Chief of the Month: Jane Azia, New York

Each month, the Center for Consumer Protection will provide an article about an Attorney General’s Office Consumer Protection Chief.

I started in the New York Attorney General’s Office in 1982 under Attorney General Bob Abrams. Bob Abrams set a high bar for what attorneys general could do to protect the public. He truly cared about the people of the state and exemplified government at its best. I have served under six attorneys general since then, all of whom have brought their unique stamp to the office. Prior to coming to the attorney general’s office, I was a legal services attorney in Poughkeepsie, New York and then in Bedford-Stuyvesant. Having sued the government on behalf of my clients on a number of occasions, I was somewhat apprehensive about going to the “other” side. Any reservations I had quickly evaporated, and I soon discovered that I had found the perfect job and place to be a lawyer.

I cut my teeth in the attorney general’s office on classic consumer frauds. My very first case involved a dance studio that trapped consumers into expensive contracts. I also sued Helena Amram, a self-styled matchmaker who charged thousands of dollars based on fraudulent promises that she could find the perfect match. I brought an action against a fraudulent business opportunity scheme that marketed opportunities in coin-operated electronic video arcade game machines (remember them?) to hard working New Yorkers looking for a little extra income. Even though the court ruled in our favor after trial, the individuals operating the scheme were undaunted and continued to devise new fraudulent schemes under new names. We tried to sue them a second time in federal court under federal RICO in order to obtain treble damages. However, the court held that our request for injunctive relief was moot because the state court had already granted such relief and that we didn’t have parens patriae standing to seek a monetary award for injury to the state’s citizens. I learned two valuable lessons from this case. First, some fraudsters are endlessly inventive. They never quit the fraud business – they just change names and sometimes states. Second, don’t give up looking for new and creative solutions, even if they don’t always succeed.

As I gained experience, I started handling more complex matters. I defended the New York Lemon Law, one of the most important pieces of consumer legislation at the time, from due process, commerce clause, and preemption challenges by the automobile industry. I also brought cases
challenging subprime and predatory lending practices by financial institutions. Our team won a case against a subprime lender that deceptively marketed credit cards promising that prospective consumers would be approved for a credit limit up to $2,500. In fact, because of fees and other charges, consumers were left with much less credit than they expected and often found themselves in debt as a result of the spiraling of accruing interest, late fees, and over-limit penalties. That case established a number of important legal precedents for our office, including that the Truth in Lending Act did not preempt enforcement of state deceptive practices law and that disgorgement is an available equitable remedy even though not specifically authorized by statute.

I am particularly proud of work I did challenging the OCC’s aggressive attempts to preempt vital state consumer protection efforts against national banks and their subsidiaries and affiliates. Many of us working at the state level were at the forefront of protecting consumers against abusive financial practices that led to the mortgage crisis in the first decade of the 21st century. The states reached landmark mortgage lending settlements with companies like First Alliance, Household Finance, Ameriquest, and Countrywide and returned hundreds of millions of dollars to victimized borrowers while forcing lenders to agree to significant reforms. However, the OCC began taking an exceedingly broad view of preemption, effectively preventing the states from taking action to stop abuses by national banks and their subsidiaries. The OCC went so far as to promulgate a rule interpreting its exclusive visitorial powers under the National Bank Act as prohibiting states from exercising their traditional sovereign powers to sue national banks for violating non-preempted state laws such as deceptive practices laws. In 2005, the New York Attorney General sent letters to national banks asking that they provide certain information about their lending practices. This prompted the Comptroller of the Currency and Clearing House Association, a banking trade group, to sue to enjoin the information request, claiming that the state was preempted by the National Bank Act and OCC’s recent preemption rules. We lost at the district court level. The second circuit in a 2-1 decision upheld the district court decision. The case went to the U.S. Supreme Court. In Cuomo v. Clearinghouse, 557 U.S. 519 (2009), in a 5-4 decision, Justice Scalia (joined by Justices Stevens, Souter, Ginsburg and Breyer), held that while the OCC’s exclusive visitorial powers under the National Bank extended to the states’ subpoena authority, it did not include state enforcement actions. This landmark decision was subsequently incorporated into Dodd-Frank.

In 2007, I left the attorney general’s office to become Director of Consumer Protection at the New York State Banking Department where I stayed until 2011. It was the height of the mortgage crisis and much of my work focused on foreclosure prevention and mortgage lending reforms. We required the registration of mortgage loan servicers and adopted mortgage loan servicing standards that required servicers to deal with borrowers in “good faith” and to pursue sustainable and affordable loss mitigation options whenever possible. We got enacted into law legislation requiring mandatory settlement conferences for homeowners in foreclosure and banning foreclosure rescue consultants from charging upfront fees. We held numerous foreclosure prevention forums and provided funding for and training of non-profit housing counselors and court personnel.
My heart was always in law enforcement. In 2011, after four years at the Banking Department, I returned to the attorney general’s office as bureau chief of the consumer bureau. Like many offices, we have a mix of big and small matters. Our primary focus has been on frauds that target economically vulnerable populations in such areas as mortgage and foreclosure, for-profit schools, student lending, credit and debt issues, auto advertising, and housing. We have also taken action against deceptive health claims. And, we have tackled issues in the sharing economy such as bringing litigation to ensure that Lyft, the ride share company, complies with state insurance and licensing requirements.

The attorney general’s office has been a great place to have a legal career. I love the extremely talented and dedicated people with whom I have had the opportunity to work. On a personal level, the attorney general’s office has been a great place to work while raising a family. Both my sons were born when I was a young assistant attorney general and are now 30 and 34 respectively and recently married. My husband and I moved back into New York City from the suburbs a few years ago. I love the theater and museums as well as the diversity and energy of New York City. My hobbies include reading and cycling. In the fall, my husband and I biked in Puglia, Italy and are looking forward to our upcoming trip in New Zealand.