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Regional Trustee Services
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RE: Potential Unlawful Foreclosure Practices in Washington

Dear Foreclosure Trustee:

In October of last year, I sent a letter to all foreclosure trustees announcing our investigation of foreclosure practices in the State of Washington. I also identified several common practices that violate the foreclosure procedures contained in the Deed of Trust Act, RCW 61.24. I reminded you of your statutory duty to perform all foreclosures in good faith and that your duty includes assuring that every procedural step, every legal notice, and all mediation opportunities are provided to homeowners facing foreclosure.

Since sending that letter, we have come across another violation of the Deed of Trust Act that is widespread, illegal and contrary to an effective and just foreclosure process. The Deed of Trust Act states, “[i]t shall be requisite to a trustee’s sale” that foreclosure trustees “maintain a street address in this state where personal service may be made,” and that “the trustee must maintain a physical presence and have telephone service at such address.” RCW 61.24.030(6). This means that non-judicial foreclosure sales may not occur unless the foreclosing trustee has a bona fide physical location in Washington with a phone line. Having only an agent for service of process has not been sufficient since the Act was amended, effective June 12, 2008, to require a physical presence.

We have contacted, and will be contacting, several trustees individually to obtain compliance with this requirement. Meanwhile, we expect all trustees to comply with this requirement and to not issue notices of foreclosure or conduct foreclosure sales unless the trustee itself, and not an agent, maintains the required physical presence and phone line in Washington so that borrowers who have legitimate reasons to stop their foreclosure can find the trustee in time to stop the sale.

Sincerely,

ROBERT M. MCKENNA
Attorney General

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