



1400 16th Street, NW
Suite 420
Washington, DC 20036
Tel. 202.939.1760
Fax. 202.265.4435
www.nrmlaonline.org

ETHICS ADVISORY OPINION 2008-01: Ethical Advertising

February 28, 2008

The Ethics and Standards Committee (the “Committee”) of the National Reverse Mortgage Lenders Association (“NRMLA”), the trade association of the reverse mortgage lending industry, enforces the NRMLA Code of Ethics and Professional Responsibility (the “Code of Ethics”). All NRMLA Members are required to comply with the Code of Ethics as a condition of their continued membership in NRMLA. If the Committee determines that a NRMLA Member has not complied with the Code of Ethics, sanctions may be imposed, up to and including the termination of NRMLA Membership. Committee decisions enforcing the Code of Ethics may be made public.

The Committee also interprets the Code of Ethics, and, from time to time, proposes changes to it for consideration and approval by the NRMLA Board of Directors.

This is the Committee’s first formal interpretation of the new NRMLA Code of Ethics since its adoption in its current form by the NRMLA Board of Directors late last year. It is Ethics Advisory Opinion 2008-01 (Ethical Advertising).

Introduction. Ethics Advisory Opinion 2008-01 (Ethical Advertising) addresses a very important aspect of the relationship between NRMLA Members and the seniors whose interests they are pledged to serve: the manner in which NRMLA Members market, advertise and make known to seniors the reverse mortgage loans and programs they offer to them.

There is a growing concern among seniors and their advocates and legislators, and among NRMLA Members and NRMLA itself, that some NRMLA Members are engaging, participating or tolerating marketing and advertising practices that are false, misleading, deceptive or unfair. In this Ethics Advisory Opinion we refer to such practices, collectively, as “Unethical Advertising.”

Unethical Advertising expressly violates the NRMLA Code of Ethics. (A complete copy of the Code of Ethics may be found at www.NRMLAOnline.org.) There is no place in NRMLA for NRMLA Members who engage in Unethical Advertising.

The purpose of NRMLA Ethics Advisory Opinion 2008-01 is to provide additional and specific guidance to NRMLA Members about what constitutes Unethical Advertising. Specific examples of such Unethical Advertising are provided below.

Discussion. The first **Value** that the NRMLA Code of Ethics embraces is **Fairness**. Fairness under the Code of Ethics requires that NRMLA Members “treat consumers with respect and dignity, and in a manner that is fair, reasonable, and as they would want to be treated.”

To that end, **Rules 102, 103, 104, 105 and 107** of the Code of Ethics (and **Rule 301 and 302** related to the Code of Ethics Value of **Integrity**) expressly bar direct and indirect Unethical Advertising including marketing and advertising that is false, misleading, deceptive or unfair.

Rule 102 of the Code of Ethics requires that NRMLA Member compensation be reasonable in amount and be clearly and timely described to consumers.

Rule 103 of the Code of Ethics states that NRMLA Members directly or indirectly offering or providing goods or services to consumers (including, for example, insurance or investment products) in conjunction with or that are related to their reverse mortgage lending activities for such consumers, shall do so only in a manner consistent with applicable law and under terms and conditions that are clearly and timely described to consumers.

Rule 104 of the Code of Ethics provides that NRMLA Members shall not, directly or indirectly, solicit or communicate with consumers through false, misleading, deceptive, or unfair communications or advertisements, or in any manner inconsistent with applicable law. In such a communication or advertisement, a NRMLA Members shall not refer to a third party (e.g., HUD, FHA, the federal government, AARP) in a manner that misleadingly suggests that such communication is from such third party rather than from such NRMLA Member, and, in the case of NRMLA and AARP, unless each has agreed to be referred to in such advertisement. A communication or advertisement by or on behalf of a NRMLA Member shall clearly identify that member.

Rule 105 of the Code of Ethics states that NRMLA Members shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a material false or misleading statement to consumers or others.

Rule 107 of the Code of Ethics requires that NRMLA Members describe to consumers the range of programs and products offered by the Member that may provide “a bona fide advantage to such consumers.”

Rule 301 of the Code of Ethics requires NRMLA Members accurately to describe both the costs and benefits of the products and services presented to consumers.

Rule 302 of the Code of Ethics bars NRMLA Members from requiring, directly or indirectly, that consumers purchase other products or services in order to obtain reverse mortgage loans.

Unethical Advertising Rules and Examples. These Code of Ethics Values and Rules, singly and together, support the Committee’s conclusions that the following practices constitute Unethical Advertising that violate the NRMLA Code of Ethics.

First, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to market or advertise its particular FHA-insured HECM loan programs as “Government Loan Programs,” or as a “Government Benefit” or as “Government Supported” or as one from or offered by a “Government Loan Division” or as “Official Business” or as “Endorsed” or “Approved” by the Government, by the Federal Government, by HUD, by the FHA, by AARP, or by NRMLA.

A HECM loan is a loan made or originated by a lender. The FHA insures a lender's HECM loan against certain losses, but it is still the lender's loan and not an FHA or a government loan. Accordingly, a suggestion in such a communication by a NRMLA Member that such a loan is made by the Government or by FHA, rather than by the NRMLA Member, is Unethical Advertising. The FHA provides certain insurance benefits for lenders and borrowers in connection with the lender's HECM loans; the FHA does not make or originate that HECM loan.

Examples of such Unethical Advertising include the following, among other similar marketing and advertising pitches related to a NRMLA Member's particular FHA-insured HECM loan programs: "Notice: 2007 Government Benefits Increase;" "Notice of 2007 Funding Increase for Seniors;" "or "Information is offered to you as a public service." A HECM loan is not funded by or a benefit of the Government. An increase by the FHA in the maximum permissible HECM loan limit that it will insure may not result in an increase in the loan amount of any particular HECM loan originated by a NRMLA Member. It is Unethical Advertising by a NRMLA Member to suggest otherwise.

Second, it is a violation of the NRMLA Code of Ethics for a NRMLA Member directly or indirectly to state or suggest that a failure to respond to its marketing or advertising will or may result in a loss to the consumer of any consumer benefit to which the consumer is or may be entitled or enjoying.

An example of such Unethical Advertising includes the following, among other similar marketing and advertising pitches on behalf of a NRMLA Member: "Before you can benefit from this program, you must call this toll-free number to verify" this or that.

Third, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to make misleading or unfair or exaggerated claims of benefits to consumers, particularly if coupled with inadequate (or with no) description of related costs or risks.

An example of such Unethical Advertising includes the following, among other similar marketing and advertising pitches by a NRMLA Member: "We [the lender] pay off your mortgage;" or "Works as a living trust."

Fourth, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to provide or arrange for a testimonial or endorsement or infomercial that fails clearly to disclose the nature of the relationship (including, if applicable, that a payment has been made as part of the relationship) between the NRMLA Member and the person or entity providing the testimonial or endorsement or infomercial. This disclosure requirement is effective for any such communication developed after the publication of this Ethics Advisory Opinion.

Fifth, it is violation of the NRMLA Code of Ethics for a NRMLA Member to require or suggest that a product or service (such as an annuity or investment product or life or long-term care insurance), other than the reverse mortgage loan, also must be purchased in order to obtain the reverse mortgage loan, or if such product or service (if offered by the NRMLA Member) may not, itself, provide a bona fide advantage to the consumer, or if the NRMLA Member's compensation in connection with all such products and services is unreasonable in amount or not clearly and timely described to the consumer.

An example of such Unethical Advertising includes the cross-selling of a reverse mortgage loan and an annuity by a NRMLA Member if the annuity provides for a deferred benefit unlikely to be of bona fide advantage to the consumer, or if the related commission or other compensation to the NRMLA Member is not clearly disclosed to the consumer and to the counselor.

The Ethics Committee is considering a second Ethics Advisory Opinion (2008-02) (Ethical Cross-Selling of Other Products and Services) that it contemplates will provide more comprehensive guidance with respect to the marketing or advertising by a NRMLA Member, or by a NRMLA Member in tandem or concurrently with another, of a reverse mortgage loan and another product or service, including an annuity.

Sixth, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to market or advertise to a business partner unreasonably high compensation, even if such compensation clearly and timely is disclosed to the consumer who pays it directly or through reverse mortgage loan proceeds.

An example of such Unethical Advertising includes the marketing or advertising by a NRMLA Member of a program to a potential business partner yielding “10 points or more on a reverse mortgage loan” because such a claimed yield from the origination of a reverse mortgage loan, itself, if such loan is originated by a NRMLA Member in a manner that conforms to the requirements of this Code of Ethics, is a false and misleading claim. It is anticipated that Ethics Advisory Opinion 2008-02, referenced above, will provide additional guidance about the marketing and advertising of such programs claiming such yields as a result of the cross-selling of a reverse mortgage loan and other products and services.

Indirect Code of Ethics Violations. Under this Ethics Advisory Opinion 2008-01, NRMLA Members may not engage in such Unethical Advertising either directly (such as through their own employees, agents and branch offices) or indirectly (such as through their marketing or business partners, advertising agencies, or lead generation companies). Both direct and indirect Unethical Advertising by a NRMLA Member violates the Code of Ethics.

Examples of indirect Unethical Advertising by NRMLA Members that violate the Code of Ethics include Unethical Advertising that benefits a NRMLA Member that is undertaken by a NRMLA Member’s branch office or loan officers or advertising or marketing business partner, or the purchasing of leads from a lead generation company that generates such leads through marketing or advertising that would be Unethical Advertising if performed by the NRMLA Member directly or itself.

Conclusion. NRMLA Members routinely and overwhelmingly engage in Ethical Advertising, for the benefit of the seniors they are pledged to serve. All the more reason, then, that there is no place in NRMLA for NRMLA Members who engage in Unethical Advertising.

NRMLA Members, seniors, and others are urged to bring to the attention of NRMLA’s President and the Committee concerns they may have about potential Unethical Advertising directly or indirectly by NRMLA Members, for consideration and action by President and Committee in accordance with the procedures described in the Code of Ethics. Contact information for NRMLA may be found at its website at NRMLAOnline.com.