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THIGPEN WANTS TO TAKE ON MORTGAGE GIANTS:

SEEKS INVESTIGATION OF “MERS” FOR REIMBURSEMENT OF \$1.3 MILLION IN LOST REVENUE TO GUILFORD COUNTY

Guilford County Register of Deeds Jeff Thigpen announced today that he will be conferring with County Attorney Mark Payne, NC Attorney General and Secretary of State as to whether the Mortgage Electronic Registration Service (MERS) owes Guilford County fees estimated at \$1.3 million in lost revenue from mortgage assignments. Thigpen also wants to review pending legal actions against MERS and consider options to protect the integrity of public land recordation offices.

“As Register of Deeds, I have two primary responsibilities in land records: a sworn duty to protect the chain of title and a fiduciary responsibility to collect recording fees. Quite frankly, MERS has undermined both. Through their own “private for-profit” Register of Deeds mortgage tracking office, MERS has created a dangerous centralization of power whose sole purpose is to protect and serve the interests of major banking conglomerates and undermine public recording offices,” said Thigpen.

“For me, the question is clear. Do we want land records in America to be governed by major banking conglomerates on Wall Street or the people and laws of the United States of America?”

MERS has an electronic registry and database system that tracks more than 65 million mortgages for its paid membership throughout the country and aides the mortgage backed securities trade in the secondary market. MERS is reportedly involved in 60% of US mortgage loans. It was established by some of the largest mortgage lenders in the United States including Wells Fargo, Chase Mortgage, Citi Mortgage, Countrywide Home Loans, Inc. and Bank of America among others in 1997. A number of class action lawsuits and civil racketeering suits have arisen against MERS recently, including a suit alleging its members owe California \$60-120 billion for circumventing land recording fees. MERS has also been at the center of recent foreclosure chaos.

Since the founding of America, counties in the United States have maintained public records of land, mortgages and deeds of trust, by maintaining indexes of grantors and grantees. Register of Deeds offices ensure transparency and an important check and balance in private property ownership. County recording practices have been in place for 300 years. “It is interesting that the first fundamental change in public

land title recording systems was not initiated by publicly elected leaders, but a small group of mortgage industry insiders. Now it's coming back to bite all of us- homeowners and taxpayers. MERS creates a system where only certain eyes see the data and what's going on. I have a real problem with that as a Recorder.

Thigpen is asking for clarity on the California suit and others surrounding MERS business practices in packaging and repackages home owner loans through securitization. MERS has saved larger financial firms millions of dollars while avoiding recordation and payment of fees related to mortgage transfers.

Since 2005 there were 47,553 deeds of trust that list MERS as a beneficiary filed in the Guilford County Register of Deeds office. Experts have indicated that those kinds of loans are repackaged and sold two and four times on average under the MERS system. "One repackaging of MERS documents would have generated \$665,742 if documentation had been filed in our office. Two repackaged loans would have generated \$1,331,484. And that's conservative estimate."

Thigpen maintains the lost recording fees would help local elected officials reduce budget deficits and maintain core services such as public education and public safety in this time of fiscal crisis.

Thigpen's primary concern relates to recent court rulings in Arkansas, Kansas, Maine and Missouri questioning MERS legal standing in home foreclosures and suits challenging that MERS filings may be fraudulent. "If MERS filings are false statements, there are laws that say if you decrease the money that you pay for a service through using those false statements then you can get damages. The legal term is "unjust enrichment". Thigpen wants to explore unjust enrichment and other options related to recovery of lost revenue.

Thigpen acknowledges that NC General Statutes do not currently require assignments to be filed in local Register of Deeds offices which allow the public to know the rightful owner of a mortgage. "That may need to change among other things", says Thigpen. Thigpen points to a major policy change from MERS in the past two weeks conceding that assignments should be filed in public registries across the country even if the state law does not require it and instructed members not to foreclose in MERS name. "It indicates to me that they know they need to fix this."

"It used to be that if you bought a house, the mortgage would stay at a single bank until you paid it off. Times have changed. Through securitization, mortgages are all put in a blender and sold off to Wall Street investors and Fannie and Freddie among others. MERS has its finger on the spin button. At the end of the day with MERS, Susie Homeowner can't keep track of who owns her loan and if she's going to get hit with new fees or even foreclosure.

"This type of unregulated greed is giving charity to all the people who should be giving it and undermines good business practices." says Thigpen. Thigpen points out those local credit unions like State Employees Credit Union who didn't participate in sub-prime lending have avoided legal difficulties.

"This is a mess and the MERS system impacts millions of homeowners across the country in danger of having their homes foreclosed", said Thigpen. He wants a review of the lawsuits and investigations into MERS by state attorney generals and others and believes it will take a coordinated at the local, state and federal level to resolve it. "To me these issues with MERS are simple. Are major banking conglomerates going to tell the truth or not; and are we going choose to have two standards of justice in America: one for Big Money and the other for the rest of us?"

Thigpen will also join Southern Sussex Massachusetts Register of Deeds John O'Brian, Jr. in urging national organizations such as the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) to address MERS in the coming weeks.

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