

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

CASE NO. 14 CV 80931-COHN/SELTZER

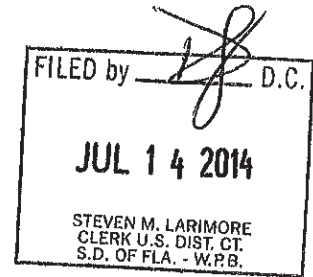
CONSUMER FINANCIAL PROTECTION  
BUREAU and THE STATE OF FLORIDA,  
Office of the Attorney General, Department of  
Legal Affairs,

Plaintiffs,

v.

MICHAEL HARPER, an individual; BENN  
WILLCOX, an individual; MARC HOFFMAN,  
an individual; THE HOFFMAN LAW GROUP,  
P.A. f/k/a THE RESIDENTIAL LITIGATION  
GROUP, P.A., a Florida corporation;  
NATIONWIDE MANAGEMENT SOLUTIONS,  
LLC, a Florida limited liability company;  
LEGAL INTAKE SOLUTIONS, LLC, a Florida  
limited liability company; FILE INTAKE  
SOLUTIONS, LLC, a Florida limited liability  
company; and BM MARKETING GROUP,  
LLC, a Florida limited liability company,

Defendants.



**COMPLAINT FOR PERMANENT INJUNCTION  
AND OTHER RELIEF**

**(FILED UNDER TEMPORARY SEAL)<sup>1</sup>**

Plaintiffs, the Consumer Financial Protection Bureau and the State of Florida,  
allege:

<sup>1</sup> Motion to Seal filed concurrently.

## SUMMARY OF COMPLAINT

1. In the midst of America's foreclosure crisis, an illicit industry of mortgage modification scams began making money by charging distressed homeowners upfront fees on the promise that they could obtain mortgage modifications for those homeowners, often doing little to nothing to actually assist the homeowners. To combat this practice, many states, including Florida, enacted laws to prohibit these schemes, and federal regulators further enhanced these laws by making it illegal in every state for mortgage assistance relief providers to charge homeowners a fee for mortgage modification services before actually obtaining mortgage modifications for those homeowners. 12 C.F.R. Part 1015 (2012).

2. Since at least early 2012, an enterprise operating in the name of the Hoffman Law Group (the "HLG Enterprise") has 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. This enterprise induces consumers to enroll by falsely promising that the lawsuits will induce banks to give the consumers mortgage modifications or foreclosure relief.

3. Run by veterans of mortgage modification schemes, the HLG Enterprise uses these promises to convince consumers to pay fees before the HLG Enterprise obtains, or even tries to obtain, mortgage modifications for the consumers it signs up.

4. The HLG Enterprise charges consumers varying amounts, typically a \$6,000 initial payment, followed by a \$495 monthly fee.

5. In reality, defendants do little or nothing to actually assist consumers. Rather, in numerous instances, they have directed consumers to avoid interactions with their lenders or servicers and, in some instances, instructed consumers to stop making

their mortgage payments. When consumers discover that the HLG Enterprise has never even contacted their lenders on their behalf, many find themselves in default and some have lost their properties through foreclosure.

6. The Consumer Financial Protection Bureau, an agency created by Congress in 2010 and charged with protecting consumers from financial industry misconduct, and the Attorney General of the State of Florida, bring this action to halt the HLG Enterprise's scam, to hold the individuals who run the Enterprise accountable, and to provide redress for the injuries to consumers that the Enterprise has caused.

7. More specifically, the plaintiffs bring this action under (1) Sections 1054 and 1055 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5564, and 5565; and (2) Section 626 of the Omnibus Appropriations Act, 2009 (as amended by Section 1097 of the CFPA), 12 U.S.C. § 5538, and its implementing regulation, the Mortgage Assistance Relief Services Rule, 12 C.F.R. Part 1015 (2012) ("Regulation O"). Florida asserts further claims under the Florida Unfair and Deceptive Trade Practices Act ("FDUTPA"), Chapter 501, Part II, Florida Statutes and other state laws.

8. Regulation O requires providers of mortgage assistance relief services to make certain disclosures, such as that the business is not affiliated with the government and that the consumer may reject any proposed modification. It also prohibits these providers from making certain representations, such as that a consumer is not obligated to continue making his mortgage payments. And Regulation O generally prohibits mortgage assistance relief service providers from collecting an advance fee for such services. *See* 12 C.F.R. Part 1015.

9. The plaintiffs support consumers' right to challenge alleged fraud by mortgage lenders or servicers. But regardless of the underlying merits of the consumers'

claims in the mass-joinder lawsuits that the HLG Enterprise files, it should not be allowed to violate the law in the process of recruiting consumers to join those lawsuits.

10. The HLG Enterprise has misled thousands of homeowners nationwide and as a result, has pocketed well over \$5 million. In this action, the plaintiffs seek an order permanently enjoining Defendants from engaging in their illicit business practices, granting restitution for affected consumers, imposing civil penalties, and granting all other relief available under the CFPA, Regulation O, and FDUTPA. This will make Defendants' victims whole again and will prevent the HLG enterprise from causing the same harm to other homeowners.

#### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this action because it is "brought under Federal consumer financial law," 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

12. In addition, pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the separate state law claims asserted by Florida in this action because those claims are so related to the claims asserted by the Bureau and Florida under Regulation O that they form part of the same case or controversy. Those claims also arise out of the same transactions or occurrences as the claims brought by the Bureau under 12 U.S.C. §§ 5564, 5565, and by Florida under 12 U.S.C. § 5538(b) and 12 C.F.R. § 1015.10 (2012).

13. Venue is proper in this district under 28 U.S.C. § 1391(b) and 12 U.S.C. § 5564(f) because a substantial part of the events or omissions and course of conduct

giving rise to the claims set forth in this Complaint occurred in this district (specifically Palm Beach County).

### **PARTIES**

14. The Bureau is an independent agency of the United States charged with regulating the offering and provision of consumer financial products or services under federal consumer financial laws, including Regulation O. 12 U.S.C. §§ 5481(12)(Q), (14), 5491(a), 5538.

15. The Bureau is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of Regulation O, and to secure such relief as may be appropriate in each case. 12 U.S.C. §§ 5564(a)-(b), 5565. This includes the rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and civil money penalties. *Id.* § 5565(a)(2).

16. The State of Florida's Office of the Attorney General is an enforcing authority of FDUTPA, and Section 812.14, Florida Statutes. The State of Florida has conducted an investigation of the matters alleged herein, and the head of the enforcing authority, Attorney General Pamela Jo Bondi, has determined that this enforcement action serves the public interest.

17. The State of Florida is authorized to bring this action and to seek injunctive and other statutory relief to enforce Regulation O under 12 U.S.C. § 5538(b) and 12 C.F.R. § 1015.10 (2012).

18. As an enforcing authority under FDUTPA, the Office of the Attorney General is authorized to pursue this action to enjoin FDUTPA violations and to obtain legal, equitable, or other appropriate relief, including restitution, the refund of monies



paid, disgorgement of ill-gotten monies, civil penalties, and other relief as may be appropriate pursuant to Sections 501.207, 501.2075, and 501.2077, Florida Statutes.

19. Defendant Michael Harper is an individual who, directly and through the HLG Enterprise, offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

20. Harper, a non-attorney resident of North Palm Beach, Florida, within this District, is the HLG Enterprise's most senior manager. He materially participates in the conduct of the enterprise's affairs.

21. At all times material to this complaint, Harper transacts or has transacted business in the Southern District of Florida.

22. Defendant Benn Willcox is an individual who, directly and through the HLG Enterprise, offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

23. Willcox, a non-attorney resident of Jupiter, Florida, within this District, manages and controls the HLG Enterprise's bank accounts. He has managerial responsibility for the enterprise and materially participates in the conduct of its affairs.

24. At all times material to this complaint, Willcox transacts or has transacted business in the Southern District of Florida.

25. Defendant Marc Hoffman is an individual who, directly and through the HLG Enterprise, offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

26. Hoffman, a resident of Boca Raton, Florida, within this District, is an attorney licensed to practice in Florida and the District of Columbia and is the President

of the Hoffman Law Group. He is the enterprise's front man, has managerial responsibility for HLG, and materially participates in the conduct of its affairs.

27. At all times material to this complaint, Hoffman transacts or has transacted business in the Southern District of Florida.

28. Defendant The Hoffman Law Group, P.A. ("HLG"), is a Florida corporation formed by Hoffman as "The Residential Litigation Group, P.A." on or about April 16, 2012 and renamed "The Hoffman Law Group, P.A." on or about November 26, 2012. Its current address is 860 US Highway 1, Suite 206, North Palm Beach, Florida, but it has also purported to do business at 2200 Pennsylvania Ave NW, 4th Floor, Washington, DC. The centerpiece of the enterprise, HLG is part of a common enterprise that offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

29. At all times material to this complaint, HLG transacts or has transacted business in the Southern District of Florida.

30. Defendant Nationwide Management Solutions, LLC is a Florida limited liability company formed by Harper and Willcox on April 26, 2012. Its current address is 860 US Highway 1, Suite 209, North Palm Beach, Florida. Operating the human resources side of the enterprise, it is part of a common enterprise that offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

31. At all times material to this complaint, it transacts or has transacted business in the Southern District of Florida.

32. Defendant Legal Intake Solutions, LLC is a Florida limited liability company formed by Harper and Willcox on November 3, 2011. Its current address is

860 US Highway 1, Suite 205, North Palm Beach, Florida. As one of the companies that solicits consumers for the enterprise, it is part of a common enterprise that offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

33. At all times material to this complaint, Defendant Legal Intake Solutions transacts or has transacted business in the Southern District of Florida.

34. Defendant File Intake Solutions, LLC is a Florida limited liability company formed by Harper and Willcox on July 16, 2013. Its current address is 860 US Highway 1, Suite 205, North Palm Beach, Florida. It also solicits consumers for the enterprise, and is part of a common enterprise that offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

35. At all times material to this complaint, Defendant File Intake Solutions transacts or has transacted business in the Southern District of Florida.

36. Defendant BM Marketing Group is a Florida limited liability company formed by Harper on October 18, 2012. Its current address is 860 US Highway 1, Suite 205, North Palm Beach, Florida. BM Marketing Group funnels the enterprise's profits to non-attorneys Harper and Willcox. In so doing, it is part of a common enterprise that offers, provides, or arranges for others to provide mortgage assistance relief services, as defined in Regulation O, 12 C.F.R. § 1015.2.

37. At all times material to this complaint, it transacts or has transacted business in the Southern District of Florida.

38. Together, Defendants have engaged in an ongoing, illicit mortgage relief scheme that preys on homeowners nationwide. As pleaded more specifically below,



Harper, Willcox, and Hoffman operate the corporate Defendants as a common enterprise in order to carry out this scheme. At all times material to this Complaint, Harper, Willcox, and Hoffman have materially participated in the conduct of the enterprise's affairs, including the development and approval of the purported mortgage assistance relief services complained of herein. Harper, Willcox and Hoffman are intimately familiar with and direct the enterprise's operations, including its purported mortgage assistance relief services, and knew of and approved all of the practices described in this Complaint.

### **DEFENDANTS' BUSINESS PRACTICES**

#### **DEFENDANTS RELY ON A DECEPTIVE SALES SCHEME**

39. To induce consumers to purchase its services, the HLG Enterprise uses various marketing methods, including but not limited to websites, mailers, television advertisements, and outbound telemarketing calls.

40. Through these advertisements, Defendants claim that they will include consumers in mass-joinder lawsuits and represent to consumers that this will help them get mortgage modifications and relief from foreclosure. The HLG Enterprise targets consumers throughout the United States who are in financial distress, behind on their mortgage loans, or in danger of losing their homes to foreclosure.

41. Defendants' advertisements suggest that they can help consumers get a reduction or forgiveness of their mortgage loan, reduce interest rates, and stop foreclosure.

42. Defendants have falsely claimed or implied that they have multiple attorneys on staff with significant experience litigating complex civil cases and that the

mass-joinder cases have a high likelihood of resulting in the consumer receiving a loan modification with favorable terms.

43. Consumers who respond to the HLG Enterprise's marketing efforts have home mortgage loans, and typically are having difficulty making their monthly payments.

44. Consumers who call the toll-free numbers listed on the advertisements speak with Defendants' telephone sales representatives. Defendants also employ an outbound telemarketing operation in order to get consumers on the phone with one of their sales representatives.

45. Defendants tell consumers that the HLG Enterprise can help consumers obtain loan modifications that substantially lower consumers' monthly mortgage payments or interest rates by including the consumers in mass-joinder lawsuits in exchange for an advance fee.

46. The HLG Enterprise charges consumers a varying upfront fee, but their typical fee is a \$6,000 initial fee, which may be broken into 4-6 monthly payments. The enterprise typically charges consumers \$495 per month after they pay the \$6,000 initial fee.

47. The HLG Enterprise also tells consumers that HLG works on a contingency basis. They claim that they will charge 30% of any recovery from a lawsuit and that any upfront fees that a consumer has paid will be credited to that 30%.

48. In numerous instances, Defendants have discouraged consumers from communicating directly with their lenders or servicers and claimed that they will handle all communications with consumers' lenders and servicers.

49. In numerous instances, the HLG Enterprise has encouraged consumers to stop making mortgage payments, and in some instances told consumers that delinquency will demonstrate the consumers' hardship to the consumers' lenders. In those instances, Defendants do not disclose that if consumers stop making mortgage payments, they could lose their homes and damage their credit ratings.

50. Many of Defendants' solicitations fail to make disclosures required by law, including that:

- The consumer may stop doing business with Defendants or reject an offer of mortgage assistance, if one is made, without having to pay for the services;
- Defendants' companies are not associated with the government or approved by the government or the consumer's lender; and
- Even if the consumer uses the HLG Enterprise's service, the consumer's lender may not agree to modify the loan.

51. Where Defendants' solicitations make any of these disclosures, Defendants fail to make the disclosures in a clear and prominent manner: They are not preceded by the heading "IMPORTANT NOTICE" and they are made in a font size that is smaller than 12 point type.

**THE HLG ENTERPRISE DOES NOT OBTAIN THE  
PROMISED MODIFICATION AND CAUSES CONSUMER INJURY**

52. After consumers pay Defendant's upfront fees, Defendants in most, if not all, instances fail to obtain a loan modification, substantially reduce consumers' mortgage payments, or stop foreclosure.

53. One of Defendants' major selling points to consumers has been to tout that lenders will be more willing to negotiate with HLG because they are filing litigation with a voluminous number of plaintiffs. In some instances, Defendants do file the promised mass-joinder litigation on behalf of some clients. But, beginning in March 2013, courts began dismissing claims and severing all but the first-named plaintiffs from these actions. Nevertheless, even after March 2013, Defendants continued to rely on the mass-joinder theory to solicit new clients, knowing that this tactic has been continually rejected by the courts.

54. After consumers pay their upfront fees and become clients, the HLG Enterprise often fails to answer or return their telephone calls and emails and fails to provide updates to the clients.

55. When the clients are able to reach the HLG Enterprise, they are told that Defendants are making progress and that the clients should continue paying upfront fees.

56. In many instances, the litigation is dismissed or the client is dropped from the action. In those instances, Defendants have failed to provide accurate information to their clients and spin the dismissals as a positive development, in order to induce the consumer to continue pay the monthly maintenance fees for participation in the litigation.

57. Because they believe that the HLG Enterprise is working on their cases, many consumers postpone or forego seeking other relief that may be available to them, such as working directly with their lender, using a HUD-certified non-profit housing counselor, or entering foreclosure mediation.

58. Consumers who pay the HLG Enterprise's upfront fees suffer significant economic injury.

**THE HLG ENTERPRISE CONTINUES TO VIOLATE  
THE LAW EVEN AFTER ACTION BY LAW ENFORCEMENT**

59. Defendant Harper set up the HLG Enterprise despite having entered an Assurance of Voluntary Compliance ("AVC") with the State of Florida (attached as Exhibit 1), individually and as manager of Nation's Choice Financial Solutions, LLC, in 2009 for violation of FDUTPA and Section 501.1377, Florida Statutes, which relates to foreclosure-related rescue services. In the AVC, Harper assures that, among other things, he will not "engage, involve, or compensate Florida attorneys or out of state attorneys, to provide legal services to Florida homeowners for mortgage foreclosure defense and/or foreclosure related services in violation of The Florida Bar rules" or Section 877.02, Florida Statutes.

60. The HLG Enterprise has continued to operate even after receiving Cease and Desist Orders from state regulators in Idaho and New Mexico (attached as Exhibits 2 and 3).

61. The Idaho Order directs the Hoffman Law Group (then going by the name "the Residential Litigation Group") to immediately cease and desist from "engaging in advertising that is misleading, confusing, and deceptive."

62. The New Mexico Order directs Hoffman and the Residential Litigation Group to immediately cease and desist from, among other things, violating Regulation O or offering mortgage relief services as defined therein.



**ROLE OF CORPORATE DEFENDANTS  
AS A COMMON ENTERPRISE**

63. Individual defendants Harper, Willcox, and Hoffman, operate their scheme by using the corporate defendants as a common enterprise.

64. Indeed, each of the corporations exists to participate in the same mortgage assistance relief operation:

- The Hoffman Law Group files the mass joinder lawsuits and gives consumers the impression of a legitimate law firm;
- Nationwide Management Solutions runs the human resources side of the enterprise and helps to funnel revenue to non-attorneys, including Harper and Willcox;
- Legal Intake Solutions and File Intake Solutions are the telemarketing boiler rooms that convince consumers to pay HLG's fees, with substantial amounts of the money raised by those fees used to fund the telemarketing operation; and
- BM Marketing Group funnels the final profits to Harper and Willcox by first passing consumer fees through HLG's various accounts, then through Nationwide Management Solutions' various accounts, and then to BM Marketing Group.

65. The companies in the enterprise comingle finances. For instance, Nationwide Management Solutions has paid the rent for other companies in the enterprise.

66. The companies in the enterprise share a common address, operating out of a series of suites within the same building, and employees come and go between the suites multiple times per day.

67. The companies also have shared employees. For instance, at least nine employees have received paychecks from multiple businesses in the enterprise.

68. The corporate Defendants operate under the common control of Harper, Willcox, and Hoffman. These three individual defendants control the activities of each of the companies in the enterprise.

69. The companies in the enterprise all exist for the single purpose of selling consumers mortgage assistance relief services and splitting the profits among the individual defendants; none of the companies has any other apparent business purpose.

#### **REGULATION O**

70. In 2010, the Federal Trade Commission promulgated the MARS Rule to prohibit unfair and deceptive acts and practices with respect to mortgage loan or foreclosure relief services. 16 C.F.R. Part 322. In the CFPB, Congress transferred rulemaking authority over the MARS Rule to the Bureau, which recodified the Rule as 12 C.F.R. Part 1015, and designated it "Regulation O." The Bureau has authority to enforce Regulation O, as well as the prior MARS Rule, pursuant to 12 U.S.C. §§ 5538(a), 5564. (References below to "Regulation O" encompass both Regulation O and the MARS Rule.) The State of Florida has authority to enforce Regulation O under 12 U.S.C. § 5538(b) and 12 C.F.R. § 1015.10 (2012).

71. Regulation O defines "mortgage assistance relief service" as "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 . . . [n]egotiating, 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.” 12 C.F.R. § 1015.2 (2012).

72. Regulation O defines “mortgage assistance relief service provider” as “any person that provides, offers to provide, or arranges for others to provide, any mortgage assistance relief service,” other than the dwelling loan holder, the servicer of a dwelling loan, or any agent or contractor of the lender or servicer. 12 C.F.R. § 1015.2 (2012).

73. Defendants are “mortgage assistance relief service provider[s]” engaged in the provision of “mortgage assistance relief services” as those terms are defined in Regulation O. 12 C.F.R. § 1015.2 (2012).

74. Regulation O prohibits any mortgage assistance relief service provider from requesting or receiving payment of any fee or other consideration until the consumer has executed a written agreement between the consumer and the consumer’s loan holder or servicer that incorporates the offer that the provider obtained from the loan holder or servicer. 12 C.F.R. § 1015.5(a) (2012).

75. Regulation O further prohibits any mortgage assistance relief service provider from representing, expressly or by implication, in connection with the offering or performance of such a service, that a consumer cannot or should not contact or communicate with his or her lender or servicer. 12 C.F.R. § 1015.3(a) (2012).

76. Regulation O further prohibits any mortgage assistance relief service provider from misrepresenting, expressly or by implication, the consumer’s obligation to make scheduled periodic payments or any other payments pursuant to the terms of the consumer’s dwelling loan. 12 C.F.R. § 1015.3(b)(4) (2012).

77. Regulation O requires any mortgage assistance relief service provider, in every *general* commercial communication, as defined by 12 C.F.R. § 1015.2, to disclose that: (1) the provider is not associated with the government and its service is not approved by the government or the consumer's lender; and (2) in cases where the provider has represented, expressly or by implication, that consumers will receive certain services or results, a statement disclosing that the consumer's lender may not agree to modify a loan, even if the consumer uses the provider's service. 12 C.F.R. § 1015.4(a)(1)-(2) (2012). Regulation O requires these disclosures to be placed in a "clear and prominent manner," and when made in textual communications, they must "be preceded by the heading 'IMPORTANT NOTICE,' which must be in bold face font that is two point-type larger than the font size of the required disclosures." When made orally or through other audible means, "the required disclosures must be preceded by the statement 'Before using this service, consider the following information.'" 12 C.F.R. § 1015.4(a)(3) (2012).

78. Regulation O further requires any mortgage assistance relief service provider, in every *consumer-specific* commercial communication, as defined by 12 C.F.R. § 1015.2, to disclose: (1) that the consumer may stop doing business with the provider or reject an offer of mortgage assistance without having to pay for the services; (2) that the provider is not associated with the government and its service is not approved by the government or the consumer's lender; and (3) in cases where the provider has represented, expressly or by implication, that consumers will receive certain services or results, that the consumer's lender may not agree to modify a loan, even if the consumer uses the provider's service. 12 C.F.R. § 1015.4(b)(1)-(3) (2012). Regulation O requires these disclosures to be placed in a "clear and prominent manner,"



and when made in textual communications, must “be preceded by the heading “IMPORTANT NOTICE,” which must be in bold face font that is two point-type larger than the font size of the required disclosures.” When made orally or through other audible means, “the required disclosures must be preceded by the statement “Before using this service, consider the following information” and, in telephone communications, must be made at the beginning of the call.” 12 C.F.R. § 1015.4(b)(4) (2012).

79. Regulation O defines “clear and prominent manner,” as used in the disclosure requirements listed above, as requiring the textual disclosures to be made in, “at a minimum, the larger of 12-point type or one-half the size of the largest letter or numeral used in the name of the advertised Web site or telephone number to which consumers are referred.” 12 C.F.R. § 1015.2 (2012).

80. Regulation O requires any mortgage assistance relief service provider, in cases where the provider has represented, in connection with the offering or performance of such a service, that the consumer should temporarily or permanently discontinue payments on a dwelling loan, to clearly and prominently state in close proximity to any such representation that the consumer could lose his or her home and damage his or her credit rating if the consumer stops paying the mortgage. 12 C.F.R. § 1015.4(c) (2012).

81. Regulation O further provides that it is a violation “for a person to provide substantial assistance or support to any mortgage assistance relief service provider when that person knows or consciously avoids knowing that the provider is engaged in any act or practice that violates” the rule. 12 C.F.R. § 1015.6 (2012).



82. Under section 1097 of the CFPA, 12 U.S.C. § 5538, a violation of Regulation O constitutes an unfair, deceptive, or abusive act or practice under the CFPA, in violation of sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536.

### **VIOLATIONS OF REGULATION O**

#### **COUNT I**

#### **(Advance Fees in Violation of Regulation O) (Asserted by all plaintiffs against all defendants)**

83. The allegations in paragraphs 1 - 82 are incorporated here by reference.

84. In the course of providing, offering to provide, or arranging for others to provide mortgage assistance relief services, the defendants have asked for or received payment from consumers before those consumers have executed a written agreement with the loan holder or servicer that incorporates the offer obtained by the defendants, in violation of Regulation O, 12 C.F.R. § 1015.5(a) (2012).

#### **COUNT II**

#### **(Representations in Violation of Regulation O) (Asserted by all plaintiffs against all defendants)**

85. The allegations in paragraphs 1 - 82 of this complaint are incorporated here by reference.

86. In the course of providing, offering to provide, or arranging for others to provide mortgage assistance relief services, the defendants have engaged in representing, expressly or by implication, that a consumer should not contact or communicate with his or her lender or servicer, in violation of Regulation O, 12 C.F.R. § 1015.3(a) (2012).

**COUNT III**

**(Misrepresentations in Violation of Regulation O)  
(Asserted by all plaintiffs against all defendants)**

87. The allegations in paragraphs 1 - 82 are incorporated here by reference.

88. In the course of providing, offering to provide, or arranging for others to provide mortgage assistance relief services, the defendants have engaged in misrepresenting, expressly or by implication, material aspects of their services, including, but not limited to, misrepresenting consumers' obligation to make scheduled periodic payments or any other payments pursuant to the terms of their dwelling loans, in violation of Regulation O, 12 C.F.R. § 1015.3(b)(4) (2012).

**COUNT IV**

**(Failure to Make Certain Disclosures in Violation of Regulation O)  
(Asserted by all plaintiffs against all defendants)**

89. The allegations in paragraphs 1 - 82 are incorporated here by reference.

90. In the course of providing, offering to provide, or arranging for others to provide mortgage assistance relief services, the defendants:

- a) violated Regulation O, 12 C.F.R. § 1015.4(a)(1),(2), by failing to make the following disclosures in all general commercial communications in a clear and prominent manner –
  - o “[The Hoffman Law Group] is not associated with the government, and our service is not approved by the government or your lender;” and
  - o “Even if you accept this offer and use our service, your lender may not agree to change your loan;”

- b) violated Regulation O, 12 C.F.R. § 1015.4(b)(1),(2),(3), by failing to make the following disclosures in all consumer-specific commercial communications in a clear and prominent manner –
- “You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services;”
  - “[The Hoffman Law Group] is not associated with the government, and our service is not approved by the government or your lender;” and
  - “Even if you accept this offer and use our service, your lender may not agree to change your loan;” and
- c) violated Regulation O, 12 C.F.R. § 1015.4(c), by failing to make the following disclosure in all communications in cases where Defendants have represented, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, that the consumer should temporarily or permanently discontinue payments, in whole or in part, on a dwelling loan, clearly and prominently, and in close proximity to any such representation: “If you stop paying your mortgage, you could lose your home and damage your credit rating.”

**VIOLATIONS OF FLORIDA STATE LAW**

**COUNT V**

**(Deceptive and Unfair Trade Practices)  
(Asserted by Florida against all Defendants)**

91. The allegations in paragraphs 1 - 82 are incorporated here by reference.
92. Section 501.204(1) of the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes, states that “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”
93. A person that willfully engages in a deceptive or unfair act or practice is liable for a civil penalty of \$10,000 for each such violation; willful violations occur when the person knew or should have known that the conduct in question was deceptive or unfair or prohibited by rule, Section 501.2075, Florida Statutes.
94. Section 501.203(8), Florida Statutes, defines “trade or commerce” as:  
...the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. “Trade or commerce” shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.
95. At all times material hereto, Defendants have engaged in “trade or commerce” as defined by Section 501.203(8), Florida Statutes.
96. At all times material hereto, Defendants have engaged in deceptive, unfair, and unconscionable acts that included but are not limited to designing, creating, and sending out to consumers direct mail pieces, and maintaining websites that contained misleading information that have given consumers the impression that Defendants’

proposed mass-joinder litigation would be able to help homeowners who are having difficulty making their monthly payment to negotiate their mortgage terms and/or to stop and resolve residential foreclosure proceedings.

97. Defendants Harper, Willcox, and Hoffman have directed or controlled, or have had the authority to direct and control, the practices engaged in by the HLG Enterprise. The false and misleading peddling of inclusion in mass-joinder lawsuits by Defendants concerns the “providing . . . of any . . . service,” which is specifically defined as trade or commerce by Section 501.203, Florida Statutes.

98. Defendants have willfully engaged in the acts and practices when they have known or should have known that such acts and practices are unfair or deceptive or otherwise prohibited by law.

99. These above-described acts and practices of Defendants have substantially injured and will likely continue to injure and prejudice the public. Further, these substantial injuries are not outweighed by any countervailing benefits to consumers or competition, and are not injuries that the consumers themselves could have reasonably avoided.

100. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, Defendants’ actions will result in irreparable injury to the public for which there is no adequate remedy at law.

**COUNT VI**  
**(Civil Theft)**  
**(Asserted by Florida against all defendants)**

101. The allegations in paragraphs 1 - 82 are incorporated here by reference.



102. Section 812.014(1), Florida Statutes, states that a person commits theft if he or she knowingly obtains or uses the property of another with the intent to deprive another person of a right to property and appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

103. Defendants have collected millions of dollars from consumers around the country to obtain legal and mortgage assistance relief services under the guise that the litigation has a high likelihood of resulting in a modification of mortgage terms favorable to the consumer, which Defendants knew or should have known to be untrue.

104. Defendants have failed to inform and/or misinformed clients who have been listed as plaintiffs in mass-joinder actions about the status of their cases, the consequences of the respective court rulings (such as dismissal or being severed), and the likelihood of obtaining the desired relief (a loan modification) through the litigation in order to induce the clients to keep paying monthly fees to continue to participate in the litigation.

105. Upon information and belief, Defendants have not removed clients as plaintiffs in filed mass-joinder litigation for failure to pay monthly fees. Yet they indicate to currently paying clients that they will be removed from the litigation if they stop paying the monthly fee, and numerous clients have continued to pay the monthly fees based upon those representations.

106. Defendants Harper, Willcox, and Hoffman, have directed and controlled, or had the authority to direct and control, the practices engaged in by the HLG Enterprise.

107. Defendants have known or should have known that they cannot legally provide these services to clients of the Hoffman Law Group.

108. The litigation services purportedly offered by Defendants through the HLG Enterprise will not provide the promised results to Hoffman Law Group clients. In fact, the litigation is being filed with the knowledge that the vast majority of the claims will be severed or dismissed. When claims are dismissed and plaintiffs are severed, the HLG Enterprise then continually re-files the same or similar litigation (or at least leads the consumer to believe they are re-filing the litigation) to induce the clients to continue paying their monthly fees so that they can remain in the mass-joinder litigation.

109. The monies collected by Defendants are obtained with the intent to deprive the victims of the money and are appropriated for the use of Defendants and others not entitled to the funds.

110. Section 812.035(5), Florida Statutes, authorizes Plaintiff to seek relief for violations of Section 812.041, Florida Statutes, including ordering a defendant to divest himself of any interest in any enterprise and imposing reasonable restrictions on the future activities or investments of any defendant.

111. Defendants' actions have deprived numerous consumers of the monies paid for services that were never rendered, and all such consumers are entitled to full restitution from Defendants.

#### **COUNT VII**

#### **(Violation of Assurance of Voluntary Compliance) (Asserted by Florida against Defendant Harper)**

112. The allegations in paragraphs 1 - 82 are incorporated here by reference.

113. In Paragraph 2.8 of the AVC (attached as Exhibit 1) with the Florida Attorney General, relating to the investigation of Nations Choice Financial Solutions, LLC, Defendant Harper agreed that he would not "engage, involve, or compensate Florida attorneys or out of state attorneys, to provide legal services to Florida

homeowners for mortgage foreclosure defense and/or foreclosure related services in violation of The Florida Bar rules or Florida Statute 877.02.”

114. The HLG Enterprise has sold legal services to consumers around the country, including Florida, and promised mortgage assistance relief services. The HLG Enterprise has engaged in numerous violations of the Florida Bar Rules, and has compensated Hoffman, as well as other out of state attorneys to provide legal services for mortgage foreclosure defense and/or foreclosure related services.

115. Defendant Harper failed to comply with the terms of the AVC, which is prima facie evidence of a FDUTPA violation, pursuant to Section 501.207(6) Florida Statutes and Section IV of the AVC.

116. By violating the terms of the AVC, Defendant Harper engaged in unfair and deceptive acts and practices in the conduct of trade or commerce in violation of Section 501.204(1), Florida Statutes.

117. Defendant’s actions have resulted in damage to consumers.

118. Plaintiff Florida is entitled to permanent injunctive relief without the necessity of showing that there is an irreparable injury to the public for which there is no adequate remedy at law.

**COUNT VIII**  
**(Deceptive and Unfair Trade Practices Through  
Violation of the Florida Telemarketing Act)  
(Asserted by Florida against Defendants Harper,  
Willcox, and File Intake Solutions, LLC)**

119. The allegations in paragraphs 1 - 82 are incorporated here by reference.

120. On or about March 14, 2013, Defendants Harper and Willcox filed an application with the Florida Department of Agriculture and Consumer Services for

licensure as a commercial telephone seller on behalf of Defendant File Intake Solutions, LLC.

121. Defendants Harper and Willcox failed to truthfully answer all questions on the commercial telephone seller license filed on behalf of Defendant File Intake Solutions, LLC, including:

- Under the section titled *Occupation History*, Defendants Harper and Willcox omitted their previous history working on behalf of the HLG Enterprise prior to the incorporation of File Intake Solutions, LLC.
- Under the section of the application titled *Previous Experience*, Defendants Harper and Willcox claim to have “0 months experience,” when, in fact, both had significant experience in the foreclosure rescue industry.
- Under the section *Parents and Affiliates*, Defendants Harper and Willcox omitted the other entities affiliated with the HLG Enterprise.
- Under the section titled *Officer 2*, and in apparent reference to Harper, Defendants Harper and Willcox answered “no” to question 3, which asks, “Have you ever been subject to any litigation ...an assurance of voluntary compliance...as the result of any action brought by a government agency?” In fact, Harper was party to an Assurance of Voluntary Compliance agreed to with the Attorney General as alleged in paragraphs 59 and 113 of this Complaint.
- Under the section titled *Salespersons*, Defendants Harper and Willcox answered, “No salespersons listed.” In fact, the HLG Enterprise has

employed numerous telemarketers who have sold consumer goods or services.

- Under the section titled *Question 12*, Defendants Harper and Willcox answered, “We do not send any written material to any prospective or actual purchaser.” In fact, the HLG Enterprise sends out numerous advertisements and documents pertaining to the prospective client’s participation in the mass-joinder lawsuits peddled by the HLG Enterprise.

122. Furthermore, Defendants conducted telemarketing activities on behalf of the HLG Enterprise for approximately two years prior to applying for the commercial telephone seller license.

123. Section 501.203(3)(c), Florida Statutes, states that a violation of Chapter 501, Part II, may be based on a violation of “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

124. Falsifying information on a commercial telephone seller application, in violation of Sections 501.616(4) and 501.623(4), Florida Statutes, offends established public policy and is substantially injurious to consumers, as well as competitors, and is therefore an unfair practice in violation of Section 501.204, Florida Statutes.

125. Engaging in unlicensed commercial telephone sales, in violation of Sections 501.616(4) and 501.623(3), Florida Statutes, offends established public policy and is substantially injurious to consumers, as well as competitors, and is therefore an unfair practice in violation of Section 501.204, Florida Statutes.



126. These above-described acts and practices of Defendants Harper, Willcox, and File Intake Solutions, LLC, have substantially injured and will likely continue to substantially injure and prejudice the public. Further, these substantial injuries are not outweighed by any countervailing benefits to consumers or competition, and are not injuries that the consumers themselves could have reasonably avoided.

127. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the Defendants' actions will result in irreparable injury to the public for which there is no adequate remedy at law.

#### **PRAYER FOR RELIEF**

128. Wherefore, Plaintiffs request that the Court:

- a. permanently enjoin Defendants from committing future violations of Regulation O, the FDUTPA, the Florida Telemarketing Act, and acts of Civil Theft, and enter such other injunctive relief as appropriate;
- b. award restitution, jointly and severally, against Defendants in the amount of all unlawfully collected fees;
- c. order disgorgement of ill-gotten revenues against Defendants;
- d. award civil money penalties against Defendants;
- e. order the rescission or reformation of contracts where necessary to redress injury to consumers;
- f. award costs against Defendants; and
- g. award additional relief as the Court may determine to be just and proper.

Dated: July 14, 2014

Respectfully Submitted,

Attorneys for Plaintiff  
Consumer Financial Protection Bureau:

Anthony Alexis, DC Bar #384545  
Acting Enforcement Director

Ori Lev, DC Bar #452565  
Deputy Enforcement Director

Laurel Loomis Rimon, CA Bar #166148  
Assistant Deputy Enforcement Director



Zach Mason, WA Bar #47202  
S.D. Fla. Special Bar #A5501978  
(Email: zach.mason@cfpb.gov)  
(Phone: 202-435-7508)

Nelle Rohlich, WI Bar #1047522  
S.D. Fla. Special Bar #A5501979  
(Email: nelle.rohlich@cfpb.gov)  
(Phone: 202-435-7280)

1700 G Street NW  
Washington, DC 20552  
Fax: 202-435-7722

And

Attorneys for Plaintiff  
The State of Florida,  
Office of the Attorney General  
Department of Legal Affairs:

Pamela Jo Bondi  
Attorney General

Victoria A. Butler  
Attorney Supervisor/Bureau Chief



Richard Schiffer, FL Bar #74418  
richard.schiffer@myfloridalegal.com

Amanda Arnold Sansone, FL Bar # 587311  
amanda.sansone@myfloridalegal.com  
3507 East Frontage Road #325  
Tampa, Florida 33607  
Phone: 813-287-7950  
Fax: 813-281-5515

# Exhibit 1

**STATE OF FLORIDA  
DEPARTMENT OF LEGAL AFFAIRS  
OFFICE OF THE ATTORNEY GENERAL**

**IN THE MATTER OF:**

**AG Case # L09-3-1081**

**NATION'S CHOICE FINANCIAL SOLUTIONS, LLC,  
a Florida Corporation and JAMES P. ADORNA  
and MICHAEL HARPER, individuals**

**Respondents.**

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**ASSURANCE OF VOLUNTARY COMPLIANCE**

PURSUANT to the provisions of Chapter 501, Part II, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act, the STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL, hereinafter referred to as the "Department" caused an investigation to be made into the business practices of NATION'S CHOICE FINANCIAL SOLUTIONS, LLC, a Florida Limited Liability Corporation which presently conducts business in the state of Florida with a principal place of business at 500 Gulf Stream Boulevard, Delray Beach, Florida 33483, and James P. Adorna, Principal owner of the business and Michael Harper, Principal owner of the business, Nation's Choice Financial Solutions and are hereinafter referred to as "Respondents."

IT APPEARS THAT Respondents are prepared to enter into this Assurance of Voluntary Compliance, hereinafter "AVC", without an admission that Respondents have violated the law and for the purpose of resolution of this matter with the Department, and the Department, by and through the undersigned Assistant Attorney General, and the undersigned Director, Economic Crimes Division, being in agreement, does in this matter accept this AVC in

  
Initials



termination of this investigation, pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Department by said statute.

### **I. STIPULATED FACTS**

1.1 The Department has investigated allegations that Respondents are not fully compliant with provisions of Florida Statute 501.1377.

1.2 Respondent offered services to Florida homeowners to assist with arranging an alternative payment plan, a temporary modification, forbearance, short sale, and /or a modification of loan with the homeowner's lender for the purposes of avoiding foreclosure and/or obtaining rates and payments affordable to the homeowner.

1.3 Respondents and the Department desire to resolve all issues arising during the course of this investigation while permitting the Respondent at least and additional ninety (90) days to work with lenders and continuing processing current clients' files.

1.4 This AVC is based upon the stipulated facts set forth in Paragraphs 1.1 through 1.3 above. This agreement is an agreement between Nation's Choice Financial Solutions, LLC and the Department. Unless any material misrepresentations are contained herein the Department's further action is limited to actions for violations of the AVC. The Department shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way, or the AVC not be complied with in full.

### **II. TERMS**

2.1 Respondents voluntarily ceased new business sales and have not solicited new business since April 10, 2009. Respondents continue to process files for clients who contracted with and paid Respondents between October 1, 2008 and April 10<sup>th</sup>, 2009.

2.2 Respondents and their representatives, agents, employees, successors, assigns or

any other person who acts under, by, through, or on behalf of Respondents, directly or indirectly, or through any corporate or other device, shall comply with the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes.

2.3 Respondents shall make the terms and conditions of this AVC known to the Respondents' managers, members, officers, directors, and successors.

2.4 Respondents shall not affect any change in any form of doing business or organizational identity as a method of avoiding the terms of this AVC.

2.5 Nothing in this AVC shall be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against the Respondents.

2.6 Florida Statute 501.1377, effective October 1, 2008, prohibits foreclosure-related rescue businesses from collecting payment from clients prior to the completion of contracted for foreclosure-related rescue services. The Department has received complaints from clients identified in Exhibit "A" and Respondents agree to refund clients identified in Exhibit A and in accordance with the spreadsheet Exhibit "A". Further, the Respondents agree to the following:

a. No Refund is required for any contracts signed or clients who engaged Respondent prior to October 1, 2008.

b. No refund is required, if Respondents have completed the contracted foreclosure-related rescue services as of the date of signing of this AVC.

c. No refund is required if within ninety (90) calendar days of the date of Respondents' signature to this AVC, Respondents complete the contracted foreclosure-related rescue services of those Florida consumers listed in Exhibit B and commencing thirty (30) calendar days after the execution of this AVC, Respondents provide the Department an update

each thirty (30) calendar days to identify the status of each client account included in Exhibit B. Exhibit B consists of those Florida consumers who have already contracted with and paid Respondents whose services are still pending at the time this AVC is executed. Completion may include, but is not limited to, whether the Respondents have received an offer from a consumer's lender to Temporary Modify a loan, forbearance upon a loan; develop a new repayment plan, create and/engage in a short sale; modify a loan. Completion of services to a consumer is not necessarily contingent upon whether or not the consumer chooses to accept the offer from the lender.

d. Respondents and the Department shall review client files listed in Exhibit B, ninety (90) days after the execution of this AVC to determine the status for each non completed file. At such time, it is at the Department's discretion whether Respondents will receive an extension to complete the loan modification services for consumers listed in Exhibit B. Regardless of whether the extension is given or not, each consumer listed in Exhibit B shall either be presented with a possible loan modification, a temporary modification, forbearance agreement, repayment plan, short sale, modification or the consumer shall be fully refunded by Respondents.

e. No refund is required if the Respondents have previously refunded the consumer in accordance with Respondents contract, communication and/or executed general release.

2.7 Respondents further agree that they are strictly prohibited pursuant to this AVC from transferring any monies or upfront fees from any former Nations Choice Financial Solutions clients or persuading any actual or prospective customer of Respondent to transition to or contract with any future business of Respondent.

2.8 Respondents shall not engage, involve or compensate Florida attorneys or out of state attorneys, to provide legal services to Florida homeowners for mortgage foreclosure defense and/or foreclosure related services in violation of The Florida Bar rules or Florida Statute 877.02 regarding the unlicensed practice of law and referral fees. Nothing in this provision prohibits Respondent from engaging legal counsel for its own benefit and needs.

2.9 Respondents shall not violate Florida Statute 501.1377 and any future violation of Florida Statute 501.1377, will be a violation of this AVC, which is by statute prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs

2.10 Respondents have placed an acceptable disclaimer on the [www.nationschoice.org](http://www.nationschoice.org) website, which will run for a period 60 days after the effective date of this AVC, that alerts those visiting the site that Nation's Choice is no longer soliciting new applications and should existing clients need to inquire, consumers should contact the phone number posted on the above site.

### **III. STIPULATED PAYMENT**

3.1 Upon partial execution of this AVC, Respondents agree to pay, a total of \$5000.00 (FIVE THOUSAND DOLLARS ) in the aggregate for attorneys' fees and costs. The below check, along with the AVC signed by Respondents and Respondents' attorney are to be delivered to Assistant Attorney General Samantha Schosberg Feuer, Office of the Attorney General, 1515 North Flagler Drive, Suite 900, West Palm Beach, Florida 33401.

a) \$ \$12,623.00 ( TWELVE THOUSAND, SIX HUNDRED AND TWENTY-THREE DOLLARS) in consumer restitution to be paid by Respondents to consumers identified in

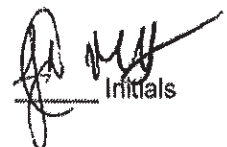
  
Initials

Exhibit A, attached and incorporated herein, prior to the signing of this AVC and shall provide documentation, via a notarized affidavit and spreadsheet of these payments, to Assistant Attorney General, Samantha Schosberg Feuer. Consumers who request refunds based upon conditions identified in paragraph 1.2 above will be refunded within thirty (30) calendar days of their request. After the 30 days, are finished, Respondents will provide the Department with a notarized affidavit attesting to the fact that all of the identified consumers in Exhibit A have been refunded. The schedule referenced in Exhibit B will be maintained current to accurately reflect the status of consumer's file and loan modification application, refunds and foreclosure-related service actions and those who require a refund under the terms of 2.6 of this Agreement shall receive one.

b) Upon signing this AVC, Respondent will tender and additional deposit TWENTY THOUSAND DOLLARS (\$20,000.00) ("the Escrow Funds") in Respondents' attorney's escrow account for the purpose of making refunds to other eligible consumers who have not yet made contact with the Respondents or the Department, but come forward subsequent to the execution of the AVC seeking a refund for services with Respondents contracted prior to the execution of the AVC. Those who receive refunds out of the Escrow Funds will be at the sole discretion of the Department. Respondents' obligation to maintain the Escrow Funds for the purposes stated herein terminates sixty (60) days from the date this AVC is executed, following written confirmation from the Department regarding any pending new complaints. In the event actual restitution for future complainants exceeds the amount of the Escrow Funds, then the Escrow Funds will be distributed pro-rata to the complainants who come forward within the sixty (60) day period, and Respondents will have no further monetary obligation said complainants and/or consumers pursuant to this AVC, unless there is a violation of the terms of this AVC. However,

  
Initials



no individual consumer will receive more than the amount they are actually owed. If there are any excess funds remaining after the distribution, those funds will be returned to the Respondents.

3.2 Respondents interest in funds paid in conjunction with this AVC shall fully and completely divest when the AVC is fully executed by all parties, including the Deputy General. Notwithstanding any other provision of this AVC, no portion of any funds, excepting Escrow Funds if all are not distributed, shall in any event be returned to Respondents provided that the AVC has been fully executed.

3.3 Upon receipt of the partially executed AVC and accompanying Settlement Funds check, Samantha Schosberg Feuer will sign the AVC and then forward the AVC to the Deputy Attorney General, together with the aforementioned funds. The Deputy General has the final authority to approve or disapprove the entry of the AVC. Should the Deputy General or his authorized designee decline to authorize and execute this AVC, then all Settlement Funds, including escrowed funds, would be promptly returned to Respondents.

3.4 In the event that a court of competent jurisdiction makes a determination that a violation of any condition of this AVC has occurred, then, Respondents shall be liable for damages, penalties, attorney's fees and costs as determined by the Court.

#### **IV EFFECTIVE DATE**

The Effective Date of this AVC is the date on which the AVC is fully executed by the parties. This will be the date that the AVC is signed by the Deputy Attorney General or Division Director. The receipt of or deposit by the Department of any monies pursuant to this AVC does not constitute acceptance by said Department, and monies received will be returned if this AVC is not accepted. Upon entry of the AVC and upon full payment of restitution and attorneys fees,

the Attorney General agrees to close its investigation into the activities of Respondents.

#### **V. AVAILABILITY OF RECORDS**

All of Respondents records must be retained for a minimum of two (2) years. Respondents shall maintain and make available to the Department, upon its written request, all books, records and other documents which reflect the implementation of the terms of this AVC and compliance with its terms. Any such records requested by the State shall be made available for inspection within twenty (20) business days. The Respondent shall honor any request from the State to make such records available without further legal process.

#### **VI. FUTURE VIOLATIONS**

**IT IS HEREBY AGREED** by the parties that any failure to comply with the terms and conditions of this AVC is by statute prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs.

#### **VII. ACCEPTANCE**

7.1 **IT IS HEREBY AGREED** by the parties that this AVC shall become effective upon its acceptance by the Director, Economic Crimes Division, who may refuse to accept it at her discretion. The receipt of or deposit by the Department of any monies pursuant to this AVC does not constitute acceptance by said Department, and monies received will be returned if this AVC is not accepted.

#### **VIII. MISCELLANEOUS PROVISIONS**

8.1 The Attorney General has not approved any of Respondents past, current or proposed business practices, other than those specifically mentioned in this AVC, and therefore no portion of this AVC shall be construed as such an approval.

8.2 In consideration for the fulfillment of the various obligations set forth herein, no penalties are imposed under this AVC. However, the Attorney General reserves the right to seek Chapter 501 penalties for any future violation(s) of Chapter 501 Part II Florida Statutes. The Attorney General also reserves the right to seek attorneys' fees and costs upon any future noncompliance.


8.3 Nothing herein shall be construed as a waiver of any private rights, causes of action, or remedies of any private person, business, corporation, government or legal entity

8.4 The parties jointly participated in the negotiation of the terms articulated in this AVC. No provision of this AVC shall be construed for or against either party on the ground that one party or another was more heavily involved in the preparation.

**IN WITNESS WHEREOF**, Respondents have caused this AVC to be executed by an authorized representative, as a true act and deed, in the county and state listed below, as of the date affixed thereon.

**BY MY SIGNATURE** I hereby affirm that I am acting in my capacity and within my authority as a Principal Owner, and in my individual capacity, and that by my signature I am binding myself and the business to the terms and conditions of this AVC.

**NATION'S CHOICE FINANCIAL SOLUTIONS, LLC**

  
By James P. Adorna,  
Manager, Nation's Choice Financial Solutions, LLC

**State of Florida**

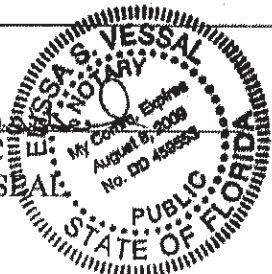
STATE OF FLORIDA

COUNTY OF Palm Beach

BEFORE ME, a notary public of the State of Florida appeared James P. Adorna who swore under oath that he is a Principal Owner of Nation's Choice Financial Solutions and who is either (Check One)  known to me or who \_\_\_\_\_ produced the following

identification:

Elissa S. Vessal  
NOTARY PUBLIC  
AFFIX NOTARY SEAL



BY MY SIGNATURE I hereby affirm that I am acting in my capacity and within my authority as a Principal Owner, and in my individual capacity, and that by my signature I am binding myself and the business to the terms and conditions of this AVC.

**NATION'S CHOICE FINANCIAL SOLUTIONS, LLC**

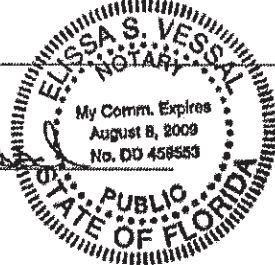
Michael Harper  
By Michael Harper  
Manager, Nation's Choice Financial Solutions, LLC

**State of Florida**  
STATE OF FLORIDA

COUNTY OF Palm Beach

BEFORE ME, a notary public of the State of Florida appeared Michael Harper who swore under oath that he is a Principal Owner of Nation's Choice Financial Solutions and who is either (Check One)  known to me or who \_\_\_\_\_ produced the following identification:

Elissa S. Vessal  
NOTARY PUBLIC  
AFFIX NOTARY SEAL



Elissa S. Vessal Esq.  
Elissa S. Vessal Esq.  
Fla Bar No. 694002  
Attorney for Respondents

MS  
Initials

**ACCEPTANCE BY ATTORNEY GENERALS OFFICE**

Signed this 5<sup>th</sup> day of June, 2009.

Office of the Attorney General  
Samantha Schosberg Fener  
Assistant Attorney General  
Florida Bar 598542  
1515 North Flagler Drive  
Suite 900  
West Palm Beach, Florida, 33401  
561-837-5000  
561-837-5109 (FAX)

Accepted this 9<sup>th</sup> day of June, 2009.

*For* Michael A. Palerli  
MARY LEONTAKIANAKOS  
Director, Economic Crimes Division  
Department of Legal Affairs  
OFFICE OF THE ATTORNEY GENERAL  
The Capitol  
Tallahassee, FL 32399-1050  
(850) 245-0140



## Exhibit 2

LAWRENCE G. WASDEN  
Attorney General

JOSEPH B. JONES – I.S.B. #2768  
Deputy Attorney General  
State of Idaho  
Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8091  
Facsimile: (208) 332-8016  
joseph.jones@finance.idaho.gov

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF  
FINANCE, FINANCIAL INSTITUTIONS  
BUREAU,

Complainant,

vs.

THE RESIDENTIAL LITIGATION  
GROUP, P.A.,

Respondent.

Docket No. 2012-41-02

**ORDER TO CEASE AND DESIST**

Gavin M. Gee, Director of the Idaho Department of Finance (Director), being authorized and directed to administer and enforce the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.* (IFFPA), and the Idaho Bank Act, Idaho Code § 26-101 *et seq.*, hereby makes the following factual findings which constitute a basis for the issuance of an ORDER TO CEASE AND DESIST (Order) pursuant to Idaho Code § 67-2755(1) requiring THE RESIDENTIAL LITIGATION GROUP, P.A., to cease and desist from violating the IFFPA by disseminating information to the public that is confusing, misleading, and deceptive; and to cease and desist from any other activities which violate the IFFPA and the Idaho Bank Act.

## RESPONDENT

1. THE RESIDENTIAL LITIGATION GROUP, P.A. (Respondent) was formed as a Florida corporation on April 13, 2012. The company lists its business address with the Florida Secretary of State (Florida SOS) as 777 South Flagler Drive, Suite 800-West Tower, West Palm Beach, Florida. However, on its website, Respondent lists its address as 2200 Pennsylvania Avenue NW, 4<sup>th</sup> Floor, Washington, D.C. Respondent's Officer/Director and Registered Agent is Marc Hoffman.

2. Mr. Hoffman is licensed to practice law in the state of Florida and in the District of Columbia. He does not hold a license to practice law in the state of Idaho. The Florida Bar lists Mr. Hoffman's firm as The Residential Litigation Group and also lists the website, [www.theresidentiallitigationgroup.com](http://www.theresidentiallitigationgroup.com). In addition, the Florida Bar indicates that Mr. Hoffman is admitted to practice before the Florida State and District of Columbia Courts, in addition to the U.S. Supreme Court, the Fifth and Eleventh U.S. Circuit Court of Appeals, and the U.S. District Court, Southern District of Florida. Mr. Hoffman lists the West Palm Beach address with the Florida Bar, and the Washington D.C. address with the DC Bar.

3. Respondent uses the website, [www.theresidentiallitigationgroup.com](http://www.theresidentiallitigationgroup.com), wherein it represents the following:

The Residential Litigation Group is a leading litigation law firm based out of Washington D.C. Our firm focuses its practice on litigation against all of the major banks and lenders in the United States.

...

The Residential Litigation Group is suing the nation's biggest banks and lenders for deceptive loan practices, deceptive and illegal foreclosure actions, and deceptive mortgage modification practices, among other causes of action. We are seeking to hold the banks and lenders accountable for their harmful and illegal behavior, and we are working to find real relief for homeowners. The lawsuits are also targeting banks' use of fraudulent paperwork in the foreclosure process, foreclosing without actually holding a mortgage, corrupting the local title and land recording systems, and failing to uphold promises of loan modifications.

One of our most significant causes of action that we are taking is to go after the banks' use of phony documents and forged signatures ("robo-signing") for the purpose of illegally foreclosing on tens-of-thousands of homeowners.

#### **FINDINGS OF FACT**

4. On or about September 19, 2012, the State of Idaho, Department of Finance, Financial Institutions Bureau (Department) received a complaint from an Idaho bank concerning Respondent's recent dissemination to Idaho residents of advertisements relating to Respondent's services. The bank provided the Department with a copy of the advertisement received by one of its customers. On or about September 27, 2012, the Department received a second complaint from another Idaho bank concerning Respondent's dissemination to Idaho residents of advertisements relating to Respondent's services. That bank provided the Department with a copy of the advertisement received by one of its customers.

5. Among other things, the advertisements stated that Respondent "is intending to file a potential claim against [the individual's lender] aimed at improper lender actions." Further, the advertisements state that the recipient "may be a potential plaintiff in a national lawsuit." The advertisements specifically name the recipients' mortgage lenders, which are both banks.

6. In the fine print appearing at the bottom of the advertisements, Respondent confirms that the document which purports to be a "Litigation Notification" is actually an advertisement.

7. Respondent's advertisements were received by at least two (2) Idaho residents during the month of September 2012. To date, the Department has been unable to determine the total number of Idaho residents who received Respondent's advertisements.

8. The advertisements Respondent sent to Idaho residents suggest to the recipient that the recipient's mortgage lender may have engaged in fraudulent lending practices.

9. Posing as a prospective customer, on September 21, 2012, a Department representative called the telephone number listed on Respondent's advertisements. The representative's phone call was answered by an individual who identified the business as "The Residential Litigation Group." The individual taking the representative's call identified himself as Nick McNesky.

10. Mr. McNesky pressed to obtain information from the representative regarding her mortgage balance, current lender, current interest rate, the market value of her residence, and whether her current lender had filed a foreclosure action. Mr. McNesky further stated that the law firm is assisting homeowners in a lawsuit against 22 lenders, and that the firm is currently working on 17 different fraudulent practices suits.

11. Mr. McNesky told the representative that to begin working with the law firm, she needed to send Respondent a retainer fee of \$6,000, which would be refunded after the lawsuit is settled, and additionally, that the representative needed to pay a monthly fee of \$450 during the pendency of the lawsuit.

### **CONCLUSIONS OF LAW**

#### *VIOLATIONS OF § 67-2752(7) OF THE IFFPA*

12. The allegations set forth in paragraphs 1 through 11 above are fully incorporated herein by this reference.

13. The IFFPA, at Idaho Code § 67-2752(7), prohibits persons from using "in a manner likely to cause confusion or mistake or to deceive, the name, trademark, service mark, or



logo of a financial institution in connection with the sale, offering for sale, distribution, or advertising of any product or service without the consent of the financial institution.”

14. In the advertisements Respondent sent to two (2) Idaho residents, Respondent specifically named the recipient’s financial institution and suggested or implied that the institution had engaged in lender misconduct or fraudulent lending practices. Respondent did not have the consent of the financial institution to use the name of the financial institution in Respondent’s advertisements.

15. Respondent’s use of the name of the recipient’s financial institution in Respondent’s advertisements was likely to cause confusion or to deceive the recipient.

16. Respondent’s sending of two (2) advertisements naming the recipient’s financial institution, without the institution’s consent, to at least two (2) Idaho residents constitutes two (2) violations of the IFFPA.

#### **FINDING OF IMMEDIATE DANGER**

17. Idaho Code §§ 26-1203 and 26-1204 of the Idaho Bank Act make it unlawful for a person to circulate or transmit to another any false statement, rumor, or suggestion, written, printed or by word of mouth which is directly or by inference derogatory to the financial condition or affects the financial standing of a financial institution.

18. The public’s belief that a financial institution has engaged in lender misconduct or predatory lending practices endangers the financial condition or financial standing of the financial institution, its depositors and customers, and the public. These facts require the Director to issue this Order immediately to protect the public and the financial institutions named in Respondent’s advertisements/solicitations.

### REMEDIES

19. Idaho Code § 67-2755(1) authorizes the Director to order a person to cease and desist from violations or attempted violations of the IFFPA if, in the determination Director, it is necessary to protect any financial institution or the public, or a person is violating or is about to violate the IFFPA.

20. Idaho Code § 26-1116(a) authorizes the Director to order a person to cease and desist from violations of the Idaho Bank Act if the Director believes that a person not authorized to engage in banking or trust business has engaged or is about to engage in any act or practice constitution a violation of the Idaho Bank Act or any rule or order thereunder.

### ORDER

The Director, having reviewed the foregoing, and good cause being shown therefor,

THE DIRECTOR HEREBY FINDS that Respondent has violated the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750, *et seq.*; and the Idaho Bank Act, Idaho Code § 26-101 *et seq.*, and that issuance of this Order is necessary to protect the financial institutions named in Respondent's advertisements and the public.

THE DIRECTOR FURTHER FINDS, pursuant to Idaho Code § 67-5247, that Respondent's violations of the IFFPA, as set forth above, involve an immediate danger to the public safety and welfare, requiring immediate agency action.

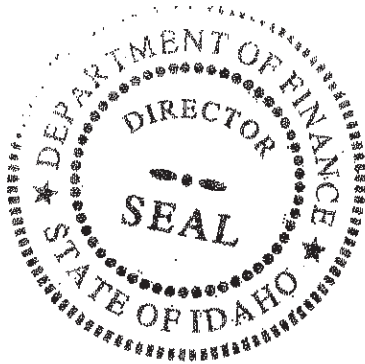
NOW, THEREFORE, IT IS HEREBY ORDERED:

Pursuant to § 67-2755(1) of the IFFPA, and § 26-1116(a) of the Idaho Bank Act, THE RESIDENTIAL LITIGATION GROUP, P.A. shall CEASE AND DESIST from violations of the Idaho Financial Fraud Prevention Act, to include engaging in advertising that is misleading, confusing, and deceptive and which use the name of a financial institution without the financial

institution's consent; and from violations of the Idaho Bank Act. Because of the danger to the public presented by Respondent's violations of the IFFPA and the Idaho Bank Act, this action constitutes an emergency contested case, and this Order is effective upon its issuance.

**IT IS SO ORDERED.**

DATED this 14<sup>TH</sup> day of NOVEMBER, 2012.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
\_\_\_\_\_  
GAVIN M. GEE, Director

**NOTICE**

Respondent is hereby notified that the foregoing ORDER TO CEASE AND DESIST is a final order of the Director. Pursuant to Idaho Code § 67-5246, Respondent may file a motion for reconsideration of this Order within fourteen (14) days of the issuance of this Order. The motion for reconsideration or request for a hearing shall be served on:

Mary E. Hughes  
Financial Institutions Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of such motion for reconsideration shall also be served on the Department's counsel, Joseph B. Jones, Deputy Attorney General at the same address.

Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

If Respondent timely files a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

If Respondent timely requests a hearing, Respondent will be notified of the date, time, and place of the hearing, as well as the name of the presiding officer. At the hearing, Respondent will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. Respondent may also be represented by legal counsel at its own expense.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal from such order to the district court by filing a petition in the district court of the county in which:

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides, or
- d. the real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15<sup>th</sup> day of November, 2012, I caused a true and correct copy of the foregoing ORDER TO CEASE AND DESIST to be served on the following by the designated means:

The Residential Litigation Group, P.A.  
2200 Pennsylvania Ave. NW, 4<sup>th</sup> Floor  
Washington, D.C. 20037

- U.S. mail, postage prepaid
- certified mail
- overnight mail
- fax: (800) 620-0070
- email:

The Residential Litigation Group, P.A.  
777 S. Flagler Dr., Ste. 800-West Tower  
West Palm Beach, FL 33401

- U.S. mail, postage prepaid
- certified mail
- overnight mail
- fax: (800) 620-0070
- email: marchoffmanlegal@gmail.com

\_\_\_\_\_  
Paralegal

## Exhibit 3





## Attorney General of New Mexico

**GARY K. KING**  
Attorney General

**ALBERT J. LAMA**  
Chief Deputy Attorney General

July 5, 2013

Mr. Marc H. Hoffman  
The Residential Litigation Group  
860 U.S. Hwy 1  
Suite 206  
North Palm Beach, FL 33408

*Via certified U.S. Mail and e-mail to [mhoffmanlaw@gmail.com](mailto:mhoffmanlaw@gmail.com)*

**RE: Cease and Desist Order**

Dear Mr. Hoffman,

For the reasons that follow, it is the opinion of this Office that your firm engaged in unlawful conduct in New Mexico and has continued to offer unlawful services in violation of both New Mexico and federal law. Further, because your conduct constitutes the practice of law in New Mexico when you or any attorney at your firm is not properly admitted to practice in this state, this matter is being referred to the New Mexico Disciplinary Board pursuant to Rules 16-505(D), 16-803 and 16-805 NMRA. This Office does not discipline attorneys but does enforce various consumer protection laws including the Unfair Practices Act ("UPA" *hereinafter*), NMSA 1978, § 57-12-1, *et seq.*, the federal MARS Rule, 12 C.F.R § 1015.2., and the Mortgage Foreclosure Consultant Fraud Prevention Act, NMSA 1978, § 47-15-1, *et seq.*

The following facts do not appear to genuinely be in dispute, or if they are in dispute, there is sufficient evidence to show that:

1. Your firm offered to include a New Mexico consumer, Kristine Romero, in a mass-plaintiff lawsuit against Bank of America but also offered to defend any legal action relating to her home and obtain a loan modification for her.
2. Your firm's website includes the words "Foreclosure Defense" in the title which would reasonably support the belief of a consumer that your legal services would include foreclosure defense for that consumer's home.
3. Ms. Romero sought aid from your firm because she was in default on her home loan and she was afraid of a foreclosure.

4. Ms. Romero sought aid from your firm to defend a foreclosure action after she discovered the action was filed.
5. Your firm sought an up-front payment of \$6,000.00 in three payments to represent Ms. Romero and save her home from foreclosure, and she paid the first installment of \$2,000.00.
6. Your firm acted by and through a Sean Farley who represented himself as an attorney. It is unclear whether Mr. Farley is a licensed attorney in any state, but he may be the attorney in Florida known as "Sean Francis Farley." If that is the same person, Mr. Farley is not eligible to practice law according to the Florida State Bar as his licensed lapsed, but the date of the lapse is not reported. If Mr. Farley was not licensed at the time he told Ms. Romero he was "an attorney" that would be an unfair and deceptive trade practice under the UPA.
7. Your firm, through its agents or employees, represented that Ms. Romero was not in jeopardy because a sale date had not been scheduled and she was in a loan modification. Yet, there is no evidence tending to show that your firm obtained any loan modification for Ms. Romero or that she had received any loan modification. To the contrary, Bank of America denied her application for a loan modification in early 2013 and instead proposed a formal forbearance plan.
8. Your firm has made affirmative statements on its own website and others that it seeks to aid homeowners by stopping or delaying a foreclosure.
9. There is no evidence tending to show that the forbearance Ms. Romero received was a result of any effort by your firm. The agreement was obtained by Ms. Romero applying directly with her lender.
10. There is no evidence tending to show that your firm performed any substantive legal work for Ms. Romero.
11. Your firm did not send or provide any billing statements or invoices to Ms. Romero that reflected any legal work performed for her.
12. You assert that your firm performed six (6) hours of legal work on behalf of Ms. Romero for a total of \$1,493.75 in legal fees. You have failed to produce evidence of any such work actually being performed such as evidence of work product, correspondence, or pleadings filed on behalf of Ms. Romero. Ms. Romero was unaware of any actual work performed for her. Instead, you simply claim that your firm was "going to" include Ms. Romero in a lawsuit against her lender. You state that her name was "removed" as a plaintiff from the suit, but there is no evidence that Ms. Romero was ever a named plaintiff in any lawsuit filed in any court. Rather, it appears that you accepted and retained the \$2,000.00 for no actual legal work.
13. Your firm failed to identify any New Mexico licensed attorney who was assigned to this case, who communicated with Ms. Romero, or who placed her payment of legal fees into an attorney trust account (sometimes called an IOLTA account).
14. Your firm, through its agents or employees, told Ms. Romero that once a foreclosure action was commenced against her, a local attorney would be assigned to her.

15. Once Ms. Romero found out that a foreclosure lawsuit had been filed against her and she notified your firm of this fact, your firm did not provide a New Mexico attorney to Ms. Romero.
16. Instead, your firm, through its agents or employees, represented that Ms. Romero would be provided with a local attorney once she was served with a summons. By this time, Ms. Romero was realizing that your firm was not providing any substantive legal services, was not defending her in her suit, and was not helping in her dispute with her lender, Bank of America. Thus, Ms. Romero sought the aid of this Office with Bank of America and her dispute with your firm.
17. Your firm has offered its services to other New Mexico residents in 2013, solicits New Mexico consumers via phone calls, and publishes or maintains web sites that are accessible to New Mexico consumers.

For the reasons that follow, we believe the above facts reflect clear violations of the following laws.

#### **Mortgage Foreclosure Consultant Fraud Prevention Act ("MFCFPA")**

New Mexico law bars the collection of up-front fees for foreclosure prevention work unless certain narrow exceptions are met. NMSA 1978, § 47-15-1, *et seq.* Your firm was both expressly and by implication acting as a "foreclosure consultant" under New Mexico law because it was offering to "save" Ms. Romero's home from foreclosure. Under the MFCFPA, the attorney exemption only applies to "a person licensed to practice law in this state when the person renders service in the course of the person's practice as an attorney." NMSA 1978, § 47-15-2(B)(2). There is no factual support for the view that you or any attorney at your firm rendered service in the course of his or her practice as an attorney and that you or any other attorney at your firm are licensed to practice law in New Mexico. You have failed to identify any attorney licensed in New Mexico who represented Ms. Romero.

As a foreclosure consultant, therefore, you violated the MFCFPA by accepting an up-front fee prior to the completion of all work and also by failing to use a form of contract required by law. NMSA 1978, § 47-15-5, 47-15-3. A violation of the MFCFPA is a *per se* violation of the UPA and imposes a civil penalty of up to \$5,000.0 plus restitution. NMSA 1978, § 47-15-7.

#### **Unfair Practices Act ("UPA")**

New Mexico law bars the use of unfair, deceptive or unconscionable trade practices. NMSA 1978, § 57-12-3. You also likely violated the UPA by misrepresenting to Ms. Romero the scope of the legal services to be provided to her, stating or implying that you or your attorneys could or would practice law in New Mexico, stating or implying that she would receive services from a local attorney, and by stating or implying that your services could stop her foreclosure. Charging \$6,000.00 to perform no legal work is also likely unconscionable as it results in a gross disparity between the value of the services and the price paid. NMSA 1978, § 57-12-2(F).

Professional services, including those provided by attorneys, are also governed by the UPA in New Mexico.

**MARS Rule (12 C.F.R. Part 1015, previously 16 C.F.R. Part 322)**

The federal Mortgage Assistance Relief Services Rule ("MARS Rule") also bars the collection of up-front fees for mortgage relief work and requires specific disclosures to consumers. The MARS Rule broadly defines mortgage relief work to mean any service offered either expressly or by implication to stop or prevent any foreclosure of a dwelling and/or obtain any forbearance of modification of a home loan. 12 C.F.R. § 1015.2.

The exemption for an attorney to engage in mortgage relief work under the MARS Rule is narrow and requires that the attorney be licensed in the home state of the consumer and also place the retainer funds into an IOLTA account. 12 C.F.R. § 1015.7. The official commentary to the attorney exemption clarifies that for the protection of consumers, the exemption was for an attorney licensed in the home state of the consumer. Fed. Reg., Vol. 75, No. 230, 12/1/2010, p. 75131.

You have not provided any facts to date showing that you or any attorney at your firm are licensed in New Mexico and that you placed Ms. Romero's funds into a trust account that you drew from as fees were earned. Therefore, neither you nor any attorney at your firm are within the ambit of the attorney exemption for the MARS Rule. By accepting an upfront fee, by implying that you would provide legal services, and by failing to include certain disclosures required by federal law, you violated 12 C.F.R. §§ 1015.3, 1015.4, and 1015.5. The Attorney General of New Mexico may enforce the MARS Rule pursuant to 12 C.F.R. § 1015.10.

**Unauthorized Practice of Law**

New Mexico law bars any person who is not licensed to practice law in New Mexico from commencing or maintaining any action or defense of an action. NMSA 1978, § 36-2-27. A person also may not hold himself or herself out as an attorney in New Mexico unless he or she has been issued a certificate to practice law by the New Mexico Supreme Court. *Id.* You and your firm clearly offered to commence an action (and defend an action) for Ms. Romero and others, and have held yourselves out as attorneys to New Mexico residents while not licensed in this state. The Attorney General is authorized by statute to enjoin such practices including seeking an order of contempt. NMSA 1978, § 36-2-28.2.

**Cease and Desist**

**Because of the foregoing violations of law, and because it appears that your firm continues to solicit New Mexico consumers, you, your firm and any affiliated or associated attorneys are hereby ordered to cease and desist from:**

1. Offering legal services to New Mexico consumers unless and until you are licensed to do so or affiliate with an attorney licensed in New Mexico so that such representation would be lawful.
2. Offering Mortgage Foreclosure Consultant services as defined under the MFCFPA.
3. Offering Mortgage Relief Services as defined under the MARS Rule.
4. Engaging in other unfair or deceptive acts or practices, including representations that you can or will represent New Mexico consumers in mass-plaintiff actions, that such actions will stop a foreclosure action, or any other unlawful representation.

Additional violations of law from conduct after the date that this letter was issued would be deemed to be willful violations because you are notice of the nature of the violations.

Because this matter also likely entails the violation of the Rules of Professional Responsibility, including the unauthorized practice of law in New Mexico, this matter is being referred to the appropriate disciplinary entities for New Mexico, Florida and Washington, D.C.<sup>1</sup>.

If you wish to discuss this matter, please feel free to call David Kramer at 505-222-9134.

Sincerely,



David Kramer  
Karen J. Meyers  
Assistant Attorneys General

CC: Kristine Romero via U.S. Mail  
Mr. William D. Slease, New Mexico Disciplinary Counsel via e-mail only  
Ms. Shanell M. Schuyler, Florida Bar ACAP, via e-mail only  
Ms. Elizabeth A. Herman, Office of Bar Counsel, 515 5<sup>th</sup> Street NW, Suite 117,  
Washington, D.C. 20001 via U.S. Mail

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<sup>1</sup> You firm's website indicates that its offices are located at "2220 Pennsylvania Ave. NW, 4<sup>th</sup> Floor, Washington, D.C. 20037." However, mail sent to you at that address was recently returned as undeliverable. It appears your firm operates in Florida.