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MADIGAN CONTINUES FIGHT AGAINST MORTGAGE FORECLOSURE CRISIS

*Attorney General Files Lawsuits Against Two Chicago Area Brokers to End
Fraudulent Mortgage Lending and Home Repair Schemes*

Chicago – Attorney General Lisa Madigan continues to lead the fight against mortgage and home repair fraud today by filing two lawsuits against mortgage brokers who sold complex mortgages to Illinois consumers. These suits are the first lawsuits filed by the Attorney General's Office focusing primarily on the origination of mortgage products that have played a major role in the series of events leading to the current subprime mortgage foreclosure crisis. Today's filings follow a number of lawsuits filed by Madigan targeting the subprime mortgage crisis, including eight suits against mortgage rescue scam artists that prey upon homeowners threatened by foreclosure.

“Like many Illinoisans desperately trying to save their homes, the victims of these two companies have been left with few options,” said Attorney General Madigan. “My office is working overtime to stop deceptive practices that leave homeowners with unaffordable mortgages stripped of their equity and often forced to sell their homes in order to avoid foreclosure.”

It is alleged that these brokers put borrowers in loans without any regard for their long-term ability to repay the loans. Homeowners were enticed by low monthly payments and teaser interest rates. The homeowners were not told that loans with these terms would never be paid off. The homeowners also were not told that making the advertised payments would actually lead to an increase in the loan balance, or negative amortization.

In addition, as alleged in the complaints, the brokers abused lenders' lax underwriting standards to put borrowers into complex mortgages. The brokers often qualified borrowers for mortgages without any documentation of the borrowers' income and assets. Instead, the brokers used only stated income and assets. Unknown to the borrowers, their income and assets were frequently inflated by the brokers to qualify the borrowers for loans that they could not afford.

In one of the suits, it also is alleged that homeowners were lured into mortgages by promises of grants from government-sponsored home repair programs. In fact, the government-sponsored home repair programs were completely fictitious. The homeowners never received grants or home repairs completed to their satisfaction.

Hundreds of Illinois consumers have ended up in loans they will never be able to afford, paid large fees to mortgage brokers, paid money for home repairs they never received, lost equity in their homes, and, in some cases, are now at risk of foreclosure.

Madigan's lawsuits seek both injunctive relief to prevent the companies and individual defendants from engaging in these activities in the future and restitution to assist the defrauded homeowners. In each lawsuit, Madigan's office also is seeking a civil penalty of \$50,000 per defendant, additional penalties of \$50,000 for each act committed with intent to defraud, an additional \$10,000 for each act committed against a senior citizen, and recovery of the cost of prosecution.

One Source Mortgage, Inc.

Madigan filed suit in Cook County Circuit Court against One Source Mortgage, Inc., and the president of the company, Charles G. Mangold. One Source operated on Chicago's northwest side.

“This company's conduct is a prime example of the behavior of unscrupulous mortgage brokers that has led to a foreclosure crisis for many Illinois homeowners,” Madigan added.

One Source solicited consumers through advertisements in the *Chicago Sun-Times* and direct mailings that promised mortgages with very low monthly payments. These advertisements did not adequately disclose, however, that the low monthly payments were based on introductory “teaser” interest rates that expired after one month. The interest rate for the mortgage would then adjust every month thereafter. If consumers continued to make the advertised monthly payment, they would not pay any of the principal of the loan or even the full amount of interest that accrued on the loan each month. The unpaid interest would then be added to the principal of the loan, causing the principal balance of the loan to increase. One Source allegedly did not tell consumers any of these details about their loans.

As a result, some consumers believed that their teaser rate or low monthly payment would last beyond the first month of the mortgage loan and even for the life of the loan. One Source allegedly told an Illinois consumer that he would have an interest rate of 0.950 percent for the first year of his loan. In reality, the consumer's interest rate increased to 7.5 percent after the first month. One Source allegedly told another consumer that the combined principal and interest payment on her two mortgages would be \$1,357.47. Sixteen months later, the principal and interest payment on this consumer's loans was actually \$2,616.16. According to the complaint, One Source told another consumer that a minimum monthly payment of \$700 would cover all the accrued interest on his loan. In reality, the consumer would have to pay \$1,816 per month just to cover the monthly interest.

In addition to misrepresenting the nature of the mortgage loans sold to consumers, One Source also grossly overstated homeowners' incomes so that consumers appeared to be able to afford a much larger mortgage amount. This was done without the knowledge of the borrowers, who had frequently submitted verifiable documentation of their true income to One Source. For example, One Source falsely listed one consumer's monthly income as \$9,000 on her mortgage loan application. This consumer had provided pay stubs and

tax returns to the company to verify her income of approximately \$2,200 a month. This consumer was unaware that the company listed her income as \$9,000.

The complaint also details how One Source allegedly used high pressure sales tactics to rush consumers through the closing on their mortgage loans. On average, most consumers' closings lasted less than 30 minutes. Some consumers had closings that lasted only 10 or 15 minutes. To entice consumers to close on their loans, One Source would promise to refinance consumers into loans with more favorable terms at a later date. One Source would often do this under the guise of helping consumers improve their credit. One Source allegedly promised one consumer that her credit would improve if she refinanced her home multiple times. This consumer refinanced her home three times in one year through One Source. The company received approximately \$30,000 in loan origination fees alone from these transactions. Now, this consumer is facing foreclosure.

By the time the One Source consumers learned of their true loan terms, they were left with few options as the payments were unaffordable, the homes had been stripped of their equity and the mortgage loans contained stiff prepayment penalties, preventing refinancing. A number of One Source consumers are now having difficulty paying their mortgages and must sell their homes in order to avoid foreclosure.

DAYTON D. VICKERS ELLIS

Madigan's second lawsuit involves a number of fraud schemes orchestrated by defendant Dayton D. Vickers Ellis, a/k/a Dale Ellis, president of the following mortgage brokering and home repair businesses also named as defendants in the lawsuit: Advocate Financial Services, Inc., Alpha Construction & Development, Inc., American Heritage Building Consultants, Inc., Apollo Custom Builders, Inc., Illinois Restoration Program, Inc., a/k/a Illinois Lending Institution, Indiana Restoration Program, California Restoration Program, and New York Restoration Program. Ellis' operation was headquartered on the north side of Chicago.

According to Madigan's complaint, Ellis used three different schemes to defraud homeowners. Ellis' fraudulent schemes all began with deceptive advertising and took different forms. Ellis sent direct mail solicitations to Illinois consumers describing an alleged government program that offered grants for home repairs. Ellis directed consumers who responded to these mail solicitations to submit mortgage loan applications to Advocate Financial Services. Ellis falsely told consumers that these mortgage applications were part of the purported government grant process. Ellis received substantial fees for originating loans. Before any home repair work was even started, Ellis would disburse money from the consumers' mortgage proceeds directly to his construction company, American Heritage Building Consultants. In many instances, Ellis did not finish, or in some cases, even begin, the promised home repair work.

The complaint describes how Ellis' first scheme worked to defraud consumers. For instance, in one case, a consumer owned her home free and clear prior to her transaction with Advocate. Ellis advised that consumer to take equity out of her home to pay for home repairs through his company and to pay off other unsecured debt. The consumer took out a mortgage for \$105,000. During the

mortgage underwriting process, Ellis advised the lender for the consumer's loan that the consumer owed money to American Heritage Building Consultants. Ellis then recorded a mortgage in the name of American Heritage Building Consultants and secured this mortgage with the consumer's property. In reality, American Heritage Building Consultants had not performed any work on the consumer's home, and the consumer had not even entered into a contract for home repairs with the company. Nonetheless, American Heritage Building Consultants collected an approximately \$20,000 disbursement at the consumer's loan closing. The consumer never received any home repair work or a refund of the money.

Ellis' second and third types of schemes involved taking consumers' money for home repairs that were usually never performed on the basis that the government had a home repair grant matching program. In both of these schemes, Ellis would visit the homes of consumers who responded to his government home repair grant solicitation. At these home visits, Ellis explained that he was a government employee representing the fictional "Illinois Restoration Program." Then, Ellis would explain two home repair grant programs, neither of which actually existed:

- **The "50/50 program."** Under this purported program, the government would match the money the consumer invested in a home repair project on a dollar for dollar basis. To obtain such a grant, the consumer first had to write a check to Ellis' Illinois Restoration Program for the amount the consumer wanted the government to match.
- **The "10% down payment program."** Under this purported program, Ellis told consumers that the government would pay 90 percent of the estimated cost of a home repair project. To qualify for this program, the consumer had to provide Illinois Restoration Program with a 10 percent down payment on the project. Ellis then uses high pressure sales tactics to steer consumers into agreeing to more substantial home repair projects under the guise of the money-saving benefits of the "10 percent down payment program."

In both of these schemes, consumers would write checks to one of Ellis' companies and he would cash or deposit the checks, but consumers never received any grants or home repairs.

Resources for Consumers

As part of her ongoing efforts to protect consumers, Madigan urges consumers to seek help immediately if they are at risk of losing their homes. To help homeowners identify HUD-approved counseling agencies in their area, as well as to find other sources of legal and financial assistance, Madigan's office has created **A Guide to Prevention and Recovery Resources** (with one version tailored to consumers in the Chicago area and another version focused on downstate). The **Guide** and other educational materials on predatory lending are available on Madigan's Web site www.IllinoisAttorneyGeneral.gov or by calling her office's **Consumer Fraud Hotline** at: **1-800-386-5438**. Madigan also advised homeowners who believe they are victims of predatory lending to call the hotline and file a complaint with her office.

More information on how to guard against home repair and mortgage fraud can be obtained by calling the Attorney General's Consumer Fraud Hotline at the

following numbers:

Chicago 1-800-386-5438 TTY 1-800-964-3013
Springfield 1-800-243-0618 TTY 1-877-844-5461
Carbondale 1-800-243-0607 TTY 1-877-675-9339

Madigan encouraged any other consumers with similar problems to file a consumer fraud complaint with her office by downloading the complaint form at <http://www.illinoisattorneygeneral.gov/consumers/index.html>

Litigation Counsel Veronica Spicer, Assistant Attorney General Shantanu Singh and Assistant Attorney General Jennifer Franklin are handling these cases for Madigan's Consumer Fraud Bureau.

-30-

[Return to November 2007 Press Releases](#)