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Memorandum

Date: January 8, 2010

From: Shawn A. Goldfaden, Maryland State Counsel

To: All Issuing Offices Doing Business in the State of Maryland

RE: Short sales and recordation tax implications

Dear Associates:

We have learned that the Offices of Finance for Anne Arundel and Montgomery counties are now collecting recordation tax on deeds conveying property pursuant to a short sale payoff (see memo below). The counties are comparing these transactions to those involving a deed in lieu of foreclosure and thereby taxing the deeds on the amount of debt forgiven. Each county has their own particular requirements when presenting such a deed, so please be careful to follow their instructions carefully. Otherwise such deeds may be rejected summarily regardless of the tax implications.

We anticipate that other counties and Baltimore City may follow suit. Therefore, we urge you to collect the appropriate amount of recordation and transfer taxes based upon the total amount of debt forgiven unless you can procure a written waiver from the county in which the property lies prior to closing the transaction in question. So far we have not been aware of the State seeking such contribution, but will notify you of any further developments.

> Dear Clients of the ***Montgomery County*** Transfer Office:
> In the last few days, we have received numerous inquiries about how we process Short Sales at the Transfer Office. We tax on the unpaid principal balance of the mortgage as if the excess debt over and above the sale price is being waived/cancelled. We will rely on your assertion of the unpaid principal balance and WILL NOT typically require a copy of a payoff statement or a seller's last mortgage bill. We will tax on the Short Sale price ONLY IF evidence is presented to us that the excess debt over and above the sale price is being paid off by the debtor or pursued by the lender.

We recommend that you omit any language in the instruments that may confuse the recording clerks or compound the burden of recording. Please contact the above should you have any additional questions.

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