

Statement of Commissioner J. Thomas Rosch
Mortgage Assistance Relief Services Rule, File No. R911003
November 19, 2010

I support the Commission's adoption today of the final Mortgage Assistance Relief Services Rule ("MARS Rule") and its accompanying Statement of Basis and Purpose. I write this separate statement to explain my decision to vote in favor of the MARS Rule in light of my dissenting vote against the issuance of the debt relief services amendments to the Telemarketing Sales Rule ("the TSR").¹

Although I had concerns about certain aspects of the record in the TSR rulemaking proceeding relating to the need for an advance fee ban, I believe that the record in the MARS rulemaking proceeding supports a ban. In coming to this conclusion, I draw two distinctions. First, the business model for the provision of mortgage assistance relief services differs from debt relief services in that it does not require consumer participation in order to achieve a successful result. Rather, the likelihood of attaining a particular, promised result rests solely on the MARS provider's own efforts. Second, the length of time it takes to attain a mortgage assistance relief result (and hence the duration of the advance fee ban) is much shorter than the time it typically takes to obtain settlements of a consumer's debts.

¹ My opinion as to the record in the debt relief services TSR rulemaking proceeding is limited to that rulemaking proceeding alone. Any individual case, alleging either violations of Section 5 or violations of the debt relief services amendments to the TSR, would have to be judged on the particular facts of that case.