

Legalizing Crime in Washington: The Windermere Prototype

"Modern societies generally regard crimes as offenses against the public or the state . . ."



Rape, Robbery, Murder, and Deceit

None of it offends Washington Attorney General Rob McKenna and the Department of Licensing (DOL) too much. James Bondsteel, convicted for murdering his roommate in 1992 and imprisoned for four years, was issued a real estate license by DOL. In April, 2011, he was on trial again for kidnapping, assault, and attempted rape in Colorado. Some months after he was charged, DOL revoked his license for "10 years"! Watch for Bondsteel showing up in your house in 2020.

Nick Granly, convicted of robbery and theft and involved in a shotgun standoff with the Spokane Sheriff's Dept., holds a real estate license and now works for Windermere in Spokane. Put your house on the market, and Granly has a key to your door. *Welcome to McKenna's consumer-friendly State of Washington.*

The Great Pretender: Rob McKenna poses as a consumer advocate. He clobbers small-time scam artists and issues big press releases about his daring-do. But when powerful corporations crush consumers and corrupt regulators allow it, does McKenna leap into action? No way. He protects big money and corruption.

McKenna's Complicity: Courts have repeatedly found Windermere agents in violation of their fiduciary duty and the Consumer Protection Act ("unfair and deceptive practices"). Even so, the DOL refuses to sanction the culprits and allows them to continue. Though other companies are disciplined regularly, DOL never touches Windermere.

Rob McKenna is legal advisor to DOL. Complain to McKenna about DOL's refusal to enforce the law, and his office will tell you that enforcing the law is an "option" for DOL. That's not true. DOL does not have such an "option" in statutory law (RCW18.85.041) or case law. Moreover,

Windermere, the largest real estate firm in the Northwest and a company of immense wealth, was founded by banker John Jacobi and is owned by the Jacobi family. The Jacobi family portrays Windermere as a good citizen. Windermere boasts of sponsoring sporting events (the Windermere Cup), the arts, a program to benefit the homeless, and other community services. Of its business ethics, it claims "The highest ethical standards. Uncompromising honesty and integrity."

But Windermere's charity, like its claim about its business ethics, are public relations gimmicks: They are masks to hide its true nature.

Why Windermere's Predatory Business Plan Succeeds

Windermere knowingly allows unscrupulous agents to prey on trusting customers. When a customer complains, Windermere turns the matter over to the Demco Law Firm, which boasts of being "strong anti-settlement." No matter what the agent has done, Demco lawyers refuse to handle the complaint amicably. They force their customers to eat their losses or sue.

When the customer sues, Windermere uses "scorched earth" legal tactics to send the customer's bills through the roof. If the customer can't continue to pay his lawyers, Windermere offers to settle for a pittance and demands an onerous secrecy agreement that the Demco lawyers call the "Dark Clause." The Dark Clause strips the customers of free speech rights and keeps Windermere's business practices secret.

If the customer wins in trial court, Windermere appeals to the Court of Appeals and often to the Supreme Court, continuing its scorched earth legal strategy. (The legal bills of the present writers, Mark and Carol DeCoursey, now stand at about \$750,000.)

Meanwhile, the Department of Licensing, informed of the agent's conduct either through a written complaint or through court decision, refuses to sanction the culprit, the broker, or Windermere, and allows them to continue. The Attorney General backs the DOL.

Finally, the mainstream Washington media refuse to cover the story. And Windermere continues to harm the public but keeps on raking in the money. What a business plan!

Is it any wonder Windermere boasts of the political influence of its founder, John Jacobi?

Is This A Crime?

"Modern societies generally regard crimes as offenses against the public or the state, as distinguished from torts (offenses against private parties that can give rise to a civil cause of action)."

<http://en.wikipedia.org/wiki/Crime>

That is, Windermere and the corrupt bureaucrats in the DOL and Attorney General's office are committing offenses against state law and the public: They are committing crimes.

The Meth Lab House & Other Cases

In each of the cases below, the victims were forced to sue. Windermere lost in trial. Then Windermere appealed (sometimes all the way up to the Supreme Court) and lost again. The victims have repeatedly asked DOL to correct the agents but except where noted, DOL has refused. And DOL has **never** sanctioned Windermere or its brokers. Thus the trusting public is swimming in shark-infested waters but does not know it. That's good for Windermere and the Jacobi profit margin, but not good for the public.

the law ultimately puts all DOL's legal and disciplinary powers in the hands of the Attorney General. (RCW 18.85.420).

To reporter Carol DeCoursey, McKenna admitted he knows about Windermere's abuse of the law and DOL's refusal to enforce the law, but said he will do "absolutely nothing" about it.

McKenna's office also made it clear to Carol and her husband that if they tried to use the courts to force DOL to obey its mandate (enforce licensing laws), McKenna would defend the DOL in court.

Thus McKenna legalize crime by giving it the color of law.

How far will the AG go to defend criminality in government? Read on!

McKenna Defends Extortion: In 2005, after Redmond CPA Ed Clark blew the whistle on a dishonest CPA, the Accountancy Board attempted to extort Mr. Clark into silence. Despite the iron-clad facts, McKenna defended the Board; Clark had to spend \$800,000 of his own money and years of his life defending himself from the AG's legal machine.

McKenna's excuse? He'll tell you he is compelled to defend state officers. But that's not true, and he knows it.

In *Dunbar v. Board of Equalization*, the Supreme Court made it clear the AG must not sit "supinely by and allow state officers to violate their duties. ... [The AG's] paramount duty is made the protection of the interests of the people of the state, and, where he is cognizant of violations of the constitution or the statutes by a state officer, his duty is to obstruct and not to assist; and where the interests of the public are antagonistic to those of state officers, or where state officers may conflict among themselves, it is impossible and improper for the Attorney General to defend state officers." 140 Wash. 433,249 P. 996 (1926)

McKenna knows about the *Dunbar* ruling because he himself cited the case in his dispute with Public Lands Commissioner Peter Goldmark. See pg. 14 of McKenna's October 8, 2010 pleading to Supreme Court. McKenna is defending violation of the law, in dereliction of his duty to the people to uphold the law.

"Organized Crime refers to those self-perpetuating, structured, and disciplined associations of individuals, or groups, combined together for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while protecting their activities through a pattern of graft and corruption." — [Internal Revenue Service Manual 9.5.6.1.1 \(07-29-1998\)](#)



Family Values? Jill Jacobi and her father, John, Windermere's founder (left). The Jacobi family plays at being nicey-nice philanthropists. But they destroy people's lives, homes, and savings to get rich. **Vila Pace-Knapp** (right) is a Jacobi family victim. Vila was newly divorced,



unemployed, caring for her disabled son, and her home close to foreclosure when one of the Jacobi's Windermere agents pressured Vila to let him "save" her home. Two years later, Vila's home belonged to the agent, who evicted Vila and her son. Vila, too, was forced to sue. *Where is that Jacobi philanthropy when you really need it?* The agent, Dick Pelascini, is now an associate broker with Windermere Bellevue Commons. He has never been sanctioned by DOL.

Endicott v. Saul, Gabelein. John Demco is/was Windermere's top lawyer, and also a Windermere broker and franchise owner on Whidbey Island. Two of his agents gained the complete trust of Emma Endicott, a mentally confused elderly widow who owned 29 acres of Whidbey Island waterfront-view property. They persuaded her to sell parcels to them and their relatives at prices far below market value. When Emma's sons found out and objected, Demco told them the sales were final. The sons had to sue. Demco defended the agents and lost at trial; Demco appealed and lost again. Despite urgings by the Endicott's lawyer, no one from Windermere was disciplined by DOL. Perhaps this is not surprising. Windermere's Demco is so "connected" that DOL has twice asked him to rewrite Washington real estate laws. At the same time, the Demco firm represents Windermere agents before DOL disciplinary authorities. (And Gabelein and Saul now own their own realty.)

Bloor v. Miller of Windermere/Allen & Associates. Lance Miller (and his broker) knew the house had been used as a meth lab, but lied to the Bloors to make the sale. When the Bloors moved in, discovered the truth, and contacted the Health Department, the Health Department made the Bloors move out with only the clothes on their backs. They lost all other possessions, including the childhood photos of their kids. The agent, broker, and Windermere have not been censured by DOL.

Ruebel v. Eppig of Windermere/Camano Island. Sonya Eppig knew that the seller had done renovations without permits, had botched the job, and then disguised the defects. But Eppig lied to the Ruebels to get the sale. The seller had damaged the house so badly, the only remedy was to raze it and rebuild. It was only after much lobbying by Victims of Windermere that Eppig was given a 90-day suspension. DOL did not censure her broker or Windermere. Eppig is now back selling for Windermere.

DeCoursey v. Stickney of Windermere/SCA Inc. The house was well located, but dark and dreary; the DeCourseys did not want to buy it. Stickney said the house could be affordably renovated, and called in "the best" contractor to help evaluate that task. Based on Stickney's work-up, DeCourseys bought the home and hired the contractor. The contractor destroyed the home's structure and value. DeCourseys then discovered Stickney and the contractor were business partners; the contractors' earnings went to support their land speculation deal. The DeCourseys' legal expenses so far stand at about \$750,000. Stickney has never been sanctioned by DOL and is still selling for Windermere.

Amicus Curiae Brief. The Ruebels and the Bloors filed an *amicus* brief urging the Supreme Court not entertain Windermere's appeal in the DeCoursey case. They cited their own experiences with Windermere's litigation attrition warfare. Atty. Lohnes of Talmadge/Fitzpatrick wrote: "[Windermere is] keeping with its history of pursuing implacable, take-no-prisoners litigation against its clients . . ." The Supreme Court accepted the Ruebel/Bloor brief and rejected Windermere's petition.

Copyright, 2011, [Washington Messenger](#), Mark & Carol DeCoursey