

Last week's "Foreclosure Nightmare Continues" explained how Attorney General (AG) John Suthers' office has threatened charges against homeowner George Castro for signing an affidavit claiming representatives of the AG misused the power of that office to convince him and brother Luis to testify against Sherron Lewis. The three men established a business arrangement whereby housing advocate Lewis became part owner of the Arvada home in question. Mike Saccone, AG spokesman, called the Castro document "patently false" and in contradiction to the testimony the brothers gave last year when Suthers pursued allegations of foreclosure fraud against Lewis.

Days after informing the AG of the affidavit, DWN learned that the Castro's attorney Matthew Aguero and the home's realtor contacted the brothers about it. George said Aguero expressed anger about them signing the document and told them if they continued working with Lewis, he would cease representing them. When DWN called him days later, he acknowledged he no longer counted the Castros as his clients and declined to discuss anything about the case or reveal who informed him of the affidavit. Saccone, on the other hand, did explain that the AG's office contacted Aguero to ask if he helped prepare it.

The realtor, who did not want his identity revealed, told DWN a woman from the AG's office called him about the affidavit but he refused to give her name. He said "forces beyond his control" have power over the entire situation but he believes Suthers' representatives genuinely attempted to help the Castros.

George had a different understanding, however, after Aguero told him the Attorney General will now seek criminal charges of perjury against him. "I don't understand what I lied on," George said. He holds power of attorney for his quadriplegic brother and only signed the 2010 AG affidavit on his brother's behalf. He holds no hard feelings for Aguero or Lewis but said he's a victim in between all parties.

AG involved in 'civil conspiracy'?

The AG's office did not con-

"Property Scheduled for Foreclosure Auction"

Owners say sale will violate state law

By Adeeba Folami
(Part 3 of 3)

firm or deny that one of their representatives contacted the realtor, although Saccone did stress that Suthers stands by all actions, filings and victim testimonies against Lewis, who said there are signs of a "civil conspiracy" in effect, evidenced by the attorney general initiating contact with the realtor about the affidavit.

He stands firm in his argument that he has done nothing wrong and explained he only took ownership interest in the home because such arrangement made it possible for him to "be able to go into court and talk about the foreclosure. "It wasn't to take 50% of anybody's house."

He describes himself as the victim of a witch hunt just as several US attorneys found themselves the target of baseless charges in 2007 from the office of then-US Attorney General Alberto Gonzales who served under President George Bush. Gonzales later resigned over the scandal and lack of trust many had in his ability to properly use the power of his office. "The situation with Gonzales is the most classic example of people of power running amuck of their position. The AG's office here did the exact same thing," Lewis said. "They orchestrated this whole thing and then spoon fed it to the media and that's when the damage was done," he added, referencing the many news outlets the AG's office released information to regarding his case and that resulted in online and print stories published all over the country. "All of this was based on their creation of a crime that did not exist. Nobody came to the AG's office complaining. They went out and sought individuals and then coerced them to say certain things."

The Castros experienced shock and confusion over the tactics of the AG and his employees. "They're like the elite," George said. "We expect for them to

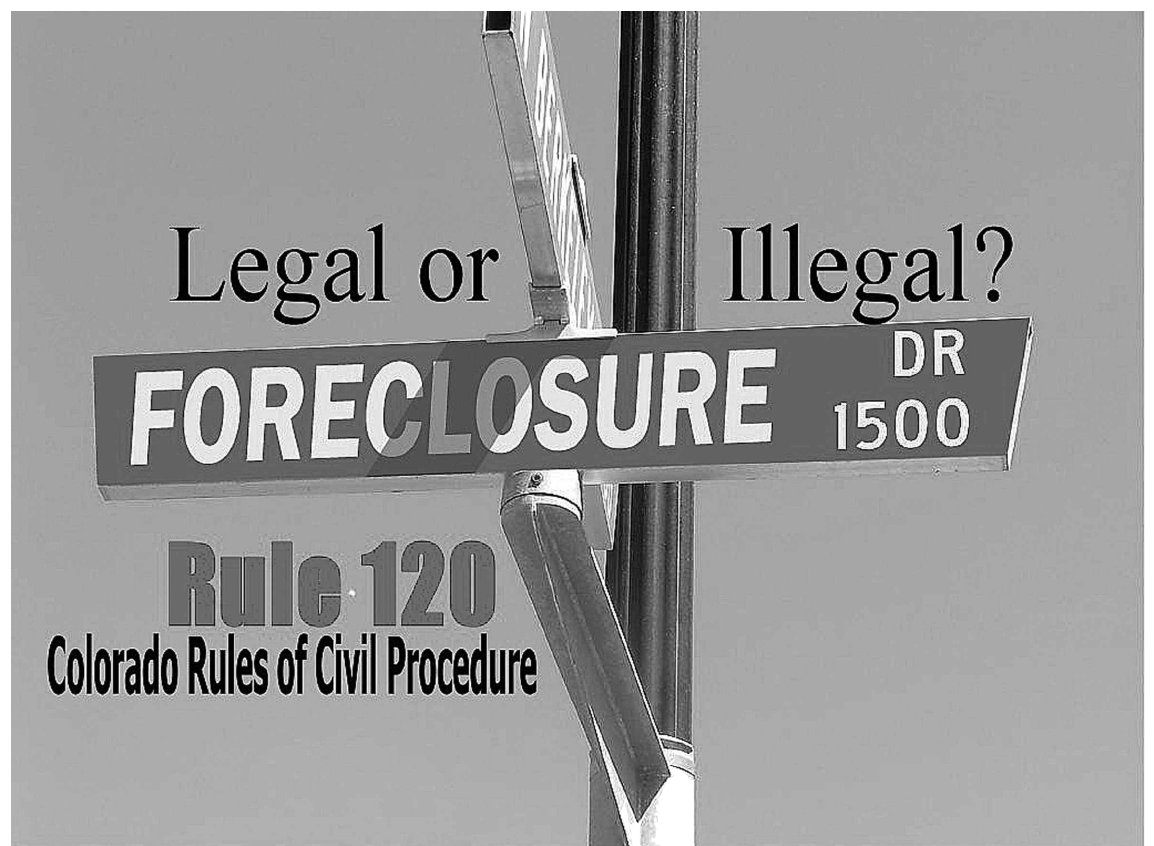
stop crimes and instead they're committing crime." He went on to advise other homeowners to learn the basics of the law to prevent others from taking advantage of them. Lewis finds it important that the public know how Suthers, the "chief law enforcement officer" in the state,

Leff, Purvis & Payne law firm, told DWN correction of deed errors must take place via filing of an Affidavit of Scrivener's Error. According to Jefferson County property records, filing of this affidavit has not taken place to amend the errors on the Castro's original

form on record in the Castros case, he said those attempting to foreclose will have a problem proceeding. "You shouldn't be able to foreclose on the incorrect property."

Although he does not handle as many cases as the larger foreclosure firms, Payne has come across several instances over the past few years that required filing of the Scrivener's Error Affidavit. "I just signed one this morning where the actual address was different in two different locations on the document," he said.

In addition to the lack of filing of this affidavit, no Rule 120 hearing has been held as required by state law in Colorado



The home owned by George and Luis Castro and Sherron Lewis is scheduled for foreclosure sale on June 22, however, a "Rule 120" hearing has not been held as required by law. The Colorado Revised Statutes refer to this guideline; one of many outlined in the state Supreme Court's Rules of Civil Procedure related to "Court Proceedings and Sales Under Powers." Without this hearing, an order authorizing sale cannot be issued and the homeowners intend to challenge the validity of any foreclosure action.

and his representatives have engaged in "outrageous conduct" and even with cooperation from Aguero and the realtor.

Foreclosure sale scheduled

The Arvada home owned by the three men remains in process of foreclosure, a sale date set for June 22. Due to the incorrect address on the deed of trust, however, it appears that no legal foreclosure or sale can take place until correction of the mistake. Mark Payne of the Winzen-

deed of trust.

It appears the only 'correction' made came in the form of Judge Christie Phillips who, in a Dec. 2010 order, declared the deed "should be reformed to correct the scrivener's error," but Payne explained it takes more than that to, according to state law, fix a mistake on a deed of trust. Lenders typically file the Scrivener's affidavit, he said, and after that, the document must go on file with the Clerk & Recorder's office. Without that

Revised Statute 38-38-105. Public trustees can only receive authority to sell a house in foreclosure upon issuance of a judge's order through this hearing. Lewis said neither he nor the Castros received notification of any hearing nor did they attend one which means, he added, that if a sale occurs, it will fall in the category of an illegal action by the Jefferson County public trustee.