



**Department of Banking**  
260 Constitution Plaza  
Hartford, CT 06103-1800

## STATE OF CONNECTICUT



**Department of Consumer Protection**  
165 Capitol Avenue  
Hartford, CT 06106-1630

May 10, 2011

Dear Licensee:

Recently, the Department of Banking and the Department of Consumer Protection have received complaints that certain debt negotiators may be violating the requirements of Connecticut law. In particular, in connection with short sales of residential property, it has been alleged that debt negotiators are entering into arrangements with Connecticut consumers whereby they are being paid substantial fees for their loan modification services at closing from amounts previously earmarked as real estate broker commissions.

While there is no prohibition on debt negotiators being paid fees at closing, there are limitations on the amount of fees that debt negotiators may receive from a consumer. Pursuant to the schedule of maximum fees issued by the Banking Commissioner, a debt negotiator of secured debt may impose a fee on a mortgagor or debtor not to exceed \$500, which is only collectable upon successful completion of the debt negotiation services contract.

Based on the facts alleged, debt negotiators appear to be: circumventing complete disclosure of contract terms, charging fees in excess of those permitted by the Banking Commissioner's fee schedule, inappropriately receiving real estate commissions and potentially misrepresenting to consumers how such fees are paid. As a reminder, all debt negotiator licensees must abide by Connecticut law governing debt negotiator practices and must provide their clients with a contract that includes a detailed list of services, costs of such services and the results to be achieved, in accordance with Section 36a-671b of the Connecticut General Statutes.

In one scenario conveyed to the Departments, the real estate broker's 5% commission was split as follows: 1% to the debt negotiator and 4% to the real estate broker. The 1% debt negotiator fee amounted to thousands of dollars and, since ultimately paid by the mortgagor, is clearly in violation of the \$500 maximum fee debt negotiators of secured debt may charge. In addition, this practice may represent the unlawful sharing of real estate broker commissions with unlicensed persons.

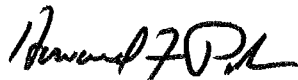
Real estate licensees are prohibited from sharing their commissions or compensation, whether directly or indirectly, with an individual who is not a broker or salesperson pursuant to Section 20-328-8a(e) of the Regulations of Connecticut State Agencies. Furthermore, debt negotiators who share in real estate commissions in such manner, as evidenced by the placement of such fees on the HUD-1 Settlement Statement as part of the real estate broker's commission, may be deemed to be "engaging in the real estate business" without a license by the Department of Consumer Protection and for which criminal sanctions are provided in Section 20-325 of the Connecticut General Statutes.

There is also significant concern that debt negotiators may be misrepresenting to consumers that their fees are being paid by the lender, when in fact, such fees are ultimately being paid by the consumer. Please be advised that Section 36a-53b of the Connecticut General Statutes prohibits debt negotiators from making any untrue statement of material fact, omitting statements of a material fact, or engaging in any act, practice, or course of business that would operate as a fraud or deceit upon any person.

It is essential that all debt negotiators and real estate licensees adhere to these requirements and act with the character and integrity required by their licenses. Connecticut residents deserve the extensive consumer protection and transparency afforded them by law. The Departments of Banking and Consumer Protection will work together to ensure their licensees act accordingly and may proceed with enforcement action, as needed.

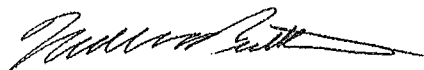
Should you have any questions pertaining to this matter, please feel free to contact the Department of Banking at (860) 240-8299 or the Department of Consumer Protection at (860) 713-6050.

Very truly yours,



Howard F. Pitkin  
Banking Commissioner

Very truly yours,



William M. Rubenstein  
Consumer Protection Commissioner