



Loan Modification Scam Prevention Network (LMSPN) Annual Report 2010

Introduction

At the end of 2009, the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") Project created and launched a cross-project initiative, the Loan Modification Scam Prevention Network ("LMSPN" or "Network") to engage the Lawyers' Committee and others in the fight against foreclosure rescue scams. In the midst of the current foreclosure crisis, millions of distressed homeowners have become vulnerable targets to individuals and companies posing as "loan modification specialists," who ultimately employ various scams for disastrous consequences for the homeowners.

Particularly vulnerable are minority homeowners who were targets of sub-prime lenders and as a result were at the forefront of the foreclosure crisis. These communities of color, who have the highest rates of foreclosure, less liquidity and fewer options for saving their homes, have appeared in disproportionate numbers among the scam reports collected so far by the Lawyers' Committee and its partners in the fight against scammers. As of December 31, 2010, over 83% of homeowners who have reported scam complaints to the Network indicated their race as part of the report. Of these homeowners, 45.6%¹ identified themselves as African American, Latino or Asian, even though persons identifying as African-American, Latino or Asian own only 19.4% of all owner-occupied homes in the United States.²

At the beginning of the year, the Lawyers' Committee's Legal Mobilization Project and the Fair Housing/Fair Lending Project formally unveiled the Loan Modification Scam Prevention Network. Through the LMSPN, the Lawyers' Committee is working with Fannie Mae, Freddie Mac, the Homeownership Preservation Foundation and NeighborWorks America to lead a national coalition in its

¹ Total complete reports as of December 31, 2010: 9579. Total reports with no information for race: 1574. Total Asian: 280. Total Hispanic or Latino: 1838. Total African American: 1533. Total White: 3872. Additional reports that are in the Database but were not completely filled out by the submitters and therefore not included in this computation bring the total number of reports submitted as of December 31, 2010 to 11416.

² The minority homeownership rate was taken from the U.S. Census Bureau, 2005-2009 American Community Survey, Table S2502. Demographic Characteristics for Occupied Housing Units.

collective effort to support, strengthen and initiate enforcement activities against loan modification scams and other forms of foreclosure rescue fraud.

The following report chronicles the successes and developments of the LMSPN initiative for the period of January 1, 2010 through December 31, 2010.

Network Resources

The National Loan Modification Scam Database: Central to the LMSPN is the national Loan Modification Scam Database (“Database”), a web-based platform created early in 2010 that contains detailed complaint reports from loan modification scams victims from coast to coast. This dynamic Database consolidates homeowner complaints, via a short form developed by the Lawyers’ Committee, from a variety of sources, including the national Homeowners’ HOPE Hotline³, (1-888-995-HOPE), housing counselors, governmental agencies, other non-profit organizations and from homeowners themselves.

Because increasing the number of complaints against alleged scammers is of the utmost importance to increasing enforcement efforts, the Lawyers’ Committee’s Database is a unique and welcome resource in the fight against foreclosure rescue scams. Through this Database, the Lawyers’ Committee has created an effective yet simple process for accomplishing this aim. First, homeowners themselves are able to report complaints against alleged loan modification scammers online on the Network’s and other partners’ websites or by calling the Homeowners’ HOPE Hotline (1-888-995-HOPE). Alternatively, housing counselors and lawyers assisting homeowners in modifying their loans can report complaints via the online form or a paper version sent to the Lawyers’ Committee for input into the Database. Complaints are also being gathered at foreclosure prevention events across the country.

The information collected in the Database is then made available to LMSPN partners, including federal, state and local governmental agencies and non-profit organizations for use in enforcement efforts and public education campaigns. Network partners approved for access can view the complaint reports directly via online secure log-in access to the Database. Submitted complaints are searchable and sortable within a sophisticated yet user-friendly interface. The Lawyers’ Committee publishes monthly reports that provide an overview of the current status of the reports in the Database, pointing out trends so that enforcement officials and other partners can utilize the information more efficiently. In addition, the Lawyers’ Committee submits all Database complaints, pending individual homeowner permission, to the Federal Trade Commission’s Sentinel Database, a nationwide fraud database accessible to federal, state and local enforcement authorities.

While other databases exist, this new Database is vital for several reasons. For one, the Lawyers’ Committee’s Database collects information related to foreclosure modification scams only, making it

³ The 1-888-995-HOPE Hotline (or Homeowners’ HOPE Hotline) is run by the Homeownership Preservation Foundation (HPF), a partner in the LMSPN. Through the hotline, HPF provides comprehensive housing counseling for homeowners in danger of facing foreclosure, as well as collects information about alleged loan modification scams.

easier for enforcement officials to zero in on suspects and search on key information. In addition, unlike federal, state and local governmental agencies, which cannot share complaint data with non-profit organizations, this Database is available to our partners, both public and private, thereby increasing the possibility of enforcement actions. As well, because scammers operate across state and county lines, collecting complaints in a national database, instead of being captured in silos by jurisdiction, allows the Network and its partners to better analyze trends and get a broader picture of the activities by scammers.

As of the end of December 2010, a total of 286 individuals had been granted unique user credentials for the Database, including 142 officials from 50 local, state and federal enforcement agencies. In addition, over the course of the year the Database collected on average over 1,000 complaints each month. Since the launch of the initiative the primary source of the complaints has remained the Homeownership Preservation Foundation's 1-888-995-HOPE hotline, contributing on average 60% of total complaints each month. As of December 31, 2010, the Database contained over 11,000 complaint reports against alleged scammers. Through the end of 2010, the aggregating power of the Database put a public face on the issue for all of the distressed homeowners from around the country whose collective reported losses topped \$23 million stolen from them in the form of fee payments for services not rendered or, in some cases, outright loss of the home.

The Lawyers' Committee is constantly conducting in-depth reviews and analyses of the complaints in the Database. Various reports are created, some of which are generated at the request of enforcement officials and other coalition partners, identifying trends, emerging scammer schemes, and where appropriate, identifying new lead scammers. In addition, the Lawyers' Committee considers the data from various perspectives, including location of the alleged scammers and homeowners, race and ethnicity, age, types of scams, and types of solicitation -- all of which are critical in the fight against scammers.

PreventLoanScams.org Website

On February 17th, 2010, the LMSPN launched a national web-based portal dedicated solely to loan modification scam prevention – www.preventloanscams.org – a website designed, created and maintained by the Lawyers' Committee. Working with volunteer law firms, the Lawyers' Committee drafted extensive substantive content – the most in-depth in one website.

Since its launch, the website has been a tremendous success. From February 17th through December 31st, 2010, the preventloanscams.org website logged 58,171 visits. Many of these visitors found the website through Google (15,933 referrals), but links on LMSPN partner organization websites such as NeighborWorks' Loanscamalert.org (1,726 referrals), Fanniema.com (1,627 referrals), Hud.gov (1,585 referrals) and Michigan.gov (1,566 referrals) also drove traffic to the preventloanscams.org site.

The most important feature of the website is the bright yellow ‘Report A Scam’ button that leads directly to the online complaint form. The online user can fill out the complaint form in English, Spanish, Korean or Chinese and then submit that report directly into the Database.

Comprehensive information for homeowners on how to avoid scams and news on enforcement actions, as well as updates on the Network’s activities, are also available on preventloanscams.org. The most popular among these resources is the nationwide listing of prosecutions against alleged scammers, which is the only centralized listing of individuals and organizations prosecuted or under investigation for scamming activity. As a result, homeowners are able to cross-reference a solicitation with the list, report suspicious activity to the Database and, most importantly, avoid the scams. The site also features an interactive map of the United States that homeowners and their advocates can use to search for all 50 states and the District of Columbia for state-based resources, including how to get free help, summaries of relevant laws and regulations, and information on getting redress.

In addition, the website provides resources for partners and counselors to empower them to crack down on the loan modification scam crisis in their area and work with the Loan Modification Scam Prevention Network, including materials that can be downloaded and used at foreclosure prevention events such as a paper version of the complaint form available in English, Spanish, Korean, Chinese and Vietnamese.

Coalition Partners and Support

Coalition Members and Other Key Relationships: While the Lawyers’ Committee is one of the key leaders of the Network, critical to stemming loan modification scams are members of the “Steering Committee”, a national coalition of federal and state enforcement agencies and national non-profit organizations. The lead organizations of the effort include Fannie Mae, Freddie Mac, the Lawyers’ Committee, Homeownership Preservation Foundation and NeighborWorks America. Representatives from key governmental agencies, such as the Federal Trade Commission, the U.S. Department of Housing and Urban Development (“HUD”), U.S. Department of Justice, the U.S. Treasury Department, the Federal Bureau of Investigation, and state Attorneys General offices, as well as umbrella organizations such as the Conference of State Bank Supervisors and leading non-profit organizations from across the country, are also participating. Members help provide the credibility, information and access necessary to strengthen and initiate enforcement activities against loan modifications scams. Quarterly meetings ensure that key partners are collaborating and moving forward with important initiatives, including working to increase complaints from homeowners, addressing the issue of attorney involvement in scams, public education efforts, and coordinating resources to maximize opportunities for engagement by the Network.

In addition, in large part due to the backing of the Steering Committee, the Lawyers’ Committee has brought new stakeholders into the LMSPN coalition including the Mortgage Bankers’ Association, the

American Bar Association, and the Financial Fraud Enforcement Task Force. As well, the Lawyers' Committee cooperates with several local and national organizations to complement and support their efforts to educate the public and ensure that distressed homeowners get the help they need instead of falling prey to fraud, including for example HOME (Richmond, Virginia), National CAPACD, NeighborWorks America and the Toledo Fair Housing Center.

The Lawyers' Committee is also working together with industry professionals to highlight and address fraudulent modification practices in their own ranks and to ensure that their clients and borrowers are able to access legitimate loan modification and foreclosure rescue services not scams. The HOPE NOW Alliance, the BITS Mortgage Fraud Reduction Subgroup of the Financial Services Roundtable, SourceMedia/American Banker, the National Association of Hispanic Real Estate Professionals and others have welcomed the Lawyers' Committee's insights into these fraud issues and are engaging with the LMSPN on ways to raise awareness among their ranks and to coordinate information that will help industry and clients alike avoid mistakenly working with a scammer.

Legal Pro Bono Support: Building on the success of the Lawyers' Committee's national Election Protection program, which utilizes pro bono law firms at a local level to address specific issues, the LMSPN created and trained six local "Coordinating Committees" serving seven states and the District of Columbia. Led by the Lawyers' Committee and staffed by volunteer law firms and attorneys, these Coordinating Committees play a vital role in reviewing ongoing enforcement efforts, conducting scam complaint analyses for reports and case development, updating materials, and assisting with outreach to state and local partners. The Committees are located in California (one in Los Angeles and another in San Francisco), Florida, New York, Texas and the Washington, D.C. metro region (serving Washington, D.C., Virginia and Maryland).

LMSPN Activities

Loan Modification Scam Education

As the success of the LMSPN is intimately related to the number of complaints the Network receives, the LMSPN team has been crisscrossing the country to reach out to distressed homeowners, housing counselors, legal nonprofits, and enforcement agencies. The Lawyers' Committee has participated in numerous foreclosure prevention events, and conducted on-the-ground trainings, presentations and borrower outreach in targeted locations, including Arizona, California, Florida, Georgia, Illinois, Maryland, Michigan, Nevada, New Jersey, New York, Ohio, Texas and Virginia regarding the use of the LMSPN complaint database. These efforts have also broadened the coalition of agencies and organizations in the Network. In addition, as part of its outreach efforts, the Lawyers' Committee participated in numerous interviews, both for print news and radio programs.

Specific examples of education include, at the insistence of the U.S. Treasury Department, the Lawyers' Committee being present at many Making Home Affordable events through the country. Over the course of the year, these large-scale foreclosure rescue events sponsored by the U.S. Treasury Department and the HOPE NOW Alliance attracted thousands of distressed homeowners. Throughout 2010, the team also traveled the nation to inform and support Network stakeholders as part of the valuable role that the LMSPN plays in helping to shut down scammers. The Lawyers' Committee provided training and support for U.S. Department of Housing and Urban Development ("HUD") intermediaries, approved counseling agencies and policy staff, National Urban League counselors, Fannie Mae Mortgage Help Center counselors and management and Fannie Mae Community Development staff, and U.S. Department of Justice staff attorneys and specialists, among many others.

The Lawyers' Committee staff also gave presentations and trainings to supporting existing efforts by others to combat fraud, including the anti-fraud efforts of regulators, financial services and real estate industry professionals, housing counseling agencies, and legal aid attorneys and paraprofessionals in several states. For example, the Lawyers' Committee made presentations to state-level financial services regulators at the American Association of Residential Mortgage Regulators (AARMR) Annual Conference, provided training for National Fair Housing Alliance staffers, and offered insights to real estate professionals from around the country at the Mortgage Bankers' Association's 2010 National Fraud Issues conference, and many at the state level including members of the Florida Department of Financial Services, the Virginia Association of Housing Counselors, and the Texas Foreclosure Prevention Task Force.

As a result of this push, complaint volume has steadily increased and an expanding group of enforcement officials are now accessing the complaint database to build stronger cases to put these operations out of business for good.

Regulatory and Public Policy

Regulatory Reform

Throughout 2010, the Lawyers' Committee was engaged in public policy on the issue of loan modification scams. For example, the Lawyers' Committee provided comments on a proposed rulemaking by the Federal Trade Commission, which targets unfair and deceptive Mortgage Assistance Relief Services (MARS). The Final Rule went into effect in its entirety on January 29, 2011 and declares that many of the unscrupulous activities occurring in the foreclosure rescue arena are indeed unfair and deceptive and therefore rise to the level of a federal offense. In the Rule, the FTC cited to the LMSPN Database and the Database Reports issued by the Lawyers' Committee, as well as to a comment letter submitted by the Lawyers' Committee in March 2010.

Targeting Scammers Falsifying Government Affiliations

Based on detailed analysis of the LMSPN Database, the Lawyers' Committee identified the pervasiveness and effectiveness of a tactic often used by alleged scammers: identifying themselves as having an official governmental affiliation. This information was provided to both HUD and the U.S. Treasury Department. HUD, signaling strong support of the LMSPN, released a \$1 million media contract to raise the profile of HUD's involvement with the LMSPN, emphasizing the Prevent Loan Scams website and the national Loan Modification Scam Database as a destination for victims to report their complaints, as well as for enforcement agencies to get the latest information on scammer operations as they rapidly evolve. The Lawyers' Committee is now working closely with HUD officials and the advertising agency hired by HUD to provide the media services, including on the agency's development of its ad campaign proposal as well as the campaign's implementation. In addition, at the end of 2010, the Lawyers' Committee began to work closely with the Treasury Department to develop a detailed strategy to address the problem of scammer advertisements on the Internet.

Addressing Attorney Involvement in Scams

According to the information in the Database, approximately 30% of all complaint reports submitted by homeowners indicate that some promise of legal assistance was part of the alleged scam. Because most states prohibit the payment of upfront fees for loan modifications, companies have connected with attorneys as they are able to charge retainer fees (i.e. upfront fees). At this time, the Lawyers' Committee is working with the American Bar Association, a co-sponsor of the program as of the end of 2010, to identify means to address this issue nationally. As important, however, is the ongoing work of the Lawyers' Committee and volunteer attorneys with mandatory state bars that have the authority to discipline attorneys who do not comply with ethical rules and regulations.

Enforcement Activities

Increasing Enforcement-Related Activities

While the first year of the LMSPN was focused on the launch of the Network, including the design and creation of the complaint reporting mechanism, Database and website, as well as extensive outreach and coalition building, the second year has a strong focus on increasing enforcement related activities. In particular, building on work in the latter part of 2010, the Lawyers' Committee is now developing a robust litigation plan for California, Texas, Arizona, New York, Metro D.C. (including Virginia and Maryland), and Florida. A case development plan has been formulated, with the focus on researching legal theories for initiating civil cases attacking loan modification scam companies.

In addition, the Lawyers' Committee continues to conduct an in-depth analysis of complaints in the Database and using that information for further research on alleged scammers and homeowner interviews. The Lawyers' Committee has utilized the Coordinating Committees to assist with the careful

analysis of the Database to identify potential targets of such enforcement actions. As well, volunteer lawyers have called homeowners who submitted complaints to the Database to conduct more thorough interviews and obtain more in depth information with which to facilitate enforcement efforts. Case development activities are furthest along in Northern California and New York, where it will be determined in the near future whether lawsuits can be filed against specific alleged scammers.

The Lawyers' Committee, however, will also continue to work with federal and state enforcement agencies on public actions. Where appropriate, the Lawyers' Committee shares homeowner complaint information with officials, as well as identifies "top" scammers in the Database. An ongoing dialogue is important in the continued fight against scammers.

Homeowner Advocacy

The LMSPN is also working to identify self-help opportunities for homeowners. While homeowners are limited in what they can achieve on their own, the Lawyers' Committee is developing model documents and general information that would be potentially useful for homeowners in seeking a return of their money from scammers. For example, the Lawyers' Committee hopes to have available on the www.preventloanscams.org website model "demand letters", as well guidance and basic information on where and how to proceed in small claims court against the scammers. Key states will be identified for creating these materials and will be posted on a rolling basis.

LMSPN Staff

During the year, the Lawyers' Committee's LMSPN team grew in order to fill the needs of the burgeoning initiative. Fair Housing and Fair Lending Senior Counsel Yolanda McGill is responsible for managing the project, including directing the substantive components of the LMSPN's work to achieve project priorities and maintaining its relationships with national partners. LMP Associate Counsels Eunice Rho and Alejandro Reyes focus on case development and litigation provide legal and issue research, analyze the Database, help to organize and manage local Coordinating Committees and volunteer lawyers, and conduct outreach on behalf of the LMSPN. LMP Director Nancy Anderson and Manager Eric Marshall were responsible for the design and implementation of the scam report form, Database and preventloanscams.org website, as well as overall framework for the use of volunteer lawyers. The Fair Housing Law Firm Fellow Izu Emeagwali assists with legal research and writing. Kirsten Sencil, LMP Program Special Projects Coordinator, and Michelle Newman, Legal Assistant for Fair Housing, Community Development, and Environmental Justice, work on the day-to-day technical operations of the LMSPN, maintain the LMSPN's website, and provide administrative, analytical and organizational support. Fair Housing Director Joe Rich and Chief Counsel Jon Greenbaum provide oversight for the LMSPN initiative. Chief Development Officer Dan DuPont and Communications Director Stacie Royster also aid in promotion and development of the LMSPN initiative.