Indiana Database. Any problems identified in this area appear to be the result of a lack of training. Not all closing agents are sufficiently trained to enter loans completely and without errors.

II. Description of Any Challenges Encountered by the Task Force This Year or That Are Anticipated by the Task Force in the Current Fiscal Year

1. The Task Force discussed the fiscal impact associated with maintaining the RREAL database. Often with statutory or other regulatory amendments, the database itself must be changed to reflect those amendments. The cost for those changes has been borne by the agencies that make up the Task Force. However, these changing the database would be easier if the Task Force had its own budget and funds with which to work. Currently, there is opportunity for a penalty to be assessed for a failure of industry professionals to provide licensing information to those responsible for the loan closing and for a failure of those responsible for the loan closing to input that information into the database. Setting aside those penalties for improvements to the database would allow for lower cost to the agencies that comprise the Task Force.
2. Secretary of State and DFI staff members are working with representatives from the Nationwide Mortgage Licensing System (NMLS) to initiate changes to the NMLS that will account for the required sections of the SAFE Act. These include required credit report checks, periodic reports of mortgage loan activity, and the certification of existing individual licensees who have already taken pre-licensing education and a state exam. Implementation of both new federal and state laws on mortgage transactions will continue to pose implementation challenges for all agencies.
3. Inter-agency information sharing could be enhanced by tighter confidentiality and protections among all agencies.

III. Recommendations by the Task Force for Legislation Necessary to Assist the Task Force in Carrying Out its Duties

The Task Force will be recommending the following items for the General Assembly's consideration during the 2011 legislative session.

1. The Task Force is recommending that additional items be added to the list of required items for the RREAL database. Specifically, the Task Force is recommending that loan amount, purchase price, name of any applicable appraisal management company, license number of any applicable appraisal management company, and whether the title policy is an Owner Policy or a Lender Policy. The RREAL database also provides a comment field, and the Task Force will request that certain items, including whether or not one of the entities involved in the transaction has an expired license, be mandated to be included in the comments field.
2. Portions of the funds collected under IC 27-7-3-15.5(e) should be directed to a separate fund maintained to pay for enhancements to the RREAL database. As the mortgage business and mortgage regulation change, updates must be made to the database to capture all information that would be relevant in using the database to discover fraud. IC 27-7-3-15.5(e) is a penalty provision for mortgage professionals that fail to provide their information at closing to be entered into the RREAL database. Currently these funds are directed to the Indiana Housing and Community Development Authority in the Home Ownership Education Account. It is logical for a portion of these penalties to be set aside for use in upgrading and enhancing the RREAL database.
3. The Task Force is also recommending increased civil penalties for fraud violations in mortgages against seniors.