
THE HOFFMAN LAW GROUP

TO: ALL CLIENTS OF THE HOFFMAN LAW GROUP
FROM: MARK J. BERNET, RECEIVER
SUBJECT: STATUS OF LITIGATION AGAINST THE HOFFMAN LAW GROUP
DATE: NOVEMBER 11, 2014

STATUS OF LITIGATION AGAINST THE HOFFMAN LAW GROUP

The purpose of this memorandum is to advise all of the clients of The Hoffman Law Group of the status of the lawsuit. Most of the recipients of this e-mail are aware of the lawsuit. A small number of folks, however, are not aware, and so in the memorandum I am repeating information that I have already provided.

The "Defendants" in this case are The Hoffman Law Group, attorney Marc Hoffman, Michael Harper, Benn Willcox, Legal Intake Solutions, LLC, File Intake Solutions, LLC, Nationwide Management Solutions, LLC, and BM Marketing Group, LLC. The Plaintiffs, the federal Consumer Financial Protection Bureau ("CFPB") and the State of Florida, Office of the Attorney General ("FLAG") commenced this case by filing their *Complaint for Permanent Injunction and Other Relief*, in which they alleged that the Defendants operated as an "enterprise" to generate millions of dollars in illegal upfront fees by convincing consumers to pay for the opportunity to be included as a plaintiff in so-called "mass-joinder" lawsuits against their mortgage lenders.

According to CFPB and FLAG, the enterprise accomplished this by falsely promising that the lawsuits would induce banks to give consumers mortgage modifications or foreclosure relief. CFPB and FLAG further alleged that, in reality the "enterprise" did little or nothing to actually assist consumers; instead, in numerous instances, the Defendants directed consumers to avoid interactions with their mortgage lenders or servicers and sometimes even instructed consumers to stop making their mortgage payments. CFPB and FLAG specifically charge the Defendants with violating multiple provisions of Regulation O, 12 CFR Part 1015; violating the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes; in the case of the Defendants Harper and Willcox, making false or incomplete statements to the Florida Department of Agriculture and Consumer Services in connection with their applications for a telemarketing license; in the case of the Defendant Harper, violating a written Assurance of Voluntary Compliance that he signed in favor of FLAG in 2009; and violating Florida's civil theft statute. A copy of the Complaint is posted on my website, www.bernet-receiver.com.

On Wednesday, July 16, 2014, Judge Cohn entered an *Ex Parte Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief and Order Setting Hearing on Motion for Preliminary Injunction* (doc. no. 13) (the "TRO") that, among other things, appointed me as Receiver for The Hoffman Law Group, P.A., f/k/a The Residential Litigation Group, P.A. ("Hoffman Law"), Nationwide Management Solutions, LLC ("Nationwide"), Legal Intake Solutions, LLC ("Legal Intake Solutions"), File Intake Solutions, LLC ("File Intake Solutions"), and BM Marketing, LLC ("BM Marketing") (together the "Receivership Defendants"). The Court also scheduled a preliminary injunction hearing, to be held on July 29, 2014. Thereafter, the Court rescheduled the preliminary injunction hearing to September 24, 2014. The Court since has entered a preliminary injunction that has kept the provisions of the TRO in place. A copy of the preliminary injunction is posted on my website.

On September 5, 2014, the Defendant Hoffman, through counsel, filed an Answer denying most of the allegations of the Complaint but raising no affirmative defenses. On the same day, the Defendants Harper and Willcox each filed a separate Answer that denied most of the allegations of the Complaint but raised no affirmative defenses. The Receivership Defendants did not respond to the Complaint, and as a result defaults now have been entered against them. This means that, unless they are able to have the Court set aside the defaults, they cannot defend the lawsuit further.

On September 18, 2014, I filed my *Receiver's Initial Report*, which detailed the Receiver's activities, opinions and conclusions as of that date. The report is posted on my website. It provides a comprehensive discussion of how Hoffman Law and the other Defendants operated.

As noted in my initial report, Hoffman Law had a limited role in most of the lawsuits. Instead, litigation decisions for Hoffman Law were handled by "outside litigation counsel." In practice, all pleadings were prepared by attorneys employed by The Law Firm of Michael E. Herskowitz, Esquire ("Herskowitz Law Firm"), located in New York. The Herskowitz Law Firm filed a number of lawsuits in New York, but curiously, in the signature blocks on their pleadings, their attorneys listed themselves as "Of Counsel" to Hoffman Law, showing a New York address, even though Hoffman Law had no offices in New York. The Herskowitz Law Firm also worked with other local counsel, located throughout the United States, who actually signed and filed pleadings and other papers in other states, again as "Of Counsel" to Hoffman Law. In addition, the Herskowitz Law Firm prepared pleadings for lawsuits filed in federal courts in Florida, signed by Marc Hoffman as counsel. Consumers who have cases pending outside of Florida should contact Michael Lehrman, whose contact information is as follows: Michael A. Lehrman, Esq., Law Office of Michael E. Herskowitz, Esq., 1999 Flatbush Avenue, Suite 201, Brooklyn, New York 11234, Tel: (718) 998-5088, Fax: (718) 362-8023, e-mail: mlehrman@LawOfficeMH.com.

Hoffman Law also filed 12 lawsuits in Florida. I have corresponded directly with most of those clients. If you have question about your Florida lawsuit, please e-mail me at the e-mail address set up on my website.

Consumers are encouraged to contact other attorneys to assist them with pending matters. Here are links for consumers who need immediate help with their lenders and servicers outside of their pending litigation:

LINKS FOR FURTHER RESOURCES

Following are some links where you may find resources to help you with your lawsuit or with defending a foreclosure case.

<http://www.consumerfinance.gov/find-a-housing-counselor/>

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>

The Florida Bar has posted the following information on its website for consumers facing foreclosure-related issues:

❖ A variety of web resources for families facing foreclosure and attorneys helping them is available from The Florida Bar's Consumer Protection Law Committee, go to:

<http://www.floridabar.org/DIVEXE/BD/CMStanding.nsf/WCommitteesDetail/92C1EA5F0AC2F0D285256C5B00554822?OpenDocument>

❖ Florida's Attorney General has more than 50 investigations open against mortgage fraud and foreclosure rescue firms. Find out how to protect you and your home, go to:

<http://myfloridalegal.com/pages.nsf/Main/55BC21CB13128F728525741800481491>

❖ For a referral to an attorney for a low-fee consultation, contact The Florida Bar Lawyer Referral Service (1-800-342-8011) or go to:

<http://www.floridabar.org/divpgm/lronline.nsf/wreferral6?OpenForm>

❖ If you are at risk of foreclosure, free housing counseling is available through HUD or NeighborWorks National Foreclosure Mitigation Counseling, go to:

http://portal.hud.gov/hudportal/HUD?src=/i_want_to/talk_to_a_housing_counselor

or <http://www.nw.org/network/foreclosure/nfmcp/>

If you have been served with foreclosure papers, contact your local legal office immediately. In Florida, this can be located at FloridaLawHelp.org (Find Legal Help), go to:

<http://floridalawhelp.org/find-legal-help>

RECOVERY/RESTITUTION

I am frequently asked by clients if they can expect to receive any money back. One of the goals of the receivership is to attempt to recover funds so that money can be paid back to Hoffman Law's clients. So far, I have recovered a total of approximately \$940,000, and I am hopeful that I can recover more. When we make a determination that we have recovered all of the funds that can be recovered in a cost-effective manner, then there will be an effort to distribute the funds to consumers. Distributions will be made on a *pro rata* basis, which means that every consumer will receive the same percentage of the amount of money they paid to Hoffman Law. For example, if the total amount of money paid to Hoffman Law is \$10 million, and if I recover \$1 million, then clients would receive 10 percent of the amount of money they paid. I have served as Receiver in a number of lawsuits, and in my experience a 10 percent distribution is about the best that can be expected.

Please continue to check my website, www.bernet-receiver.com, for further updates on the case.