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Jonathan W. Cannon of BuckleySandler LLP on the California Attorney General's Creation of 'Mortgage Fraud Strike Force'

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On May 23, 2011, California Attorney General Kamala D. Harris announced the creation of the California's Attorney General Mortgage Fraud Strike Force. The task force will be staffed by Department of Justice attorneys and investigators, and it will monitor and prosecute violations throughout the mortgage industry, from mortgage originators to servicers to entities that market mortgage-backed securities to the investing public.

According to the AG, the task force's responsibilities will be "protecting innocent homeowners and bringing to justice those who defraud them." The seventeen attorneys and eight investigators in the task force will pursue both civil and criminal claims, based out of the DOJ's offices in Los Angeles, Fresno, San Francisco, and Sacramento. The task force will be comprised of three teams.

The **Consumer Enforcement Team** will address "scams" targeting consumers, such as predatory lending, unfair business practices in originating loans, deceptive marketing, and loan modification and foreclosure consultant scams.

The **Criminal Enforcement Team** will pursue criminal fraud prosecutions relating to mortgage scams, including fraudulent investment and money-laundering schemes related to mortgage lending or foreclosure relief.

The **Corporate Fraud Team** will target misconduct related to investments and securities tied to subprime mortgages, and also false or fraudulent claims made to the state regarding these securities.

This task force continues Attorney General Harris' longstanding pursuit of alleged malfeasance in the mortgage arena. As District Attorney in San Francisco, Harris launched the state's first stand-alone DA's mortgage fraud unit. More information about the task force is available through the AG's website (<http://oag.ca.gov/consumers>).

The creation of this task force marks a significant development in the AG's regulation of the mortgage industry. The vertical integration of this task force—addressing origination, servicing, foreclosure, and secondary-market activities—shows a substantial understanding of the interconnectedness of the mortgage market. Most investigations so far have focused in on discrete elements of the industry, like loan modification services or particular originators without examining the more broad industry practices. The AG's task force appears poised to expand the nature of investigations and enforcement.

It is especially noteworthy that the AG is looking into the secondary market to determine if securities laws may have been violated in connection with the sale of mortgage-related securities.

This expansion of mortgage investigations into the secondary market is a relatively recent development, and it is taking place not just in California. Recently in New York, Attorney General Eric Schneiderman requested documents from trustees of mortgage-bond trusts as part of a wider investigation into mortgage practices and the packaging and sale of loans (and interests in loans) to investors.

New York and Delaware Attorney General Beau Biden agreed to share information gathered from the trustees as part of a coordinated investigation. The two states are focusing on whether the loans were properly documented and valid when they were pooled and securitized. This investigation into the documentation of mortgages follows on the 2010 "robo-signing" investigation into foreclosure-related documents.

All of these developments show a broadening of regulatory and investigatory efforts into all aspects of the mortgage loan process, from origination, through servicing, and onto the secondary market.