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Attorney General Corbett announces lawsuits against MD & PA mortgage businesses; more than 500,000 calls to consumers on "Do Not Call" list

Attorney General Tom Corbett announced that consumer protection lawsuits have been filed against two business owners and their companies, who are accused of violating Pennsylvania's "Do Not Call" law and other consumer protection statutes. The companies, based in Baltimore, Maryland, and State College, Pennsylvania, are accused of using illegal telephone solicitations to aggressively market mortgage products to consumers - including what Corbett alleges is the largest-ever systematic effort to violate the Do Not Call program since it was created in 2002.

Corbett said the civil lawsuits were filed by the Attorney General's Bureau of Consumer Protection against the following businesses and individuals:

- Charles A. Ruppertsberger IV, 100 Harborview Drive, Baltimore, doing business as Direct Leadsources, also of Baltimore.
- Justin Harford, 1192 Westerly Parkway, State College, Centre County, doing business as Golden Apple Mortgage, Foote's, Inc. and New Equity LLC, all of State College.

"As the economy and housing markets change in Pennsylvania and around the country, some mortgage companies are using aggressive new tactics to solicit customers." Corbett said. "Today's consumer protection lawsuits are an important step to protect consumers from illegal conduct and send a clear message that lending companies must obey the law."

Charles Ruppertsberger / Direct Leadsources

Corbett said that Ruppertsberger and his Baltimore-based company, operating under the names Applied Financial and Financial Awards Center, used a telephone call center in Gujarat, India to place in excess of 500,000 sales calls to Pennsylvania consumers marketing various first and second mortgages.

"This is the most extensive campaign of telemarketing calls to consumers on the Do Not Call list ever investigated by my office," Corbett said. "Using an international call center, they invaded the homes of thousands of Pennsylvania residents with unsolicited and unwanted phone calls, marketing mortgage loans that they were not licensed to sell."

Corbett explained that that Ruppertsberger and his business are not licensed by the Pennsylvania Department of Banking to sell mortgages in the Commonwealth. Additionally, Corbett alleged that Ruppertsberger and Direct Leadsources, Inc. committed numerous other violations of state law, including:

- Failing to register their telemarketing operation.
- Calling consumers who had previously asked not to be called again.
- Calling consumers after 9:00 p.m.
- Failing to identify themselves to consumers.
- Failing to register the fictitious business names with the Pennsylvania Department of State.

Corbett said the Attorney General's Bureau of Consumer Protection received complaints from consumers in Adams, Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Carbon, Chester, Clearfield, Cumberland, Dauphin, Delaware, Erie, Fayette, Jefferson, Juniata, Lackawanna, Lancaster, Lehigh, Luzerne, Lycoming, Mercer, Mifflin, Montgomery, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Union, Venango, Warren, Westmoreland, Wyoming, and York.

Corbett said that call records obtained by the Attorney General's Office indicate that Direct Leadsources placed approximately 97,000 calls to consumers in the "610" area code; 81,000

August 15, 2008
Volume 11, Issue 28

This Issue's Headlines:

Pennsylvania:

Attorney General Corbett announces lawsuits against MD & PA mortgage businesses; more than 500,000 calls to consumers on "Do Not Call" list

Senators Propose Revisions to Gaming Law

Court Agrees with Governor on Furloughs

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calls to the "724" area code; 77,000 calls to the "215" area code; 71,000 calls to the "717" area code; 65,000 calls to the "570" area code; 57,500 calls to the "412" area code; 57,000 calls to the "814" area; 1,900 calls to the "484" area code and 650 calls to the "267" area code.

According to the lawsuit, Ruppertsberger and his company violated Pennsylvania's Consumer Protection Law; the Telemarketer Registration Act; the Mortgage Bankers and Brokers and Consumer Equity Protection Act; the Secondary Mortgage Loan Act; and the Fictitious Names Act.

The lawsuit seeks full restitution for any consumer who suffered losses as the result of actions that violated the Consumer Protection Law, along with civil penalties of up to \$1,000 for each violation (up to \$3,000 for violations involving seniors). Additionally, the lawsuit asks the court to prevent Ruppertsberger or his company from any further telemarketing in Pennsylvania until any court-ordered fines and costs are paid.

Justin Harford / Apple Mortgage

Corbett said that Justin Harford and his Centre County companies, operating under the name Apple Mortgage, are accused of making illegal telephone sales calls as part of an aggressive marketing campaign to sell first and second mortgages; mortgage refinancing loans; home equity loans; and debt consolidation loans. The Defendants' advertisements promised "No Money Down Purchases" and said that "Less than Perfect Credit" and "1 Day out of Bankruptcy" were "OK".

According to the lawsuit, Harford and his companies scoured courthouse records to obtain information about consumers with existing mortgages and then called those consumers in an attempt to sell mortgage products to them. Those calls were made without purchasing or using the Pennsylvania Do Not Call list, in violation of the state's Telemarketer Registration Act.

Corbett's said that Harford and his mortgage operation are also accused of repeatedly calling consumers who clearly told them not to call again.

Corbett noted that the lawsuit includes a copy of a written warning issued by the Attorney General's office to Harford in July 2007, advising Harford that his calls were potentially in violation of the Do Not Call. According to the lawsuit, Harford ignored this notice and continued engaging in illegal activity.

Corbett said that consumers in Adams, Blair, Bucks, Butler, Chester, Clearfield, Franklin, Lancaster, Monroe, and York counties contacted the Bureau of Consumer Protection to file complaints about calls from Apple Mortgage.

The lawsuit seeks civil penalties of up to \$1,000 for each violation of the Consumer Protection Law (up to \$3,000 for violations involving seniors) and seeks to prevent Harford and his companies from any further telemarketing in Pennsylvania until any court-ordered fines and costs are paid.

Corbett said that lawsuits were filed in Commonwealth Court, in Harrisburg, by Senior Deputy Attorney General David Sumner of Attorney General Corbett's Bureau of Consumer Protection.

Senators Propose Revisions to Gaming Law

Two state Senators have developed bipartisan legislation that would make several important amendments to Pennsylvania's 2004 slot machine gambling law, including prohibiting outside income by Gaming Control Board members, expanding the prohibition on campaign contributions from casino interests, and increasing public disclosure of previously confidential information supplied by license applicants.

Vince Fumo (D-Philadelphia) and Jane C. Orié (R-Allegheny) plan to introduce the bill in time for it to be considered when the Senate returns to session in September. Fumo was an early supporter of legalizing slot machines and was one of the chief authors of the legislation to do so. Orié opposed the expansion of gambling in the state.

"We disagreed on the overall public policy merits of the legalizing slots, but we agree now that the experience of the past several years compels us to make changes," Orié said.

"The past two years have highlighted several unintentional deficiencies of the existing law. We created a new industry in this state and adopted the best practices that we could find from other states, but the law was not perfect and we can improve upon it," Fumo said.

The proposed legislation would make Gaming Control Board members full time, and ineligible for outside income. They are already paid a salary reflective of the full-time nature of the position – \$150,000 per year for the chairman and \$145,000 for the other six members.

Fumo and Orié said the intensity and complexity of the work argue for it being a full-time job, and the need to prevent actual or perceived conflicts of interest suggests a need for prohibiting outside employment.

Another key provision would clarify the limited nature of confidentiality of information about license applicants. Although the existing Gaming Act contains a narrow definition of confidential information, the Board has taken a very broad interpretation of this provision and has deemed all information provided by an applicant to be confidential. This bill would open up all information that is not specifically designated as confidential, such as trade secrets or personal medical and financial data about applicants.

Fumo and Orié also propose to eliminate the section of the law that gives jurisdiction over all slots license appeals and slots-related zoning appeals directly to the Supreme Court. Intended to expedite appeals that may have delayed the opening of the casinos, it has had the effect of eliminating the important appellate record that is typically created at the Commonwealth Court level.

Another measure within the bill expands the ban on campaign contributions from licensed casino operators to those who have registered with the Gaming Board as "licensed casino representatives." This would prevent casino operators from making contributions indirectly through paid lobbyists.

"All of these provisions would create greater public confidence in Pennsylvania's Gaming Act and Gaming Control Board," Orié said. "That confidence has been shaken recently, and we must restore the complete integrity of the process in the public eye."

The bill would also require the two casinos licensed for Philadelphia to obtain authorization from the General Assembly, and to compensate the taxpayers of Pennsylvania, for the use of public land before they are allowed to commence gambling operations. Currently, the two licensed casinos plan construction on land that is partially within the river bed of the Delaware River. To date, they have not sought a grant of these riparian rights from the Commonwealth.

Among the other amendments in the Fumo/Orié proposal, the bill would:

- Require a two-third Senate confirmation of all future members of the Gaming Board.
- Require oral hearings with the right of cross examination for all matters before the Board.
- Prevent an applicant from borrowing the initial \$50 million license fee and require a surety bond from the licensee when the licensee is also the developer of the project.
- Require disclosure and posting on the Internet of information concerning the true identity of the controlling interest in a gaming facility.
- Require the board to adopt regulations, in addition to those already in place, maintaining the separation of prosecutorial and adjudicatory functions.
- Authorize and encourage the Board to seek the advice of the Ethics Commission and the Attorney General on ethics and related issues.

Court agrees with Governor on Furloughs

When politics hold up passage of Pennsylvania's state budget past the July 1 deadline – an annual occurrence for six years running, the governor must choose between furloughing thousands of state employees or requiring them to work without pay until a budget is enacted, a Commonwealth Court judge has ruled.

Judge Mary Hannah Leavitt rejected arguments by state-employee unions that had sued to block Gov. Ed Rendell's plan to furlough about 25,000 non-critical employees if an impasse pushed the budget past July 1. The unions contended that workers could continue to be paid by tapping unappropriated funds in the state treasury during budget negotiations between the governor and the Legislature.

Leavitt said the state constitution bars the expenditure of unappropriated money. She also rejected the suggestion that the federal Fair Labor Standards Act, which requires workers to be paid on time, trumps the constitution.

"Congress did not intend the FLSA to authorize public employers to raid their treasuries illegally any more than it intended that private employers could rob banks, whenever necessary to make payroll on time," she wrote.

Leavitt ruled on the case on July 23, but in the form of an opinion that was "not reported" ? a judicial term that means it cannot be cited as a precedent. It was reissued Tuesday as a "reported" opinion. Court officials could not immediately explain the change.

Last year, about 25,000 state employees ? more than one-quarter of the state work force ? were furloughed without pay for one day because of a budget impasse, although they were later reimbursed for their lost wages. State parks and driver's license centers were among the suspended services.

State troopers, prison guards and other workers whose jobs were deemed "critical" continued to work and be paid as usual, as did liquor-store clerks and other state employees whose salaries are paid out of special funds.

This year, about the same number of furloughs were avoided because a budget deal was struck just before July 1, even though the spending plan itself was not formally approved until several days later.

David R. Fillman, executive director of Council 13 of the American Federation of State, County and Municipal Employees, said an appeal is likely.

"We have lived past budget deadlines since 2003, and it was just in the last two years we were confronted with this" prospect of furloughs, Fillman said.

AFSCME and the other two unions ? the Pennsylvania Social Services Union Local 688 and the Federation of State Cultural and Educational Professionals Local 2382 ? represent about 17,000 of the workers targeted under the contingency plan Rendell put forth last spring.

Chuck Ardo, a spokesman for Rendell, said the governor was pleased that his position was largely upheld and that any appeal would help clarify such situations in the future.

"Further clarification of the issue would behoove everybody," Ardo said.

Duane Morris Government Affairs LLC will continue to monitor these and other important issues. Contact us if you have an issue you would like additional information on, or to be removed from the Capitol Commentary distribution list:

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