HOW THE MORTGAGE RESOLUTION PARTNERS SCHEME WILL HURT PENSION FUNDS, SAVERS AND OTHER INVESTORS, ALONG WITH TAXPAYERS AND THE HOUSING MARKET

OVERVIEW

Mortgage Resolution Partners (MRP), an alternative investment fund, is threatening to seriously damage the housing recovery and average Americans, including public pension members, other retirees and savers and individual investors through a profit-driven scheme to use the power of government for its own profit.

MRP, in partnership with the City of Richmond, is attempting a totally unprecedented use of eminent domain seizure that is unconstitutional, harmful to homeowners and taxpayers everywhere and unfair to millions of individual investors.

How It Works:

The MRP scheme targets for seizure predominantly performing loans that are underwater and were made to borrowers with good credit ratings. MRP's business model is predicated upon using the City of Richmond's eminent domain powers to seize these loans from the residential mortgage-backed securities trusts at prices equivalent to approximately 80% of the market value of the underlying home. After seizing the loans, MRP would refinance them with taxpayer-guaranteed loans priced at approximately 95% of the underlying home value. A significant portion of the difference between the 80% seizure price and the 95% refinancing price represents the profit driven to MRP and its investors.

Why It Matters:

If allowed to proceed, this scheme would hurt the economic security of millions of savers and retirees and impose direct costs on all American taxpayers, while also forcing taxpayers to carry the risk for MRP's profits and harm the entire housing market.

- <u>Harming millions of savers and retirees:</u> The loans targeted for seizure are held in trusts that benefit millions of individuals who participate in public and corporate pension plans, invest in mutual funds, 401K plans and other savings and retirement vehicles.

- <u>Imposing direct costs on taxpayers:</u> In addition to pension funds and individual savers, Fannie Mae and Freddie Mac also have holdings in the targeted trusts. That means that the MRP scheme involves seizing assets that belong directly to the American taxpayer.

- <u>Hurting the housing market recovery:</u> Lenders would have to price in the risk of eminent domain seizures everywhere, raising the cost of homeownership through higher down payments and interest rates.

FAQ

Q: What is the legal basis for the injunction?

A: The MRP scheme is blatantly unconstitutional. First, local governments may not reach outside their borders to seize property. Legal precedent declares that debt is located where the creditor is located. In this case, MRP and Richmond would be seizing debt held by trustees outside of Richmond, the vast majority of which are outside of California. Second, local governments are not allowed to regulate interstate commerce. These loans are securitized into trusts held across the nation. MRP's scheme seeks to rewrite the terms of those trusts, violating the Commerce Clause. Finally, local governments cannot repeal contracts. The Constitution's Founders included this precisely to avoid the situation at hand: states acting to grant "private relief" to individuals, absolving them from debts owed to out-of-state lenders.

Q: What is the need for an injunction?

A: The City of Richmond's decision to move forward with MRP's scheme poses an immediate threat to the millions of Americans who are part of public and private pension plans, savers and retirees. If the MRP Seizure Program is carried out, the immediate losses to all of the trusts owning targeted loans could reach as high as $200 million or more with additional, incalculable harm to the remaining assets of the Trusts. The litigation is designed to prevent that harmful and unconstitutional plan from being put into action.

Q: What happens if MRP is successful in Richmond?

A: If the MRP scheme is allowed to proceed in Richmond, there is a very high likelihood that other municipalities will follow suit. If that were to happen, it would force lenders everywhere in the country to price the risk of eminent domain seizure into their mortgage products, which would mean larger down payment requirements and higher interest rates. In addition, fewer investors would be willing to purchase mortgage-backed assets knowing that these could be seized by local governments, potentially further limiting future mortgage loan financing available for home purchases. The net result would be potentially massive losses for pension funds, savers and other individual investors, as well as a devastating blow to the housing market.