



Who Can You Trust?

The Foreclosure Rescue Scam Crisis in New York

DECEMBER 2014

A REPORT FROM THE

CENTER FOR NYC NEIGHBORHOODS



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW

About this Report

Who Can You Trust: *The Foreclosure Rescue Scam Crisis in New York* is a joint project of the Center for NYC Neighborhoods and the Lawyers' Committee for Civil Rights Under Law. This report pulls together quantitative data from national trends on foreclosure rescue scams and qualitative data from New York City, including the results of focus groups held with scam victims, to detail the landscape of harm that these scams bring to homeowners' lives. The body of the report delves into both the real and intangible damages suffered by homeowners across New York State and provides recommendations for new interventions to protect homeowners at risk of scams.

ABOUT THE CENTER

The Center for NYC Neighborhoods (the Center) is a non-profit organization created in 2008 in response to the foreclosure crisis through the collaborative efforts of the mayor, the New York City Council, community advocates, foundations, and corporate leaders. Since its founding, the Center has been committed to promoting and protecting affordable homeownership in New York. The Center and its Network Partners offer high-quality housing counseling and legal services, free of charge, to meet the diverse needs of New York homeowners. To date, the Center and its network have served over 30,000 homeowners. For more information about the Center, visit cnycn.org.

ABOUT THE LAWYERS' COMMITTEE

The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), a nonpartisan, non-profit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. We celebrated our 50th anniversary in 2013 and continue our quest of "Moving America Toward Justice." The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law, particularly in the areas of fair housing and community development; employment; voting; education and environmental justice. For more information about the Lawyers' Committee, visit www.lawyerscommittee.org.

The Lawyers' Committee is a founding member of the Loan Modification Scam Prevention Network (LMSPN). The LMSPN, launched in 2010, is a national coalition of government agencies, non-profits, and service providers using education and a centralized complaint gathering process to help stop foreclosure rescue scams. This effort is led by Fannie Mae, Freddie Mac, the Homeownership Preservation Foundation (1-888-995-HOPE), NeighborWorks America (LoanScamAlert.org), and the Lawyers' Committee for Civil Rights Under Law (PreventLoanScams.org).

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In 2008, a group of concerned New Yorkers from government, community groups, corporations, and foundations came together to create the Center for NYC Neighborhoods to help working- and middle-class homeowners at risk of foreclosure. In so doing, we hoped to protect the stability of the many neighborhoods that provide affordable housing to hundreds of thousands of New York families.

Our approach was to work with community-based organizations in the hardest hit neighborhoods and support them in delivering housing counseling and legal services to help homeowners keep their homes. Despite many challenges, together we have built a citywide infrastructure that has helped over 30,000 homeowners. Yet, there are still tens of thousands of homeowners fighting to save their homes.

Sadly, unscrupulous individuals and companies aggressively seek out New Yorkers in financial jeopardy to take advantage of them while they grapple with foreclosure. These “foreclosure rescue scammers” prey on people navigating a complicated mix of programs and processes. Scammers promise a quick fix, charge a steep fee, and then disappear.

The damage caused by scammers is shocking. Since 2010, over 42,000 homeowners across the country have been conned out of nearly \$100 million. That number does not even reflect the incalculable damage done when homeowners are prevented from reaching legitimate help — or having finally reached it, finding that they are too far behind to recover.

Earlier this year, we noticed that these scams were becoming more widespread and more sophisticated. We mobilized our network and met with homeowners who had been scammed to learn how to prevent others from suffering the same misfortune. And, we strengthened our partnership with the Lawyers’ Committee for Civil Rights Under Law, who have been national leaders in this work since 2010. This year, both organizations redoubled our commitment to increase awareness and enforcement of these scams in New York State.

This new wave of scams represents yet another affront on working and middle-class homeowners and neighborhoods, following decades of predatory lending and the ensuing foreclosure crisis. We can defeat foreclosure rescue scammers. But we need more enforcement and consumer education to help distinguish between legitimate services and scams.

Homeowners need to know that scammers are peddling high-cost, no-return services and where to find quality services that won’t cost a dime. When homeowners know who to trust, scam operators will find they simply have no market.



Herbert Sturz
Board Chair,
Center for NYC Neighborhoods



Christie Peale
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Executive Summary

The 2008 foreclosure crisis and the resulting recession have been devastating to homeowners and their communities throughout New York State. To date, this crisis has resulted in thousands of foreclosures, with even more homeowners behind on their mortgages and at risk of foreclosure. Sadly, the foreclosure crisis has also generated a second wave of hardship for vulnerable New Yorkers: foreclosure rescue fraud.

Who Can You Trust: The Foreclosure Rescue Scam Crisis in New York takes an in-depth look at the cottage industry of individuals and groups offering fraudulent foreclosure rescue services, examining the roots of this crisis, analyzing the impact of scams on homeowners, and making recommendations to turn the tide against scammers while connecting New York homeowners to legitimate help.

Written by the Lawyers' Committee for Civil Rights Under Law and the Center for NYC Neighborhoods, the recommendations contained within *Who Can You Trust* derive from an analysis of complaints submitted to the national Loan Modification Scam Database, as well as a series of focus groups with scam victims and their attorneys.

What is a Foreclosure Rescue Scam?

Foreclosure rescue scammers take advantage of homeowners in several different ways. They may offer the homeowner a much-needed loan modification, in exchange for a fee, or, they may recruit participants in a sham lawsuit that they claim will provide a modification and even additional compensation to homeowners for their trouble. Others may attempt to trick the homeowner into signing over the title to their home or making monthly mortgage payments to the scammer rather than the actual mortgage holder. While the methods vary, the end result is the same: victims lose significant sums of money while ending up at further risk of losing their homes.

The Impact of Scams

Unsurprisingly, we found that these scammers operate in areas with high levels of foreclosure activity. We also found that foreclosure rescue scams disproportionately impact minority homeowners and older homeowners. For example, while African American homeowners constitute only 8 percent of New York State homeowners, they represent 30 percent of foreclosure rescue scam victims in the state, according to the national Loan Modification Scam Database.¹

The Need to Increase Scam Awareness

Unfortunately, many homeowners lack an awareness of foreclosure rescue scams, how to avoid them, and where to go for assistance. The good news is that legitimate help from skilled professionals at non-profit community based organizations is available to New Yorkers at risk of foreclosure — and it's free.

Recommendations

Putting a stop to foreclosure rescue scams in New York State requires a multi-pronged strategy. This report recommends taking action on two fronts: first by making a concerted effort to conduct a consumer education campaign in communities targeted by these scammers, and secondly, by bringing additional enforcement and other legal actions, both public and private, against these scammers.

CONSUMER EDUCATION

- Use messaging that focuses on the prevalence of scams to put homeowners on a more heightened alert against scammers.
- Reach homeowners from different backgrounds and communities through multiple channels, including direct outreach to homeowners who are in or at-risk of foreclosure, as well as through indirect means, including news media.
- Include community institutions and trusted local leaders in outreach efforts.
- Incorporate anti-fraud measures into new government programs to include messaging that explicitly warns consumers of potential scammers and advises them on how to avoid scams.

ENFORCEMENT

- Prioritize law enforcement efforts at all levels against foreclosure rescue scammers.
- Crack down on illegal and deceptive advertising on the radio, the Internet, and other outlets by working with regulators, broadcasters, and other media outlets to identify and remove advertisements that fail to make the disclosures mandated by federal regulations.
- Engage housing counselors and attorneys in government scam prevention efforts.
- Support private litigation conducted by non-profit legal services providers on behalf of scam victims.
- Impose more stringent sanctions — including disbarment — for attorneys involved in foreclosure rescue scams. Work with New York courts and bar associations to create a more user-friendly process for victims to file complaints against attorneys involved in foreclosure rescue scams.
- Given the growing participation of real or fictitious attorneys in foreclosure rescue scams, consider eliminating the exemption that allows New York State attorneys to collect upfront fees for foreclosure prevention legal services.

Ultimately, stemming the tide of foreclosure rescue scams in New York State will require a significant allocation of time, effort, and resources. But it's a challenge that must be met in order for New York State to put an end to the foreclosure crisis. By following the recommendations made in *Who Can You Trust*, we can fight back against these financial predators and ensure that homeowners at risk of foreclosure are connected to the legitimate help they need.

Introduction

Imagine that you are at risk of losing your home, the home that you and your family worked so hard to buy. Whether due to a loss of employment, unforeseen medical costs, disability, or some other unexpected change in your life, you have fallen behind on your mortgage and received a notice from your bank that you could lose your home. You are terrified that any day you could arrive from work to find your home repossessed and your belongings on the curb.

You are desperate for a solution. You've tried calling your bank, but it is hard to get the answers you need. You've submitted and resubmitted paperwork attempting to lower your payments through a mortgage modification, but have not had any success.

You know you need help, but are unsure where to turn. You may even feel too ashamed to ask your friends and neighbors for ideas. Then, one day, you get a call from a company offering the help you've been looking for. The person on the phone understands your dilemma, answers all your questions, and tells you the good news: if you work with him, you will be able to save your home! His fee is \$4,000, a difficult sum to pay given your circumstances, but one that comes with a guaranteed affordable mortgage modification. You arrange a monthly payment plan, relieved that your nightmare is finally coming to an end.



Center for NYC Neighborhoods

Queens homeowners seeking help with their mortgages at a community event hosted in 2011 by the Center for NYC Neighborhoods.

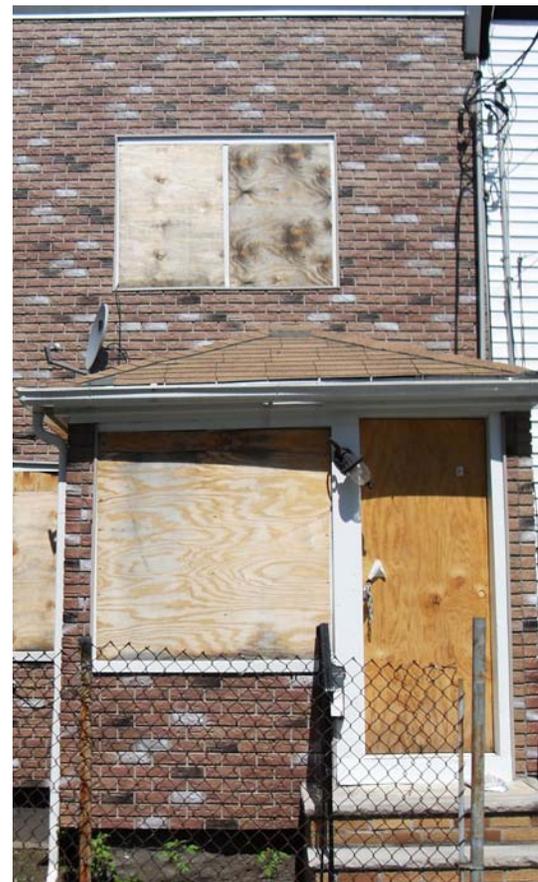
A few months and several thousand dollars later, you start to worry when you have not yet received your promised modification. You feel frustrated, but when you call the organization for updates, no one answers the phone. Finally, you head over to their office to get some answers, only to find a shuttered building with no trace of the organization you've been paying for the last few months. It finally dawns on you: you've been scammed. Worse, you are now further behind on your mortgage, no closer to a solution, and in an even more unstable financial situation.

Unfortunately, the scenario is all too common in New York in the wake of the foreclosure crisis. Day after day, scammers take advantage of more and more homeowners struggling to keep their homes. The foreclosure crisis is most closely associated with the avalanche of foreclosures that occurred during the worst recession since the Great Depression. But for advocates, housing counselors, and homeowners around the country, the crisis has a rarely discussed and drastically underreported second wave — a wave of foreclosure rescue fraud, which exists because of the unprecedented number of homeowners who suddenly became vulnerable to foreclosure.

As this report demonstrates, foreclosure rescue scams are, unsurprisingly, most prevalent in those communities most impacted by the foreclosure crisis. They disproportionately impact homeowners of color. They cause severe damage not only to the financial well-being of victims, but also to their overall family stability, all the while putting their homes in further jeopardy of foreclosure.

Scammers aggressively seek out more customers every day, exploiting their desperation by offering false promises of much needed help. Unfortunately, many homeowners lack an awareness of foreclosure rescue scams, how to avoid them, and where to go for assistance. The good news is that legitimate help is available to New Yorkers at risk of foreclosure — and it's free.

Continuing to take law enforcement actions against scammers is essential. However, more work in the area of educating homeowners, as well as the trusted community leaders and institutions they turn to for advice, about the risk of scams and how to connect to legitimate services is needed as well. By connecting homeowners in need of help to free, high-quality legal services and housing counseling at non-profit organizations, we can cut scammers out of the equation while maximizing the likelihood that a homeowner will be able to find a home-saving solution.



Center for NYC Neighborhoods

An abandoned house in Jamaica, Queens. Jamaica is one of the communities that has suffered the most from the foreclosure crisis. Today, Jamaica homeowners report high levels of foreclosure rescue scam activity.

Gloria QUEENS, NY



How long have you been in your home? *5 years*

How did you connect with the scammer? *One of my friends told me about an "attorney" who supposedly was helping her to get a loan modification.*

What did they promise to do for you? *To negotiate with the bank and get a loan modification within a month.*

When did you realize you were being scammed? *After six months, my husband told [them that] they were not getting more money from us until we had something in writing from the bank.*

How much did you pay the scammer? *\$1,500*

How did this impact you? *I felt bad because my husband was upset with me for contacting this company.*

Did you eventually find real help? *Yes, my friend who talked to me about the scammers also took me to Legal Aid for help.*

Foreclosure Rescue Scams: the Roots of the Crisis

The epidemic of foreclosure rescue fraud is a direct consequence of the foreclosure crisis and the resulting recession that began in 2008. Today, the crisis has resulted in thousands of foreclosures in New York State and even more homeowners struggling to make monthly mortgage payments. While foreclosures have declined in many parts of the country, in New York foreclosure starts (signaled by a court filing known as a “lis pendens”) are on the rise again, with filings increasing 30 percent in 2013 over 2012. Worse, there remains a tremendous backlog of owners stuck in the foreclosure process and thousands more families continue to fall behind on their mortgage payments each month.

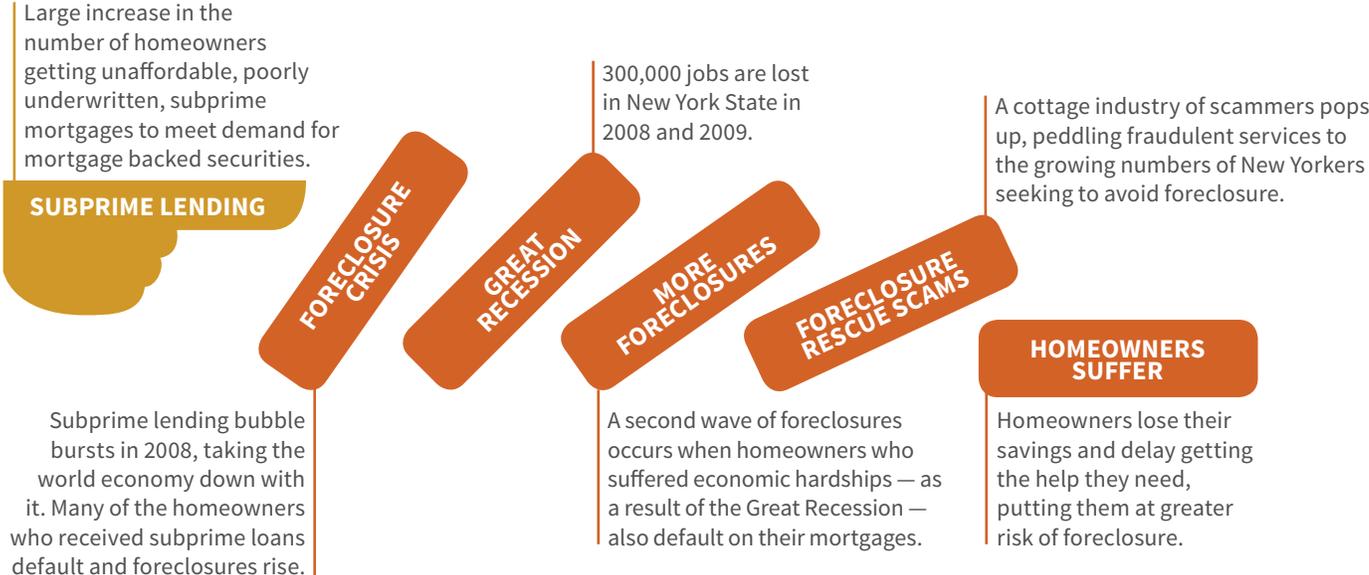
For homeowners who have fallen behind on their mortgage payments, the challenges of the foreclosure crisis are a daily source of stress, confusion, and anger. Many of these homeowners were victims of predatory lending and were marketed toxic mortgages that were unaffordable in the first place. Others have suffered job losses and other economic hardships as a result of the recession that resulted from the housing market crash.

Foreclosure rescue fraud presents a second wave of hardship for these homeowners and the neighborhoods they call home. Today, vulnerable homeowners are targeted yet again, this time by a cottage industry of groups offering foreclosure rescue services under false pretenses. They market themselves as the knight in shining armor who will save the homeowner from foreclosure. In reality, they often turn out to be a wolf in sheep’s clothing, wreaking havoc on the financial and emotional wellbeing of homeowners.

“I’m more angry with [my bank] than I am with the people who ripped me off.”

— BRONX HOMEOWNER

The Domino Effect



“There’s a word called desperation, and that’s key... They make you think they’ll put you on the street in 24 hours.”

— BRONX HOMEOWNER

TOXIC MORTGAGES

The widespread proliferation of subprime loans was a major cause of the foreclosure crisis and the 2008 Great Recession. The scourge of subprime lending disproportionately impacted African American and Latino homeowners: numerous analyses have demonstrated that they were consistently more likely to receive subprime and other high-risk loan products, even after accounting for income and credit risk status.² The spike in foreclosures among homeowners who received subprime and other high-risk loan products created a large pool of homeowners eager for help modifying their mortgages and desperate for help saving their homes.

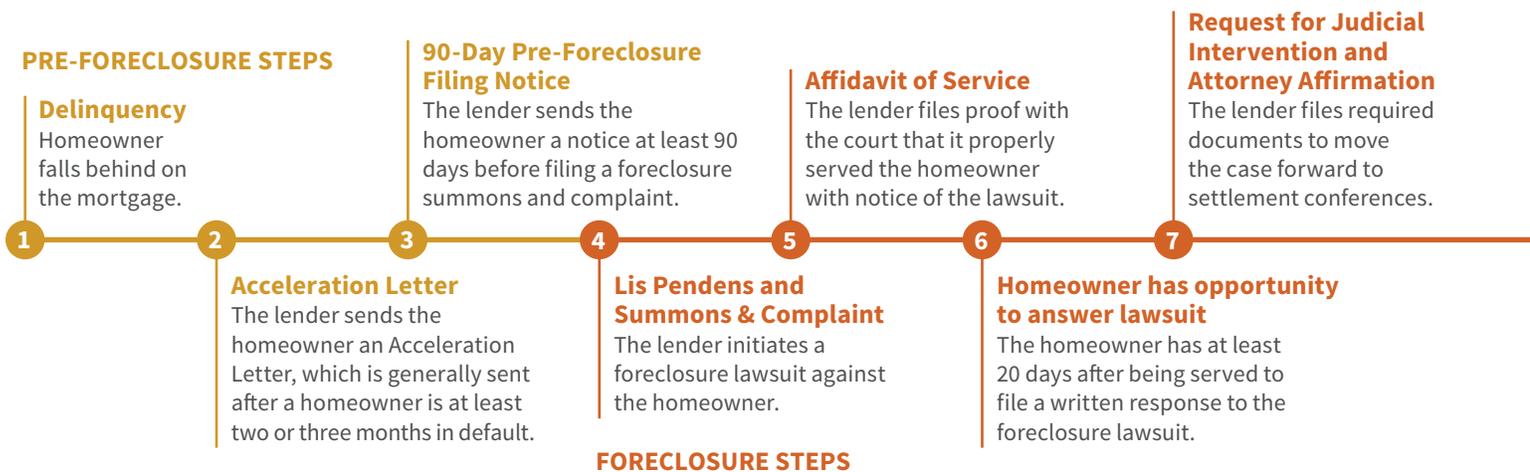
Several years after the crash of the subprime mortgage market, many foreclosure rescue scams today involve the same actors who once marketed these risky mortgage products to vulnerable communities. Once their market dried up, many former mortgage brokers simply stayed in the same neighborhoods and re-established themselves as supposed foreclosure experts.³

DIFFICULTIES WITH MORTGAGE SERVICERS

Both the foreclosure and mortgage modification processes are extremely complicated, frustrating, and scary for homeowners. The difficulty, frustration, and fear that homeowners experience as a part of these processes increases their susceptibility to scams. Nationally, homeowners seeking mortgage modifications have reported serious issues with their mortgage servicers when seeking to avoid foreclosure and modify their mortgages. Complaints include difficulty communicating

Foreclosure Timeline in New York State

The foreclosure process in New York State takes, on average, over two years and there are many steps that must be taken before a home can be foreclosed upon. It’s important to keep in mind that most foreclosures do not result in a foreclosure sale. In New York City, only about 20 percent of properties in foreclosure are sold through an auction or transferred to bank ownership.⁵

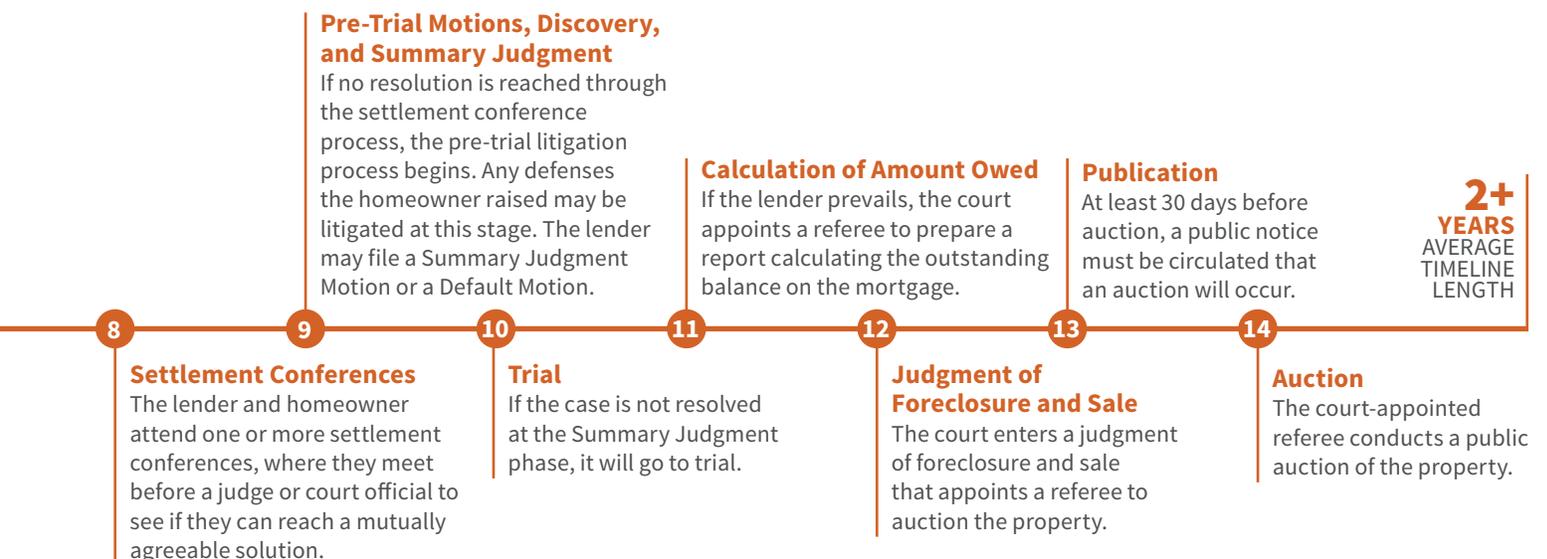


with their servicer, receiving conflicting information from customer service representatives, and having to resubmit documentation unnecessarily.⁴

Whether due to deliberate malfeasance on the part of mortgage servicers or their inability to adequately serve the high volume of homeowners seeking help, the end result is an increasingly confused, frustrated, and desperate population of homeowners, which opens the door for scammers. Several victims the Center interviewed in focus groups thought they were participating in legitimate modification programs with their servicers when in fact they were making payments to a scammer.

LACK OF INFORMATION ABOUT THE FORECLOSURE PROCESS

Living with the imminent threat of losing one’s home is stressful and traumatic. For the homeowners the Center spoke to in a series of focus groups, a lack of knowledge about the foreclosure process compounded this stress. Some scam victims were erroneously under the impression that they could return to their home and find it repossessed any day. They were unaware that foreclosure in New York State is a process that takes over two years on average and involves a series of court appearances and procedural protections for homeowners. This lack of knowledge can lead to a feeling of impending crisis, a growing desire for resolution, and a susceptibility to quick fixes. People are both unnecessarily desperate for help and unduly willing to believe that spending “a few thousand here and a few thousand there” is unavoidable, particularly if they believe they are getting legal assistance.



What is a Foreclosure Rescue Scam?

While foreclosure rescue fraud comes in various forms, it all boils down to the same result — the widespread conning of desperate homeowners throughout the United States, when they can least afford it. Knowing that there is widespread confusion among homeowners about the foreclosure process, as well as frustration with mortgage servicers regarding the modification process, scammers take advantage of the situation in several different ways.

COMMON SCAMS

Loan Modification Scams

The most common foreclosure rescue fraud scheme is a loan modification scam. In such a scheme, the scammer offers to negotiate with the homeowner's lender to lower their interest rate for a price, often guaranteeing the results, at times in the form of a "money back guarantee." More often than not, the homeowner pays, but receives no modification and no refund.

Sham Lawsuits

With numerous stories about subprime mortgages, robo-signing, and wrongful foreclosures, as well as the publicity surrounding large government settlements, many scammers offer to "sue those greedy banks." In exchange for purported legal fees, scammers promise that their lawsuit will provide a modification and even additional compensation to homeowners for their trouble. Unfortunately, these lawsuits are generally fake and end up costing the homeowner thousands of dollars. These "cases" can continue on for years with homeowners paying ongoing retainer fees. Many homeowners don't realize the fraudulent nature of the lawsuit until they receive a foreclosure notice.

Forensic Audit Scams

Similar to the lawsuit scams, forensic audit scams take advantage of media attention to robo-signing and wrongful foreclosure suits to convince homeowners that they will be able to find some kind of flaw with their own mortgage documents. In exchange for an upfront payment, so-called forensic loan "auditors," mortgage loan "auditors," or foreclosure prevention "auditors" offer to have an attorney or other expert review the homeowner's documents to determine if their lender complied with the law, with the promise to homeowners that if they find "errors" in their mortgage documents, they can force banks to provide an affordable modification or even nullify their mortgage.

However, this too is a misrepresentation meant to ensnare homeowners in a scam. While the misdeeds of mortgage servicers in the years preceding and following the financial crisis are well-documented,⁶ most errors discovered through forensic audits are minor and would not lead to the cancellation of the mortgage. Further, even if a serious issue is found with the mortgage, its discovery alone would not compel the servicer to take any action: it would be necessary to litigate those issues as a defense to a foreclosure action or a separate lawsuit against the mortgage holder.



Center for NYC Neighborhoods

Advertisements promoting loan modification services are a common sight in communities hard-hit by the foreclosure crisis.

Title Scams

In title scams, the scammer will convince the homeowner into signing over the title to their home, often to another individual, a “straw buyer,” who may subsequently disappear, making it difficult to reverse the scam. The scammer may convince the homeowner that the transfer is temporary and in their best interest as they seek a modification or refinance, or they may simply have the homeowner sign a document transferring their title to the scammer without understanding the full and permanent impact of the transaction.

Fraud by Impersonation

In these cases, scammers convince homeowners that they are a representative of their mortgage servicer or a government program such as the Home Affordable Modification Program (HAMP). They tell them that they have received a mortgage modification, and direct them to make their new mortgage payments to a new bank account. Of course, these “payments” go directly to the scammer.

HOW DO SCAMMERS FIND VICTIMS?

Scammers use a variety of tactics to reach homeowners, with no one method predominant. About half of the scam victims the Center interviewed in focus groups were contacted directly through mail, a phone call, or in person. Because foreclosure is a public process, homeowners’ addresses can be accessed through the court system. Scammers then use this information to target vulnerable homeowners. Other victims connected through their existing community networks, either at work, through family, or at a religious organization. Some victims reached out to the scammer after hearing an ad on television or the radio. Finally, a couple of victims connected to the scammer after conducting an internet search.

Some of the ways that the victims the Center interviewed came into contact with scammers:



One homeowner in Brooklyn received a notice in the mail informing her that she qualified for a loan modification, which she would receive if she paid an upfront fee.



One homeowner in Queens met the person who scammed her when he made a presentation at her church.



One Bronx homeowner reached out to a loan modification company after hearing an advertisement on the radio.



Another Bronx homeowner received a call from someone who claimed to be affiliated with her lender, telling her she could obtain a mortgage modification for \$3,000.

Impact of Scams

“I lived in fear. I was very upset. This company was supposed to be helping me and they weren’t.”

— QUEENS HOMEOWNER

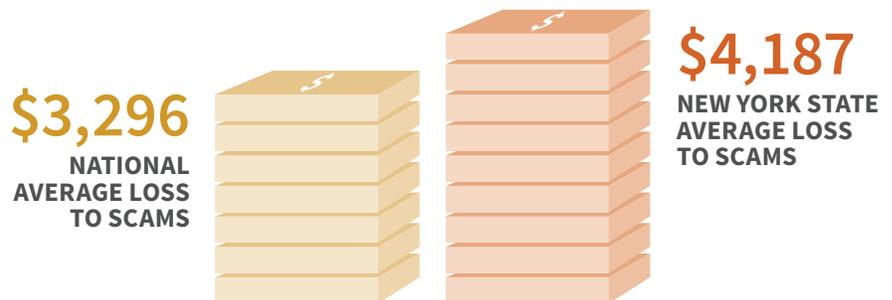
As with the foreclosure crisis itself, New Yorkers have been hit hard by the foreclosure rescue scam epidemic. From March 2010 to September 2014, New York homeowners have submitted over 2,700 foreclosure rescue scam complaints, documenting at least \$8.25 million in losses.⁷ As of September 2014, the national Loan Modification Scam Database, managed by the Lawyers' Committee, has compiled over 42,000 complaints with total reported losses of over \$98 million to homeowners. New York homeowners trail only California and Florida in the number of complaints reported to the Loan Modification Scam Database. Further, New York homeowners report larger losses to scammers than in the rest of the country, losing almost \$900 more on average than homeowners nationwide.

On average, each New York homeowner harmed by scams reported a loss of \$4,187; however, the actual damage is likely much greater.⁸ This dollar figure underestimates the complex hardship caused by foreclosure rescue scams because it does not account for the potential domino effect these scams can have. Homeowners may lose several thousand dollars in cash payments to a scammer, but then can end up losing tens or even hundreds of thousands of dollars more because their homes fall into foreclosure as a direct result of the scam. For example, the majority of scam victims (57 percent of cases reported to the Loan Modification Scam Database) indicated that the scammer asked them to either redirect their mortgage payments, stop making their loan payments, or sign over the title of their property. As a result, scam victims lose both time and money, both of which are essential to prevent losing their homes to foreclosure.

A further hardship not measurable in dollars is the extensive damage to victims' emotional well-being and their trust in public and private institutions. Being at risk of losing your home is an extremely stressful situation for anyone. For scam victims, the stress of foreclosure is compounded by their experience of victimization.

New Yorkers Hit Hard by Rescue Scams

New York homeowners report larger losses to scammers than in the rest of the country, losing almost \$900 more on average than homeowners nationally.



Analysis of complaints submitted to the Lawyers' Committee's national Loan Modification Scam Database.



Annette QUEENS, NY

How long have you been in your home? *11 years*

How did you connect with the scammer? *One of my co-workers told me about the company.*

What did they promise to do for you? *They said that I would get a loan modification in less than a year.*

When did you realize you were being scammed? *When I went to court, the judge asked the company's representative whether or not he was an attorney. He admitted that he was not an attorney and the judge told me to get representation right away, recommending the free legal assistance available.*

How much did you pay the scammer? *Almost \$20,000*

How did this impact you? *I felt vulnerable. It made me lose trust in the law.*

Did you eventually find real help? *Yes, while I was at the courthouse, an attorney from the Legal Aid Society came to me and told me they could help. I feel so relieved and grateful. They helped me save my home. Now every time I come back from work I say, "That's my home!"*

Who is Targeted by Scams?

GEOGRAPHY

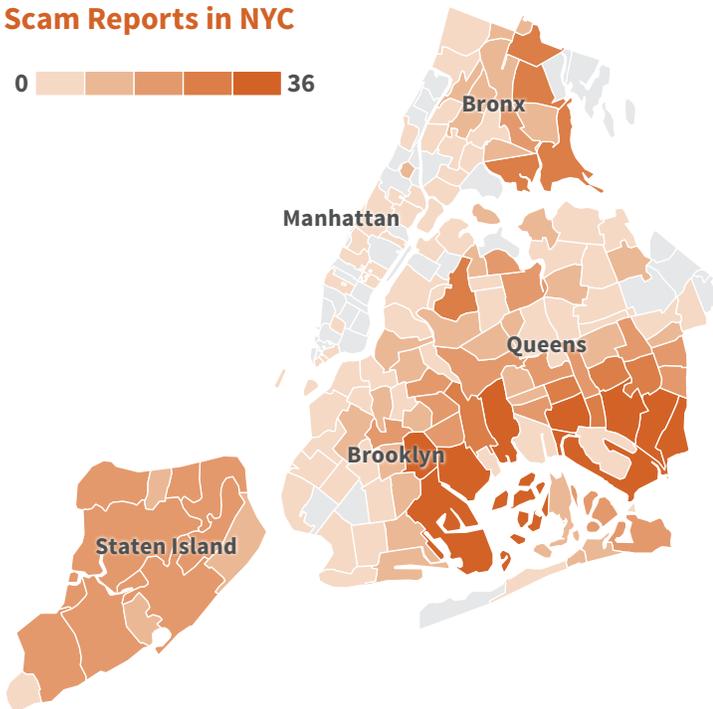
Throughout New York State, reports of foreclosure rescue scams to the Loan Modification Scam Database are concentrated in areas with high levels of foreclosure activity.⁹

The vast majority of reported foreclosure rescue scams occur in the New York City metropolitan area, particularly in the outer boroughs of New York City and on Long Island.

Counties outside of the New York City metro area with higher levels of scam activity include: Erie County (home to Buffalo) and Monroe County (home to Rochester). Within New York City, the communities with the highest numbers of reported scams are Southeast Brooklyn, Southeast Queens, and the Northeast Bronx.

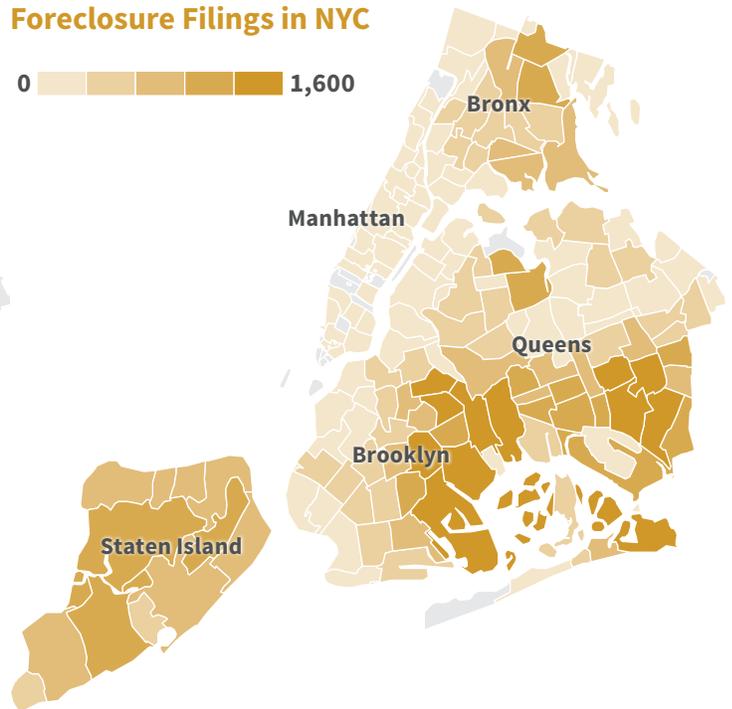
Scam Reports in NYC

0 36



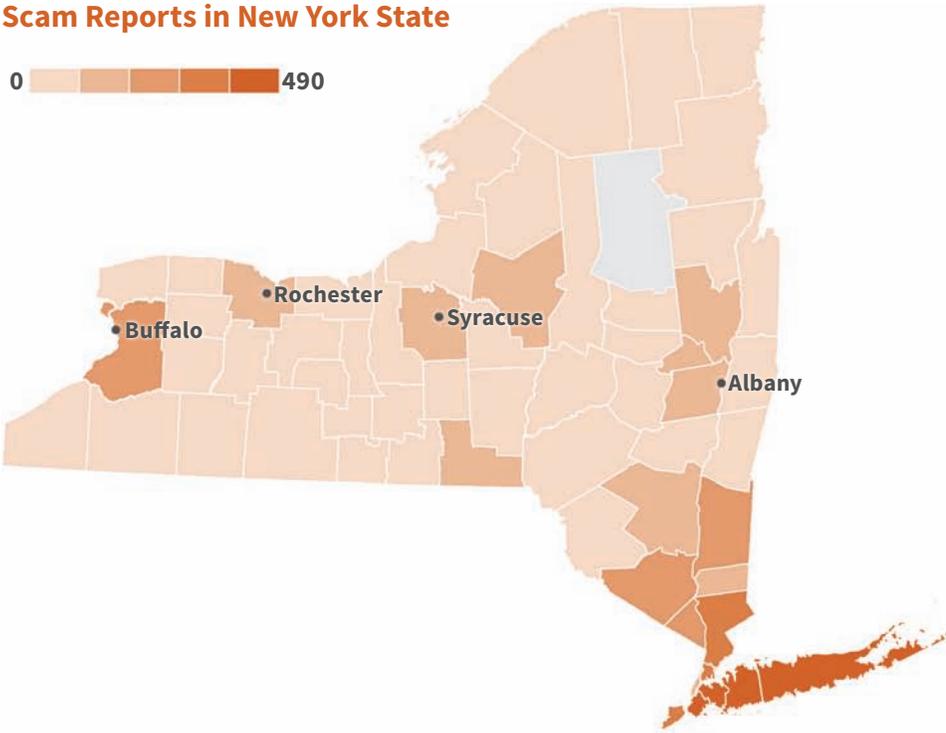
Foreclosure Filings in NYC

0 1,600



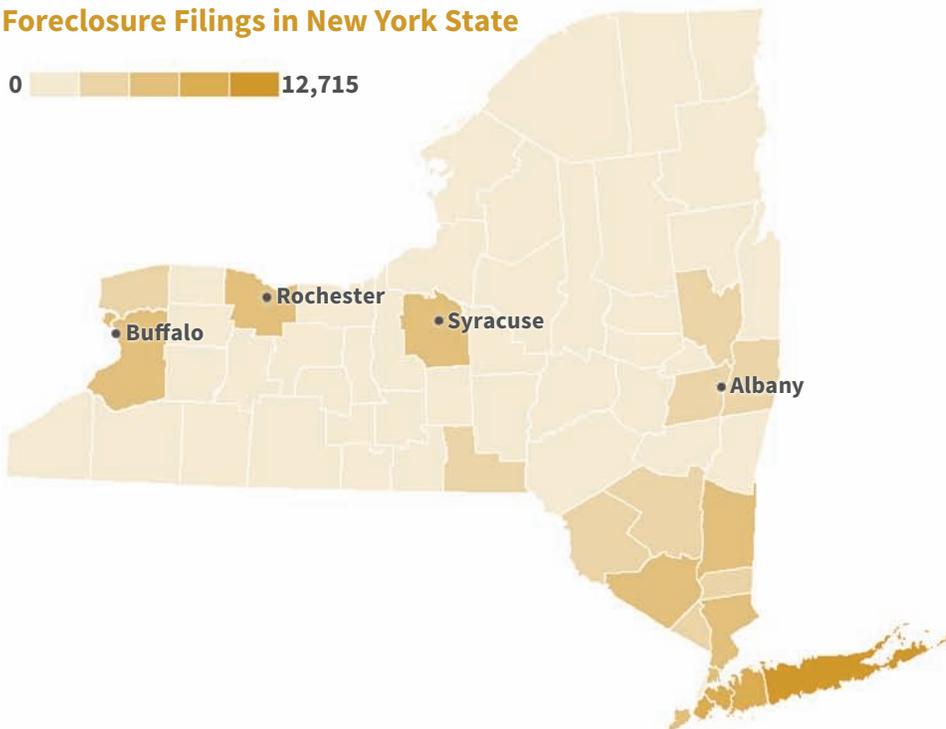
Scam Reports in New York State

0 490



Foreclosure Filings in New York State

0 12,715



Half of the collective wealth of African-American families was lost during the Great Recession. Likewise, the Latino community lost an astounding 67 percent of its total wealth during the housing collapse.

RACE

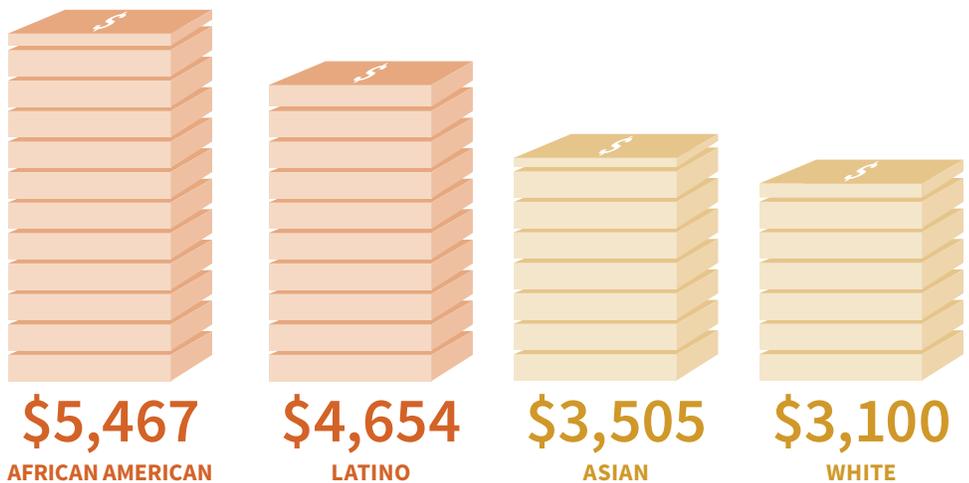
The foreclosure crisis had a particularly devastating impact on African American and Latino homeowners. Even when accounting for income, they were disproportionately targeted for subprime loans and other forms of loans that proved more likely to lead to foreclosure, such as prepayment penalties and hybrid or option adjustable rate mortgages.¹⁰ These communities continue to reel in the Great Recession’s aftermath: half of the collective wealth of African-American families was lost during the Great Recession both due to the dominant role of home equity in their total net worth and the prevalence of predatory high-risk loans in communities of color. Likewise, the Latino community lost an astounding 67 percent of its total wealth during the housing collapse.¹¹

Just as they were disproportionately harmed by the foreclosure crisis, minority homeowners are much more likely to have been scammed compared to white homeowners in New York. For example, while African American homeowners constitute only 8 percent of New York State homeowners, they represent 30 percent of mortgage rescue scam victims in the Loan Modification Scam Database. Similarly, Latinos constitute only 6 percent of homeowners, yet they represent 20 percent of scam victims.¹²

Not only are African American and Latino homeowners more likely to suffer from foreclosure rescue scams, but also, if they do become victims, they lose more at the hands of scammers than white homeowners do in New York State.

African American homeowners report an average loss of \$5,467, which is 76 percent more than the average reported by white homeowners. Similarly, Latino homeowners report an average loss of \$4,654, which is 50 percent more than the average reported by white homeowners.

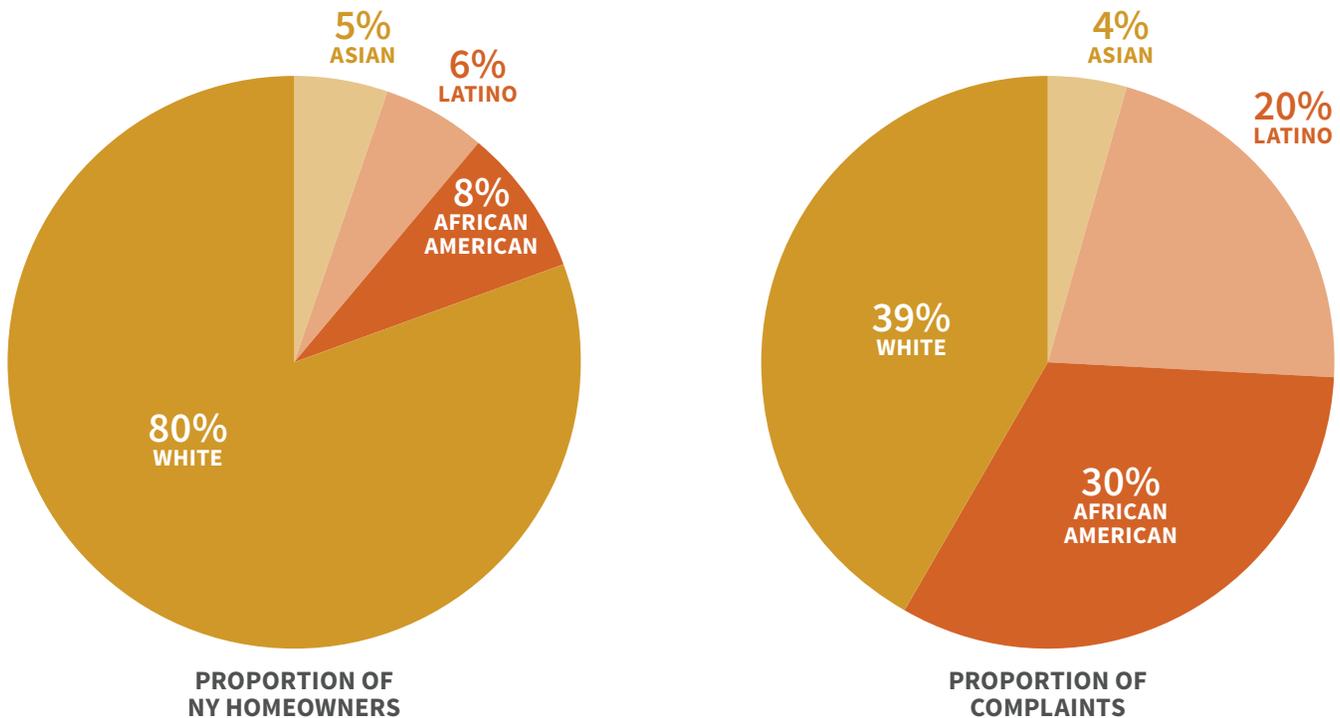
Average Loss of Scam Victims by Race



Source: 2010 US Census and reports to the Lawyers’ Committee’s Loan Modification Scam Database.

Racial Disparity of Scam Victims

African American homeowners own 8% of homes in New York, but are 30% of reported scam victims. By contrast, white homeowners own 80% of homes in New York, but are only 39% of reported scam victims.



Homeownership is often billed as an opportunity for minority Americans to build assets and climb into the middle class, but scammers in New York keep many minority homeowners from having that opportunity.

AGE

Foreclosure rescue scams also disproportionately impact older New York homeowners: while the average loss per New York homeowner is already well above the national average, the older a New York homeowner is, the more money he or she loses. According to the Loan Modification Scam Database, in New York, homeowners aged 36–50 reported an average loss of \$4,248, while homeowners aged 51 and over reported losses of \$4,531 per scam, a difference of nearly \$300. Many older homeowners live on limited or fixed incomes, which makes any additional loss that much more difficult to recover from.

In response to the wave of foreclosure rescue fraud that followed closely after the foreclosure crisis, the federal government, New York State, and New York City passed laws and issued regulations seeking to combat rampant fraud and regulate the growing for-profit mortgage rescue services industry as well as the individuals — referred to as distressed property consultants — who work in it. At the federal level, the Consumer Finance Protection Bureau’s Regulation O (formerly known as the Mortgage Assistance Relief Services (MARS) rule),¹³ governs how these services can be marketed and provided. In New York State, the Distressed Properties Consulting Contracts law provides further requirements,¹⁴ and the New York City Disclosure Requirements for Distressed Property Consultants code regulates advertising within New York City.¹⁵

Here are some requirements that scammers routinely violate:

Guarantees

Distressed property consultants must not guarantee that their services will result in a modification or other positive result. According to Regulation O, all advertising for services must include the following disclaimer: “Even if you accept this offer and use our service, your lender may not agree to change your loan.”

Upfront Fees

With a few exceptions, it is illegal for a distressed property consultant to take upfront fees for their services. Attorneys are exempted from the upfront fee restriction so long as they are engaged in the practice of law and licensed in the state where the foreclosure action is taking place; however, Regulation O dictates that they must place any fees they collect in a client trust account.

Contract Requirements

Both New York and federal law requires the consultant to enter into a written agreement or contract with the homeowner that details the services that will be provided and the total amount that will be charged. New York requires an additional disclosure that the homeowner should consider consulting an attorney or government-approved housing counselor, independent from anyone recommended by the consultant.

Learn more about relevant laws governing mortgage assistance relief services in the Appendix to Who Can You Trust (page 38).

GROWING ATTORNEY INVOLVEMENT

The involvement of real or alleged attorneys in rescue scams has been on the rise, both nationally and in New York: today, the majority of scams in New York now involve a person who is, or claims to be, an attorney. Worse, scam operations that involve an attorney do the most damage to New York homeowners.

One factor driving this increase is the enactment of the Mortgage Assistance Relief Services (MARS) rule, now known as Regulation O, in 2010. Regulation O bans the collection of upfront payments except by attorneys, who are allowed to collect upfront fees if they are engaged in the practice of law, if they are licensed to practice law in the state where the homeowner or the property facing foreclosure is located, and if they deposit the fees in a client trust account. In response, scammers have increasingly involved real (or fictitious) attorneys in their operations, likely as a means of circumventing the upfront payment restriction.

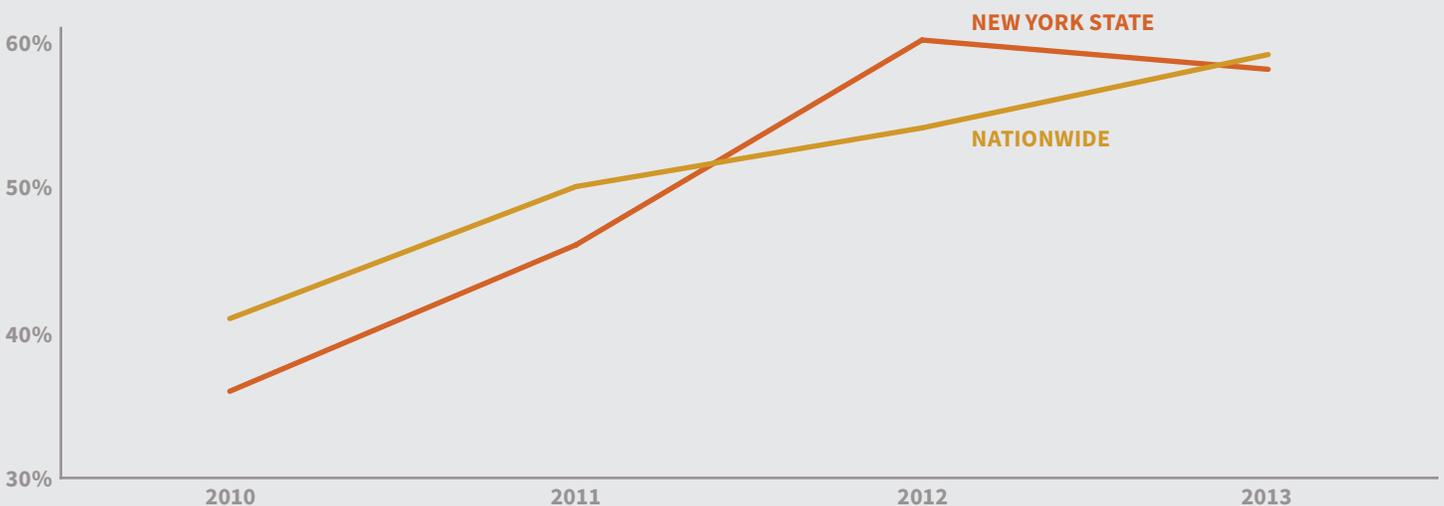
The involvement of an attorney in a foreclosure rescue scam organization may provide the homeowner with a false sense of confidence in the scammer’s ability to deliver promised foreclosure relief. Unfortunately, for victims the only outcome is that they are likely to lose even more money: New York-based scam operations that involve an attorney do the most damage to New York homeowners. According to complaint reports compiled in the Lawyers’ Committee’s national Loan Modification Scam Database, New York homeowners who reported an in-state operation involving an attorney are reporting an average loss of \$5,212 per scam — \$1,437 more than the average lost in scams without attorney involvement.

New York attorneys are also causing problems for homeowners nationwide. Out of the over 1,200 homeowners not located in New York who submitted complaint reports against a New York-based scammer, 73 percent of them report attorney involvement in the scam.¹⁶

Real or Alleged Attorneys Do More Damage in New York State



Percentage of Complaints with Attorney Involvement¹⁷



Mary BRONX, NY



How long have you been in your home? 10 years.

How did you connect with the scammer? I heard a radio advertisement on a Christian radio station.

What did they promise to do for you? They promised to lower my payments and interest rate.

When did you realize you were being scammed? After the "trial payment" period was over, I received a letter from them saying I was no longer qualified. I had made all of the payments to them. I called to follow up and they had disappeared.

How much did you pay the scammer? \$1,800.

How did this impact you? It increased my monthly payments, made it hard for me to meet my bills, and stained my credit report. I'm struggling — and being the sole homeowner, I don't have anyone to depend on.

Did you eventually find real help? Yes, I went to NYC Legal Services - Bronx. By this time, I was in foreclosure and they helped me get out of foreclosure and keep my home.

The Need to Increase Scam Awareness

Foreclosure rescue scams are extremely prevalent in communities that were hard-hit by the foreclosure crisis. In these communities, scam operations can be extremely aggressive in their search for new victims. Unfortunately, through no fault of their own, many homeowners targeted by scammers are unaware that foreclosure rescue scams exist and lack the knowledge necessary both to defend themselves and to locate legitimate help.

IDENTIFYING SCAMS IS A CHALLENGE

Without an understanding of foreclosure law or knowledge of the standard characteristics of a scam, homeowners have a difficult time assessing whether a service offered is legitimate or not. Scammers generally build trust with victims by either exaggerating their professionalism and mimicking legitimate programs or by identifying personal similarities and connections. Many scammers make use of government logos or program names on their advertising, making it extremely difficult for homeowners to discern legitimate mail. They lend themselves credibility by using the names and logos of federal government agencies, such as the Department of Housing and Urban Development (HUD), and programs such as the Home Affordable Modification Program (HAMP) and the Home Affordable Refinance Program (HARP). Some scams are highly sophisticated operations, with professional-looking offices and websites, as well as radio and television advertisements. This gives them the appearance of legitimacy and professionalism and, by extension, trustworthiness.

Sadly, some homeowners were not even behind on their mortgage when they fell victim to scams. Rather, some homeowners were just looking to refinance into a better interest rate. Instead of going to a bank or broker, they found their way into the offices of scammers. In these situations, they believed they were participating in a genuine mortgage modification or refinance program, yet their monthly payments were going to the scammer, not their servicer. Ultimately, they fell behind on their mortgages because of the money they paid to the scam.

“I thought, ‘I’m too smart for this.’ I blamed myself. For months, I kept asking myself ‘What were you thinking?’”

— BROOKLYN HOMEOWNER



Office *of the* Comptroller *of the* Currency
Ensuring a Safe and Sound Federal Banking System for All Americans



Scammers frequently misuse government logos and seals, like these, to make their communications seem more legitimate. This makes it difficult for homeowners to discern what is a legitimate organization.

Anatomy of a Scam

Scammers use a variety of methods to entrap homeowners:

Use of legally intimidating language

This letter cites federal law against mail tampering under the heading "OPEN IMMEDIATELY: Important Information About Your Mortgage." While tampering with the mail is indeed a federal offense, it is irrelevant to whether or not a homeowner should open this particular letter.

REMISE STAPLE
NEVER TOUCH STAPLE OPEN TO READ THE CONTENTS

NOT FOR PROFIT CORPORATION
BROWARD COUNTY DIVISION

Richmond Hill NY 11418-1123

TIME SENSITIVE INFORMATION: OPEN IMMEDIATELY
Important Information about Your Mortgage
(SEE TITLE SEC 1702 Code of Obstruction of US Mail is punishable by fines of up to \$2000 or 5 years in Prison or both)

Se Habla Español

NOV 10 11
0046
POSTALIA 79704

OFFICIAL NOTICE NOTICE OF LIS PENDENS

According to Broward County Public Records, a Law Suit has been filed to begin foreclosure proceedings on the property indicated by the lender in said action.

Case No.: CACE13-011867
Date Filed 5/10/2013

Citimortgage Inc
v.

If you are the Defendant and fail to take IMMEDIATE action, the Plaintiff may be awarded a Final Judgment in as little as Twenty days from the date of receiving a Summons.

20 DAYS TO ANSWER THE COMPLAINT

Call your local agency to receive foreclosure assistance and information regarding available options that may help you permanently resolve your foreclosure. You can delay the foreclosure until you are in a better financial position, but you must act quickly. Find out about alternatives to foreclosure, such as Loan Modification, Short Sale, Renting the property, Deed in Lieu, Auctions and more.

NOT FOR PROFIT CORPORATION
FORECLOSURE DEPARTMENT- BROWARD COUNTY DIVISION

Se Habla Español

Mimicking the appearance of an official notice

Scammers will create documents that look like they are coming from the courts or a homeowner's lender. Here, the scammer has created a fake *lis pendens* notification — with instructions to contact their firm for help.

immediately to help avoid
and further legal expense.
Occasionally there are multiple owners
of your lender, please disregard this country
assistance

FORECLOSURE DEFENSE
LITIGATION LAWSUIT
PLAINTIFF

Mortgage Legal Claims

Case: Vs. Lakeview Loan Servicing LLC

Re: you are a potential plaintiff in the above ment
Your mortgage loan with Lakeview Loan Servicing LLC ma
fraudulent lender actions.

Our Agency will verify your foreclosure and if needed, we
that will seek, among other things, to void your note(s), to
and/or to award you relief and monetary damages.

Call for further details. Refer to File Num
Se Habla Español

Respectfully Submitted,

Jim Hg

LITIGATION SETTLEMENT DIVISION

A person who has no material interest in the subject of the litigation is in the way
A proper party is one who may be joined in the action but whose failure to do so

YOU ARE ELIGIBLE FOR A MO

a.ID #	RESPONSE
51323870	
b. Law Firm	
c. Property Address	
	Bronx, NY 10458

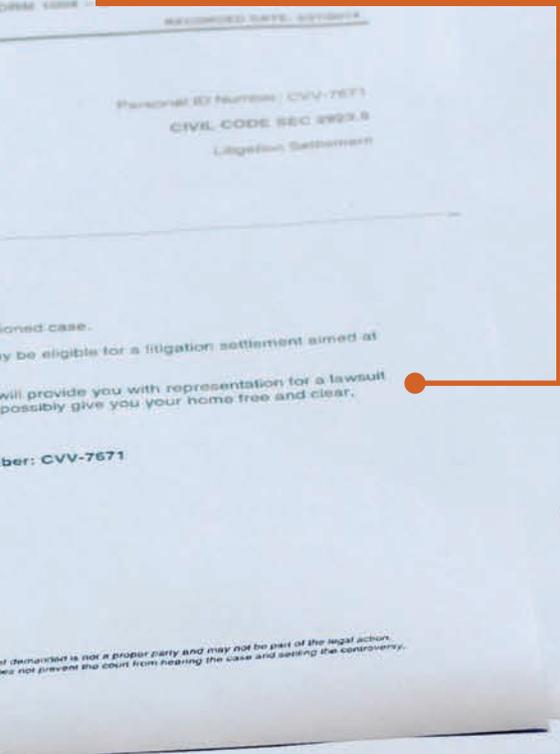
You are entitled to a

- Up to \$150,000 reduc
- Interest rate reduction
- Reduced payments up
payment.
- Being brought back to
your lender any mone
- Stopping Foreclosure.
- Keeping your house.

Call to find out which of the
August 15, 2013. Government programs h
funds run out.

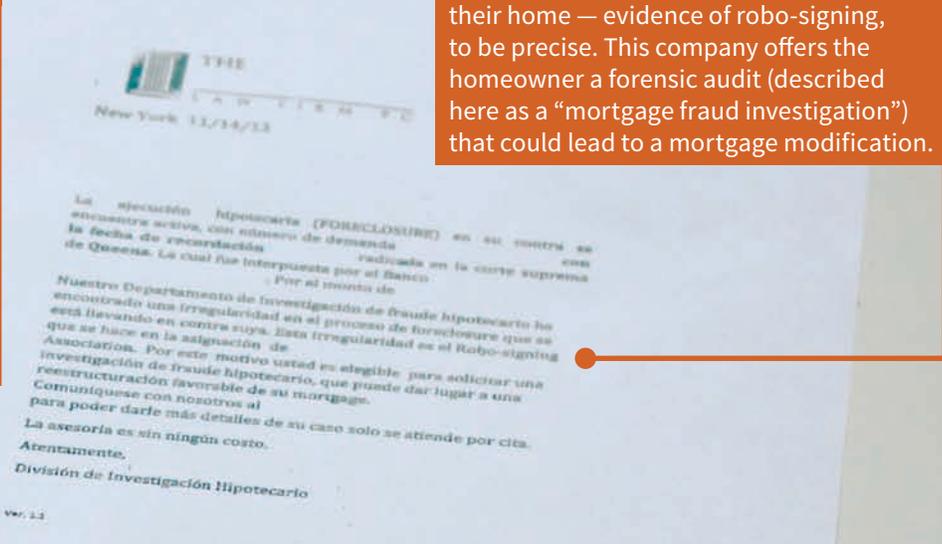
Sham lawsuits

Sham lawsuits take advantage of increased attention to the misdeeds of banks in the build-up to the foreclosure crisis. Here, a letter seeks plaintiffs to join a lawsuit that could “possibly give you your home free and clear.”



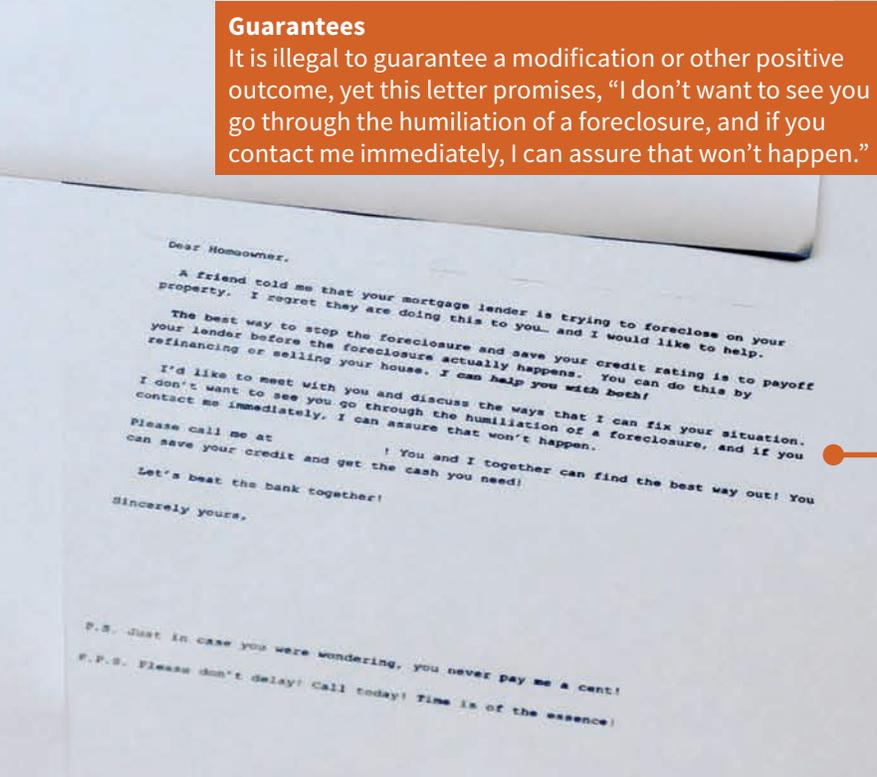
Forensic audits

This letter informs the homeowner that the scam firm has found errors in the foreclosure action being brought against their home — evidence of robo-signing, to be precise. This company offers the homeowner a forensic audit (described here as a “mortgage fraud investigation”) that could lead to a mortgage modification.



Guarantees

It is illegal to guarantee a modification or other positive outcome, yet this letter promises, “I don’t want to see you go through the humiliation of a foreclosure, and if you contact me immediately, I can assure that won’t happen.”



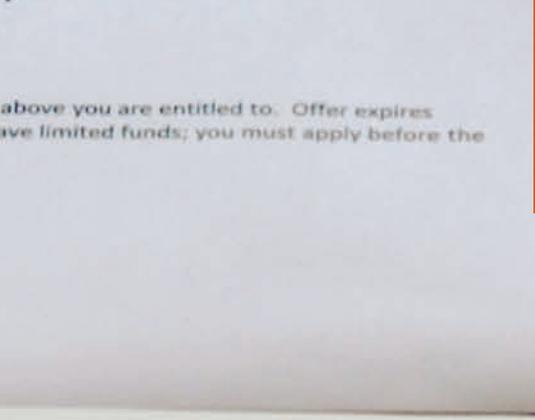
GOVERNMENT SPONSORED LOAN MODIFICATION

REQUIRED		Lender: Hsbc Bank USA	Property State: NY
Principle Balance: 388000	Status: ELIGIBLE		
Interest Rate:			

any or all of the following:
 reduction in principle balance.
 rate as low as 2.5%.
 up to 70% lower than the current
 current status without paying
 y.

Use of public information to make a notice appear official

Scammers will exploit information from publicly available foreclosure records to make their scams appear more legitimate. Here, a scammer uses the principal balance of the mortgage to make it seem as though they are connected to a government program.



**“I didn’t know
Bronx Legal
Services existed. It
was a godsend.”**

— BRONX HOMEOWNER

MISSED OPPORTUNITIES

Many scam victims initially turned to community organizations and their elected officials when they ran into trouble paying their mortgage. Unfortunately, for the most part, they received neither services nor advice on where to obtain legitimate, high-quality help, likely because the individuals they interacted with at these institutions were unaware of the free, high-quality services available to New Yorkers.

In other cases, homeowners sought advice from their mortgage servicers on whether they were working with a legitimate organization, but the servicers were generally less than helpful. In one case, a servicer representative indicated name recognition of a common scammer, which unfortunately implied to the homeowner that the scammer was legitimate.

Finally, victims described several missed opportunities for the judges or referees handling their foreclosure cases to intervene. Victims had scammers who didn’t appear for court dates, or who did appear and then admitted to the judge that they were not attorneys. In one instance, the judge ultimately referred a homeowner to the Legal Aid Society after her supposed “attorney” missed numerous court dates.



Center for NYC Neighborhoods

Community-based nonprofit organizations provide high quality foreclosure prevention legal services and housing counseling at no cost to the homeowner. Here, attorneys from Staten Island Legal Services, a Network Partner of the Center for NYC Neighborhoods, stand before the Richmond County Supreme Court.



Center for NYC Neighborhoods

A housing counselor from Chhaya CDC, one of the Center’s Network Partners, meets with a homeowner.

UNAWARE OF FREE HELP

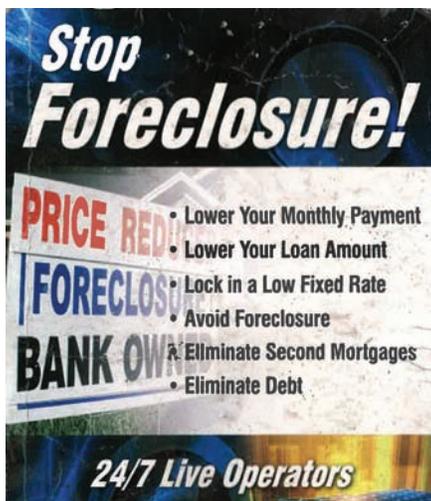
Most scam victims surveyed in the Center’s focus groups reported that they were unaware that help is available for free. Generally, homeowners did not realize that they can call 311 in New York City or the New York State Attorney General’s Homeowner Protection Program hotline at 855-HOME-456 (855-466-3456) anywhere in New York State to get connected with free assistance. Some homeowners did know about free legal and housing counseling services, but chose to pay for help because they thought it would lead to better outcomes. This attitude was especially prevalent among Spanish-speaking scam victims.

Despite initial negative assumptions about seeking free help, the homeowners the Center interviewed (all of whom eventually worked with community-based, non-profit legal services providers) expressed high levels of satisfaction with the quality of the services they received. In the end, they all wished they had contacted them sooner.

“She told me...these people are stealing money from you. We can help you without charging a cent.”

— QUEENS HOMEOWNER

Recommendations



Advertisements promoting loan modification services. The United Law Group, whose website is pictured above, was investigated in 2010 by federal and state law enforcement agencies. United allegedly charged homeowners upfront fees of up to \$12,000 without performing services, while advising victims to stop paying their mortgages and cease communication with their lenders.

ENFORCEMENT

Prioritize Enforcement Efforts Against Scammers

Recently, a number of high profile prosecutions against foreclosure rescue scammers have successfully brought scammers to justice while promoting public awareness of scams.¹⁸ Continuing these actions at all levels of enforcement, from County District Attorney Offices to the New York State Attorney General's Office, to the Department of Justice at the federal level, is essential.

Crack Down on Illegal and Deceptive Advertising

Foreclosure rescue scam operations routinely purchase advertisements on the radio, Internet, and, to a lesser extent, television and print media. Unfortunately, their use of these established, trusted forums can wrongfully validate their operations in the eyes of homeowners while greatly increasing their reach. The Consumer Financial Protection Bureau's Regulation O spells out clear disclosure requirements for advertisements by distressed property consultants. Specifically, an advertisement must disclose that the company is not associated with or approved by the government, and also that a modification is not guaranteed.¹⁹ Law enforcement agencies could work with print, radio, broadcast, and Internet media sources to identify advertisements that do not make the required disclosures and remove them from circulation.

Government Programs Should Engage Non-profit Groups

New York State has a network of non-profits providing foreclosure prevention counseling and legal services. The professionals at these organizations work with homeowners and encounter foreclosure rescue scams on a daily basis. Engaging these housing counselors and attorneys in scam prevention efforts promotes greater information sharing with law enforcement and significantly strengthens their ability to identify bad actors and emerging trends.

Furthermore, for the implementation of new programs, early coordination with community-based organizations will give agencies that are devising the programs the benefit of on-the-ground expertise in avoiding scammers.

Support Private Litigation by Homeowners

While criminal and civil enforcement actions against scammers are necessary to obtain justice and deter other scammers, enforcement actions may not necessarily obtain compensation for the scam victim's losses. Victims also have the right to sue the scammer in a private action. Unfortunately, some scammers can be difficult to sue and collect against, due to the fly-by-night nature of their operations, as well as their lack of collectible assets. Therefore, victims may have a difficult time finding private attorneys to take their case on a contingency fee basis (where the attorney agrees to waive an upfront fee in exchange for accepting a portion of the judgment as their payment). Some non-profit legal services agencies in New York City have recently begun to bring civil suits on behalf of

Recent Enforcement Actions Against Foreclosure Rescue Scams

- **In August 2014**, New York Attorney General Eric T. Schneiderman filed a lawsuit against four companies, Home Affordable Direct, Inc., Home Affordable Solutions, Inc, JR Holding Group Corp, and Clear Solutions and Settlements, Inc., for allegedly operating a loan modification scam. The lawsuit alleged that these organizations collected illegal upfront fees, ranging from \$1,500 to over \$11,000, while failing to carry through on their promises to provide homeowners relief from unaffordable mortgage payments through loan modifications.²¹
- **In August 2014**, three men, Ped Abghari, Dionysius Fiuman, and Justin Romano were indicted in federal court on allegations that they defrauded more than 8,000 homeowners across all 50 states through a telemarketing scheme that resulted in \$18.5 million of upfront fees paid by homeowners. According to the indictment, the defendants misled homeowners to believe that they would be preapproved for lower mortgage payments through the Home Affordable Modification Program.²²
- **In September 2014**, Special Inspector General for the Troubled Asset Relief Program Christy Romero announced the conviction of California man Alan David Tikal, who targeted non-English speaking homeowners at risk of foreclosure. Over the course of three and a half years, he collected approximately \$5.8 million from more than 1,000 homeowners to whom he had promised help with mortgage modifications through the Home Affordable Modification Program (HAMP).²³
- **In August 2011**, Roger Huggins was convicted in Queens County Supreme Court of first-degree grand larceny for running a title fraud foreclosure rescue scam that targeted New York City homeowners. Huggins was co-owner of Home Solutions Management, which instructed homeowners to put the title to their home in the name of a third-party purchaser, so they could help improve their credit or attain a loan modification. Home Solutions Management would later fabricate excuses to hold the funds in escrow or convince homeowners to sell or transfer their properties directly to them for lower prices. Huggins and his partners were sentenced to four to twelve years in state prison.²⁴

groups of scam victims, but resources for these efforts are very limited. Non-profits throughout the state could potentially take on more of these cases as part of their work were there additional funding to hire the necessary staff.

Pursue Disciplinary Sanctions Against Attorneys Involved in Scams

Given the growing involvement of attorneys in foreclosure rescue scams, an increased emphasis on professional sanctions — including disbarment — for these attorneys is appropriate and needed. While victims may file complaints directly with the appropriate New York State Supreme Court Appellate Division Disciplinary Committee, the complaint process requires a significant amount of time, as well as the ability to navigate a system that can be intimidating and difficult to navigate for members of the general public. Greater collaboration among courts, bar associations, and advocacy group across the state could work to address this by creating a more user-friendly process specifically for foreclosure rescue scams.

Consider Banning Upfront Fees for Attorneys

Attorneys are now involved in the majority of reported foreclosure rescue scams in New York State, and one factor behind their increasing involvement with scams is their exemption from the New York State law prohibiting the collection of upfront fees for foreclosure rescue services. In response to similar concerns, the State of California banned upfront fees for attorneys in 2009.²⁰ It may be time to implement legislation that follows suit in New York.

CONSUMER EDUCATION

Educated consumers are the best line of defense against scammers. The victims the Center spoke with had very little knowledge about the foreclosure process or the predominance of scams, and did not know where to seek legitimate help. By establishing easy-to-use resources for homeowners, employing diverse messaging strategies for diverse communities, and undertaking repeated and concerted outreach efforts to individual homeowners and larger community networks, we can significantly decrease the number of homeowners who fall victim to these scams. National campaigns such as the Loan Modification Scam Alert Campaign by NeighborWorks America show the value of providing homeowners with information to empower them to avoid scams. Ultimately, reaching at-risk homeowners before they come into contact with scammers and directing them, instead, to legitimate services is essential to curbing these pervasive scams.



Center for NYC Neighborhoods

Education efforts, such as the Loan Modification Scam Alert Campaign pictured here, help homeowners avoid scams.

Messaging Should Focus on the Prevalence of Scams and Provide Referrals to Trustworthy Organizations

Scam operations are often highly sophisticated and many homeowners have limited abilities to discern whether an organization is legitimate using their own resources. Therefore, consumer education messaging should focus on the prevalence of scams and seek to put homeowners on a more heightened alert. This messaging should emphasize that although a scammer may seem legitimate, the best way to connect with legitimate, high-quality help at no cost is to call the New York State Attorney General’s Homeowner Protection Program hotline at 855-HOME-456 (855-466-3456) or visit the HOPP website at www.AGHomeHelp.com. Overall, the brands of New York State and New York City were the only ones that garnered near-universal trust among participants in the focus groups, though importantly, some of the Spanish-speaking homeowners the Center spoke to were more likely to trust Spanish-language publications over government.

Reach At-Risk Homeowners Through Multiple Channels

A variety of methods and channels should be used as part of a consumer education campaign targeted at homeowners. Particular emphasis should be placed on homeowners at risk of foreclosure, though homeowners who are not behind but simply seeking an interest rate reduction should be targeted as well. In addition, homeowners from different backgrounds and communities should be approached in different ways.

- **Direct Outreach to Consumers:** Homeowners who are in foreclosure or at risk of foreclosure should be contacted directly to alert them to scam red flags and direct them to free foreclosure prevention services.²⁵ While many homeowners do currently receive warnings about foreclosure-related scams in notices from their mortgage company, duplicating this message in a different context is likely to make it resonate more. Additionally, New York law mandates the wording of notices to homeowners, both in a pre-foreclosure notice, as well as when a foreclosure is initiated. Although these notices do provide an embedded warning about foreclosure-related scams, the letter begins with the phrase “You are in danger of losing your home.” Homeowners may not digest the information about scams in the context of the notice, particularly if they have a strong emotional reaction to the opening phrase. Replicating the essential scam related information in a less threatening letter would provide a greater opportunity for the message to get through to at-risk homeowners.

- **News Coverage:** If law enforcement and regulatory agencies ramp up enforcement actions against foreclosure rescue scammers, as recommended here, New Yorkers will benefit from greater awareness of scammers because of increased media coverage. Without continued public attention on the tremendous harm that can come from working with one of these scammers, homeowners could continue to be deceived and taken advantage of.
- **Advertising:** Conducting a high-profile Public Service Announcement campaign warning homeowners about foreclosure rescue scammers would reach homeowners in at-risk neighborhoods. Because scammers focus so much of their attention on advertising their services, the competition for homeowners' attention is steep. It is therefore critical to invest in reaching at-risk homeowners before they're approached by scammers and to educate them early on warning signs to watch out for in the near inevitable targeting to which they are subjected.

Include Community Institutions in Outreach Efforts

Many homeowners at risk of foreclosure seek help through community institutions such as community-based organizations, elected officials, and religious institutions. Unfortunately, there were a number of missed opportunities to connect the scam victims we talked to with legitimate foreclosure prevention services. It is essential that these de facto "first responders" are educated about scams and can direct homeowners to legitimate help. Strategies for reaching out to these institutions include providing flyers and information for distribution, conducting training for frontline and constituent services staff, and partnering with the Office of Court Administration to increase knowledge of scams and scam prevention among judges and court staff.

Incorporate Anti-Fraud Measures into New Government Programs

The Loan Modification Scam Prevention Network found several examples where foreclosure rescue scammers adapted and marketed their fraudulent schemes to take advantage of homeowners who were eligible for new, legitimate government programs designed to provide relief for distressed homeowners. In response, the Network engaged directly with several enforcement agencies and mortgage servicers in order to incorporate anti-scam messaging and protections into their new programs. Thus, it is important that new government programs include explicit warnings to consumers regarding potential scammers and advice for how to avoid scams.



Sharon HIGHLAND, NY

How long have you been in your home? *5 years.*

How did you connect with the scammer? *I received correspondence in the mail. They were advertising that they could help homeowners get lower payments.*

What did they promise to do for you? *They promised to reduce my monthly payments by half.*

When did you realize you were being scammed? *Nothing was happening. They kept saying they had no updates on my case. I got suspicious and reached out to a local organization for help. It was my contact at the local organization that let me know it was a scam.*

How much did you pay the scammer? *\$4,000.*

How did this impact you? *I have many sleepless nights. I'm embarrassed. My family doesn't even know. The sad thing is I wasn't even in foreclosure when this happened. I can't believe it happened to me.*

Did you eventually find real help? *Yes, Lisa at Rupco [a non-profit organization in Ulster County, New York]. I found their contact information in the foreclosure notice I received from my bank.*

Conclusion



Center for NYC Neighborhoods

A Brooklyn family worked with South Brooklyn Legal Services, one of the Center's partners, to save their home.

Foreclosure is a devastating experience for homeowners, both financially and emotionally. To make matters worse, the cottage industry of foreclosure rescue scammers works every day to take advantage of the confusion and misery caused by the foreclosure crisis. These scams not only take homeowners' hard-earned savings, they also put homeowners at considerably higher risk of losing their home through foreclosure by preventing them from obtaining legitimate help.

By following the recommendations made in this report, we can strike back against scammers. We believe the solution requires both a good offense, in the form of increased enforcement actions against scammers, as well as a strong defense, through strengthened scam prevention awareness and education initiatives. Currently, many homeowners lack knowledge about how to protect themselves from foreclosure rescue scams. As we get the word out about scams in impacted communities, we can empower homeowners and their communities with the tools they need to identify scams and connect homeowners to real help with their mortgages. Together, we can turn the tide against foreclosure rescue scams.

This report's findings and recommendations derive from research conducted on foreclosure-related scams by the Center for NYC Neighborhoods and the Lawyers' Committee for Civil Rights Under Law.

The Center conducted four focus groups with victims of loan modification scams in the Bronx, Brooklyn, and Queens. Of the four focus groups, three took place in English and one in Spanish. Participants were identified through the Center's network of housing counseling and legal services partners. In addition, the Center held a practitioners' roundtable with non-profit foreclosure prevention attorneys who regularly work with victims of foreclosure-related scams to gain their perspective as legal professionals.

The Lawyers' Committee maintains a database of scam reports that collects complaints about alleged foreclosure rescue fraud nationwide. Complaints are entered into the database through a variety of sources, including the Loan Modification Scam Prevention Network (LMSPN), www.PreventLoanScams.org, telephone calls to the Homeowner's HOPE Hotline, and through paper complaint forms submitted by LMSPN partners (such as housing counselors) or filled out by homeowners at outreach events.

As of September 2014, the national Loan Modification Scam Database, managed by the Lawyers' Committee, has compiled over 42,000 complaints with total reported losses of over \$98 million to homeowners. The Lawyers' Committee monitors this data to track trends in foreclosure rescue fraud nationwide.

RELEVANT LAWS GOVERNING MORTGAGE ASSISTANCE RELIEF SERVICES AND DISTRESSED PROPERTY CONSULTANTS

There are many non-profit organizations throughout New York State that provide high-quality foreclosure prevention services at no cost. For-profit individuals and companies — often referred to as distressed property consultants — also provide mortgage assistance relief services. The activities of distressed property consultants are tightly regulated. In particular, they must adhere to strict disclosure rules for advertisements promoting their services and they are banned from accepting upfront fees.

Advertising Disclosure Requirements

According to federal regulations, communications made by mortgage assistance service providers must make the following disclosures in a clear, legible manner:

- “You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services.”
- “(Name of company) is not associated with the government, and our service is not approved by the government or your lender.”
- “Even if you accept this offer and use our service, your lender may not agree to change your loan.”²⁶

New York State law requires the following disclosure:

“In New York State, Housing Counselors, who are approved by the U.S. Department of Housing & Urban Development or the New York State Department of Financial Services, may provide the same or similar services as a distressed property consultant for free.... You should consider consulting an attorney or a government approved housing counselor before signing any legal document concerning a distressed property consultant.”²⁷

Upfront Fee Restriction

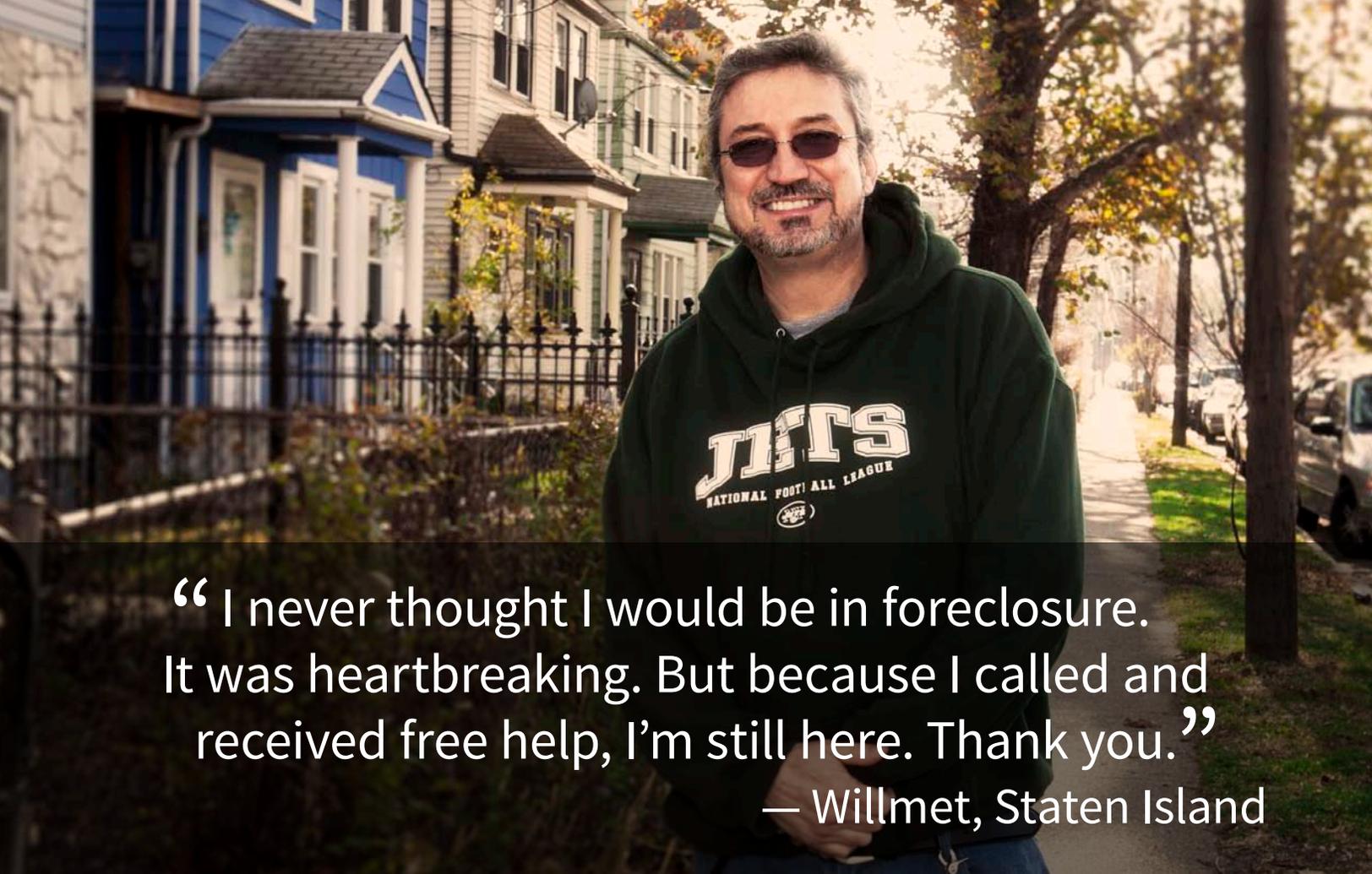
Distressed property consultants are prohibited from accepting upfront fees for their services.²⁸

Attorney Exemption

Attorneys are exempted from the advertising restrictions. They are exempt from the upfront fee restriction if they meet the following requirements:

- They provide mortgage assistance relief services as part of the practice of law;
- They are licensed to practice law in the state where their client or their client’s home is located; and
- They comply with all relevant state laws and regulations concerning attorney conduct.²⁹

- 1 Analysis of complaints submitted to the Lawyers' Committee's national Loan Modification Scam Database.
- 2 Center for Responsible Lending, *Lost Ground*, 2011: Disparities in Mortgage Lending and Foreclosures, at 3. Available at <http://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-2011.pdf>. See also National Community Reinvestment Coalition, *The Broken Credit System: Discrimination and Unequal Access to Affordable Loans by Race and Age*, 2003. Available at: http://www.omm.com/omm_distribution/newsletters/client_alert_financial_services/pdf/nrcrdiscrimstudy.pdf; Center for Responsible Lending, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, 2006. Available at: <http://www.responsiblelending.org/mortgage-lending/research-analysis/unfair-lending-the-effect-of-race-and-ethnicity-on-the-price-of-subprime-mortgages.html>.
- 3 Edward Robinson, *Bloomberg*, *Subprime Swindlers Reconnect to Homeowners in Scams*, March 27, 2009, http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aUL_Qh8cOzv8.
- 4 See, e.g. Olga Pierce and Paul Kiel, *ProPublica*, *By the Numbers: A Revealing Look at the Mortgage Mod Meltdown*, March 8, 2011, <http://www.propublica.org/article/by-the-numbers-a-revealing-look-at-the-mortgage-mod-meltdown#one-in-five>; and Paul Kiel and Olga Pierce, *ProPublica*, *Homeowner Questionnaire Shows Banks Violating Gov't Program Rules*, Aug. 16 2010, <http://www.propublica.org/article/homeowner-questionnaire-shows-banks-violating-govt-program-rules> for an in-depth analysis of servicer errors and the difficulties faced by homeowners in obtaining mortgage modifications.
- 5 Furman Center for Real Estate & Urban Policy, *New York University*, *Foreclosed Properties in NYC: A Look at the Last 15 Years*, January 2010, p. 4. Available at http://furmancenter.org/files/publications/Furman_Center_Fact_Sheet_on_REO_Properties.pdf.
- 6 See footnote 2.
- 7 See footnote 1.
- 8 *Id.*
- 9 Foreclosure rescue scam complaint data obtained through an analysis of the Lawyers' Committee's national Loan Modification Scam Database. *Lis pendens* data for New York City obtained through Property Shark. *Lis pendens* data for New York State obtained via the NYU Furman Center.
- 10 See footnote 2.
- 11 Institute on Assets and Social Policy, *Brandeis University*, *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide*, 2013, at 4. Available at <http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf>.
- 12 See footnote 1.
- 13 12 C.F.R. § 1015. Promulgated as the Federal Trade Commission (FTC)'s Mortgage Assistance Relief Services (MARS) rule, 16 C.F.R. § 322. Available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=5650136e89addc68761caaf4836e0986&node=pt12.8.1015&rgn=div5>.
- 14 N.Y. RPP. LAW § 265-b. Available at <http://codes.lp.findlaw.com/nycode/RPP/8/265-b>.
- 15 N.Y.C. Admin Code § 20-723.3.
- 16 See footnote 1.
- 17 *Id.*
- 18 See, e.g., National Mortgage Professional, *New York AG Files Suit Against Florida and New York Loan Mod Firms*, Aug. 27, 2014, <http://nationalmortgageprofessional.com/news51417/new-york-ag-files-suit-against-florida-and-new-york-loan-mod-firms>; Maria Armental, *Wall Street Journal*, *Three Men Charged in Alleged \$18.5 Million Mortgage Fraud*, Aug. 7, 2014, <http://online.wsj.com/articles/three-men-charged-in-alleged-18-5-million-mortgage-fraud-1407453314>.
- 19 12 C.F.R. § 1015.4.
- 20 State Bar of California, *Senate Bill 94 and Loan Modification Fraud*. Available at: <http://www.calbar.ca.gov/Public/ConsumerInformation/LoanModificationFraud.aspx>.
- 21 Anthony O'Reilly, *The Island Now*, *GN Residents Ran Mortgage Scam: AG*, Sept. 4, 2014, http://www.theislandnow.com/great_neck/news/gn-residents-ran-mortgage-scam-ag/article_b61b3e44-3464-11e4-941b-001a4bcf887a.html.
- 22 Maria Armental, *Wall Street Journal*, *Three Men Charged in Alleged \$18.5 Million Mortgage Fraud*, Aug. 7, 2014, <http://online.wsj.com/articles/three-men-charged-in-alleged-18-5-million-mortgage-fraud-1407453314>.
- 23 Brian Honea, *DSNews.Com*, *California Man Convicted for Multi-Million 'Mortgage Loan Reduction' Scam*, Sept. 18, 2014. <http://dsnews.com/news/09-18-2014/california-man-convicted-multi-million-mortgage-loan-reduction-scam>
- 24 *Leader of Queens Mortgage Fraud Ring is Sent to Jail*, *Times Newsweekly*. com, Aug. 25, 2011, [http://www.timesnewsweekly.com/news/2011-08-25/Crime_\(and\)_Cases/Leader_Of_Qns_Mortgage_Fraud_Ring_Is_Sent_To_Jail.html](http://www.timesnewsweekly.com/news/2011-08-25/Crime_(and)_Cases/Leader_Of_Qns_Mortgage_Fraud_Ring_Is_Sent_To_Jail.html)
- 25 These homeowners can be identified through the New York State Department of Financial Services 90 Day Pre-Foreclosure Filing list or through *lis pendens* filings against them in the New York State court system.
- 26 Consumer Financial Protection Bureau Regulation O, 12 C.F.R. § 1015.4. Regulation O was initially promulgated as the Federal Trade Commission (FTC)'s Mortgage Assistance Relief Services (MARS) rule, 16 C.F.R. § 322. Available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=5650136e89addc68761caaf4836e0986&node=pt12.8.1015&rgn=div5>.
- 27 N.Y. RPP, § 265-b, 3-a. Distressed property consultant advertisements.
- 28 12 C.F.R. § 1015.5
- 29 12 C.F.R. § 1015.7



“ I never thought I would be in foreclosure. It was heartbreaking. But because I called and received free help, I’m still here. Thank you.”

— Willmet, Staten Island

Call the New York State Attorney General’s Homeowner Protection Program hotline at

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or visit **AGHomeHelp.com**
to get free help that you can trust.

Top Tips on Avoiding Scams

An organization or individual offering to help you with your mortgage might be a scammer if they...

- ❗ guarantee a positive result.
- ❗ ask for an upfront fee.
- ❗ tell you to stop paying your mortgage and pay them instead.
- ❗ pressure you to sign any paperwork without fully explaining what you are signing.

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