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**Need for a Preliminary Injunction Seeking Moratorium on Countrywide/BofA
Foreclosures Due to Fraud**

Dear Jerry,

Your comprehensive, well researched and documented class action lawsuit against Countrywide/BofA and its most senior executives, filed June 24, 2008, lays out a pattern and practice of systematic fraud practiced against hundreds of thousands of innocent California sub-prime borrowers. All of us commend you and your staff for an excellent initial step.

While we commend your lawsuit against Countrywide Financial, we urge you to do more. You have the power to file for a preliminary injunction preventing Bank of America from foreclosing on Countrywide loans created through fraud. You should consider following the successful footsteps of Massachusetts Attorney General Martha Coakley, who entered into an agreement with California-based WMD Capital Markets, LLC – the company that holds structurally unfair loans originated by the notorious subprime lender Fremont Investment & Loan (“Fremont”).¹

California needs you to take a similar stance with Countrywide and other unscrupulous lenders. You not only have the opportunity to help borrowers who were victims of Countrywide’s fraud; you have the opportunity to preserve our state’s families, neighborhoods and economy.

As the Assembly Banking Committee hearings on August 4th documented, the foreclosure crisis is greater than anyone anticipated even in June of this year. The Chairman of the Assembly

¹ WMD Capital Markets purchased the Fremont-originated loans, which are subject to a preliminary injunction restricting foreclosures, issued by Suffolk Superior Court in February 2008, according to a press release from Coakley’s office. WMD Capital Markets agreed to memorialize how Fremont-originated loans would be modified in order to avoid unnecessary foreclosures, and account for Fremont’s unfair and deceptive lending practices that are the subject of the Attorney General’s law enforcement action against Fremont.

Banking Committee, Pedro Nava, backed by very well-researched data from consumer groups, predicted that there would be a second tsunami wave of foreclosures that would be greater than even the five million facing our nation today.

In California, by the time your first term in office is over, it is estimated that there will be, unless drastic action is taken, 750,000 to 900,000 foreclosures.

Some consumer groups who testified before the Assembly Banking Committee on August 4th urged the following:

- 1) The Legislature consider assisting your fraud case against Countrywide/BofA by creating legislation that would, in effect, create a moratorium on foreclosures for any major financial institution that has been charged in state or federal court by the California attorney general with the equivalent of a conspiracy to defraud innocent borrowers. It would apply only to cases where the borrower was defrauded.
- 2) That you as Attorney General not wait three to four years via trial to protect homeowners. Instead, that you immediately seek a preliminary injunction in either federal or state court comparable to that brought by the Massachusetts attorney general against Fremont Investment and Loan. (The Massachusetts attorney general was successful.)
- 3) The BofA reach a comprehensive settlement with you that includes a moratorium on foreclosures where the borrower was defrauded.

Anything short of a moratorium on foreclosures relating to Countrywide's fraud could leave hundreds of thousands of Californians facing foreclosure.

Assembly Speaker Karen Bass and former Assembly Banking Chairman Ted Lieu have proposed to the BofA just such a voluntary foreclosure moratorium. As we understand it, the BofA would be required to send a notice before entering into foreclosure informing borrowers of the possibility that their mortgage was created via fraud by Countrywide. The borrower would then be able to opt for an independent mediator. The terms have not yet been developed for how the independent mediator would operate but we assume it would be on a systemic basis. For example, Countrywide would be required to demonstrate that the mortgage instrument was not created via the fraud mechanisms set forth in your June 24th complaint and/or your July amended complaint.

We would appreciate an opportunity within the next five days to meet with you and your senior staff to discuss such action. At that time, we also wish to raise with you how present borrowers who are not yet facing foreclosure but have been defrauded can either rescind the mortgage instrument or effectively modify it through independent mediators.

As your office is aware, California consumer groups worked closely with Bill Lockyer on the Ameriquest case and supported the 325 million dollar settlement. Countrywide's reach has been far greater than that of Ameriquest and its fraudulent actions, at least as detailed in your complaint, appear far greater in many respects than that at Ameriquest. We hope that any settlement with the BofA will fully reflect this.

We are confident that if you demonstrate to the BofA that you are prepared to quickly seek a preliminary injunction, that BofA's CEO Ken Lewis, who has an excellent reputation and has

frequently criticized sub-prime lending, will develop a fully satisfactory foreclosure moratorium, plus modified rescissions for present borrowers not yet facing foreclosure.

The BofA has always sought “a higher standard” and we believe that with your personal and active participation will do so in this case. We will call your office tomorrow to set up an early appointment.²

Warm Regards,

Alan Fisher
Director
California Reinvestment Coalition

Bob Gnaizda
General Counsel
The Greenlining Institute

Kevin Stein
Associate Director
California Reinvestment Coalition

Orson Aguilar
Incoming Executive Director
The Greenlining Institute

Cc: Senator Mike Machado, Assemblyman Pedro Nava, Assemblyman Ted Lieu, Speaker Karen Bass, City Attorney Michael Aguirre, Barbara Desoer, Janet Lamkin

² If possible, we would like to be joined at our meeting by key community groups (such as those who testified at the August 4th banking committee hearing) and key legislators, but this is not essential.