

PRINCIPAL CONNECTIONS LIMITED
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25 May 2006

Attorney General Eliot Spitzer
State of New York
Office of the Attorney General
120 Broadway
New York, NY 10271

RE: Request for Intervention against New
York Department of State Selective
Enforcement

Dear Attorney General Spitzer,

Renting or buying a New York City home is the largest expense of New York residents who, to add insult to injury, are captive to high broker transactions costs which in 2005 surpassed \$500 million.

The Attorney General's Office is familiar with my case where, for ten years and never one consumer complaint, the New York Department of State has penalized me for trying to reform laws to allow pro-consumer entrepreneurs to offer more transparent, value-laden real estate related services to consumers and independent brokers. Worse than the inability of an honest business to conduct business in New York is the growing audacity of NYDOS to enroll every licensing official in its selective enforcement agenda. Surely, the Attorney General's office that has found creative ways to hold financial institutions accountable can find a way to tackle licensing officials who -- for eight years -- have been acting beyond their ministerial duties to hamstring innovators and deprive consumers of Fair Housing and lower transaction fees.

Sixteen months ago, in December 2004, ALJ Neals made a finding of "trustworthy" and directed NYDOS to grant me the AIV license. Upon NYDOS's whimsical opposition, in March 2006, ALJ Schneier affirmed that decision of "trustworthy" and instructed NYDOS to grant the AIV license and reinstate my real estate broker's license. NYDOS has appealed the granting of the AIV license and the reinstatement of my real estate broker's license.

Earlier this week, I received notification that the NYDOS requested and received an adjournment -- without scheduling a postponement date -- for the hearing to reinstate my real estate broker's license. Again, I ask the AG's Office to require that NYDOS cease its opposition to the granting of the AIV license and reinstate my real estate broker's license now.

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The inescapable conclusion: NYDOS is selectively enforcing against Wang and MLX.

Absent any consumer complaints or harm over a 15-year period, the following facts clearly demonstrate NYDOS's actions against myself and MLX.com as selective enforcement.

- 1) NYDOS had no authority to prosecute unlicensed AIVs, yet since 1998 has prosecuted MLX (see attached NYDOS letter re: robinslist.com).
- 2) MLX changed its business model to remedy Judge Schneier's finding that it was "operating an unlicensed AIV,"
- 3) I applied for the AIV license, but NYDOS denied the license *after waiting for eight months*.
- 4) Over a 16 month period, *two judges* granted me the AIV license on the basis of trustworthiness and Judge Schneier determined that my real estate broker's license should be reinstated,
- 5) Despite MLX's history of no consumer complaints, NYDOS has opposed or appealed every favorable decision by any judge.
- 6) For 15 years, MLX has legally provided equivalent real estate services to professionals who turn around and charge consumers 15 % commissions,
- 7) Nationally, courts have evolved their interpretations of antiquated statutes in light of unanticipated Internet technology (eg, Judge Schneier's 1999 decision to suspend my real estate broker's license rationalized that newspapers were exempted from the AIV law, but MLX was not. In *Forsalebyowner.com Corp v. Paula Reddish Zinnemann et al.*, Judge Morrison C. England Jr. of the U.S. District Court in Sacramento ruled that drawing a line between online and offline publishers "appears wholly arbitrary.... Even if a distinction was warranted in 1959 ... that does not mean that the same rationale for exempting newspapers remains viable in 2004, given the vast advances in technology that have occurred in the meantime." Furthermore, a newspaper, Tribune, recently acquired *forsalebyowner.com* .),
- 8) For more than 11 years, NYDOS has demonstrated its cognizance of the flaws of the 1975 AIV law and taken a "flexible" attitude as regards the AIV law with all but MLX and myself.
 - a. In 1995, Secretary of State Sandy Treadwell observed that the AIV law was "onerous and should be amended,"
 - b. In June 2005, NYDOS's Proposed Rule Making acknowledged that the AIV law is "obsolete,"
 - c. NYDOS has indicated approval to Assemblyman Pete Giannis' legislative assistant, Michael Lenane, to adopt an amendment to the Real Property law so licensed real estate brokers would not have to obtain a separate AIV license, and
 - d. NYDOS has steadfastly refused to enforce compliance by any licensed AIV while ensnaring only myself and MLX in ongoing litigation (see *NYDOS v. Rent-Direct.com* which shows that NYDOS's Consent Order with Rent-Direct, arranged within three months, permits Rent-Direct to continue its violation of all 16 AIV requirements).

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There is but one conclusion: NYDOS is on a selective enforcement crusade – because it can get away with it.

What is the cost of NYDOS actions?

NYDOS actions are detrimental financially and morally to consumers and innovative businesses.

- NYDOS has caused consumers to incur brokerage fees in excess of \$100 million annually in rental commissions.
- NYDOS has deprived consumers of Fair Housing by depriving them of access to transparent systems that show availability of all apartments, not just those hand picked by brokers. (see Real Deal article)
- NYDOS has created a chilling effect for entrepreneurs with the message that New York State is beholden to real estate special interest groups and not friendly to lower cost, greater access innovative services.
- NYDOS has sent a message that it will condone licensees to violate the law so long as they have a license and do not make waves with NYDOS (e.g. see attached Consent Order between NYDOS and rent-direct.com in which NYDOS did not suspend rent-direct' broker's or AIV licenses, but rather fined them a mere \$3,000 and allowed them to resume their *illegal practices*).
- NYDOS has emphatically conveyed that they will ruin reputation and finances of any individual or business that seeks reform.
- NYDOS has incurred hundred of thousands of taxpayer dollars for this frivolous litigation.

Why should the Attorney General take action?

Justice delayed is justice denied. The Attorney General should take action now because the NYDOS's relentless persecution of myself and MLX leaves no doubt that their actions are an abuse of power. While I appreciate the efforts the AG's Office has previously made on my behalf and the settlement agreement that Lewis Polishook has attempted to craft with NYDOS, NYDOS's request for adjournment is another arbitrary and capricious action and contrary to their stated intention of letting us move on.

In the name of consumer welfare and just government, I urge you to take immediate action or grant me a brief meeting to explain why your office should require that NYDOS cease its selective enforcement campaign against me and my business.

Sincerely,

LaLa Wang

LaLa Wang

cc: Nicholas Fortuna
Consumer Federation of America
Michael Lenane