

## Transcript

August 9, 2011

Good morning everybody. Attorney General Martha Coakley, with me, is my Bureau Chief from our Public Protection and Advocacy Bureau, Christopher Barry-Smith, and also Assistant Attorneys-Generals who worked on the case, Gabe O'Malley and John Miller. Today we are announcing results, as a result of investigation and potential litigation with H&R Block that wholly owns a subsidiary called Sand Canyon, formerly known as Option One and so for purposes of this I'm going to refer to Option One as the entity involved primarily in the behavior in this suit.

I want to do three things this morning, first of all explain in context why we brought this case. Secondly, I want to talk about today's results and I also want to talk about the overall perspective that this case has play in the work of our office, not just since 2007, but certainly going forward as we continue to work with 50 states and the federal government in reviewing and trying to resolving continued fraudulent behavior, specifically service fraud around mortgages and foreclosures that have affect not only Massachusetts but this entire country.

Let me explain to you why we brought this lawsuit back in 2008. If you want to take a look at Massachusetts and Option One foreclosures between 2005 and 2007, you can see that the black dots particularity clustered in urban areas, not only Boston, but Brockton, Lynn, Lowell, Lawrence, Worchester, Springfield and down on the south shore, Fall River and New Bedford. Those are Option One loans that have been foreclosed upon. And I want to also; because it is relevant to this particular case, take a look at first on the right foreclosure rates.

Before 2007 you can see a very small piece of blue that is the historical rate of foreclosures in the country. Obviously, they started to climb in 2006 into 2007, but the rate in 2010 across the country is that red block. It is still under five percent. If you look at the green rate approaching thirty percent that is the rate of foreclosures for Option One originated mortgages in Massachusetts. And so we brought this case, as we also originated a case against Freemont Mortgage Company, when it came to our attention that there was just a huge number and a disproportionate number of foreclosures happening in Massachusetts around these kinds of subprime lending practices.

And as you may know, we began, of course, looking at foreclosure rescue schemes. We then began these investigations around subprime lending practices, Freemont, Option One, and also as you are probably aware, and I'll talk about briefly the work we have done around investigating the securitization of these loans – those three pieces are important to remember in the context. So this case is brought because of the subprime lending practices of Option One.

Their ultra-risky practices that Option One employed resulted in, we believed and we alleged when we brought the lawsuit, that they employed a business model that absolutely failed to gauge the ability of borrowers to repay the loans. In other words, they knew or should have known, that those loans were going to fail. That is the theory. It was a theory back in 2007, but as our work in Fremont and our work, I think as evidenced by our settlement today shows – we were right. That those loans that did not take into account anything but the fees that were to be generated, that did not use a business model that gage the ability of borrowers to repay their loans, was not only unfair and deception, in Massachusetts it is illegal.

And so, when we alleged that and we did our investigation, as we did in Fremont, this case is unique because we also alleged that Option One employed targeted discriminatory practices in the making and the origination of these loans. That the discrimination was also a part of that business model that we claim was unfair and deceptive. And if you look at the second part of this chart here and you look at fees and disparities based on race, we found compelling evidences of intentional discrimination when we looked at the statistics and the evidence in the case relating to the fact that for similarly situated borrowers, and we adjusted for income, property values, all the factors that you would look at as to what a particular borrower should pay in originating a loan, and we found that on average between \$400 - \$500 additional was charged to African American and Latino borrowers. And the statistics, if you look at the fee disparity based on race, and you look at individual cases, as I said we found compelling evidence that they intentionally discriminated in making these loans.

And so putting this into perspective, we found, as we did in the Fremont case that this was another example as I think we have seen all over the country of banks who made loans when they knew, or should have known, that they were distended to fail. The cumulative effect of this has resulted in the foreclosure crisis which faces us today, and we believe that there is no question that the foreclosure crisis that has created the instability in our markets – not only here in Massachusetts but across the country – is a key factor in today's economic crisis. And we believe that we will not be able to return to a healthy economy here in Massachusetts and in this country until we are able to address and get under control foreclosures.

Actions like today's in Option One with our investigation and the results that we have accomplished are critical, and will be critical going forward, to accomplish what we need to turn around this economy not just here in Massachusetts but in the country. Today's results with the Option One settlement will mean \$115 million dollars in loan modifications, that means 5,000 Massachusetts home owners will be able to stay in their homes, will not be foreclosed upon. And we believe that this is not only real relief, it is realistic relief. These will be modifications that will make sense given now the value of the property, the income of the homeowners. And we have focused on providing real and realistic relief in fashioning this settlement that will help folks in Massachusetts and frankly will help our economy in Massachusetts.

This agreement also provides for \$9.8 million to the Commonwealth which allows us to repay by way of restitution all overcharges to minority borrowers in this case, as well as direct relief and in those instances where loan modifications will be available to minority borrowers we also will provide direct relief for the discrimination they faced and the out of pocket cost they faced by the circumstances I described earlier, being overcharged by a direct and deliberate business model.

This case is unique for two reasons. We are one of the few states in the country that has been able to, based on investigations and the strength we have looking at the tools available to us, although they may be limited on the state level, the tools that we have available to hold accountable brokers, banks, mortgage companies for foreclosure relief scams, for predatory lending, for securitization issues. And as I will discuss in a minute, the issues around servicing fraud that we believe continues as we speak by banks and mortgage companies in light of predatory behavior that continues. In this case, we have once again accomplished a result with real and realistic relief that makes sense both for the Commonwealth and for the economy of the Commonwealth and the consumers who will stay in their home. And this is a groundbreaking case, secondly, it is the first in the country that has brought this kind of claim and has gotten these this kind of relief for borrowers that we believe were discriminated based upon their race or ethnic origin.

We have always known here in Massachusetts that the first step in accomplishing a result as we did today is doing an investigation. Making sure that we get our facts and we understand the law, and that we are able to get a good result for the people involved, the consumers who have been hurt as well as for the Commonwealth.

Why do we do this? We still believe that the extent of the problem we are facing from foreclosures, and foreclosure crisis, means that unless we do this work and we are prepared if necessary to litigation that we will not get realistic relief. We have done that here by way of investigation, by settlement, to get a meaningful result and we will continue to do it. It's why we have been successful in bringing claims against companies like Goldman Saks and Morgan Stanley and State Street and Countrywide and including today H&R Block and its wholly owned subsidiary formerly known as Option One. It's a reason that Massachusetts has been able to get \$563 million in relief for borrowers. We have kept, in the past several years, 24,000 people in their homes. We've brought back \$50 million to tax payers here in Massachusetts. And we continue to do that work on the perspective on what we have done is so important relative to what we believe is servicing fraud that continues and that's why as we work with the other 49 states and the federal government around servicing fraud issues, keep this perspective in mind.

Last fall, banks and mortgage companies acknowledged that they had engaged in extensive robo-signing on affidavits that related to the integrities of real-estate transactions. This is after the history that we know of predatory lending, securitization of those loans, and continuing to fail to follow the law at the expense of consumers, at the expense of our economy, again not just here in Massachusetts but across the country. And as we engage in an effort to find relief for continuing violations for servicing fraud, not just robo-signing but the cutting of corners and the failure to follow the integrity of what

we need to do to make sure that we turn this economy around. We will make sure, at least here in Massachusetts, that we do not reach an agreement that for instance gives relief for securitization issues that still need investigation or for fraudulent servicing around the use of MERS, which is the Mortgage Electronic Release Systems. We will not settle an issue until we know all of the facts and we know all of the damage. Resolving MERS and securitization issues now before that full investigation, we believe is like buying a used car without looking under the hood. We know there is a good risk that you will get a lemon. We are not prepared to do that. We believe that Attorneys-General have been, in many consumer issues but particularly in this issue of consumer fraud related to predatory loans and all the behavior since then as we continue to address around servicing fraud, Attorneys-General are the last line of defense for people on the brink of wrongfully losing their homes.

We, here in Massachusetts as evidenced by our results today, are always willing to negotiate. But we will continue to do our work on all of these issues so that we can negotiate effectively. Thank you.