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April 26, 2010

VIA EMAIL TO KEVIN FINK
(Kevin_Fink@gillibrand.senate.gov)

Senator Kirsten E. Gillibrand
478 Russell Office Building
Washington, D.C. 20510

Re: State Attorney General Enforcement Authority and Preemption
Under the Restoring American Financial Stability Act of 2010

Dear Senator Gillibrand:

The undersigned attorneys represent New York consumers in protecting their rights against unfair and deceptive marketplace practices in mortgage lending, auto financing, debt collection, credit reporting and a number of other financial services. We write to urge you to ensure that the Restoring American Financial Stability Act (S.3217) allow state attorneys general to enforce regulations established by the proposed Consumer Financial Protection Bureau (CFPB), as well as to ensure that state law cannot be preempted.

Regarding attorney general enforcement, New York consumers have benefitted from having aggressive attorneys general who have fought, and won, tough battles on their behalf. New York's Office of Attorney General also has been a leader in bringing several multistate actions against mortgage lenders in the past decade, raising awareness, providing restitution and bringing an end to many predatory practices. A consumer protection law or regulation is only as good as its enforcement mechanism. It is *absolutely critical* that the CFPB legislation include the right of state attorneys general to enforce new regulations, especially since the legislation lacks any private enforcement mechanism.

The banking industry has made it clear that killing state attorney general enforcement authority is their top priority. U. S. Bancorp C.E.O Richard Davis, chair of the lobbying group Financial Services Roundtable, acknowledged in an interview with the Minneapolis Star



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Tribune editorial board that stopping state regulatory power is the banking industry's "number one concern," even over opposing the CFPB. It is shocking to us that the U. S. Senate is considering acceding to this demand, or giving any credibility to an industry which opposed reasonable regulations every step of the way, regulations which would have prevented meltdown.

Similarly, state regulatory authority should be enhanced, not limited, by disallowing federal regulations to preempt state consumer protection laws with weaker provisions. Currently, the Restoring America Financial Stability Act allows the Office of the Comptroller of the Currency far too much power to preempt state laws. This provision, based on the Bean Amendment in the House bill, must be strengthened. New York's legislature has been exceptional in providing protections for New York consumers. We have the strongest rights for homeowners facing foreclosure, the best anti-predatory lending laws, and have kept payday loans out of New York. Federal law should set the floor, not the ceiling so that states can protect their consumers against abuses not addressed by federal law.

Thank you, Senator Schumer, for your leadership throughout the years, looking out for the rights of consumers. This is a critical point in time. We strongly request your support for state attorney enforcement authority, and for a strengthened pro-state provision regarding preemption. Please reach out to us if we can provide you with additional information or assistance in any way.

Sincerely,



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