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(SIGTARP)

BEFORE THE
U.S. SENATE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL
WORKFORCE, AND THE DISTRICT OF COLUMBIA

April 26, 2012
Chairman Akaka and Ranking Member Johnson, I want to thank you for holding this hearing on the critical issue of financial literacy. The Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") is committed to using financial literacy to empower Americans. SIGTARP serves as the watchdog over the Federal bailout known as the Troubled Asset Relief Program ("TARP"). SIGTARP protects the interests of those who funded TARP programs – American taxpayers. Our mission is to promote economic stability through transparency, robust enforcement, and coordinated oversight. SIGTARP is working to increase financial literacy by bringing much-needed transparency to the causes of the financial crisis and the Government’s response to the financial crisis in easy-to-read reports that do not require a financial background to understand. Every quarter, SIGTARP publishes a report to Congress that describes TARP and issues related to the financial crisis in plain English. Through 14 of these public reports and through 17 deep-dive audit reports on particular parts of the crisis, SIGTARP seeks to raise public awareness of the events surrounding the financial crisis and promote financial literacy for every American who funded TARP. Promoting financial literacy is critical to ensuring our nation’s economic stability and to helping prevent the next financial crisis.

Additionally, in the last year, SIGTARP has made a concerted effort to increase its education of homeowners to prevent them from becoming victims of a fraud scheme that has arisen out of the financial crisis. Mortgage modification fraud scams involve con artists that prey on vulnerable homeowners with false promises of a mortgage modification under TARP’s Home Affordable Modification Program ("HAMP"). One of SIGTARP’s important roles is to serve as a criminal law enforcement agency. SIGTARP has detected an increase in mortgage modification scams. Today’s testimony focuses on the efforts SIGTARP is making to detect and
stop these scams, and SIGTARP’s efforts to promote financial literacy of homeowners so that they know a scam when they see it. SIGTARP’s efforts to raise awareness of these scams contributed to the Better Business Bureau naming these scams as the “Top Financial Scam” for 2011. These scams have devastating consequences as homeowners lose precious dollars, and in some cases their home, only to find that the perpetrators have closed up shop and left town. During a time of record foreclosures, by bringing attention to the hallmarks of these scams, this Committee can help to arm its constituents across our nation with knowledge that can save them from becoming victims of mortgage modification scams. The last page of this testimony is a fraud alert that lists the hallmarks of these scams that the members of this Committee can share with constituents or other groups in each state.

Hallmarks of mortgage modification scams: In these scams, fraudsters steal from struggling homeowners by falsely promising that they can navigate the often murky-waters of the mortgage modification process for a fee of $1,500 or more paid in advance. Hallmarks of this scheme include the perpetrators holding themselves out as experts in HAMP and providing “advice” that their victims will have a better chance of getting a HAMP modification if they stop making mortgage payments and cease all communication with their mortgage servicer. In some instances, they claim to be affiliated with the U.S. Government through the use of a Government seal, a name similar to a Government agency, or words like “Obama Plan.”

To further lure their victims, they make money-back guarantees that they have no intention of keeping. Scammers have stolen millions of dollars from homeowners based upon these schemes, which have devastating consequences for struggling homeowners who are desperately looking for relief through HAMP to lower their monthly mortgage payments and who often use their last dollars to pay con artists.
**SIGTARP is stopping and investigating mortgage modification fraud:** SIGTARP’s investigations of all crimes related to TARP (including mortgage modification crimes) have resulted in criminal charges against 81 individuals. Fifty two of those individuals have been convicted so far. The convictions carry severe consequences and 23 individuals convicted have been sentenced to jail, while others await sentencing. Along with jail time, SIGTARP and its law enforcement partners ensure that criminals and those charged in civil lawsuits pay for their crimes. SIGTARP investigations have resulted in court orders for the return of nearly $4 billion to victims or the Government. SIGTARP has had notable success in stopping and investigating these mortgage modification fraud schemes and in working with its enforcement partners to prosecute the perpetrators. Importantly, 26 of those 81 individuals were criminally charged related to a mortgage modification fraud. A description of some of the charged conduct appears below.

Because homeowners have often already lost precious dollars and precious time by the time mortgage modification scammers are caught, SIGTARP recently took a more proactive 360-degree approach to catch these swindlers more quickly and prevent these frauds from victimizing vulnerable homeowners in the first place. In addition to investigations and criminal charges, SIGTARP actively worked to shut down hundreds of these scams advertised on the Internet and formed a joint task force to raise homeowner awareness of the scams. SIGTARP will continue to investigate and hold accountable criminals who defraud homeowners in connection with HAMP, while doing everything it can to stop homeowners from becoming victims in the first place.
**SIGTARP Shutdown 125 Online Mortgage Modification Scams**

**Advertised on Google, Yahoo! And Bing**

The first place many homeowners turn for help in lowering their mortgage payment is the Internet through online search engines, and that is precisely where they are being targeted. From talking to the victims of these scams, SIGTARP learned that many were enticed by web banner ads and online search advertisements that promised, for a fee, to help lower mortgage payments. These ads offer a false sense of hope that can end up costing homeowners their homes.

In November 2011, SIGTARP shut down 125 websites that were advertised on Yahoo!, Bing, and Google and evidenced hallmarks of these fraudulent scams. SIGTARP coordinated with Google and Microsoft (which founded Bing and whose technology powers Yahoo!) to shut down advertisements for the websites. In addition, Google suspended advertising relationships with more than 500 Internet advertisers and agents and Microsoft suspended advertising relationships with more than 400 Internet advertisers and agents connected with the 125 websites. SIGTARP’s work in cutting off this primary access to homeowners immediately and dramatically decreases the scope and scale of these scams by limiting their ability to seek out and victimize struggling homeowners. SIGTARP continues to work with Microsoft and Google to thwart these schemes.

**Raising Public Awareness and Promoting Homeowner Education**

SIGTARP has actively engaged in raising public awareness and promoting homeowner education of mortgage modification scams. In December 2011, SIGTARP formed a joint task force with the Consumer Financial Protection Bureau and Treasury to leverage resources in investigating, combating, and shutting down HAMP-related mortgage modification scams and to provide awareness to vulnerable homeowners desperately holding onto hope of saving their
homes. In December 2011, the joint task force issued a consumer fraud alert to protect homeowners and empower them with the knowledge of how to recognize and avoid these scams. This fraud alert is attached as the last page of this testimony and can be found at: www.sigtarp.gov/pdf/Consumer_Fraud_Alert.pdf.

In order to have the maximum effectiveness, we must ensure that as many homeowners as possible have access to the fraud alert so that they can avoid becoming victims. The Joint Task Force is currently working with our nation’s armed services to educate our military families about mortgage modification scams. Last month, SIGTARP made recommendations to Treasury in order to raise awareness of these scams even further. The perpetrators of these scams prey on their victims with claims that the HAMP process is confusing to homeowners. SIGTARP is concerned that Treasury’s recently announced one-year extension of HAMP and a major expansion of HAMP (called HAMP Tier 2) to previously ineligible homeowners will add to confusion surrounding the process. In order to protect against the possibility that the extension and expansion of HAMP will lead to an increase in mortgage modification fraud, in March 2012, SIGTARP recommended: (1) that Treasury undertake a sustained public service campaign as soon as possible to arm the public with complete, accurate information about the program; and (2) that Treasury require servicers participating in HAMP to provide the fraud alert to all HAMP-eligible borrowers as part of its monthly mortgage statement. Treasury has not adopted either recommendation.
Results of SIGTARP investigations of mortgage modification fraud

American Home Recovery

On August 11, 2010, the U.S. District Court for the Southern District of New York unsealed a grand jury indictment charging Jaime Cassuto, David Cassuto, and Isaak Khafizov, the principals of American Home Recovery (‘‘AHR’’), a mortgage modification company located in New York City, with one count of conspiracy to commit mail and wire fraud, one count of wire fraud, and two counts of mail fraud, all relating to a mortgage modification scam. The indictment also included a forfeiture allegation that would require forfeiture of proceeds obtained as a result of the offenses. The defendants were arrested by Special Agents from SIGTARP and the FBI as part of the Department of Justice’s nationwide ‘‘Operation Stolen Dreams’’ mortgage fraud sweep.

According to the indictment, the defendants perpetrated a scheme to defraud homeowners using mailings and telemarketing efforts. Through these channels, it is alleged that the defendants, through AHR, falsely promised to assist desperate homeowners by negotiating with banks to modify the terms of their mortgages in exchange for upfront fees of several thousand dollars. In fact, the indictment alleges, AHR did little or no work to modify the mortgages. Through their scheme, the defendants obtained more than $500,000 from homeowners throughout the country, according to the indictment.

The indictment further alleges that one of the defendants, Khafizov, directed AHR salespeople to falsely inform prospective clients that AHR had an 80%-90% success rate in securing modification of clients’ mortgages and that AHR would issue a full refund of the upfront fee to any client whose mortgage was not successfully modified by AHR. In addition, it is charged that the AHR salespeople falsely represented to homeowners that AHR would ensure
their participation in the TARP-funded Making Home Affordable ("MHA") program. Finally, AHR salespeople falsely advised homeowners that they were more likely to obtain a mortgage modification from their bank if they fell further behind on their mortgage payments and/or stopped making payments to their bank entirely, and sent their money to AHR instead, the indictment alleges. Jaime Cassuto and David Cassuto entered guilty pleas in the case on March 19, 2012. In March 2011, Raymond Pampillonio, a former AHR employee, also pled guilty in connection with this scheme. This case is being investigated by SIGTARP, the U.S. Attorney’s Office for the Southern District of New York, and the FBI.

Compliance Audit Solutions

On February 14, 2012, Ziad al Saffar, Sara Beth Rosengrant, and Daniel al Saffar pled guilty to charges of conspiracy to commit wire fraud and mail fraud. On April 28, 2011, a Federal grand jury sitting in the Southern District of California returned an indictment against the three defendants for allegedly perpetrating a fraudulent mortgage modification business under the names Compliance Audit Solutions, Inc. ("CAS") and CAS Group, Inc. ("CAS Group"). The defendants admitted to targeting homeowners who were unable to afford their mortgage payments and using fraudulent tactics to induce the homeowners to purchase an “audit” of their home mortgage loan. The defendants claimed the “audit,” for which they charged homeowners between $995 and $3,500, could identify “violations” in the homeowners’ loan documents that could be used to force banks to negotiate new terms for the loans. The defendants admitted to publishing numerous misrepresentations in advertisements, including claiming that the defendants were affiliated with or employed by the United States Department of Housing and Urban Development, and that CAS and CAS Group were participating in a Federal Government
program called “Hope for Homeowners.” The defendants also used websites named www.obama4homeowners.com and www.hampnow.org, which implied affiliation with HAMP.

As part of their guilty pleas, the defendants agreed to pay restitution to the victims of their criminal conduct in an amount to be determined by the Court. Sentencing for all three defendants is scheduled for April 2012. This case was investigated by SIGTARP, the U.S. Attorney’s Office for the Southern District of California and the FBI.

**The Shmuckler Group, LLC**

Howard Shmuckler, who was indicted and arrested on November 10, 2010, for an alleged mortgage modification scam investigated by SIGTARP in partnership with the Prince George’s County State’s Attorney’s Office in Maryland, pled guilty to running a fraudulent mortgage modification scheme in a Federal case. On July 21, 2011, a Federal grand jury sitting in the Eastern District of Virginia returned an indictment against Howard Shmuckler for allegedly running a fraudulent mortgage-rescue business that received substantial fees from homeowners but failed to modify their mortgages. Shmuckler was charged with seven counts of wire fraud. On July 27, 2011, Shmuckler was arrested at his home in Virginia Beach, where he has been under electronic monitoring pending a November 2011 trial on this Maryland state charge. On April 10, 2002, Shmuckler pled guilty to six counts of wire fraud.

According to the Federal indictment, Shmuckler owned and operated a mortgage-rescue business known as The Shmuckler Group (“TSG”), which claimed to be the “largest, most successful group of professionals from the Legal, Banking, Mortgage, Financing, Real Estate, Government, and International Sector coming together to help homeowners keep their homes in a manageable and affordable means.” The indictment alleges that Shmuckler falsely portrayed himself to be an attorney licensed in Virginia and that he misrepresented that TSG had a 97
percent success rate in obtaining loan modifications. According to the indictment, Shmuckler also instructed clients to terminate contact with their mortgage companies and to stop making payments to their lenders.

The indictment further alleges that false representations by Shmuckler and TSG employees induced homeowners to pay fees ranging from $2,500 to $25,000, for $3 million in total proceeds. TSG is alleged to never have facilitated a single mortgage modification. It is also alleged that the company’s loan modification success rate was substantially less than 97 percent.

The case brought in Federal court in Virginia resulted from a joint investigation conducted by SIGTARP, FBI, the FDIC OIG, and the United States Attorney’s Office for the Eastern District of Virginia. The case brought in state court in Maryland resulted from a joint investigation by SIGTARP, the Office of the State’s Attorney for Prince George’s County, and the Maryland Department of Labor Licensing and Regulation’s Financial Regulation Division.

*Home Owners Protection Economics, Inc. ("HOPE")*

On August 9, 2011, SIGTARP agents, with its law enforcement partners, arrested Christopher S. Godfrey, Dennis Fischer, Vernell Burris, Jr., and Brian M. Kelly. On August 3, 2011, a federal grand jury sitting in the District of Massachusetts returned an indictment against the four defendants for allegedly perpetrating a fraudulent home loan modification scam through a company named Home Owners Protection Economics, Inc. (“HOPE”). The 20-count indictment charges the four with conspiracy, wire fraud, mail fraud, and misuse of a government seal. Godfrey was the president and Fischer was the vice president of HOPE. Burris was the manager and primary trainer of HOPE telemarketers, and Kelly was one of the principal telemarketers and a trainer for other HOPE telemarketers. Godfrey and Fischer were charged
with one count of conspiracy, nine counts of wire fraud, nine counts of mail fraud, and one count of misuse of a Government seal. Burris and Kelly were charged with one count of conspiracy, nine counts of wire fraud, and nine counts of mail fraud.

The indictment alleges that, through a series of misrepresentations, the defendants and their employees induced thousands of financially distressed homeowners to pay HOPE a $400-$900 up-front fee in exchange for HOPE’s home loan modifications, modification services, and “software licenses.” According to the indictment, the defendants misrepresented that, with their assistance, homeowners were virtually guaranteed to receive a loan modification under HAMP. The indictment alleges further misrepresentations by defendants, including that HOPE was affiliated with the homeowner’s mortgage lender, that homeowners had been approved for a home loan modification, that homeowners could stop making mortgage payments while they waited for HOPE to arrange their loan modification, that HOPE would refund the up-front fee if the modification was unsuccessful, and that HOPE was a non-profit organization.

The indictment further alleges that, in exchange for homeowners paying the up-front fees, HOPE sent homeowners a “do-it-yourself” application package that was nearly identical to the application provided free of charge by the U.S. Government through HAMP. Through these misrepresentations, it is alleged, HOPE was able to persuade thousands of homeowners collectively to pay more than $3 million in fees to HOPE. This case is being investigated by SIGTARP, the FBI, the United States Attorney’s Office for the District of Massachusetts, and the Computer Crime and Intellectual Property Section of the Department of Justice’s Criminal Division.
Glenn Rosofsky, Roger Jones, and Michael Trap pled guilty to their involvement in a fraudulent loan-modification scheme. The conspiracy sold loan-modification services to homeowners who were delinquent on their monthly mortgage payments. Using the names “Nations Housing Modification Center” (“NHMC”) and “Federal Housing Modification Department,” the conspiracy used false and fraudulent statements and representations to induce customers to pay advance fees of $2,500 to $3,000 each to purchase loan-modification services from NHMC. Included among the misrepresentations made by the defendants was that NHMC was affiliated with the Federal Government or HAMP and was located on Capitol Hill in Washington, DC. In fact, as Trapp admitted, NHMC had no connection to the Federal Government or HAMP and its only presence in Washington, DC, was a rented post office box. The fraud grossed at least $900,000 from more than 300 homeowners.

On June 10, 2011, Trap was sentenced by the U.S. District Court for the Southern District of California to 30 months incarceration and three years of supervised release and ordered to pay restitution of $460,249 following his earlier guilty plea. On January 24, 2011, Rosofsky was sentenced by the U.S. District Court for the Southern District of California to 63 months incarceration and 36 months of supervised release and ordered to pay restitution of $456,749. The same court also sentenced Jones, on January 18, 2011, to 33 months incarceration and 36 months of supervised release, and ordered him to pay restitution of $456,749. The case was investigated by SIGTARP, IRS-CI, the Federal Trade Commission (“FTC”), the San Diego District Attorney’s Office, and the U.S. Attorney’s Office for the Southern District of California, with the support of FinCEN and the New York High Intensity Financial Crime Area.
Legacy Home Loans and Real Estate

On December 1, 2011, Magdalena Salas, Angelina Mireles, and Julissa Garcia, the owner, manager, and CEO, respectively, of Legacy Home Loans and Real Estate (“Legacy Home Loans”) in Stockton, California, were arrested on charges of conspiracy, grand theft, and false advertising for a mortgage modification scam.

According to the charges and other information presented in court, the co-conspirators collected thousands of dollars in up-front fees from distressed homeowners in Central California after making false promises to obtain loan modifications for the homeowners. The defendants falsely promised homeowners that they would receive loan modifications regardless of their financial situation through Federal Government programs allegedly referred to as the “Obama Plan.” The defendants also allegedly falsely overstated their success rate, made false money-back guarantees, and falsely represented that attorneys would work on the modifications. The co-conspirators advertised similar false promises in flyers, billboards, television and radio, in English and Spanish. The modification services promised by the co-conspirators allegedly were never carried out and many clients ended up losing their homes. The case is being investigated by SIGTARP, the California Attorney General’s office, the San Joaquin District Attorney’s office, the California Department of Real Estate, and the Stockton Police Department.

Flahive Law Corporation

On March 8, 2012, Gregory Flahive, Cynthia Flahive, and Mike Johnson were arrested by SIGTARP agents and its law enforcement partners. On March 7, 2012, a California grand jury indicted the defendants for allegedly perpetrating a fraudulent mortgage modification scam through their law firm, Flahive Law Corporation (“FLC”). The Flahives and Johnson were
charged with 19 felony counts of grand theft by false pretense, conspiracy, and false advertising. Gregory and Cynthia Flahive are the owners of FLC, based in Folsom, California. Mike Johnson is FLC’s managing attorney. According to documents filed in court, from January 2009 to December 2010, FLC promoted its loan modification services to homeowners through advertisements, including a television infomercial. FLC falsely represented that experienced lawyers would negotiate with banks on behalf of homeowners seeking modifications, including under HAMP, misrepresented that FLC’s law firm status would give them extra leverage when negotiating with such banks, and overstated FLC’s rate of success in obtaining loan modifications on behalf of homeowners. FLC allegedly collected up-front fees of up to $2,500 from homeowners for loan modification services that were never performed. The case is being investigated by SIGTARP, the California Attorney General, Folsom Police Department, Rancho Cordova Police Department, and the El Dorado Sheriff’s Department.

CFSA Home Solutions

On March 2, 2012, Jacob J. Cunningham, Justine D. Koelle, Andrew M. Phalen, Dominic A. Nolan, and John D. Silva were arrested in California and charged with allegedly operating a mortgage modification scheme that defrauded hundreds of victims. The defendants were charged with multiple felony counts of violating California state law, including conspiracy to charge illegal upfront fees for mortgage modifications, conspiracy to commit forgery, grand theft by false pretenses, theft from an elder, and money laundering. Between January 2009 and March 2012, the defendants allegedly enticed homeowners to participate in a fraudulent loan modification program by making numerous false misrepresentations to homeowners through advertisements, websites, promotional letters, and direct conversations. The misrepresentations
included: (1) that HAMP would apply to homeowners’ circumstances, (2) the defendants had a 100% success rate in obtaining mortgage modifications for homeowners, and (3) that homeowners would be refunded their paid fees if the defendants could not modify a homeowner’s loan. In December 2011, after hundreds of complaints had been submitted to the Better Business Bureau regarding their fraudulent activities, Cunningham, Nolan, and Silva allegedly then started a different mortgage scheme. These three defendants mailed fake “Conditional Approval” letters to victims that included unauthorized logos of “CitiFinancial” and “CitiMortgage.” These letters falsely stated that the homeowners had been conditionally approved for a home loan at an interest rate between 2.3% and 2.8%. The letters also directed the homeowners to deposit between $3,500 and $4,600 directly into the defendants’ bank accounts. It is alleged that the defendants never submitted any loan applications to banks on behalf of any of the homeowners who paid this fee.

To evade detection by law enforcement, the defendants are accused of changing the names, phone numbers, and addresses of the sham companies they operated, including CSFA Home Solutions, Mortgage Solution Specialists, Inc., CS & Associates, and National Mortgage Relief Center. If convicted on all counts, the defendants face a maximum sentence in state prison as follows: Cunningham and Nolan (13 years and eight months each); Koelle (7 years and eight months); Phalen (10 years); and Silva (21 years and eight months). The case is being investigated by SIGTARP, Orange County, California, District Attorney’s Office, U.S. Secret Service, Huntington Beach Police Department, California Department of Real Estate, Orange County Probation Department, Orange County Sheriff’s Department, Costa Mesa Police Department, Irvine Police Department, and Santa Ana Police Department.
SIGTARP commends this Committee for promoting financial literacy. SIGTARP is committed to promoting financial literacy including helping homeowners from becoming victims to the newest rescue fraud scheme known as a mortgage modification fraud scheme. Finally, SIGTARP urges anyone who believes that they have become a victim of a mortgage modification scam related to HAMP, or has knowledge of a scam can contact SIGTARP’s hotline.

SIGTARP Hotline 877-SIG-2009 or www.sigtarp.gov

One of SIGTARP’s primary investigative priorities is to operate the SIGTARP Hotline and provide a simple, accessible way for the American public to report concerns, allegations, information, and evidence of violations of criminal and civil laws in connection with TARP. The SIGTARP Hotline can receive information anonymously. SIGTARP honors all applicable whistleblower protections and will provide confidentiality to the fullest extent possible.
Tips for Avoiding Mortgage Modification Scams

Homeowners struggling to make their mortgage payments should beware of con artists and scams that promise to save their homes and lower their mortgage debt or payments.

If you are struggling to pay your mortgage and are seeking a mortgage modification, keep the following tips in mind:

- You can apply to the federal Home Affordable Modification Program (HAMP) on your own or with free help from a housing counselor approved by the U.S. Department of Housing and Urban Development (HUD). Applying to the program is always FREE. For more information on how to apply, call the Homeowner’s HOPE™ Hotline at 1-888-995-HOPE (1-888-995-4673) or visit www.MakingHomeAffordable.gov.

- Only your mortgage servicer has discretion to grant a loan modification. Therefore, no third party can guarantee or pre-approve your HAMP mortgage modification application.

- Beware of anyone seeking to charge you in advance for mortgage modification services – in most cases, charging fees in advance for a mortgage modification is illegal.

- Paying a third party to assist with your HAMP application does not improve your likelihood of receiving a mortgage modification. Accordingly, beware of individuals or companies that ask you for payment and tout success rates or claim to be “experts” in HAMP.

- If an individual or company claims to be affiliated with HAMP or displays a seal or logo representing the U.S. government in correspondence or on the Web, you should check the connection by calling the Homeowner’s HOPE™ Hotline.

- Beware of individuals or companies that offer money-back guarantees.

- Beware of individuals or companies that advise you as a homeowner to stop making your mortgage payments or to not contact your mortgage servicer.

Financially troubled homeowners can avoid scams by working with a HUD-approved housing counselor to understand their options and to apply for assistance. Assistance from HUD-approved housing counselors is free, and homeowners can reach them by calling the Homeowner’s HOPE™ Hotline at 1-888-995-HOPE (1-888-995-4673) or by visiting www.MakingHomeAffordable.gov.