

# Audit Highlights



Highlights of performance audit report on the Office of the Attorney General issued on November 19, 2015. Legislative Auditor report # LA16-06.

## Background

The Office of the Attorney General (Office) is directed by the Attorney General, an elected officer of the State of Nevada. In fiscal year 2014, the Office had 350 authorized positions and personnel expenditures totaled about \$33 million. One of the duties performed by the Office is to enforce consumer protection statutes, including those involving deceptive trade practices.

In fiscal year 2012, the Office participated in multimillion-dollar settlements against financial institutions that conducted deceptive mortgage lending practices. The largest settlement involved 49 states that sued major banks because of their mortgage lending practices.

In August 2012, the Office approached the Interim Finance Committee (IFC) to propose using about \$33 million of the settlement funds to establish the program known as the Home Again Program. Under this Program, nonprofit organizations provide consumers free access to financial guidance services and legal counsel, as well as to specialized information about available state and federal housing assistance. The Program was approved by the IFC and again by the Legislature in the 2013 and 2015 Sessions. In addition, the Office pursued litigation against other financial institutions involved with mortgage lending in Nevada and reached settlements in fiscal years 2011 to 2014.

## Purpose of Audit

The purpose of the audit was to evaluate the Office of the Attorney General's process for collecting and disbursing restitution funds resulting from the litigation of deceptive trade practices. Our audit focused on activities related to deceptive trade practice litigation during fiscal years 2011 through 2014, but also 2015 for some activities.

## Audit Recommendations

This audit report contains six recommendations to improve the Office's controls over the disbursement of restitution funds from deceptive trade practice cases.

The Office of the Attorney General accepted the six recommendations.

## Recommendation Status

The Office's 60-day plan for corrective action is due on February 19, 2016. In addition, the six-month report on the status of audit recommendations is due on August 19, 2016.

# Office of the Attorney General

## Summary

Between fiscal years 2011 and 2014, the Office pursued and obtained over \$164 million in settlement funds from financial institutions for deceptive mortgage lending practices. These funds were to be used to help mitigate the effects of the foreclosure crisis on Nevada citizens. Although most of these funds were appropriately disbursed to victims and other entities, the Office's monitoring needs to be strengthened in some areas. For example, about \$33 million of these funds were set aside to administer the Home Again Program. The Program provides a foreclosure hotline, and legal and credit counseling services through nonprofit organizations acting as grantees. We found the Office's review of grantee reimbursement requests for expenses was not adequate, annual fiscal audits of grantees were not performed, and performance data reported to the Legislature was not always accurate. As of July 2015, about \$22 million remains to be disbursed under the Home Again Program. In addition to the Home Again Program, other settlement funds received were to be paid to homeowners that were affected by deceptive mortgage lending practices. We found that over \$11 million in funds for victims that could not be located were not returned timely to the Office. Adequate monitoring of mortgage settlement funds in these areas is important to help ensure they are properly safeguarded and disbursed timely for the intended purposes.

The Office can also improve its controls over the disbursement of restitution funds for cases other than deceptive mortgage lending practices. Restitution funds are collected by the Office through court orders or agreements, and are payments to help make victims of deceptive trade practices whole. For example, the owner of an auto repair facility was ordered by the courts to pay restitution to customers that were charged for parts and services not provided. Although most restitution funds tested were disbursed after being collected, payments to victims for several cases were delayed from about 1 year to 3 years. Finally, the Office does not have adequate controls over the disbursement of restitution funds in its court settlement account. In fiscal year 2015, over \$20 million was held in the account. Although we did not identify inappropriate disbursements, procedures are needed to help ensure funds are disbursed timely and adequately safeguarded.

## Key Findings

Since inception of the Home Again Program through fiscal year 2015, the Office reimbursed program grantees about \$8 million. Although most payments we tested were appropriate, almost 15% of the amounts paid did not agree to supporting documentation originally provided to the Office. Even though additional supporting documentation was later provided upon our request for most of the amount tested, grantees could not provide documentation to support \$21,000 in expenses tested. After our audit inquiries, a total of \$56,195 in overpayments to grantees have been identified and repaid to the Office. (page 6)

The Legislature requested the Office submit quarterly reports to the IFC on the activities of the Home Again Program. We found that the reported number of services provided by grantees were not always accurate. Specifically, the information for one of four quarters tested in calendar year 2014 was significantly overstated. For example, the number of persons assisted through the credit restoration program was reported to be 1,970. However, supporting documentation showed only 696 persons received assistance. (page 9)

The Office did not perform annual fiscal audits of its three grantees for the Home Again Program. In the 2.5 years since the Program began, the Office performed one partial audit. Office procedures require annual fiscal audits of grantees. Audits help the Office ensure grantee expenses billed to the Program are appropriate. (page 10)

For 10 cases tested where the Office received restitution payments, we observed that funds collected were disbursed accurately. In addition, the majority of the funds were disbursed timely. However, funds for four cases were not disbursed timely. The funds were disbursed from about 1 year to 3 years after being received. The amount of restitution funds associated with the four cases totaled \$213,079. Delaying restitution funds may cause financial hardship to victims. (page 15)

The Office does not have adequate controls over the disbursement of restitution funds in its court settlement account, which had disbursements ranging from \$5 million to \$46 million in the past 5 years. Disbursements were authorized through memorandums issued by attorneys and did not include supporting documentation or evidence of supervisory review and approval. (page 17)