# Office of Attorney General Terry Goddard

**STATE OF ARIZONA**
**DEPARTMENT OF LAW**
1275 W. WASHINGTON STREET
PHOENIX, ARIZONA 85007-2926
**WWW.AZAG.GOV**

**ANDREA M. ESQUER**
**PRESS SECRETARY**
PHONE: (602) 542-8019
CELL PHONE: (602) 725-2200

**FOR IMMEDIATE RELEASE**

## Court Orders Realty Firm to Pay $1.2 Million for Violating Fraud, Banking Laws

(Phoenix, Ariz. – May 29, 2008) Attorney General Terry Goddard and Department of Financial Institutions Superintendent Felecia Rotellini today announced that Maricopa County Superior Court Judge Edward Burke has ruled that Virtual Realty Funding Company (VRF) and its owner Kenneth D. Perkins violated the Arizona Consumer Fraud Act and state banking laws and ordered them to pay $1.2 million in restitution and civil penalties.

In 2005, the Attorney General's Office filed a consumer protection lawsuit against VRF after receiving multiple consumer complaints. The company advertised that it could help homeowners who were behind in their mortgage payments avoid losing their homes. In fact, the transactions offered by VRF were structured so that homeowners would transfer title to VRF or sell the home to a business associate of the company.

"This case represents the worst in our community," Goddard said. "This company took advantage of homeowners desperate to save their homes from foreclosure and deceived them into turning over their homes."

"The Department of Financial Institutions applauds this court's order," Rotellini said. "The message is clear: Obey the law or you will be held responsible."

According to court documents, although neither VRF nor Perkins were licensed by the Department of Financial Institutions as mortgage brokers or bankers, VRF loaned money to more than 60 homeowners facing foreclosure or in need of money. VRF designed its loans, which it called reverse sales, to evade laws protecting mortgage borrowers by structuring them as an outright sale of the property by the borrower, who then rented back the home with an option to repurchase it.

The reverse sale agreements required homeowners to rent back their homes from VRF for a monthly amount equal to the monthly mortgage payment plus an additional charge. In the case of one homeowner, the monthly mortgage payment was $613 and the additional charge was $157, making a monthly rental payment of $770. In return for

"helping" the homeowners keep their homes, VRF agreed to transfer title back to the homeowner through a warranty deed if the homeowner met specific conditions. Conditions included the payment of all rent on time (and prior to a specified date, payment to VRF for bringing the mortgage current), unspecified escrow fees and a "funding fee," which was at times as high as $9,000. If homeowners were late on a rental payment or unable to repay the loan and funding fee within two years, they could lose their homes and any equity in them.

In an order issued by Judge Burke, Perkins and VRF are forbidden from:

- Advertising or making any mortgage loan, regardless of how characterized, unless licensed as a mortgage broker or mortgage banker by the Arizona Department of Financial Institutions.

- Participating in reverse sale or similar sale-leaseback transactions with a repurchase option involving residential real estate.

- Making any false, misleading or deceptive statements in connection with the sale or advertisement of any product or service that is connected to a transaction involving real estate, mortgages or loans.

The court ordered Perkins to pay $620,000 in civil penalties for violating the Arizona Consumer Fraud Act and Arizona banking laws and $611,950 in restitution. James A. Busche, the Tucson agent for VFR, was ordered to pay $10,000 in civil penalties.

This case followed investigations conducted by the Department of Financial Institutions, the Department of Real Estate and the Attorney General's Office. A copy of the order is attached. Assistant Attorney General Bob Zumoff handled this case.

###