



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

Testimony of Glenn Kaplan
Chief, Insurance and Financial Services Division
Office of Attorney General Maura Healey

Joint Committee on Financial Services

March 26, 2019

Good morning Chairman Welch, Chairman Murphy, and members of the Joint Committee. Thank you for the opportunity to testify here today. My name is Glenn Kaplan, and I am here on behalf of the Office of Attorney General Maura Healey. I am chief of the Attorney General's Insurance and Financial Services Division, and I am here today to talk to you about the Attorney General's role in financial services, the work we have done to protect consumers in this area, and to offer our guidance, feedback, and expertise as you grapple with the variety of issues you will face in your committee during this legislative session.

The Insurance and Financial Services Division of the AGO, which is housed in our Public Protection and Advocacy Bureau, plays several different roles relating to financial services. First, our Office brings consumer protection cases against insurance companies when they engage in unfair or deceptive practices. The Supreme Judicial Court has held that Massachusetts General Laws, Chapter 93A, the state consumer protection statute, applies to insurance companies, and we take steps to ensure that consumers are treated properly. In recent years we have brought a variety of actions against insurers, including cases enforcing consumer rights under the Board of Appeal statutes, preventing improper insurer appraisal practices,

requiring equal treatment for same sex couples by insurers, and barring the sale of unsuitable annuities. We also pursue other unfair practices relating to financial services, for instance, matters relating to payday lending, premium financing, debt collection practices, and subprime auto lending. Our case against Santander recovered \$22 Million for subprime auto borrowers and for the Commonwealth, and we are engaged in other investigations in this arena that we expect to complete in the near future.

Another major area of our focus is education and student debt. Thousands of Massachusetts consumers fall prey to aggressive marketing tactics and undertake studies at questionable For-Profit schools for vocational training. These schools are extremely expensive, often costing more than five times the amount that students would pay for equivalent coursework at a community college or public institution. Many of these schools provide misleading placement statistics, untrue information about the transferability of credits, and misrepresentations regarding the nature and quality of their educational programs. Students are induced to enter the programs in high pressure sales meetings with school recruiters referenced as ‘advisors’ or ‘school counselors,’ and sign up for federal loans as well as supplemental private loans to cover the costs. These loans are often practically non-dischargeable in bankruptcy, leaving the students with enormous debt at the same time that they are often unable to obtain employment after graduating from the programs. Our Division has brought actions against over a dozen for-profit schools, resulting in recoveries for students of over \$10 Million. We also litigated a case against the owner of Everest Institute for misleading students, obtained an \$80 Million judgment against the school, and applied to the federal government for the discharge of the federal loan debt of thousands of Massachusetts residents. In addition, we are currently litigating cases involving unfair practices involving ITT Tech and the New England Institute of

Art, and have successfully completed actions against private lenders relating to their financing of predatory schools. Most recently, we obtained relief totaling almost \$2 Million from SouthEast Financial Credit and WeFlorida relating to educational loans made to Massachusetts students. We are also reviewing the conduct of student loan servicers and various student loan debt relief companies that market their services to Massachusetts residents.

In addition to our litigation work, our Division also provides mediation assistance to consumers who need help navigating disputes with insurance and financial services companies. We take thousands of phone calls each year from consumers, and we help these consumers recover millions of dollars from companies relating to their disputes. In addition, through our Student Loan Assistance Unit, we provide guidance and assistance to student-borrowers who are having trouble paying their student loans. We assist these students in disputes with their servicers, help them apply for income driven repayment plans, seek discharges of their student loans when appropriate, and advise them on other repayment options. We have helped thousands of former students avoid default and manage their loan debt through this program.

Our Office also continues to address mortgage origination and servicing conduct and we continue to devote significant resources to assisting homeowners facing foreclosure. Our cases against Ocwen, HSBC, and other mortgage servicers have helped thousands of Massachusetts homeowners, and the Office's Consumer Advocacy and Response Division continues to provide assistance to consumers at risk of foreclosure. We have also brought cases against the securitizers of home mortgages, including Goldman Sachs, Morgan Stanley, JPMorgan, Barclays, Royal Bank, CitiGroup and others, recovering hundreds of millions of dollars for Massachusetts Homeowners. Our most recent case, last summer against HSBC, resulted in a recovery of \$26 Million for consumers and the Commonwealth.

Beyond the work on consumer protection litigation that I have already described, we also enforce the False Claims Act. This statute allows the Commonwealth to recover multiple damages and penalties when the state has been overcharged by its vendors. The Commonwealth can also recover funds for towns and cities that have been misled.

In my Division, our False Claims Act efforts have largely focused on the mishandling of investment monies by investment advisors and investment banks. Based on both the False Claims Act and our specific authority under General Laws, Chapter 93A, Section 4 to investigate unfair securities practices, we brought the nation's first public enforcer actions against Wall Street firms that had sold risky "auction rate securities" to towns and cities, as well as the first cases against investment banks involved in subprime mortgage securitizations. Our recent securities cases against Moody's Investment Services, LPL, Inc., Barclay's Bank and Deutsche Bank have recovered over \$40 Million for the General Fund.

Finally, pursuant to Massachusetts General Laws, Chapter 12, Section 11F, we represent the public interest in administrative insurance rate proceedings in front of the Commissioner of Insurance. It is our job to advocate in those rate trials against excessive rates, and to make sure that insurance customers are not unfairly discriminated against. We review filings for rate changes in auto insurance, workers compensation insurance, and residual market homeowner insurance (the FAIR Plan), and trigger rate cases when we believe ratepayers are being treated unfairly. This is especially important for types of insurance where customers are required by law to buy the product. Our office's efforts ensure that these customers do not pay excessive rates.

In fact, we are the only party in the rate cases in a position to appeal the approval of an inflated rate by the Commissioner of Insurance. We believe that our presence in these cases acts as a deterrent, and helps make sure ratepayers are treated right.

This is a summary of the type of work we do in the financial services arena. We are also involved in policy work, and have provided legislators with feedback and information regarding a variety of issues, varying from gender neutral insurance to student lending to home insurance reform. We always appreciate the opportunity to provide our insight and thoughts to this Committee while it wrestles with important issues of public policy.

The Attorney General's Office is available to discuss and assist with any financial services matter. Thank you very much for allowing me to speak to you today.