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American Conference Institute's 13th National Forum on

RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

Expert strategies for in-house and outside counsel on navigating litigation hurdles and preparing for new and emerging government enforcement initiatives

Federal & state priorities from:

Consumer Financial Protection Bureau
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Alabama Securities Commission
California Attorney General's Office
Office of the Attorney General of Texas
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 Hon. Allen S. Goldberg
Illinois Circuit Ct., Cook Co.
 Hon. Robert B. Freedman
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January 16-17, 2014 | The Westin Bonaventure Hotel & Suites | Los Angeles, CA

In-house insights from industry experts, including:

Michael B. Goldberg
Wells Fargo

Christopher T. Shaheen
U.S. Bank

Karim Hatata
Liberty Home Equity

Kathleen Wood Wagner
Citibank

David Stein
Residential Finance

Judith Tribble, Esq.
Residential Finance

Benjamin Fishman
Bank of America

David M. Chernek
Prospect Mortgage, LLC

Camillo Melchiorre
HOPE LoanPort

Wendy A. Scholl
Bank of America

Janna Lewis, Esq.
Fay Investments

Walter R. Wronka
PHH Mortgage Corporation

Jennifer L. Gray
OneWest Bank

Alona V. Rindal
U.S. Bank

Mallory J. Garner
PennyMac

Colin Jones
TD Bank

John Grissom
Wells Fargo

Lynde Selden
Plaza Home Mortgage, Inc.

Obtain critical updates and strategic advice on:

- The CFPB's regulatory and enforcement agenda: post-implementation issues and what to expect going forward
- Federal and state regulatory and enforcement insights in a multi-agency environment
- Key state nuances and developments in hotbed jurisdictions
- The borrower's perspective: insights from the plaintiffs' bar and consumer advocates
- Fair lending: managing and defending against claims of predatory and discriminatory lending and assessing the status of 'disparate impact' in lending litigation and enforcement
- Forced place insurance, HAMP and impound accounts litigation: ongoing trends in residential mortgage class actions
- Pivotal residential mortgage issues currently in play and coming down the pike from the U.S. Supreme Court on certification, CAFA, removal, and more
- Foreclosure litigation: standing and claims relating to MERS, contested foreclosures, and responding to borrower counterclaims & stall tactics
- Loan servicing: complying with new and emerging regulations, employing best practices, defending against borrower claims, and implementing effective loss mitigation strategies
- Third-party vendor management in the mortgage servicing context

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Led by expert in-house counsel, key regulatory and enforcement officials, top law firms, and renowned judges from across the nation, this is the only event that will fully prepare you for the changes going into effect in January 2014, help you defend against lending, servicing, and foreclosure litigation, and keep you ahead of the curve with regard to increased enforcement efforts and the evolving regulatory paradigm at both the federal & state level.

American Conference Institute's 13th National Forum on Residential Mortgage Litigation & Regulatory Enforcement is perfectly timed for you to benchmark your current litigation strategies given the CFPB's January 2014 implementation dates. The coming year is going to bring a wave of new litigation, comprehensive regulations, and enhanced enforcement efforts. In addition, the industry continues to be faced with scrutiny over implementation of the AG settlement, allegations of foreclosure documentation errors and so called "robo-signing," and an extremely active class action litigation landscape including Fair Lending, Forced Place Insurance and HAMP claims. It is more critical than ever for in-house and outside counsel to remain up-to-date on new and emerging borrower and investor claims as well as increased state and federal regulatory and enforcement initiatives.

Come join us in Los Angeles in January for a revamped program that will provide attendees with up to the minute insights and strategies that are necessary to defend against these new claims and adapt to the evolving regulatory landscape. Our unparalleled faculty of regulatory and enforcement officials, judges, expert in-house counsel, and leading outside counsel will provide you with strategic advice, critical insights, and comprehensive updates for:

- The CFPB's regulatory and enforcement agenda: post-implementation overview and what to expect going forward
- Federal and state regulatory and enforcement insights in a multi-agency environment
- Key state nuances and developments in hotbed jurisdictions, including California
- The borrower's perspective: insights from the plaintiffs' bar
- Fair lending: managing and defending against claims of predatory and discriminatory lending and assessing the status of 'disparate impact' in lending litigation and enforcement
- Forced place insurance, HAMP and impound accounts litigation: ongoing trends in residential mortgage class actions
- Pivotal residential mortgage issues currently in play and coming down the pike from the U.S. Supreme Court
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- Loan servicing: complying with new and emerging regulations, employing best practices, defending against borrower claims, and implementing effective loss mitigation strategies
- Third-party vendor management in the mortgage servicing context

PLUS, be sure to also register for the interactive pre-conference master class:

Litigation Arising out of the FHA's Reverse Mortgage Program

January 15, 2014: 4pm - 6pm

Register now by calling 888-224-2480 or faxing your registration form to 877-927-1563. You can also register online at www.AmericanConference.com/ResidentialMortgageLA

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DAY ONE: THURSDAY, JANUARY 16, 2014

7:15 **Registration and Continental Breakfast**

8:00 **Co-Chairs' Welcoming Remarks**

Douglas A. Thompson
Bryan Cave LLP

Donna L. Wilson
Manatt, Phelps & Phillips LLP

8:05 **In-House Insights on How CFPB's New Rules Are Affecting Litigation Management and Relationships with Outside Counsel; Responding to Enhanced Regulation and Enforcement; Compliance Strategies; Selecting and Retaining Law Firms and Distribution of Legal Spend in Today's Environment; and More**

In House Roundtable Part I – 8:05	In House Roundtable Part II – 9:00
<p><i>Michael B. Goldberg</i> Senior Counsel Wells Fargo Law Department</p> <p><i>Christopher T. Shaheen</i> Vice President and Chief Litigation Counsel U.S. Bank</p> <p><i>David M. Cherneck</i> General Counsel Prospect Mortgage, LLC</p> <p><i>Wendy A. Scholl</i> Associate General Counsel – Litigation Bank of America</p> <p><i>Janna Lewis, Esq.</i> EVP and General Counsel Fay Investments</p> <p><i>Jennifer L. Gray</i> FVP, Head of Litigation OneWest Bank</p>	<p><i>Karim Hatata</i> Compliance Leader Liberty Home Equity Solutions, Inc.</p> <p><i>Judith Tribble, Esq.</i> VP, Associate General Counsel, Chief Compliance Officer Residential Finance</p> <p><i>Mallory J. Garner</i> Executive Vice President and General Counsel, Mortgage Operations PennyMac</p> <p><i>Camillo T. Melchiorre</i> President & CEO HOPE LoanPort</p> <p><i>Walter R. Wronka</i> Counsel, PHH Mortgage Corporation</p> <p><i>John Grissom</i> Managing Counsel, Wells Fargo Bank, N.A.</p>
<p>Moderator:</p> <p><i>Douglas A. Thompson</i> Bryan Cave LLP</p>	<p>Moderator:</p> <p><i>Hunter R. Eley</i> Doll Amir & Eley LLP</p>

- How companies have enhanced their compliance efforts in light of the newly implemented CFPB Rules?
- The fallout from of the AG settlement: what impact did it have?; Enforcement issues; Continued compliance
- How are lenders and servicers adapting to the increased regulatory and enforcement landscape? What changes have they made? Who are they looking to for guidance?
- How is the industry dealing with fighting wars on two fronts- the federal side and the state side?
- What do corporate counsel find to be the most challenging aspects of revamping compliance procedures and policies?
- Managing and responding to enforcement actions: Jurisdiction hurdles when dealing with multiple state and federal agencies; state AGs v. federal agencies
- Litigation strategies and settlement calculations
- Aftermath of 'robo-signing' and foreclosure documentation error litigation: looking back and prevention strategies
- Foreclosure mediation: Best practices for maximizing the effectiveness of these programs
- Lessons learned from past litigation
- Minimizing your exposure to future litigation and better managing future litigation
- Advising outside counsel on how to better support in-house counsel
- Top 5 issues that in-house counsel are thinking about
- Responding to internal budgetary pressures
- In-house solutions for stretched legal departments
- Working with outside counsel: In-house pet peeves and concerns

9:55 **Morning Coffee Break** Sponsored by: **dae** doll
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10:10 **The CFPB's Regulatory and Enforcement Agenda: Post-Implementation Issues and What to Expect Going Forward**

Hunter Wiggins (invited)

Deputy Enforcement Director for Strategic Planning
Consumer Financial Protection Bureau

Colin Jones

Vice President & Counsel, Legal Department
TD Bank, N.A.

David Stein

President of Retail Branch Division and General Counsel
Residential Finance

Allyson B. Baker

Venable LLP
(Former enforcement attorney at the Consumer
Financial Protection Bureau)

Albert J. Rota

Jones Day LLP

Therese G. Franzen

Franzen & Salzano, P.C.

- The CFPB's regulatory and supervisory agenda: what has gone into effect January 2014: Loan Officer Rule; Servicing rule; Ability to repay; QM/ATR Final Rule; HOEPA Rule; Escrow final rule
- Proposals on servicing
 - The possibility of national servicing standards
 - CFPB enforcement initiatives against non-bank affiliated mortgage default servicers
 - CFPB and similar foreclosure look-backs
- Which UDAAPs are being targeted most heavily by the CFPB?
 - Assessing the definition of abusive practices
 - Potential pitfalls for lenders and servicers
 - Susceptibility to the abusive "A"
- CFPB examinations and enforcement actions: how to best prepare
 - Status and review of actual enforcement cases
- The amalgamation of RESPA/TILA
- Practical effects of the CFPB's initiatives on compliance and litigation strategies
- QWR's under the Dodd-Frank Act
 - Changes to the QWR provisions and the CFPB's mortgage loan complaint process
- Evaluating preemption in the wake of Dodd-Frank
- CFPB's Amicus Program
 - Analysis of the cases filed so far
- Future CFPB implications: what's next?
 - Changes to January rules?
 - Anti-steering rule

11:15 **Regulatory and Enforcement Roundtable: The View from Federal and State Agencies and Attorneys General on How to Prepare for and Respond to Examinations and Supervision in a Multi-Agency Environment**

David C. Shonka

Principal Deputy General Counsel
Federal Trade Commission

James F. Todak

Region 9 SAC
HUD-OIG

Richard K. Hayes

Deputy Chief, Civil Division
U.S. Attorney's Office, Eastern District of New York

R. Stephen Stigall

Assistant U.S. Attorney
U.S. Attorney's Office, District of New Jersey

Viveca Parker

Assistant United States Attorney
U.S. Department of Justice

Benjamin G. Diehl

Supervising Deputy Attorney General - Consumer Section
California Attorney General's Office

Jan Lynn Owen

Commissioner
California Department of Corporations

James A. Daross

Regional Managing Attorney
Consumer Protection Division
Office of the Attorney General of Texas

Andrew Dougherty

Assistant Attorney General
Consumer Fraud Bureau
Office of the Illinois Attorney General

Moderator:

Robert T. Mowrey

Locke Lord LLP

- The aftermath of the AG settlement
- Overlap and differences with CFPB initiatives relating to mortgage servicing standards
- Impact of the CFPB on state initiatives
- Mortgage origination standards
- Examinations
- Independent Foreclosure Review: lessons learned
- Increasing focus on fair lending concerns
 - HUD disparate impact rule that went into effect
- Ensuring compliance with UDAAP laws in light of enhanced enforcement initiatives
- Assessing the multi-state mortgage examination process
- Cooperating with investigations
- Reaching consent settlements with regulators
- Implementing lessons learned from past enforcement actions
- Litigation and supervisory activity stemming from President Obama's Federal Mortgage Task Force
 - Justice Department's suits
 - Bills introduced to phase out Fanny Mae and Freddie Mac

1:10 **Networking Lunch For Speakers and Attendees**

2:10 **The Borrower's Perspective: Insights From the Plaintiffs' Bar and Consumer Advocates**

Amanda L. Lundergan Additional Speakers TBD
Ice Legal, P.A.

Moderator:

E. Hutchinson Robbins, Jr.
Miles & Stockbridge P.C.

In this session, you will hear from leading plaintiff attorneys and consumer advocates on claims trends, foreclosure litigation, where cases are headed in the coming months, and how lenders and servicers can work with borrowers to minimize the need for litigation. You will obtain key insights into the types of actions counsel are focusing on and how to prepare for and respond to new and innovative claims, as well as how consumer advocates view the current residential mortgage landscape. Topics:

- How borrowers' counsel are approaching litigation arising from alleged foreclosure documentation errors
- Emerging theories of liability
- How the plaintiffs' bar is continuing to adapt to CAFA
- Consumer advocate perspectives on MERS
- How the industry can best work with borrowers to pursue loan modifications and avoid foreclosures and litigation
- Recent litigation against property preservation companies

A FOCUS ON CLASS ACTION LITIGATION IN THE RESIDENTIAL MORTGAGE CONTEXT

2:50 **Forced Place Insurance, HAMP and Impound Accounts Litigation: Ongoing Trends in Residential Mortgage Class Actions**

Rik Tozzi *Alan S. Petlak*
Burr & Forman LLP Ballard Spahr LLP

Roland Reynolds
Palmer, Lombardi & Donohue LLP

Forced Place or Lender Based Insurance

- Allegations that Banks engaged in deceptive practices
 - In violation of TILA, the RICO Act and other consumer protection laws
 - Possible collusion among lenders and insurance companies
- Results of States' investigations: NY and CA
- How lenders can defend against operational and reputational risks in their force-placed practices

Home Affordable Modification Program (HAMP)

- Complying with and abiding by the requirements for a permanent modification: 30-day trial period
- Borrower's claims
- Effective defenses
- HAMP related False Claims Act litigation increase
- Mortgage fraud considerations in relation to HAMP

Impound Account Suit

- Recently certified class of California Homeowners suit
 - Challenging a policy of establishing impound accounts set up for the purpose of paying borrower's property taxes and homeowner's insurance, without homeowner's consent

3:45 **Afternoon Coffee Break**

3:55 **Other Pivotal Residential Mortgage Issues Currently in Play and Coming Down the Pike from the U.S. Supreme Court: Class Certifications, CAFA, Removal and More**

Christopher Chorba
Gibson, Dunn & Crutcher LLP

David Permut
Goodwin Procter LLP

Peter Obstler
Arnold & Porter LLP

- Class action trends involving residential mortgage litigation
 - What some recent cases may tell us about what's next
- Recent Supreme Court term end: trickle down effect of decisions on residential mortgage class action litigation
- Recap of relevant cases
 - *Knowles* case: first decision on CAFA
 - *Hood v. AU Optronics*: the question of removability from State to Federal Court
- New and emerging claim approaches
 - Defending against the influx of cases being brought by plaintiffs' attorneys and state AGs
 - Where plaintiffs are filing and why
 - Using this information to structure your case
- The continuing impact of *Wal-Mart v. Dukes* on class certifications
- How are the federal (and state) courts applying the decision?
- Comcast and post-*Wal-Mart* issues
- The treatment of *AT&T Mobility v. Concepcion* by lower court and emerging legal issues
- Settlement considerations
 - Making the decision to settle, and ensuring effective client communication throughout the settlement process
 - Evaluating tradeoffs in scope of class and release; creating a comprehensive settlement order

4:50 **Examining Key State Nuances and Developments in Hotbed Jurisdictions, with a Focus on California**

Donna L. Wilson
Manatt, Phelps & Phillips LLP

Peter Wahby
Greenberg Traurig LLP

Joseph Borg
Alabama Securities Commission

John J. Calvagna
McGlinchey Stafford PLLC

Sanjay P. Ibrahim
Parker Ibrahim & Berg LLC

- Which states are driving the litigation nationwide?
 - CA, FL, NY, IL, TX, NV
- A spotlight on unique California Issues
 - California Homeowner's Bill of Rights: will it be susceptible to class actions?
 - Richmond, California eminent domain case
- How these states implicate other states' litigation
- What to be on the lookout for
- Lessons to be learned

6:00 **Conference Adjourns**

7:30 **Continental Breakfast**

8:00 **Views from the Bench: Judicial Perspectives on the Latest Plaintiff Theories, Emerging Defense Strategies, Loan Modification Litigation, Foreclosure Documentation Errors, Bankruptcy Litigation, Class Certification, Case Management, E-Discovery, and More**

Judges Panel 1 8:00-9:30 (break 9:30-9:40)	Judges Panel 2 9:40-11:10
<i>Hon. Fernando J. Gaitan, Jr.</i> U.S. Dist. Ct., W.D. Mo.	<i>Hon. Wiley Y. Daniel</i> U.S. Dist. Ct., D. Colo.
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<i>Hon. Nanette A. Baker</i> U.S. Dist Ct., E.D. Mo.	<i>Hon. Allen S. Goldberg</i> Ill. Circuit Ct., Cook Co.
<u>Moderator:</u>	<u>Moderator:</u>
<i>Andrew K. Stutzman</i> Stradley Ronon Stevens & Young LLP	<i>Bryan A. Fratkin</i> McGuireWoods LLP

- Judicial perspectives on new and emerging plaintiff theories and defense strategies
- Judicial perspectives on foreclosure documentation errors and ‘ robo-signing ’ practices
- Impact of court-implemented rules: Attorney affidavits; File reviews; Enhanced pleading requirements
- Insights on new measures lenders and servicers must implement to mitigate future liability
- Loan modification litigation
- Navigating through bankruptcy court
- Recent Bankruptcy Cases: Class Certification cases; Cases regarding ownership of note/debt
- Discretionary awards of attorneys’ fees
- Determining when sanctions are appropriate
- Novel approaches to trial and case management
- Pre-trial procedures
- Judicial perspectives on e-discovery

11:10 **Fair Lending: Managing and Defending Against Claims of Predatory and Discriminatory Lending and Assessing the Status of ‘Disparate Impact’ in Lending Litigation and Enforcement**

Philip R. Stein
Bilzin Sumberg Baena Price & Axelrod LLP

Melanie Brody
K&L Gates LLP

Lynde Selden
Plaza Home Mortgage, Inc.

- Recent cases and enforcement actions
 - o U.S. Supreme Court progress on *Mount Holly* case
- How state and federal agencies are approaching fair lending issues
 - o HUD rule
 - o Recent and pending cases before the DOJ
 - *Burbank* Case
- Assessing the status of ‘disparate impact’ in lending litigation and enforcement
- New and emerging allegations of discriminatory practices relating to upkeep of bank-owned houses in minority neighborhoods
- Assessing the evolving definition of and uncertainty relating to fair lending
- Impact of the CFPB on fair lending litigation
 - o CFPB initiatives and enforcement efforts relating to discriminatory lending and disparate impact
- Defending against the latest claims alleging fair lending violations
 - o Early interviews and information gathering
 - o Data analysis
- Possible emerging trends in fair lending claims
 - o LGBT discrimination
- Impact of recent regulatory and litigation developments on the defense of predatory lending claims
- Public relations/advertising/marketing concerns
- Settlement considerations and strategies

12:00 **Networking Luncheon For Speakers And Attendees**

1:00 **Loan Servicing: Complying with New and Emerging Regulations, Employing Best Practices, Defending Against Borrower Claims, and Implementing Effective Loss Mitigation Strategies**

Thomas O. Freeburger
Assistant General Counsel
California Housing Finance Agency

Benjamin Fishman
Assistant General Counsel
Bank of America

William Heller
Akerman Senterfitt

David M. Bizar
Seyfarth Shaw LLP

James M. Milano
Weiner Brodsky Kider PC

- Assessing the impact of the AG settlement and the CFPB on servicing standards
 - o Enforcement issues
 - o Ensuring compliance
- Effects of Basel III on loan servicing
 - o Servicers vs. large banks and the subprime market
- Defending against claims relating to loan servicing
 - o Debt collection practices claims
 - o Credit reporting claims
 - o Escrow issues
 - o RESPA issues
 - o Fair lending issues
- Class action issues arising from loan servicing
- Servicer liability for lack of disclosure

- o Viability of good faith defense
- o Sufficient evidence to show adequate disclosure
- o Conducting due diligence of servicing compliance
- Loss mitigation programs
- Loan modifications
 - o Borrower claims
 - o Effective defenses

2:15 **Third Party Vendor Management in the Mortgage Servicing Context**

Alona V. Rindal
Vice President & Corporate Counsel
U.S. Bank

Richik Sarkar *Frank Hirsch*
McDonald Hopkins LLC Alston & Bird LLP

- Recent increased scrutiny by the government agencies and regulators
 - o Expectancy to increase oversight
- CFPB activity in the area
 - o CFPB now holding banks responsible for lending done out of the third party relationship
- OCC activity in the area
- Having an effective process in place to manage the risk of outsourcing
- Contracting with ethical third parties
- The potential increase to the cost of servicing over time vs. the risk of exposure to litigation and damage to reputation

3:10 **Afternoon Break**

A FOCUS ON FORECLOSURE LITIGATION

3:15 **Foreclosure Litigation Part I: Establishing Standing and Defending Against Claims Relating to MERS**

Kathleen Wood Wagner *John Crane*
Associate General Counsel Aldridge Connors LLP
Citibank, NA

Joseph J. Patry
Blank Rome LLP

- Conditions precedent to foreclosure
- Assessing borrower attacks on standing
 - o New and emerging claims
 - o How to combat and defeat standing attacks
- Update on MERS litigation
 - o Borrower claims
 - o Qui tam cases
 - o County recorder/AG litigation
- MERS interest as mortgagee or beneficiary
- Transfer of notes via endorsement and delivery rather than assignment
- Assignment of mortgages

4:10 **Foreclosure Litigation Part II: Overcoming Contested Foreclosures and Responding to Borrower Counterclaims and Stall Tactics**

Joseph Guzzetta *H. Keith Thomerson, Esq.*
Severson & Werson Hinshaw & Culbertson LLP

- Handling borrower counterclaims in contested foreclosures
- Overcoming commonly raised defenses including TILA, SCRA, fraud, and rescission claims
- Preventing bankruptcy from becoming a tool used by borrowers to stall foreclosures
- Loss mitigation
- Litigation challenges relating to mortgage origination
- Loan modifications and foreclosure
 - o Defending against counterclaims arising from loan modifications and HAMP
- Responding to challenges to foreclosures in non-judicial foreclosure states

4:55 **Conference Ends**

Pre-Conference Master Class
Wednesday, January 15, 2014
4:00 - 6:00 pm (Registration at 3:30 pm)

Litigation Arising out of the FHA's Reverse Mortgage Program

Jennifer L. Gray
FVP, Head of Litigation
OneWest Bank

Karim Hatata
Compliance Leader
Liberty Home Equity Solutions, Inc.

James M. Milano
Partner
Weiner Brodsky Kider PC

This interactive master class will provide participants with detailed information on all of the legal concerns relating to reverse mortgages. Participants will come away from this session with a firm grasp on the nuts and bolts of the issues associated with the FHA's Reverse Mortgage Program, including:

- HUD/FHA's Home Equity Conversion Mortgage (HECM) program for seniors
- HUD's October 2013 rule changes related to the program
- Ethical considerations of aggressive marketing to seniors
- Litigation relating to the rights of non-borrowing spouses

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American Conference Institute's 13th National Forum on

RESIDENTIAL MORTGAGE LITIGATION & REGULATORY ENFORCEMENT

Expert strategies for in-house and outside counsel on navigating litigation hurdles and preparing for new and emerging government enforcement initiatives

January 16-17, 2014 | The Westin Bonaventure Hotel & Suites | Los Angeles, CA

Hear from 18 senior in-house counsel, 12 federal and state regulatory and enforcement officials, and 14 renowned federal judges, as well as leading outside counsel from around the nation

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Payment Policy

Payment must be received in full by the conference date. All discounts will be applied to the Conference Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization.

Cancellation and Refund Policy

You must notify us by email at least 48 hrs in advance if you wish to send a substitute participant. Delegates may not "share" a pass between multiple attendees without prior authorization. If you are unable to find a substitute, please notify **American Conference Institute (ACI)** in writing up to 10 days prior to the conference date and a credit voucher valid for 1 year will be issued to you for the full amount paid, redeemable against any other ACI conference. If you prefer, you may request a refund of fees paid less a 25% service charge. No credits or refunds will be given for cancellations received after 10 days prior to the conference date. **ACI** reserves the right to cancel any conference it deems necessary and will not be responsible for airfare, hotel or other costs incurred by registrants. No liability is assumed by **ACI** for changes in program date, content, speakers, or venue.

Hotel Information

American Conference Institute is pleased to offer our delegates a limited number of hotel rooms at a preferential rate. Please contact the hotel directly and mention the "ACI Residential Mortgage" conference to receive this rate.
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 Address: 404 South Figueroa Street, Los Angeles, CA 90071
 Reservations: 800-937-8461 or 213-624-1000

Incorrect Mailing Information

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