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GERALD F. FUERST
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CUYAHOGA COUNTY

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, *ex rel.*
MARC DANN
ATTORNEY GENERAL
30 East Broad Street
State Office Tower – 14th Floor
Columbus, Ohio 43215-3428

and

OHIO DEPARTMENT OF COMMERCE,
DIVISION OF FINANCIAL INSTITUTIONS
JOHN REARDON, Superintendent
77 S. High Street, 21st Floor
Columbus, Ohio 43266

Plaintiffs,

v.

NEW CENTURY FINANCIAL CORP.
18400 Von Karman Ave., Suite 1000
Irvine, CA 92612;

c/o CT Corporation System, statutory agent
818 West Seventh Street
Los Angeles, CA 90017

NEW CENTURY MORTGAGE CORP.
18400 Von Karman Ave., Suite 1000
Irvine, CA 92612;

Judge: EILEEN T GALLAGHER

CV 07 618660

COMPLAINT FOR DECLARATORY
JUDGMENT, RESTITUTION,
INJUNCTIVE RELIEF,
AND CIVIL PENALTIES

c/o CT Corporation System, statutory agent)
1300 East 9 th Street)
Cleveland, Ohio 44114)
)
HOME123 CORP.)
3351 Michelson Dr., Suite 400)
Irvine, CA 92612;)
)
c/o CT Corporation System, statutory agent)
1300 East 9 th Street)
Cleveland, Ohio 44114)
)
Defendants.)

Defendants have been flagrantly violating Ohio laws intended to protect Ohio consumers. If not enjoined, their continuing violations of Ohio law will result in hundreds of Ohio residents losing their homes in foreclosure and hundreds more being cheated out of fees paid for services never rendered.

JURISDICTION

1. Marc Dann, Attorney General of Ohio, brings this action pursuant to the authority vested in him by the Consumer Sales Practices Act, R.C. 1345.01 et seq, the Ohio Mortgage Loan Act, R.C. 1321.20 et seq., and the Ohio Mortgage Brokers Act, R.C. 1322.01 et seq. John Reardon, Superintendent of the Division of Financial Institutions, Ohio Department of Commerce, brings this action pursuant to the authority vested in him by the Ohio Mortgage Loan Act, R.C. 1321.20 et seq. and the Ohio Mortgage Brokers Act, R.C. 1322.01 et seq.
2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, Cuyahoga County and other Ohio counties and as set forth below are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq., the Ohio Mortgage Loan Act, R.C. 1321.20 et seq., and the Ohio Mortgage Brokers Act, R.C. 1322.01 et seq.

3. Defendants, as described below, are each a “supplier” as that term is defined in R.C. 1345.01(C), as Defendants were at all times relevant herein engaged in the business of engaging in consumer transactions by effecting or soliciting mortgage loans to “consumers” in Cuyahoga County and other Ohio counties which solicitations were for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
4. New Century Mortgage Corp. and Home123 Corp. are each wholly owned subsidiaries of Defendant New Century Financial Corporation.
5. New Century Mortgage Corp. and Home123 Corp. are “registrants” as defined in R.C. 1321.51(C) engaged in the business of making mortgage loans pursuant to the Ohio Mortgage Loan Act, R.C. 1321.20 et seq. to consumers in Cuyahoga County and other Ohio counties.
6. New Century Mortgage Corp. and Home123 Corp. are “licensees” as that term is defined in R.C. 1322.01(D) engaged in the business of brokering mortgages as defined in R.C. 1322.01(G)(1) pursuant to the Ohio Mortgage Brokers Act, R.C. 1322.01 et seq. from consumers in Cuyahoga County and other Ohio counties.
7. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Ohio Consumer Sales Practices Act, R.C. 1321.54(C) of the Ohio Mortgage Loan Act, and R.C. 1322.11(B)(1) of the Ohio Mortgage Brokers Act.
8. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3).

NATURE OF DEFENDANTS’ BUSINESS

9. Defendant, New Century Financial Corporation (“NCFC”) is a Maryland corporation with its principal place of business located at 18400 Von Karman Avenue, Suite 1000,

Irvine, California which at all times mentioned herein, has transacted business within the State of Ohio and engaged in the brokering, origination, and funding of real estate secured, owner-occupied, residential mortgage loans through its wholly owned subsidiaries and affiliates, many of which are located in the State of Ohio.

10. Defendant New Century Mortgage Corp. ("NCMC") is a California corporation with its principal place of business located at 18400 Von Karman Avenue, Suite 1000, Irvine, California which at all times mentioned herein, has transacted business within the State of Ohio and engaged in the brokering, origination, and funding of real estate secured, owner-occupied, residential mortgage loans.
11. Defendant Home123 Corp. ("Home") is a California corporation with its principal place of business located at 3351 Michelson Drive, Suite 400, Irvine, California which at all times mentioned herein, has transacted business within the State of Ohio and engaged in the brokering, origination, and funding of real estate secured, owner-occupied, residential mortgage loans.
12. Whenever reference is made in this complaint to any act or practice of Defendants NCFC, NCMC, or Home (collectively "Defendants"), such allegation shall be deemed to mean that the principals, officers, directors, employees, agents and representatives of said Defendant did, or authorized, such act or practice on behalf of said Defendant, while actively engaged in the scope of their duties.

STATEMENT OF FACTS

13. On information and belief, Defendants currently have hundreds of Ohio consumers as clients in the mortgage loan approval process, including consumers whose loan

applications have been approved, or who are in the process of being reviewed for underwriting approval (“pipeline consumers”).

14. On information and belief, Defendants have represented to hundreds of Ohio “pipeline consumers” that their loan applications have been approved and that Defendants will close and fund their loans in the near future.
15. On information and belief, Defendants do not have the net worth or the financial ability to fund either the approved loans or loans that will be approved for funding by the underwriters.
16. On information and belief, Defendants continue to solicit Ohio consumers for residential mortgage loans and broker services.
17. On information and belief, Defendants have accepted money from “pipeline consumers” for services promised to be provided in connection with residential mortgage loan transactions, with loan applications being accepted as recently as March 8, 2007.
18. On information and belief, Defendants directly or through subsidiaries, have filed, and continue to file, numerous foreclosure actions against Ohio consumers related to loans originated and/or funded by Defendants, with actions being filed as recently as March 8, 2007.
19. On information and belief, those foreclosure proceedings are ongoing.
20. On information and belief, Defendants have not notified the “pipeline consumers” that Defendants do not have the ability to fund the promised mortgage loans.

COUNT I

UNFAIR AND DECEPTIVE ACTS AND PRACTICES

21. Plaintiffs reallege and incorporate by reference the allegations of Paragraphs 1 to 20 of this Complaint.
22. Defendants committed unfair and deceptive and unconscionable acts and practices in violation of R.C. 1345.02(A) and R.C. 1345.03(A) by accepting money from consumers for services promised to be provided when they knew or should have known that they did not have the financial ability to fund the consumers' loans.
23. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendant committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
24. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02(B)(5) by representing that the subject of a consumer transaction was being supplied in accordance with a previous representation when it was not.
25. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
26. Defendants committed unfair and deceptive acts and practices in violation of OAC 109:4-3-09(A) by failing to promptly deliver promised services.
27. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C.

1345.05(A)(3).

28. Defendants' actions constitute making false or misleading statements of a material fact, false promises regarding a material fact, and engaging in a continued course of misrepresentations in violation of R.C. 1322.07(B).
29. Defendants' conduct constitutes improper, fraudulent, or dishonest dealings in violation of R.C. 1322.07(C).
30. Defendants have violated the duty owed to consumers by failing to act in good faith and fair dealing in any transaction, practice, or course of business in connection with the brokering or originating of any mortgage loan in violation of R.C. 1322.081(A)(4) and R.C. 1349.41.

COUNT II

UNFITNESS OF REGISTRANTS IN VIOLATION OF THE OHIO MORTGAGE LOAN ACT

31. Plaintiffs reallege and incorporate by reference the allegations of Paragraphs 1 to 30 of this Complaint.
32. Defendants, by publicly disseminating insufficient financial information, prevent the Superintendent of the Ohio Division of Financial Institutions from ascertaining that Defendants have maintained a net worth of at least \$50,000, as is required by R.C. §1321.53(B)(1). The Superintendent of the Ohio Division of Financial Institutions is authorized pursuant to R.C. § 1321.54(C) to obtain injunctive and other appropriate relief from this court upon a showing that a person has committed, or is about to commit a violation of R.C. §§1321.51 to 1321.60.

PRAYER FOR RELIEF

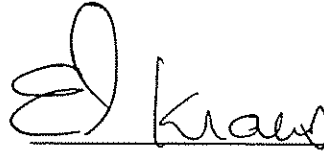
WHEREFORE, Plaintiffs respectfully request this Court to:

1. ISSUE a declaratory judgment declaring that each act or practice of which Plaintiffs complain violates the Ohio Consumer Sales Practices Act, the Ohio Mortgage Loan Act and the Ohio Brokers Act in the manner set forth in this Complaint.
2. ENJOIN Defendants, pursuant to R.C. 1345.07, 1321.54(C), 1321.541(A), and 1322.11(B)(1) from:
 - a. Soliciting Ohio consumers for broker services or residential mortgage loans,
 - b. Accepting fees from Ohio consumers in connection with residential mortgage loans except fees disbursed by a closing agent after a loan is closed and funded except fees disbursed by a closing agent after a loan is closed and funded by an entity other than the Defendants,
 - c. Accepting mortgage loan applications in Ohio,
 - d. Arranging for appraisals in connection with mortgage loan applications where consumers will be obligated to pay, directly or indirectly, for such appraisal,
 - e. Initiating new foreclosure actions, continuing to prosecute pending foreclosure actions, enforcing foreclosure sale notices, or evicting consumers from houses in foreclosure,
 - f. Transferring, selling or assigning rights to any Ohio residential mortgage loans, and
 - g. Engaging in any acts or practices that violate the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq., the Ohio Mortgage Loan Act, R.C. 1321.20 et seq., or the Ohio Mortgage Brokers Act, R.C. 1322.01 et seq.
3. REQUIRE Defendants to:

- a. Notify all "pipeline consumers" that their loans will not be funded,
 - b. Return all fees remitted by "pipeline consumers,"
 - c. Release from any contract or claim of liability all "pipeline consumers."
4. ASSESS, FINE and IMPOSE a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) pursuant to R.C. §1345.07(D).
 5. As a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, ORDER Defendants to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' consumer transactions in Ohio and to permit the Attorney General or his representative, upon reasonable twenty-four hour notice, to inspect and/or copy any and all records.
 6. ORDER Defendants to pay all costs.
 7. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted

MARC DANN
Attorney General



ED KRAUS (0037201)
Assistant Attorney General
Consumer Protection Section
615 w. Superior Ave., 11th Floor
Cleveland, Ohio 44113-1899
216.787.3030 [telephone]
216.787.3480 [facsimile]
Ekraus@ag.state.oh.us

Robert M. Hart (telephone
authorization)

ROBERT M. HART (0014854)
Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
614.644.9618 [telephone]
614.466.8898 [facsimile]
Rhart@ag.state.oh.us

Counsel for Plaintiff, Ohio Attorney
General

Matthew J. Lampke (telephone
authorization)

MATTHEW J. LAMPKE (0067973)
Assistant Attorney General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215-3400
614.466.2980 [telephone]
614.728.9470 [facsimile]
mlampke@ag.state.oh.us
Counsel for Plaintiff,
Division of Financial Institutions