

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

OFFICE OF THE ATTORNEY GENERAL,  
THE STATE OF FLORIDA,  
Department of Legal Affairs, and  
THE STATE OF CONNECTICUT,  
Office of the Attorney General,

Case no. 8:14-cv-1825-T30-MAP

Plaintiffs,

BERGER LAW GROUP, P.A., et al.,

Defendants.

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**RECEIVER'S INITIAL REPORT**

Mark J. Bernet, as Receiver for Berger Law Group, P.A., Litigation Law, LLC, The Resolution Law Group, P.C., and The Resolution Law Center, LLC (hereafter the "Receiver") files his initial report.

I. **PROCEDURAL BACKGROUND**

The Plaintiffs Florida and Connecticut Attorney General Offices (the "AG Offices") commenced this case by filing their Complaint (doc. no. 1) on Tuesday, July 29, 2014, alleging that the Defendants had operated as a legal "enterprise" that "generated millions of dollars in illegal upfront fees by convincing consumers to pay for the opportunity to be included as a plaintiff in . . . so-called 'mass-joinder' lawsuits against their mortgage lenders." The AG Offices alleged that the "enterprise" falsely promised that the lawsuits would induce banks to give consumers mortgage modifications or other forms of foreclosure relief. The AG Offices further alleged that consumers were charged an upfront fee of typically \$6,000, characterized as an "investigation fee," and then a \$500 monthly maintenance fee. The AG Offices claim that the actions of the Defendants (i) constitute unfair and deceptive trade practices that violate Chapter

501, Part II, Florida Statutes and Conn Gen. Stat., Chapter 735a, and (ii) violate the Mortgage Assistance Relief Services Rule, 12 CFR Part 1015 (2012) (“Regulation O”). As relief, the AG Offices requested the appointment of a receiver over the non-individual defendants, a preliminary and a permanent injunction enjoining the Defendants from further violations of state and federal law, and other relief designed to provide restitution to consumers.

On August 1, 2014, this Court entered its *Ex Parte Temporary Restraining Order with Asset Transfer Restrictions and Partial Asset Freeze, Appointment of Temporary Receiver, and Other Equitable Relief and Order to Show Cause why a Preliminary Injunction Should Not Issue* (the “TRO”). In the TRO, the Court enjoined the Defendants:

- from making representations about the likelihood of their success in obtaining mortgage loan modifications to reduce consumer’s mortgage payments or interest rates or help consumers avoid foreclosure;
- from making representations concerning the degree of success that any Defendant or other person has had in performing any mortgage assistance relief service;
- from making any representation concerning the nature of any of the Defendant’s relationship with any mortgage loan holder or servicer;
- from making representations concerning the amount of time it would take or is likely to take to obtain or arrange a renegotiation, settlement, modification, or other alteration of the terms of any secured or unsecured debt, including mortgage loans;
- from a host of specific actions specifically proscribed by Regulation O, and it also enjoined the Defendants from asking for or receiving any advance or maintenance fee for mass-joinder or related suits or proceedings;

- in the case of the Defendants Berger Law Group, P.A. and The Resolution Law Group, P.C. (the “Law Firm Receivership Defendants”), from transferring, spending or otherwise dissipating any of their Assets, including in particular funds in their possession, outside of the ordinary course of business; and

- in the case of the Defendants Litigation Law, LLC and The Resolution Law Center, LLC (the “Non-Law Firm Receivership Defendants”), from transferring, spending or otherwise dissipating any of their Assets, including in particular funds in their possession.

In addition, in the TRO the Court appointed Mark J. Bernet as receiver for the Non-Law Firm Receivership Defendants and for the Law Firm Receivership Defendants (together the “Receivership Defendants”). The Court directed the Receiver, among other things: (i) to assume full control of the Receivership Defendants by removing, as the Receiver saw fit, any officer, director, independent contractor, employee or agent from control, management of, or participation in the affairs of the Receivership Defendants; (ii) to take exclusive custody, control and possession of all Assets and Documents (both defined terms) of the Receivership Defendants; (iii) to take all steps necessary to secure the business premises of the Receivership Defendants; (iv) to conserve, hold and manage all of the Assets of the Receivership Defendants, and (v) to perform all acts necessary or advisable to prevent loss, damage or injury to consumers or creditors of the Receivership Defendants. As discussed more fully below, the Receiver attempted to interpret the provisions of the TRO (i) authorizing the Law Firm Receivership Defendants to continue to operate their businesses and utilize their funds for that purpose, but (ii) prohibiting them from collecting funds, or wasting their Assets.

Subsequently, by orders entered August 22, 2014 (doc. no. 42) and September 15, 2014 (doc. no. 48), the Court converted the TRO into a preliminary injunction, containing essentially the same terms as were contained in the TRO.

In addition, on August 22, 2014, the Plaintiffs filed an amended complaint (doc. no. 41) to add as additional defendants Stephen R. Kopolow, P.C., a Nevada professional corporation, Stephen Kopolow, Onisak, LLC, a Nevada limited liability company, Remarque Holdings, LLC, a Nevada limited liability company, Christopher Wright Fox, a/k/a "Kit" Wright, and Philip Kramer, a disbarred California attorney also known as "Bill Goodman." The new defendants are not, as of yet, included in the receivership.

## II. EVENTS OF RECEIVERSHIP

### A. Preparations for Taking Possession of Business Premises

The Receiver was notified of his appointment during the morning of August 1, 2014. He arranged to meet with the attorneys for the Plaintiff AG Offices in the afternoon to obtain copies of the Complaint, the Motion for TRO, and the TRO, and to make arrangements to take immediate access of the offices of the Defendant The Berger Law Group, P.A. ("BLG"). From the pleadings and other materials, the Receiver learned that the Receivership Defendants and the individual defendants Berger, Broderick, DiGirolamo, and Friedman were alleged to be engaging in an advance fee mortgage assistance relief service business in offices located in Florida, Connecticut, California and Nevada. BLG operated from offices located at the Transworld Center, 4100 W. Kennedy Boulevard, Suite 300, in Tampa (the "Transworld Offices"); in accordance with the provisions of the TRO, the Receiver determined that he would take possession of those premises, and remove their officers, managers and employees from the Transworld Offices, as necessary, to assure that the Receivership Defendants ceased performing

the acts enjoined under the TRO. The Receiver's specific objectives in taking possession of the Transworld Offices were as follows:

1. To take possession of the Receivership Defendants' business premises and to evaluate the nature of their business practices.
2. In the event the Receiver concluded that the Receivership Defendants were operating or had operated their businesses in violation of applicable law, to cause them to cease doing so.
3. To remove the management of the Receivership Defendants from the business premises, as necessary after evaluating the specific situations.
4. To secure the Receivership Defendants' business premises and their property located therein.
5. To take an inventory of the property located at the Receivership Defendants' business premises.
6. To determine whether all of the employees of the Receivership Defendants were necessary, and if not, to terminate their employment.
7. To take control of all of the Non-Law Firm Receivership Defendants' bank accounts and accounts receivable, and to establish procedures over the Law Firm Receivership Defendants' continued use of the Law Firm Receivership Defendants' bank accounts.
8. To provide notice to the clients of the Receivership Defendants of the lawsuit and of the TRO.
9. To otherwise comply with the TRO.

B. Taking Possession of Business Premises

The Receiver took possession of BLG's business premises at approximately 3:30 p.m. on Friday, August 1, 2014, with the assistance of the Hillsborough County Sheriff's Department and the Tampa Police Department. Representatives of the Plaintiff AG Offices also were present, as provided for in the TRO. Also, the Receiver was accompanied by computer forensic specialists, whose roles are discussed below. At that time, the Receiver discovered that BLG had operated as the Resolution Litigation Group, P.C., until early 2013, when the Defendant Berger formed BLG, which assumed most of the clients of the Defendant The

Resolution Law Group, P.C. ("RLG"), a Connecticut law firm owned and controlled by the Defendant Broderick. The Individual Defendant Berger was present at the Transworld Offices at the time the Receiver took possession, as was the Individual Defendant Friedman. Berger was served with original process (summons and complaint) and a copy of the TRO for Berger personally and for BLG, while Friedman was served individually and as a managing member of the Non-Law Firm Receivership Defendant Resolution Law Center, LLC.

The Transworld Offices consist of a reception area, a small kitchen, a small office for support staff, a large telemarketing "boiler room," and a separate office for Berger. The "boiler room" was set up with work stations computers and telephones. Two telemarketers were present, but claimed that they were not selling legal services. Berger's office overlooked the "boiler room." Friedman and Berger both had desks in Berger's office. There is only one door for entry into the Transworld Offices.

Immediately after securing the facility, the Receiver directed the computer forensic specialists to shut off all outside access to the companies' computers and telephone systems. The computer forensic specialists also made "mirror image" copies of the electronic data stored on the companies' computer hard drives. Employees were asked to complete a brief questionnaire by providing their names and contact information, and then they were permitted to retrieve their personal effects. The sheriff's deputies and Tampa police officers assisted in maintaining order through this process. For the most part, the employees were cooperative.

The Receiver hired a locksmith, who changed the lock to the exterior door for the facility.

As noted, Berger was present at the building at the time the Receiver took possession. He was cooperative. He spoke at length about his perception of the business of

BLG. According to Berger, he had worked for Broderick's law firm, RLG, up through the end of 2012. At that time, Berger claimed he became uncomfortable with Broderick's treatment of the firm's clients; Berger claimed that Broderick did not show sufficient interest in advancing their claims. Berger claimed that he negotiated with Broderick to take over RLG's clients.<sup>1</sup> He was not clear as to the financial terms of this arrangement. As noted below, Berger legitimately did not know the financial condition of his law firm.

According to Berger, BLG and RLG obtained clients through internet marketing direct outbound telemarketing calls, and direct mail advertisements. The target audience was consumers who were having difficulties with their mortgage lenders or servicers. According to Berger, RLG and BLG did not propose to represent clients in connection with foreclosure defense actions or in seeking to obtain modifications to residential mortgage loans; instead, RLG and BLG told their clients and prospective clients that they could file a lawsuit against their mortgage lenders and servicers for damages. This attempted distinction is discussed below.

At the time that the Receiver took possession of BLG, Berger said there were 12 pending lawsuits in which BLG represented clients who were seeking damages from their mortgage originators or servicers.<sup>2</sup> All of the lawsuits were pending in state or federal court in New Jersey, and all included 60 or more individual clients as plaintiffs.<sup>3</sup> According to Berger, and also to Broderick and DiGirolamo,<sup>4</sup> the thinking was that there was "strength in numbers," and that by filing "mass joinder" lawsuits the plaintiffs would be more likely to be successful

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<sup>1</sup> As discussed, Berger's recollection on this point later changed. See note 21, *infra*.

<sup>2</sup> The nature and status of the lawsuits are discussed below.

<sup>3</sup> The initial lawsuit brought by RLG, *Abraham et al. v. American Home Mortgage Servicing, Inc., et al.*, no. 1:12-cv-04686-WFK-JMA, United States District Court, Eastern District of New York, included several hundred consumer clients as plaintiffs and several dozen mortgage originators and servicers as Defendants. By order dated May 23, 2013, the Abraham court dismissed the claims of all of the plaintiffs, save for Abraham, the lead plaintiff, for misjoinder of claims. The Court also dismissed the claims of Abraham for failure to allege fraud with particularity and for failure to state a claim upon which relief could be granted.

<sup>4</sup> The Receiver spoke with DiGirolamo on August 1, 2014, by telephone. The Receiver first spoke with Broderick several days later, again by telephone.

with their lawsuits. As discussed more fully below, however, RLG and BLG enjoyed little success in the lawsuits.

The Receiver also spoke with Friedman. Friedman, who is not an attorney, owned the Defendant The Resolution Law Center, LLC ("Resolution Law Center"), which did not provide legal services but which at one time had provided telemarketing services to RLG and BLG.<sup>5</sup> At the time, he had been evicted from his home and had stored his personal effects in a closet located in the Transworld Offices. Friedman told the Receiver that he provided management services to BLG, but the nature of those services, or their value, was never apparent to the Receiver. Friedman was paid \$5,000 per month by BLG, frequently in cash that was not reported as income in an IRS form 1099 or W-2 statement. Following his interview with the Receiver, the Tampa Police arrested Friedman on an outstanding arrest warrant.

The Receiver spent the bulk of the day and part of the evening reviewing documents and financial data and electronic records, and interviewing employees.

C. Investigation of Business Operations.

RLG and BLG marketed litigation services to individual consumers who were having difficulties with their mortgage originator or servicer. A significant number of the target-clients was in foreclosure or being threatened with foreclosure. RLG and BLG claimed that they did not offer to try to negotiate directly with the mortgage originators or servicers to attempt to resolve clients' particular problems nor, they claimed, did they offer to appear in a foreclosure action to defend the clients. Instead, they claimed that their clients could sue their mortgage originators or servicers under various legal theories, and that the result of such a lawsuit could be

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<sup>5</sup> Friedman claimed that Resolution Law Center is shut down.

(i) a money judgment, or (ii) modifications to the mortgage loans that would be beneficial to the clients.<sup>6</sup>

RLG and BLG charged clients an up-front fee of \$5,000 or \$6,000, and then a monthly maintenance fee of \$500. Billing was handled by Judy Miller, a bookkeeper who physically resided in Nevada (although her BLG e-mail account included only a Tampa address). Payments from clients for the most part were handled electronically, through credit card or ACH transfers. As discussed more fully below, however, Berger did not know how much money actually was generated by BLG, nor did he know how much BLG paid out to the various other Defendants.

Broderick is an attorney licensed in Connecticut, New Jersey and the District of Columbia. He served in the New York Army National Guard and attended Officer Training School. He graduated from law school in 2008. Broderick, who resides in California, created RLG as a Connecticut law firm in 2011, but RLG in fact maintained only a virtual office in Connecticut (i.e. it had no employees in Connecticut). As noted above, RLG marketed to individual consumers who had problems with their mortgage lenders and servicers, promising to sue mortgage lenders and servicers to facilitate a resolution of consumers' mortgage defaults. Marketing services were provided by Legal Intake Solutions, LLC, a Florida company owned by non-attorneys Michael Harper and Benn Willcox. Marketing services included inbound and outbound telemarketing calls and direct mail advertisements. In April of 2012, DiGirolamo and Kit Wright directed Broderick to hire Florida attorney Marc Hoffman to form The Residential

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<sup>6</sup> RLG and BLG frequently referred potential clients to a company called Free Fresh Start, which would perform a "forensic audit" of the potential client's mortgage loan. Not surprisingly, Free Fresh Start generally found that potential clients were good candidates for joining the mass-joinder lawsuits.

Litigation Group, P.A. to serve as the Florida operations of RLG.<sup>7</sup> Harper and Willcox claim that they chose to terminate Legal Intake Solutions' relationship with RLG in the summer or fall of 2012 because they felt that Broderick did not adequately represent RLG's clients; Broderick and DiGirolamo claim that they fired Legal Intake Solutions because Harper and Willcox engaged in marketing activities on behalf of RLG that had not been reviewed or approved by RLG and that were problematic.<sup>8</sup> Hoffman split from Broderick at the end of 2012 and changed the name from "The Residential Litigation Group, P.A." to "The Hoffman Law Group, P.A." On July 14, 2014, the federal Consumer Financial Protection Bureau and the Florida Attorney General's Office sued Hoffman Law Group, Hoffman, Harper, Willcox, and various other companies in a lawsuit styled *Consumer Financial Protection Bureau, et al. v. Michael Harper, et al.*, no. 14 CV 80931-COHN-SELTZER, United States District Court, Southern District of Florida.<sup>9</sup>

Berger is a Florida attorney with no reported disciplinary history. Berger was hired by Broderick and RLG in January of 2012 to work in the Florida operations of RLG as a Case Manager (he was technically employed by The Resolution Law Center, LLC). In that position, Berger did not practice law, but instead he interacted with the clients of RLG, keeping them updated as to the status of their litigation. From RLG's perspective, this was an essential part of the business, because in reality there generally was little progress to report in the various

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<sup>7</sup> At approximately the same time, RLG hired Friedman's company, The Resolution Law Center, LLC, to engage in telemarketing activities on behalf of RLG.

<sup>8</sup> DiGirolamo referred to Harper and Willcox as "a couple of cowboys."

<sup>9</sup> The plaintiffs' allegations in the *Harper* lawsuit are similar to those contained in this lawsuit. Specifically, the Defendants in the *Harper* lawsuit are alleged to have operated as an "enterprise" to generate illegal upfront fees by convincing consumers to pay for the opportunity to be included as a plaintiff in "mass-joinder" lawsuits against their mortgage lenders. According to the Plaintiffs in the *Harper* lawsuit, the enterprise accomplished this by falsely promising that the lawsuits would induce banks to give consumers mortgage modifications or foreclosure relief. The Plaintiffs specifically charged the Defendants with violating multiple provisions of Regulation O, 12 CFR Part 1015, and with violation of the Florida Unfair and Deceptive Trade Practices Act (Florida Statutes Chapter 501, Part II). The *Harper* court entered a temporary restraining order and appointed a receiver. The court subsequently converted the TRO into a preliminary injunction.

lawsuits, and clients would become frustrated and stop making payment. Berger developed a good relationship with many of the clients and regularly communicated with them by e-mail and by telephone, although he seldom had little to report in the way of progress. Clients with whom the Receiver has communicated uniformly speak highly of Berger.

Christopher Wright Fox, a/k/a "Kit Wright," resides in California. He is not an attorney. He was DiGirolamo's business partner, and with DiGirolamo made all executive decisions for RLG and BLG. There is no question that DiGirolamo and Kit Wright controlled RLG and BLG. In 2011, prior to his involvement with RLG and BLG, Kit Wright was arrested in California and charged with 37 felony counts relating to his alleged operation of a nationwide loan modification scam that allegedly defrauded consumers of over \$6 million. Kit Wright has posted a \$500,000 as bail, although upon learning of his actions as alleged in this lawsuit, the court hearing his criminal case has scheduled a hearing, to be held in November

Friedman is a citizen of, and resides in, Florida. He is not an attorney. He claims to have provided "management services" to BLG, and in fact Berger has paid Friedman by way of check and with cash that is not reported to the IRS as otherwise might be required. In the opinion of the Receiver, Friedman provided no useful services to BLG, but instead appears to be someone chosen by DiGirolamo to remain in Tampa to "keep an eye" on Berger and BLG. Friedman's company, The Resolution Law Center, LLC, provided telemarketing services to RLG and BLG, although Friedman claimed that it was not operating any business as of the commencement of the case. According to the secretary of state, its primary address was located in Brooksville, Florida, although Friedman admitted that it operated out of the Transworld Offices.<sup>10</sup>

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<sup>10</sup> Resolution Law Center, LLC, was involuntarily dissolved by the Florida secretary of state in September of 2012 for failure to file an annual report.

According to Berger, BLG had 700 to 800 clients. The Receiver has obtained access to Loan Post, BLG's client-file tracking software program, and confirmed that BLG in fact has 775 clients. These clients were "packaged" into groups of 40 to 99 plaintiffs who filed lawsuits against mortgage originators and servicers in New Jersey state court.<sup>11</sup> The 12 lawsuits that were pending as of the entry of the TRO are identified on the attached Exhibit "A." The Complaints filed by BLG and RLG were essentially the same in each case.<sup>12</sup> The first 150 or so numbered paragraphs identified each individual plaintiff and defendant. The next 225 or so numbered paragraphs are "boilerplate" allegations recounting the financial crisis of 2008, the federal programs designed to assist homeowners and banks, and generic allegations that the defendant mortgage originators and servicers engaged in tortious conduct and conspired among each other to engage in tortious conduct. The particular counts seeking relief rely upon (i) the New Jersey Consumer Fraud Act, (ii) Intentional Misrepresentation (which appears to be a species of a fraud claim), (iii) Negligent Misrepresentation, (iv) Negligence, (v) Slander of Title, (vi) Ejectment for Wrongful Possession (based on a New Jersey statute), (vii) Civil Conspiracy, and (viii) Unjust Enrichment. Few of the Plaintiffs are citizens of, or reside in, New Jersey. The Defendants are alleged to have engaged in tortious conduct in New Jersey, but few are alleged to be New Jersey companies or to have their primary office in New Jersey.<sup>13</sup> The Complaints are devoid of allegations of specific acts of particular Defendants that are alleged to constitute tortious conduct.

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<sup>11</sup> Berger, Broderick and DiGirolamo have never explained why the cases were filed in New Jersey, or why the cases included no more than 99 plaintiffs (after the initial Abraham case described in note 3, *supra*).. It is likely that New Jersey was the forum of choice because (i) Broderick is licensed to practice law in that state, and (ii) BLG's local counsel, Jeanne Lahiff, also is licensed to practice in that state.

<sup>12</sup> Broderick was counsel of record on all lawsuits that were initiated by RLG. In his deposition testimony, however, it was clear that he knows little about the particular theories of liability that are contained in the complaints he signed.

<sup>13</sup> There is little nexus to New Jersey as a forum.

As noted on Exhibit "A," most of the Complaints have been greeted with removal petitions from the Defendants, as well as motions to dismiss for failure to state any cause of action and for misjoinder. The Plaintiffs generally have sought to remand the cases to state court and, in fact, two (2) of the removed cases were successfully remanded. The motions to dismiss and to sever also tended to be granted, although this was not always the case.<sup>14</sup>

According to Berger, the lawsuits brought by RLG or BLG were not successful. None of their lawsuits resulted in judgments in favor of their clients, and Berger recalled only 2 instances in which RLG or BLG obtained a settlement with a mortgage lender. In both of the instances involving a settlement, the consumer client disputed that RLG or BLG had any role in obtaining the settlement.<sup>15</sup> The lawsuits were prepared in California by Janine Schatz and Anastacia Quirk Ellis, along with a person that Berger says he never met, named "Bill Goodman," who in reality is the Defendant Philip Kramer, an attorney admitted to the California bar in 1984 but disbarred in 2012. Goodman/Kramer was also a defendant in the California AG Lawsuit and is bound by essentially the same injunction as binds DiGirolamo.<sup>16</sup>

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<sup>14</sup> The plaintiffs in these mass-action lawsuits have no commonality, apart from having either had or obtained a mortgage loan from the defendants at some point between 2005 and 2012. It is difficult to understand any legal analysis that did not take into account the legal principles of misjoinder of parties or the single-action rule. Similarly, it is difficult to comprehend how multiple plaintiffs could pursue independent fraud claims, in a single action, where there were no particular allegations of specific fraudulent representations attributed to any single particular Defendant at any particular point in time. In the view of the Receiver, the lawsuits border on being frivolous. In making this statement, however, the Receiver advises the Court that his law firm represents banks and mortgage service companies that might be the target of these lawsuits. The Receiver denies, however, that his firm's relationship colors his opinion; instead, as an attorney, the Receiver believes that the lawsuits represent poor legal work product.

<sup>15</sup> Ocwen Financial was sued by 49 state attorney generals in federal court, charging the loan servicer with various violations of state and federal laws. Ocwen settled that particular lawsuit by agreeing to provide relief to its mortgage borrowers. RLG and BLG were engaged in litigation against Ocwen on behalf of their clients, and obtained settlements for two of their clients. It is not clear, however, that RLG or BLG had anything to do with the settlement.

<sup>16</sup> After he was disbarred and subject to a permanent injunction from the California AG Lawsuit, Kramer adopted the name "Bill Goodman," apparently so that he could engage in the enjoined conduct without detection. Broderick and DiGirolamo both knew that "Bill Goodman" was the disbarred Kramer, but they still intended to include him as an employee of RLG and BLG; in an e-mail from DiGirolamo to Broderick, sent on September 18, 2012, DiGirolamo wrote "Someone once said 'Life is to [sic] short, and Winter to [sic] cold, to go without Mink.' Well,

DiGirolamo had full access to all of the bank accounts of RLG and BLG. He obtained online passwords for BLG's and RLG's accounts, and he directed the disbursement of funds from RLG and BLG to his company, Litigation Law. Once the funds were in Litigation Law's accounts (the accounts were maintained at JP Morgan Chase), DiGirolamo used the funds as essentially a personal account. Between January 1, 2012, and June, 2014, DiGirolamo directed the transfer of over \$1 million from RLG and BLG into the JP Morgan Chase accounts owned by Litigation Law. Over that same period of time, DiGirolamo withdrew a total of approximately \$690,000 in cash, on over 200 different occasions, with the amount of each transaction being between \$500 and \$9,000. 24 transactions involved the purchase of certified checks. Approximately 20 checks, totaling over \$80,000, were written for cash. The balance of the cash transactions were over-the-counter withdrawals from the accounts. DiGiralomo had no credible explanation for withdrawing this cash; he claims he gave half of it to Kit Wright, but he has no documentary proof. DiGirolamo also used the Litigation Law accounts to pay for a myriad of personal items, such as Netflix and jewelry. Berger said that he was not aware of the true amount of the funds received by BLG, and that he was not aware of how much money DiGirolamo and others took.<sup>17</sup> BLG had an attorney trust account that it opened only a few months prior to the commencement of this lawsuit, but none of BLG's funds were deposited into this account.<sup>18</sup>

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right now, litigation is too demanding, and staff to [sic] thin, to go without Bill [Goodman]." Goodman/Kramer avoided service of process in this case until October 22, 2014,

<sup>17</sup> The Receiver has located e-mail communications between Berger and DiGirolamo in which Berger is essentially begging DiGiralomo to pay money to Berger for Berger's salary of \$10,000/month. The funds, however, all were the property of BLG, and there should have been no reason whatsoever for DiGirolamo to have control over the money.

<sup>18</sup> DiGirolamo claims that he simply followed orders from the attorneys Berger and Broderick. Berger and Broderick state that DiGirolamo, Kit Wright and Kramer/Goodman set up and ran the businesses. Broderick, in fact, stated that he feared physical violence from DiGirolamo and Kit Wright. Prior to forming RLG Broderick had no professional background whatsoever in bringing consumer mass tort claims, which is understandable given that at the time he was only three years out of law school. Broderick claims that he learned about consumer mass tort

Berger formed BLG in 2012 for the purpose of assuming the clients of RLG – not just Florida, but all clients. RLG and BLG did not consult with their clients to determine their preferences concerning the proposed transfer.<sup>19</sup> These clients are citizens of 43 different states, and as noted, Berger is licensed to practice only in Florida. To substitute as counsel for RLG, BLG entered into an "of counsel" relationship with Jeanne Lahiff, an attorney licensed in New York and New Jersey. Lahiff entered appearances on behalf of BLG's clients in the 12 New Jersey lawsuits. She signed all of the complaints filed by BLG, even though she never personally spoke to or communicated with any of the clients.<sup>20</sup> As mentioned, the Complaints and all of the other substantive legal papers were prepared by Kramer, utilizing the "Goodman" alias, with the assistance of DiGirolamo and Kit Wright; Lahiff signed and filed everything that was sent to her.<sup>21</sup> She also appeared at hearings.

Berger had little role in the actual law practice of BLG; instead, he devoted his time to communicating with clients. As noted above, Berger made it known to all of BLG's clients that he was an attorney, although he did not restrict his communications to Florida clients.

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claims from Kit Wright, and then subsequently DiGirolamo. In the Receiver's opinion, DiGirolamo's statements lack credibility, although the Receiver notes that, as attorneys, Berger and Broderick should never have allowed themselves to be misled by non-attorneys (or disbarred attorneys), particularly because of the damage caused to hundreds of consumer clients.

<sup>19</sup> Broderick claims that DiGirolamo and Kit Wright told him that he had to go along with the transfer, or else they would file grievances against him with state bar associations and make false allegations. Broderick claims that he was supposed to have received \$3,000 per month out of the transaction, but that in fact he received nothing. Berger initially told the Receiver that he had negotiated with Broderick to "take over" RLG's clients; he subsequently told the Receiver that he was told by DiGirolamo that he should form a new law firm to take over the clients. Like Broderick, Berger felt that he had no choice in the matter. Berger referred to DiGirolamo and Kit Wright as "the goons in California." Berger said that he also felt threatened; according to Berger, "[DiGirolamo] threatened to anonymously call various agencies on myself whenever I would disagree with him with false allegations. If I were to question where certain money was going, and demand that we let go of Phil Kramer, the same thing would happen. There was not one occasion, rather these threats were continuously made. In addition, [DiGirolamo] would harass me by calling me non stop and especially in the middle of the night . . . . He is a bully and was relentless unless he got his way."

<sup>20</sup> Lahiff maintains that she had no knowledge as to the merits of the lawsuits, or the substance of the factual allegations; in fact, it is doubtful that she even read the complaints prior to signing them.

<sup>21</sup> Like Berger, Lahiff said that she did not know that "Bill Goodman" in reality was Philip Kramer.

D. Shutting Down the Businesses

The TRO directs the Receiver to shut down the Receivership Defendants if the Receiver concludes that they are not operating in compliance with state and federal law. On this point, the Receiver carefully considered the nature of the businesses. All of the companies in receivership are dependent upon the revenues generated by RLG or BLG – the Receiver has been unable to locate any evidence that any of the Receivership Defendants derived any revenues from any other sources. The Plaintiffs allege that RLG and BLG were engaged in providing "Mortgage Assistance Relief Services," but that they did not comply with the Mortgage Assistance Relief Services Rule, generally referred to as "Regulation "O," 12 C.F.R. Part 1015 (2012). The Defendants, on the other hand, contend that they are not providing "Mortgage Assistance Relief Services" and that as a result they were not governed by Regulation O.

The Defendants seem to take the position that they offered to clients to sue mortgage originators and servicers under "mass action" theories to recover damages. Regulation O, is a rule that regulates "Mortgage Assistance Relief Services." Regulation O concerns the practices of for-profit companies that, in exchange for a fee, offer to work on behalf of consumers to help them obtain modifications to the terms of mortgage loans or to avoid foreclosure on those loans.

Under Regulation O, the term “Mortgage Assistance Relief Service” means any service, plan, or program, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- (1) Stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer’s dwelling, any repossession of the consumer’s dwelling, or otherwise saving the consumer’s dwelling from foreclosure or repossession;

(2) Negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;

(3) Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;

(4) Negotiating, obtaining, or arranging any extension of the period of time within which the consumer may:

(i) Cure his or her default on a dwelling loan,

(ii) Reinstate his or her dwelling loan,

(iii) Redeem a dwelling, or

(iv) Exercise any right to reinstate a dwelling loan or redeem a dwelling;

(5) Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or

(6) Negotiating, obtaining or arranging:

(i) A short sale of a dwelling,

(ii) A deed-in-lieu of foreclosure, or

(iii) Any other disposition of a dwelling other than a sale to a third party who is not the dwelling loan holder.

Thus, when determining whether the Receivership Defendants needed to be shut down, the Receiver analyzed whether they were governed by Regulation O, and if so, whether their operations complied with that rule. The Receiver's conclusions are (i) Regulation O applies to the businesses being operated by the Receivership Defendants, and (ii) the Receivership Defendants were not complying with the rule.

The Receiver considered whether the Defendants' stated business -- suing mortgage originators and servicers -- would be governed by Regulation O. In this case, however, it is clear that the objective of RLG's and BLG's business model was to sue mortgage lenders for the specific purposes of (i) obtaining mortgage loan modifications, (ii) postponing or setting

aside foreclosure judgments or sales, or (iii) otherwise to assist in the defense of mortgage foreclosure actions. The Receiver has communicated with dozens of RLG's and BLG's clients, many if not most of whom report that they contacted RLG and BLG Law to obtain assistance in dealing with a mortgage default or foreclosure lawsuit. Most of these clients were less interested in obtaining monetary relief from their mortgage lenders or servicers, but rather wanted to save their homes from foreclosure. Clients report that RLG's and BLG's representatives told them that by filing lawsuits, the clients could obtain leverage against their mortgage lenders and servicers that would help the clients' resolve foreclosure actions or obtain loan modifications. Significantly, the Receiver could not locate a single instance in which RLG or BLG obtained a judgment against a mortgage lender or servicer. The Receiver also reviewed a number of mailers sent by RLG and BLG that advise consumers that by joining a mass-action lawsuit consumers could receive "a reduction or forgiveness of loan," and a "reduction of interest and payment" on the mortgage loans. Additionally, the following appears on the website of RLG and BLG:

### **Potential Case Outcomes**

Counsel cannot and will not provide a guarantee of any specific outcome. Litigation is a calculated decision based on various case and legal precedence. We feel the preceding cases carry extreme merit that may carry the following potential outcomes:

- Pre trial Settlement
- Amnesty Program
- Full Lien Strip

### **Pre trial Settlement**

After each client joins the mass tort action the lender will receive a customized pre-trial settlement demand, approved by the client. Generally, clients authorize a demand that includes terms like:

- Principal loan balance reduced to 70% of current market value.

- Interest rate reduced to 2% fixed for life of loan

## **Potential Case Outcomes**

### **Full Lien Strip:**

This might result only if the lawsuit goes to trial. Remember, banks are villainized [sic] in today's society for leading the economy into this mess. If this goes to a jury trial, banks would be hard pressed to find a jury that would not be sympathetic to homeowners and they would be held accountable for the bad mortgages that were written and the unresponsiveness they had in providing financial [sic] relief to homeowners.

The Receiver found it particularly troubling that DiGirolamo and Kit Wright were the driving forces behind RLG and BLG. Despite not being attorneys, they created and implemented the "business model" of the law firms. They were able to do this, in large part, by dominating, bullying and deceiving Broderick and Berger, the attorneys, neither of whom have strong personalities.<sup>22</sup> The Receiver has concluded that "the business model" was to target consumers who were in foreclosure or who otherwise were having problems with their mortgage lender and charge an upfront fee and monthly maintenance fees based on statements designed to cause the consumers to believe that their mortgage loans could be modified or reinstated. The business model also focused on stringing clients along as long as possible so that RLG and BLG could continue to obtain the monthly maintenance fees. Given all of this, the Receiver believes that the business of RLG and BLG is governed Regulation O.

The Receiver also has concluded that RLG and BLG, along with Berger, Broderick, DiGirolamo, Kit Wright, and the other defendants did not comply with Regulation O.

Regulation O:

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<sup>22</sup> Broderick said that he felt physically intimidated by DiGirolamo and Kit Wright. He said that the decision to transfer clients from RLG to BLG was made by DiGirolamo and Kit Wright. He said he resisted this, but that he felt compelled to proceed with it because DiGirolamo and Kit Wright threatened to report him to state bar regulatory authorities and make false reports against him. Berger was not aware that "Bill Goodman," who provided most of the substantive legal work for BLG, was in reality the disbarred attorney Philip Kramer, until after the time RLG transferred its clients to BLG. Berger also claimed that DiGirolamo directed him to form BLG and assume all of the clients of RLG. See note 21, *supra*.

1. Prohibits providers of Mortgage Assistance Relief Services from making false or misleading claims.
2. Requires that providers disclose certain information about these services.
3. Bars the collection of advance fees for these services.
4. Prohibits anyone from providing substantial assistance or support to another they know or consciously avoid knowing is engaged in a violation of the Rule.
5. Imposes recordkeeping and compliance requirements.

RLG and BLG made false and misleading claims concerning their experience and ability – their "litigators," Broderick and Lahiff, had essentially no experience in litigating mass-joinder consumer claims against mortgage originators and servicers, a fact that is contrary to the representations made. RLG and BLG charged and collected advance fees for their services. While Regulation O recognizes an exception for attorneys, that exception applies only if the attorneys are licensed to practice law in the state in which the client is located or in which the consumer's home is located. Also, if an attorney collects an advance fee, the funds must be deposited into a trust account prior to performing any legal services, and then funds can be paid to the lawyer only as permitted under state law. RLG and BLG Law failed to comply with either of these conditions.

Also, neither RLG or BLG remained economically viable after the entry of the TRO. The TRO allowed those law firms to continue to operate, but it effectively precluded them from collecting revenues from their clients. Without revenues, neither company could operate.

Accordingly, the Receiver concluded that RLG and BLG, with the assistance and at the primary direction of DiGirolamo and Kit Wright, as well as Broderick and Berger, were operating in violation of federal law. The Receiver also concluded that RLG and BLG could not be rehabilitated or operated in a fashion to comply with federal law, for the reason that the business model relied on revenues from new clients and existing clients that could not and

cannot be collected without violating federal law. In making these conclusions, the Receiver gave significant weight to the fact that DiGirolamo and Kit Wright are actually running and in control of RLG and BLG. For these reasons, the Receiver has chosen to shut down the business operations of the Receivership Defendants.

E. Removing Management and Securing Business Premises

Upon taking possession of the Transworld Offices the Receiver directed that all employees vacate the premises (they were permitted to retrieve personal belongings). The Receiver coordinated steps to secure the assets of the Receivership Defendants, including changing the locks. However, the Court's TRO did not automatically direct that RLG and BLG cease operating, and so Berger was given a key so that he could continue to have access to the offices. Also, because of the specific language of the TRO, outside access to the electronically-stored information was not eliminated, so that RLG and BLG's employees still had access to that information. However, the TRO effectively precluded RLG and BLG from collecting any revenues from their clients, and the companies therefore quickly ran out of cash and were forced to cease operating.

At the time of the entry of the TRO, BLG had only approximately \$2,000 in its accounts (RLG had nothing). The Court's TRO authorized BLG to make disbursements of funds for ordinary business expenses, subject to the Receiver's approval, and so the Receiver authorized BLG to disburse approximately \$1,700 for salaries to the Tampa staff of BLG, including Berger, but not including Friedman. Also, under the TRO BLG was effectively precluded from continuing to collect money from its clients.

F. Inventory of Personal Property in Transworld Offices

The Transworld Offices contained essentially no personal property of any meaningful value. The personal property assets included 7 old computers with mouse/monitor/keyboard setups, 6 office chairs, and two desks. The liquidation value of these items is less than \$300. Also, the offices contained two larger executive desks that Berger and Friedman claimed they owned personally – while neither provided any meaningful proof of ownership, the value of these items renders an "ownership contest" inadvisable. The Receiver therefore allowed Berger and Friedman to retrieve the desks.

The computers and the paper documents contained in the Transworld Offices contain personally-identifiable information of the clients of RLG and BLG. Accordingly, these items need to be safeguarded. The Receiver has no funds available to pay rent to the landlord, and so he is attempting to make arrangements for a different storage facility.<sup>23</sup>

G. Employees of Receivership Defendants

BLG had five employees (including Berger). As discussed above, under the TRO Berger was permitted to operate BLG, provided that he did not violate federal law in doing so. Berger concluded (correctly, in the Receiver's view), that BLG could not collect revenues under its existing business model. Berger utilized the bulk of BLG's limited funds to pay himself and some of BLG's employees, and BLG then was shut down.

The Receiver is not aware of any employees for any of the other Receivership Defendants. In making this statement, the Receiver notes that the Receivership Defendants did not comply with federal tax law in connection with issuing IRS form 1099 or W-2 statements.

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<sup>23</sup> The landlord originally agreed to allow the Receiver to store these items in a 200 sq. ft. facility, but this proposal was withdrawn by the landlord's attorney. The items will be removed, and the office premises vacated, on October 26, 2014.

#### H. Receivership Defendants' Financial Resources

Apart from approximately \$300 remaining in a BLG bank account, the Receiver has recovered no funds of the Receivership Defendants.

#### I. Notifying Clients

The Receiver was faced with the problem of how to notify the clients of RLG and BLG concerning the TRO, the preliminary injunctions, and their effect on pending lawsuits. The Receiver contacted the Florida Bar, which has initiated proceedings against Berger, and which may be able to appoint an "inventory attorney" to review the various files. Additionally, pursuant to this Court's instructions, the Receiver caused notices to be filed in all lawsuits in which RLG and BLG have appeared, either directly or through local counsel. Many of the courts in which those cases are pending have stayed the cases pending further developments in this case.

The Receiver set up a website, located at [www.bernet-receiver.com](http://www.bernet-receiver.com), on which he has posted relevant pleadings and orders from this case, along with narrative descriptions appropriate for consumers. The Receiver updates the website periodically. Also, consumers are able to send e-mails to the Receiver through the website, and the Receiver periodically reviews and responds to those e-mails. The Receiver also has received dozens of telephone calls from clients.

Also, the Receiver was able to create a master e-mail list, containing the names and contact information (including e-mail addresses) of BLG's clients. The Receiver has provided two e-mail "blast notices" to BLG's clients, advising them of the status of this case, its effect on their pending lawsuits, and providing resources for the clients to consult to protect their interests.

As discussed above, Jeanne Lahiff signed most of the Complaints filed in the pending BLG lawsuits, in an "of counsel" capacity for BLG. Ms. Lahiff is licensed to practice in New Jersey, but is not an employee of BLG. By signing the complaints, Ms. Lahiff has made herself counsel of record for all of the clients included as plaintiffs in the lawsuits. Ms. Lahiff initially was contacted by DiGirolamo and encouraged to attempt to assume the representation of the BLG clients after the commencement of this case. Her proposal to the Receiver, however, was problematic on a number of fronts, including in particular that it was DiGirolamo's idea.<sup>24</sup> On the other hand, Ms. Lahiff is counsel of record in the 12 pending lawsuits, and as such has obligations to the clients. The Receiver has shared client contact information with her, and has advised clients that Ms. Lahiff she is their attorney and should be consulted for status updates on the files. Clients have reported to the Receiver that Ms. Lahiff is not responsive.<sup>25</sup>

J. Other Matters

As noted above, the Receiver has devoted a significant amount of time to investigating the history and operations of the Receivership Defendants. Berger, and to a certain extent Broderick, have been cooperative, while DiGirolamo has been uncooperative.

On October 6, 2014, the Receiver received an invoice from the Maryland-based Law Offices of Vincent Jankoski, seeking payment of \$8,275.00 "for legal services rendered to The Berger Law Group, P.A." The invoice contained no description of the nature of the services rendered. The Receiver had no knowledge of any legal proceedings in Maryland involving BLG, and so he called Mr. Jankoski about the invoice. Mr. Jankoski, unfortunately, was

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<sup>24</sup> Ms. Lahiff proposed to assume the representation and operate a business model that was, for all practical purposes, identical to the business model of RLG and BLG. Regulation O, however, does not permit this business model to operate.

<sup>25</sup> Attached as Exhibit "B" are copies of orders entered in the *Zuniga* case (i) directing the Plaintiffs to appear on November 18, 2014, and show cause why their case should not be dismissed, and (ii) directing Ms. Lahiff to appear on November 18, 2014, and show cause why she should not be sanctioned for failing to appear at a status conference as directed by the Court.

uncooperative, in that (i) he refused to discuss the nature of the legal services rendered, (ii) he refused to discuss whether the legal services related to a pending matter or a concluded matter, and (iii) he refused to disclose whether the legal services involved litigation in which there may be deadlines. Mr. Jankoski stated that the information requested by the Receiver was "privileged," and that he would not disclose it until his bill was paid. The Receiver explained that BLG is in receivership and that the Court's order directed all persons to cooperate with the Receiver in connection with his investigation. Mr. Jankoski responded that he would provide nothing until his bill was paid, and that he would sue the Receiver for payment. The Receiver explained that as a federal equity receiver, he controlled the attorney-client privilege for BLG, and also that he was not subject to suit in a distant forum for pre-receivership obligations. Mr. Jankoski then responded that he did not represent BLG, but instead represented Ian Berger personally. Mr. Jankoski also denied the Receiver's assertion that he could not file suit against the Receiver; on this point, the Receiver invited Mr. Jankoski to research the issue (the Receiver's hope was that Mr. Jankoski would discover the applicability of the *Barton* doctrine).<sup>26</sup> The Receiver followed up the conversation with a letter to Mr. Jankoski (*see* Exhibit "C") demanding the records. Mr. Jankoski has since begun to comply with the demand.<sup>27</sup>

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<sup>26</sup> Mr. Jankoski's assertion to the Court -- that the Receiver claimed that the act of sending a bill to the Receiver violated the injunction -- is untrue. The Receiver told Mr. Jankoski that (i) filing suit against the Receiver, and (ii) refusing to cooperate with the Receiver would violate the Court's TRO and preliminary injunction.

<sup>27</sup> Mr. Jankoski never consulted Berger about whether Berger intended to invoke the attorney-client privilege to preclude the Receiver from receiving documents and information from Jankoski. The Receiver contacted Berger (after Mr. Jankoski refused to do so), and Berger directed Mr. Jankoski to cooperate with the Receiver. Mr. Jankoski subsequently sent the Receiver an e-mail explaining that, in Mr. Jankoski's view, the Receiver should have "fired" him, because as a "fired" attorney he would have been obligated to turn over the materials that he initially refused to turn over. Mr. Jankoski has threatened to report the Receiver's failure to "fire" Mr. Jankoski to this Court, apparently as evidence that the Receiver is incompetent. *See* Exhibit "D." While not yet confirmed, the Receiver suspects that Mr. Jankoski was hired by, and reports to, DiGirolamo.

III. FEEES AND COSTS

Through September 30, 2014, the Receiver had recorded a total of 65 hours to this matter. At his discounted hourly rate of \$325, this would result in fees of \$21,125.00. The Receiver also has incurred costs and expenses totaling approximately \$700.00. At present the receivership estates contain no funds to pay any of these amounts.

IV. CONCLUSION

The Receiver invites the questions and comments of the Court and the parties.

Dated: Tampa, Florida  
October 24, 2014

/s/ Mark J. Bernet

Mark J. Bernet, Receiver  
401 E. Jackson Street, Suite 1700  
Tampa, Florida 33602  
Telephone: (813) 223-7333  
Facsimile: (813) 218-5495  
Email: [mark.bernet@akerman.com](mailto:mark.bernet@akerman.com)  
Secondary: [doris.zsurka@akerman.com](mailto:doris.zsurka@akerman.com)

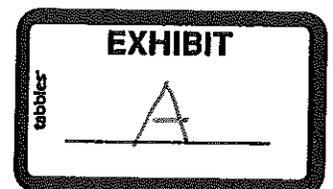
CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing was served by CM/ECF or mail to Amanda Arnold Sansone, Office of Attorney General, Suite 325, 3507 E. Frontage Road, Tampa, FL 33607, [amanda.sansone@myfloridalegal.com](mailto:amanda.sansone@myfloridalegal.com); Richard Schiffer, Office of Attorney General, Suite 325, 3507 E. Frontage Road, Tampa, FL 33607, [richard.schiffer@myfloridalegal.com](mailto:richard.schiffer@myfloridalegal.com); Joseph J. Chambers, Connecticut Office of the Attorney General, P.O. Box 120, 55 Elm Street, Hartford, CT 06141-0120, [joseph.chambers@ct.gov](mailto:joseph.chambers@ct.gov); Nicole Ayala, Connecticut Office of the Attorney General, P.O. Box 120, 55 Elm Street, Hartford, CT 06141-0120, [nicole.ayala@ct.gov](mailto:nicole.ayala@ct.gov), this 11<sup>th</sup> day of August, 2014; Vincent A. Jankoski, Esquire, 14717 Harvest Lane, Silver Spring, MD 20905, [vincejankoski@gmail.com](mailto:vincejankoski@gmail.com), Kristopher E. Fernandez, Esquire, 114 S. Fremont Avenue, Tampa, Florida 33606, e-mail [service@kfernandezlaw.com](mailto:service@kfernandezlaw.com); and Gary DiGiralamo, P.O. Box 80368, Rancho Santa Margarita, CA 92688, this 24<sup>h</sup> day of October, 2014.

/s/ Mark J. Bernet, Receiver \_\_\_\_\_

**BLG LAWSUITS PENDING AS OF AUGUST 1, 2014**

<u>CASE NAME</u>	<u>COURT AND CASE NO.</u>	<u>STATUS</u>
Haley et al. v. AMS Servicing, LLC, et al.	U.S. District Court, District of New Jersey, 2:13-CV-05645	Case removed from state court, motion to remand denied, motion to sever all plaintiffs save for lead plaintiff granted, plaintiffs whose claims were severed and dismissed given leave to re-file new lawsuits within 30 days of June 11, 2014
Blondel et al. v. American Mortgage Network, Inc., et al.	U.S. District Court, District of New Jersey, 2:13-cv-05614-CCC-JBC	Case removed from state court, motion to remand filed and pending
Peralta et al. v. ABN Amro Mortgage Group, Inc., et al.	U.S. District Court, District of New Jersey, 2:13-cv-05607-ES-JAD	Case removed from state court, motion to remand denied, motion to dismiss/sever pending
Apostolakos et al. v. Accredited Home Lenders, Inc., et al.	U.S. District Court, District of New Jersey, 3:13-cv-05619-MAS-LHG, ON REMAND, Superior Court of the State of New Jersey, County of Ocean, L-1914-13	Case removed from state court, case remanded to state court, motions to dismiss pending in state court
Brecker et al. v. 1 <sup>st</sup> Republic Mortgage Bankers, Inc., et al.	U.S. District Court, District of New Jersey, 1:13-cv-05646-JHR-JS, ON REMAND, Superior Court of the State of New Jersey, County of Camden, L-3111-13	Case removed from state court, case remanded to state court, motions to dismiss pending and granting, motion to set aside orders of dismissal granted (improper service of motions), several defendants dismissed
Saleh v. Accredited Home Lenders Inc.	Superior Court of the State of New Jersey, County of Bergen, L-8858-13	Case dismissed 5/30/2014
Calvaruso, et al. v. JP Morgan Chase Bank, N.A.	U.S. District Court, District of New Jersey, 2:14-cv-04515-JLL-JAD	Case removed from state court, no motion to remand filed, motions to dismiss filed by defendants and pending



<u>CASE NAME</u>	<u>COURT AND CASE NO.</u>	<u>STATUS</u>
Delisa, et al v. American Mortgage, et al	Superior Court of the State of New Jersey, County of Monmouth, L-4557-13	Case dismissed 6/6/2014
Anderson v. Atlantic Pacific Mortgage CRP	Superior Court of the State of New Jersey, County of Gloucester, L-1596-13	Case dismissed 5/30/2014
Cherepanik, et al v. Wells Fargo Bank NA	Superior Court of the State of New Jersey, County of Sussex, L-0199-14	Case is active
Steltz, et al. v. Bank of America	U.S. District Court, District of New Jersey, 2:14-cv-02978- JLL-JAD	Case removed from state court, motion to remand filed, motion to dismiss filed but "administratively terminated" while court considers remand issues
Zuniga, et al. v. American Home Mortgage, et al.	U.S. District Court, District of New Jersey, 2:14-cv-02973- KM-MCA	Case removed from state court, motion to remand filed, motion to remand "terminated," motions to dismiss pending

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CHAMBERS OF  
MADELINE COX ARLEO  
UNITED STATES MAGISTRATE JUDGE

MARTIN LUTHER KING COURTHOUSE  
50 WALNUT ST.  
ROOM 2060  
NEWARK, NJ 07101  
973-297-4903

October 20, 2014

To: Jeanne Lahiff, Esq.  
8 Cayuga Road  
Cranford, NJ 07016

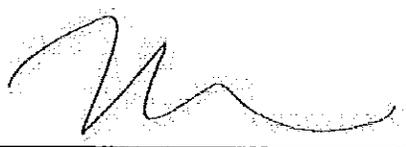
LETTER ORDER

Re: **Order to Show Cause**  
**Zuniga, et al. v. American Home Mortgage, et al.**  
**Civil Action No. 14-2973(KM)**

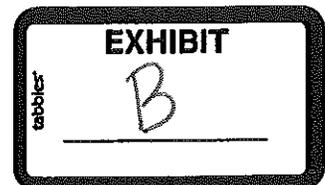
Dear Ms. Lahiff:

You are hereby ordered to show cause on November 18, 2014, at 12:00 p.m., as to why sanctions should not be imposed against you for your failure to attend the Court's October 20, 2014 status conference. Any opposition, including a letter from a doctor or medical professional stating that you were physically unable to attend the status conference, shall be filed by November 10, 2014.

**SO ORDERED.**

  
\_\_\_\_\_  
MADELINE COX ARLEO  
UNITED STATES MAGISTRATE JUDGE

cc: Clerk  
Hon. Kevin McNulty, U.S.D.J.  
File



**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

CHAMBERS OF  
**MADELINE COX ARLEO**  
UNITED STATES MAGISTRATE JUDGE

MARTIN LUTHER KING COURTHOUSE  
60 WALNUT ST.  
ROOM 2060  
NEWARK, NJ 07101  
973-297-4903

October 20, 2014

To: See attached list of Plaintiffs

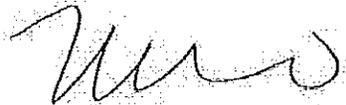
**LETTER ORDER**

**Re: Order to Show Cause  
Zuniga, et al. v. American Home Mortgage, et al.  
Civil Action No. 14-2973(KM)**

Dear Plaintiff:

You are hereby ordered to show cause on November 18, 2014, at 12:00 p.m., as to why your Complaint should not be dismissed for failure to prosecute, and for failure to attend the Court's status conference on October 20, 2014. Any opposition shall be filed by November 10, 2014.

**SO ORDERED.**



**MADELINE COX ARLEO**  
**UNITED STATES MAGISTRATE JUDGE**

cc: Clerk  
Hon. Kevin McNulty, U.S.D.J.  
File

MARK J. BERNET, RECEIVER  
401 E. Jackson Street, Suite 1700  
Tampa, Florida 33602  
Telephone: (813) 223-7333  
E-mail: mark.bernet@akerman.com

THE BERGER LAW GROUP, P.A.  
THE RESOLUTION LAW GROUP, P.C.  
LITIGATION LAW, LLC  
THE RESOLUTION LAW CENTER, LLC

October 6, 2014

Vincent A. Jankoski, Esquire  
14717 Harvest Land  
Silver Spring, Maryland 20905

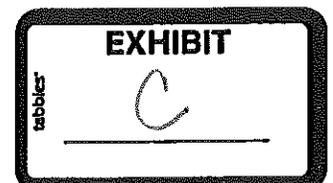
**Re: Office of the Attorney General, The State of Florida, and The State of  
Connecticut, Office of the Attorney General v. Berger Law Group, P.A.,  
Case no. 8:14-cv-1825-T-MAP  
United States District Court, Middle District of Florida**

Dear Mr. Jankoski:

On Tuesday, July 29, 2014, the Florida and Connecticut Attorney General Offices (the "AG Offices") commenced a lawsuit styled *Office of the Attorney General, The State of Florida, Department of Legal Affairs, and The State of Connecticut, Office of the Attorney General v. Berger Law Group, P.A., et al.*, case no. 8:14-cv-1825-T-MAP, United States District Court, Middle District of Florida (hereafter the "AG's Lawsuit") by filing their Complaint alleging that the Defendants Berger Law Group, P.A. ("BLG"), Ian Berger, Litigation Law, LLC ("Litigation Law"), Gary DiGirolamo, The Resolution Law Group, P.C. ("RLG"), R. Geoffrey Broderick, The Resolution Law Center, LLC ("Resolution Law Center"), and David Friedman had operated as a legal "enterprise" that "generated millions of dollars in illegal upfront fees by convincing consumers to pay for the opportunity to be included as a plaintiff in . . . so-called 'mass-joinder' lawsuits against their mortgage lenders." The AG Offices alleged that the "enterprise" falsely promised that the lawsuits would induce banks to give consumers mortgage modifications or other forms of foreclosure relief. The AG Offices further alleged that consumers were charged an upfront fee of typically \$6,000, characterized as an "investigation fee," and then a \$500 monthly maintenance fee. The AG Offices claim that the actions of the Defendants (i) constitute unfair and deceptive trade practices that violate Chapter 501, Part II, Florida Statutes and Conn. Gen. Stat., Chapter 735a, and (ii) violate the Mortgage Assistance Relief Services Rule, 12 CFR Part 1015 (2012) ("Regulation O"). As relief, the AG Offices requested the appointment of a receiver over the non-individual defendants, a preliminary and a permanent injunction enjoining the Defendants from further violations of state and federal law, and other relief designed to provide restitution to consumers.

On August 1, 2014, the district court in Florida entered its *Ex Parte Temporary Restraining Order with Asset Transfer Restrictions and Partial Asset Freeze, Appointment of Temporary Receiver, and Other Equitable Relief and Order to Show Cause why a Preliminary Injunction should not Issue* (the "TRO"). In the TRO, the Court enjoined the Defendants:

{29636082;1}



- from making representations about the likelihood of their success in obtaining mortgage loan modifications to reduce consumer's mortgage payments or interest rates or help consumers avoid foreclosure;
- from making representations concerning the degree of success that any Defendant or other person has had in performing any mortgage assistance relief service;
- from making any representation concerning the nature of any of the Defendant's relationship with any mortgage loan holder or servicer;
- from making representations concerning the amount of time it would take or is likely to take to obtain or arrange a renegotiation, settlement, modification, or other alteration of the terms of any secured or unsecured debt, including mortgage loans;
- from a host of specific actions specifically proscribed by Regulation O, and it also enjoined the Defendants from asking for or receiving any advance or maintenance fee for mass-joinder or related suits or proceedings;
- in the case of the Defendants BLG and RLG (the "Law Firm Receivership Defendants"), from transferring, spending or otherwise dissipating any of their Assets, including in particular funds in their possession, outside of the ordinary course of business
- in the case of the Defendants Litigation Law and Resolution Law Center, (the "Non-Law Firm Receivership Defendants"), from transferring, spending or otherwise dissipating any of their Assets, including in particular funds in their possession.

In addition, in the TRO the Court appointed me as receiver for the Non-Law Firm Receivership Defendants and for the Law Firm Receivership Defendants (together the "Receivership Defendants"). The Court directed me, among other things: (i) to assume full control of the Receivership Defendants by removing, as I saw fit, any officer, director, independent contractor, employee or agent from control, management of, or participation in the affairs of the Receivership Defendants; (ii) to take exclusive custody, control and possession of all Assets and Documents (both defined terms) of the Receivership Defendants; (iii) to take all steps necessary to secure the business premises of the Receivership Defendants; (iv) to conserve, hold and manage all of the Assets of the Receivership Defendants, and (v) to perform all acts necessary or advisable to prevent loss, damage or injury to consumers or creditors of the Receivership Defendants.

The TRO has since been converted into a preliminary injunction (*see* doc. no. 42, filed August 22, 2014), and the powers that were given to me in the TRO have continued in place.

I have received your letter of September 29, 2014, in which you demand payment of \$8,275.00. Unfortunately, apart from a generic reference to "legal services rendered to *The Berger Law Group, P.A.* [emphasis mine]," you failed to identify the nature of the legal services

that you claim to have rendered to The Berger Law Group, P.A. Subsequently, in a telephone conversation earlier today, you refused to disclose to me the nature of the "legal services rendered to The Berger Law Group, P.A.," claiming that such information is protected by the attorney-client privilege. I explained to you that, as the Receiver for The Berger Law Group, I control any privilege that may exist between it and its attorneys. You then said that, in reality, you rendered legal services not to The Berger Law Group, P.A., but rather to Ian Berger. That statement, of course, is contradicted by the terms of your letter, which says nothing about services rendered to Ian Berger, as well as by the invoice you included with your letter, which references Mr. Berger personally and The Berger Law Group.

Pursuant to the terms of the preliminary injunction, I hereby demand that you provide me with copies of all Documents that relate in any way to the "legal services" you claim to have rendered to The Berger Law Group. The term "Documents" in this demand has the same meaning that is given to it in the preliminary injunction, and would include, without limitation, your retainer agreement with The Berger Law Group, all correspondence, including e-mail, between you and the Berger Law Group, and all communications, including all e-mail communications between you and any other person relating to the "legal services" you claim to have rendered to The Berger Law Group. Additionally I demand copies of all invoices for services you claim to have rendered, along with an accounting of all sums received from The Berger Law Group. Please have these documents to me within ten (10) days of the date of this letter.

Finally, please note that under Section XIV of the preliminary injunction, all persons who are on notice of the preliminary injunction are enjoined from refusing to cooperate with in the exercise of my duties or authority under the preliminary injunction. I therefore look forward to your cooperation.

Very truly yours,



Mark J. Bernet, Receiver

MJB:tm

**Bernet, Mark (Ptrn-Tpa)**

**From:** Vincent Jankoski <vincejankoski@gmail.com>  
**Sent:** Friday, October 17, 2014 5:03 PM  
**To:** Bernet, Mark (Ptrn-Tpa)  
**Subject:** Re: FW: Assertion of Privilege

Mr. Bernet,

For the record, I never threatened to file suit. I thought you would simply submit the bill to the judge for approval and that would be the end of the matter. You were probably too busy yelling to understand what I was telling you.

I would not emphasize too much your claim that you speak for the Berger Law Group and that, therefore, I was your attorney and you control the privilege. It only points out that, if you were the client, you could have simply fired me and asked that I return the file to you. That would be embarrassing to you, wouldn't it? It surely would have "avoided" the "nonsense" you complain about, right? Really, I kept waiting for you to do that and it never came. So, take this piece of unsolicited advice, keep quiet about controlling the privilege of the Berger Law Group. It gets you places you don't want to go.

Vince J.

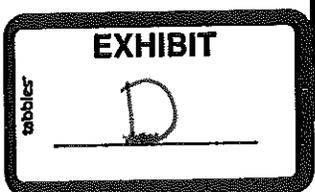
p.s. I do not do my legal research on Google.

p.p.s. I do not intend to open up any emails until Monday morning. So, save them for business hours.

On Fri, Oct 17, 2014 at 4:38 PM, <[mark.bernet@akerman.com](mailto:mark.bernet@akerman.com)> wrote:

You are absolutely incredible. You represented Berger Law Group. It says so on your invoice, and it says so in your retainer letter. It also says so in your cover letter to me in which you demand payment. And, you personally admitted this in our telephone conversation, shortly before you threatened to file suit if I did not pay your bill (this is when I told you to Google the powers of a federal equity receiver, I assumed that you then would discover the Barton Doctrine). I am the Receiver for Berger Law Group. As such, I, and I alone, speak for Berger Law Group. I control the privilege for Berger Law Group. You ignored my requests and made up a bunch of nonsense asserting a privilege that was (i) inapplicable under the circumstances, and (ii) not yours to assert. Further, you refused to consult with Mr. Berger about the matter, almost certainly because you knew that your shaky legal position would completely evaporate if you did so.

I look forward to your cooperation, although I will believe it when I actually see it from you.



**Mark Bernet**

Partner

Akerman, LLP | 401 E. Jackson Street | Suite 1700 | Tampa, FL 33602

Dir: [813.209.5026](tel:813.209.5026) | Main: [813.223.7333](tel:813.223.7333) | Fax: [813.218.5422](tel:813.218.5422)

[mark.bernet@akerman.com](mailto:mark.bernet@akerman.com)

**From:** Vincent Jankoski [<mailto:vincejankoski@gmail.com>]

**Sent:** Friday, October 17, 2014 4:33 PM

**To:** Bernet, Mark (Ptrn-Tpa)

**Subject:** Re: FW: Assertion of Privilege

Mr. Bernet,

You will be receiving the requested materials shortly. Also, I will be producing hard copies of documents which I believe were not extant and already sent in electronic copy. I hope to do that by Monday if not sooner. I am glad you finally accepted that it was Mr. Berger and not you that controlled his privileges.

In conclusion, I must state that the only "nonsense" that could have been "avoided" was your failure to understand the law concerning privileges, even after controlling authority was presented to you. Your failure to treat fellow counsel with the respect due a member of the bar was a contributing factor.

Vince Jankoski

On Fri, Oct 17, 2014 at 11:40 AM, <[mark.bernet@akerman.com](mailto:mark.bernet@akerman.com)> wrote:

Had you bothered to contact Mr. Berger you could have avoided a whole bunch of nonsense. There really is no excuse for your conduct, but regardless, now that it is clear that you have no basis for refusing to provide the requested documentation insofar as it pertains to Mr. Berger personally, please provide it immediately.

**Mark Bernet**

Partner

Akerman, LLP | 401 E. Jackson Street | Suite 1700 | Tampa, FL 33602

Dir: [813.209.5026](tel:813.209.5026) | Main: [813.223.7333](tel:813.223.7333) | Fax: [813.218.5422](tel:813.218.5422)

[mark.bernet@akerman.com](mailto:mark.bernet@akerman.com)

**From:** Ian Berger [<mailto:ianbergerlaw@gmail.com>]

**Sent:** Friday, October 17, 2014 11:35 AM

**To:** Bernet, Mark (Ptr-Tpa)

**Cc:** [Richard.Schiffer@myfloridalegal.com](mailto:Richard.Schiffer@myfloridalegal.com); Vincent Jankoski; [Amanda.Sansone@myfloridalegal.com](mailto:Amanda.Sansone@myfloridalegal.com); [Nicole.Ayala@ct.gov](mailto:Nicole.Ayala@ct.gov); [Joseph.Chambers@ct.gov](mailto:Joseph.Chambers@ct.gov)

**Subject:** Re: Assertion of Privilege

Vince:

Thank you for the below assertion. However, I waive such privilege. Please give Mark the documents he is requesting.

Cordially,

Ian Berger

On Oct 16, 2014 7:14 PM, [<mark.bernet@akerman.com>](mailto:mark.bernet@akerman.com) wrote:

Ian:

I am trying to obtain information from Mr. Jankoski concerning his representation of you and Berger Law Group in connection with numerous matters. He claims he won't provide information because he says that you have asserted an attorney-client privilege. Actually, he claims that HE asserts that privilege, and not you, but I have told him that you have been cooperative and that I am certain you would not want to assert that privilege and thereby frustrate my investigation. Would you mind straightening this out with Mr. Jankoski?

**Mark Bernet**

Partner

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vCard | Bio



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