

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.
NANCY H. ROGERS
ATTORNEY GENERAL OF OHIO
30 E. BROAD STREET
STATE OFFICE TOWER, 14th FL.
COLUMBUS, OHIO 43215

and

JOHN REARDON, SUPERINTENDENT
OHIO DEPARTMENT OF COMMERCE,
DIVISION OF FINANCIAL INSTITUTIONS:
77 S. HIGH STREET, 21ST FLOOR
COLUMBUS, OHIO 43266

PLAINTIFFS,

v.

MAGELLAN MORTGAGE
CORPORATION
6230 BUSCH BOULEVARD
SUITE 420
COLUMBUS, OHIO 43229

c/o THOMAS S. DAVIS
STATUTORY AGENT
3155 ARDMORE COURT
POWELL, OHIO 43065

and

THOMAS E. HEFLIN
D/B/A HEFLIN & ASSOCIATES
2750 BARDWELL ROAD
COLUMBUS, OHIO 43219

DEFENDANTS.

CASE NO. 08CVH 8 11344

JUDGE

COMPLAINT, REQUEST FOR
DECLARATORY AND
INJUNCTIVE RELIEF, CONSUMER
DAMAGES, CIVIL PENALTIES
AND OTHER APPROPRIATE
RELIEF

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2008 AUG -7 AM 11:01
CLERK OF COURTS

JURISDICTION

1. Plaintiff, State of Ohio, by and through Counsel, the Attorney General of Ohio, Nancy H. Rogers, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in her by R.C. § 1345.01 et seq. (the Ohio Consumer Sales Practices Act), the Ohio Mortgage Broker Act, (MBA), R.C. § 1322.01 et seq., R.C. § 1349.41, the Truth in Lending Act, (TILA), 15 U.S.C. § 1601 et seq., TILA (Regulation Z), 12 C.F.R. § 226 et seq., the Real Estate Settlement Procedures Act, (RESPA), 12 U.S.C. § 2601 et seq., and RESPA (Regulation X), 24 C.F.R. § 3500.01 et seq.
2. Plaintiff 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 Broker Act, R.C. §1322.01 *et seq.*
3. Defendant Magellan Mortgage Corporation (Magellan) is an Ohio corporation with its principal place of business located at 6230 Busch Blvd., Suite 420, Columbus, Ohio 43229.
4. Defendant Magellan is licensed as a mortgage broker (Lic. MB.801059.000) by the Ohio Department of Commerce, Division of Financial Institutions.
5. Defendant Thomas E. Heflin (Heflin) is an Ohio certified residential real estate appraiser, dba Heflin & Associates with his principal place of business located at 2750 Bardwell Rd., Columbus, Ohio 43219.

6. Defendant Heflin is licensed as a certified residential real estate appraiser (Lic. #ACR.0000397436) by the Ohio Department of Commerce, Division of Real Estate and Professional Licensing.
7. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Franklin County and various other Ohio counties.
8. Defendant Magellan is a "supplier" as that term is defined in R.C. § 1345.01(C) as Defendant is, and has been at all times relevant to this action, engaged in the business of effecting consumer transactions by brokering or providing non bank mortgage lending to individuals in Franklin County and other Ohio counties in the State of Ohio for purposes that are primarily personal, family or household within the meaning specified in R.C. § 1345.01(A) and (D).
9. Defendant Heflin is a "supplier" as that term is defined in R.C. § 1345.01(C) as Defendant is, and has been at all times relevant to this action, appraising residential properties for individuals, mortgage brokers and lenders in Franklin County and other Ohio counties in the State of Ohio for purposes that are primarily personal, family or household within the meaning specified in R.C. § 1345.01(A) and (D).
10. 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 (CSPA), R.C. §§ 1321.10 and 1322.11(B)(1) of the Ohio Mortgage Broker Act (MBA), 15 U.S.C. § 1640 of the Truth in Lending Act (TILA), TILA (Regulation Z), 12 C.F.R. § 226 et seq., 12 U.S.C. § 2614, 24 C.F.R. § 3500.7 (Regulation X) of the Real Estate Settlement Procedures Act (RESPA) and R.C. § 1349.41.

11. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.

STATEMENT OF FACTS

12. Defendant Magellan is, and has been at all times relevant to this action, conducting business as a "mortgage broker" as that term is defined by R.C. § 1322.01(G) and R.C. § 1345.01(J).
13. Defendant Magellan is, and has been at all times relevant to this action, engaged in the business of loan origination in the State of Ohio, including in Franklin County, and did "originate" as that term is defined by R.C. § 1322.01(I) mortgage loans for residential home "mortgage"(s) as that term is defined by R.C. § 1345.01(I) for "buyers" as that term is defined in R.C. § 1322.01(A) and/or "consumer"(s) as that term is defined in R.C. § 1345.01(D).
14. Defendant Magellan is, and has been at all times relevant to this action, engaged in the business of a "lender" as that term is defined by RC § 1349.41(A)(2).
15. Defendant Magellan is, and has been at all times relevant to this action, engaged in the business of a "non bank mortgage lender" as that term is defined in R.C. § 1345.01(K).
16. Defendant Magellan is, and has been at all times relevant to this action, engaged in the business of "refinancing" residential home mortgages as that term is defined in R.C. § 1321.51 (N).
17. Defendant Magellan is, and has been at all times relevant to this action, employing loan officer "licensee"(s) as that term is defined by R.C. § 1322.01(D).

18. Defendant Magellan is, and has been at all times relevant to this action, a mortgage broker "registrant" as that term is defined by R.C. § 1322.01(J), authorized to conduct mortgage broker business by the Division of Financial Institutions, Ohio Department of Commerce.
19. Defendant Magellan is, and has been at all times relevant to this action, a creditor as defined in TILA, 15 U.S.C. § 1602(f), and 12 C.F.R. § 226.2(a)(17).
20. Defendant Magellan extended credit to consumers, which was secured by the consumers' residences and would be paid for in more than four installments.
21. Defendant Magellan entered into "consumer" credit transactions as that term is defined in TILA, 15 U.S.C. § 1602(h) and 12 C.F.R. § 226.2 (a)(11), in which security interests were taken on consumers' residences.
22. Defendant Magellan is, and has been at all times relevant to this action, soliciting and receiving inquiries from buying consumers regarding residential mortgage loans for residential properties located in Franklin County and other Ohio counties in the State of Ohio.
23. Consumers who contacted Defendant Magellan about obtaining a residential mortgage loan were directed to a "loan officer," as that term is defined in R.C. §§ 1345.01(H) and 1322.01(E), for the purpose of originating residential mortgage loans.
24. Defendant Magellan's loan officers are, and have been at all times relevant to this action, acting as agents and employees of Magellan.
25. Consumers entered into agreements with Defendant Magellan through its agents and employees whereby Defendant Magellan agreed to serve as their mortgage

broker and to provide them with residential mortgage broker services in connection with obtaining residential mortgage loans.

26. Based upon the representations made by Defendant Magellan's agents and employees, consumers provided Defendant Magellan's loan officers and mortgage brokers with information and paperwork necessary to apply for residential mortgage loans.
27. Consumers who utilized Defendant Magellan's services failed to receive, or received inaccurate, loan disclosure statements required by the CSPA, Ohio MBA, TILA, and RESPA.
28. From early 2007 and continuing to present, Defendant Magellan failed to provide, or provided incomplete, Mortgage Loan Origination Disclosure Statements (MLODS) to consumers, including but not limited to loan to value (LTV) disclosures.
29. From early 2007 and continuing to present, Defendant Magellan failed to provide, or provided incomplete, good faith estimates (GFE's) to consumers, including but not limited to, failing to provide estimates of the amount or range of charges for specific settlement services the buyer is likely to incur in connection with the settlement of a residential mortgage loan.
30. From early 2007 and continuing to present, Defendant Magellan failed to provide, or provided incomplete, additional GFE disclosures as required by Ohio law in connection with the origination of a residential mortgage loan to consumers.

31. From early 2007 and continuing to present, Defendant Magellan failed to timely inform the consumer of an increase in fees payable to the mortgage broker or lender when said fees increased by the greater of 10% or one-hundred dollars.
32. From early 2007 and continuing to present, Defendant Magellan underestimated settlement costs in its required disclosures to consumers.
33. From early 2007 and continuing to present, Defendant Magellan failed to provide, or provided incomplete, disclosures to consumers indicating whether property taxes would be escrowed and/or a description of what would be covered by the monthly payment, including principal, interest, taxes, and insurance.
34. From early 2007 and continuing to present, Defendant Magellan failed to timely inform consumers of material changes in the loan regarding the type of loan, interest rate, escrow, or private mortgage insurance.
35. From early 2007 and continuing to present, Defendant Magellan requested appraisals for residential property located in Franklin County and various other Ohio counties from licensed Ohio appraisers, including Defendant Heflin.
36. From early 2007 and continuing to present, Defendant Magellan indicated on its pre-printed appraisal request forms a specific "estimated value."
37. Defendant Magellan's communication of the desired appraisal valuation of the subject dwelling to licensed appraisers in Ohio, including Defendant Heflin, potentially resulted in inflated appraisals, causing injury to Ohio consumers.
38. From early 2007 and continuing to present, Defendant Magellan failed to disclose to consumers on the GFE that a yield spread premium (YSP) would be paid to the mortgage broker by the lender.

39. From early 2007 and continuing to present, Defendant Magellan failed to disclose to consumers that the servicing of their loan may be assigned, sold, or transferred to any person at any time while the loan is outstanding.
40. From early 2007 and continuing to present, Defendant Magellan failed to provide, or provided incomplete, written three day right to cancel disclosures to consumers who were refinancing existing residential mortgage loans.
41. From early 2007 and continuing to present, Defendant Magellan failed to make available for distribution and, in some instances, failed to retain the consumers' written acknowledgement of receipt of the informational document required by R.C. § 1345.05(G) and OAC 109:4-3-29(B).
42. From early 2007 and continuing to present, Defendant Magellan failed to provide a written disclosure to the consumer at the closing of the consumer loan transaction that the consumer was not required to complete a consumer loan transaction merely because the consumer had received prior estimates of real estate closing costs or had signed an application and should not close a loan transaction that contains different terms and conditions than those the consumer was promised.
43. From early 2007 and continuing to present, Defendant Magellan engaged in the "flipping" of a mortgage loan by making a mortgage loan that refinanced an existing mortgage loan when the new loan did not have a reasonable, tangible net benefit to the consumer considering all of the circumstances, including the terms of both the new and refinanced loans, the costs of the new loan and the consumer's circumstances.

44. From early 2007 and continuing to present, Defendant Magellan made mortgage loans knowing there was no reasonable probability of payment of the obligation by the consumers.
45. Defendant Heflin, at all times relevant to this action, conducted appraisals for consumers who had applied for residential mortgage loans from Defendant Magellan for property located in Franklin County and various other Ohio counties.
46. From early 2007 and continuing to present, Defendant Heflin charged consumers appraiser fees that were substantially in excess of the price at which registered appraisers charge for similar services in similar consumer transactions by like consumers, and in some instances, his excessive appraisal fees were financed into Defendant Magellan residential mortgage loans.
47. On May 5, 2008, the Attorney General's office issued a subpoena pursuant to the provisions of the Consumer Sales Practices Act, R.C. § 1345.06 et seq. and O.R.C. 109.87, requesting Defendant Heflin to produce all appraisal records in connection with residential mortgages made by Defendant Magellan Mortgage from June 1, 2007 to May 10, 2008.
48. Defendant Heflin failed to respond to the May 5, 2008 subpoena requesting such documents.
49. The Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Rule, adopted on July 1, 2006, requires that "A workfile must be made available by the appraiser when required by state enforcement agencies or due process of law."

FIRST CAUSE OF ACTION

Violations of the Ohio Mortgage Broker Act (MBA)

50. Plaintiff John Reardon, Superintendent of the Division of Financial Institutions, Ohio Department of Commerce incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
51. Defendant Magellan failed to provide, or provided incomplete, MLODS to consumers, in violation of R.C. § 1322.062(A).
52. Defendant Magellan failed to provide, or provided incomplete, LTV disclosures to consumers, in violation of R.C. § 1322.062(A)(1)(j).
53. Defendant Magellan failed to provide, or provided incomplete, GFE's to consumers, including but not limited to, failing to provide estimates of the amount or range of charges for specific settlement services the buyer is likely to incur in connection with the settlement of a residential mortgage loan, in violation of R.C. § 1322.062(D).
54. Defendant Magellan failed to provide, or provided incomplete, additional GFE disclosures as required by Ohio Law in connection with the origination of residential mortgage loans to consumers, in violation of R.C. § 1322.062(D).
55. Defendant Magellan failed to provide, or provided incomplete, written escrow disclosures to consumers not later than twenty-four hours before the loan was closed, in violation of R.C. § 1322.063(A).
56. Defendant Magellan failed to timely inform consumers of material changes in the loans, in violation of R.C. § 1322.064(A)(1).

57. Defendant Magellan failed to timely inform consumers of an increase in fees payable to the mortgage broker or lender when said fees increased by the greater of 10% or one-hundred dollars, in violation of R.C. § 1322.064(A)(2).
58. Defendant Magellan engaged in conduct that constitutes improper, fraudulent, or dishonest dealings by underestimating settlement costs in required disclosures to consumers, in violation of R.C. § 1322.07(C).
59. Defendant Magellan attempted to influence the independent judgment of appraisers licensed under R.C. § 4763 regarding the appraised value of residential property, in violation of R.C. § 1322.07(G).
60. Defendant Magellan, by failing to provide disclosures required by the CSPA, TILA, RESPA and the Ohio MBA, and by failing to disclose to consumers on the GFE that a YSP would be paid to the mortgage broker by the lender, failed to act in good faith and with fair dealing in connection with the brokering or originating of mortgage loans, in violation of R.C. § 1322.081(A)(4).
61. The acts and practices set forth in paragraphs 49 through 57 violate Ohio MBA § 1322.07(B) and also constitute improper and dishonest dealing in violation of Ohio MBA § 1322.07(C).
62. The acts and practices set forth in the First Cause of Action constitute violations of Ohio MBA §§ 1322.07(B), 1322.07(C), 1322.07(G) and 1322.081 (A)(4) for which Defendant Magellan is subject to injunctive relief pursuant to R.C. § 1322.10(B).

SECOND CAUSE OF ACTION

Violations of the Ohio Mortgage Broker Act (MBA)

63. Plaintiff, State of Ohio, ex rel. Nancy H. Rogers, Attorney General incorporate by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
64. Defendant Magellan failed to provide, or provided incomplete, MLODS to consumers, in violation of R.C. § 1322.062(A).
65. Defendant Magellan failed to provide, or provided incomplete, LTV disclosures to consumers, in violation of R.C. § 1322.062(A)(1)(j).
66. Defendant Magellan failed to provide, or provided incomplete, GFE's to consumers, including but not limited to, failing to provide estimates of the amount or range of charges for specific settlement services the buyer is likely to incur in connection with the settlement of a residential mortgage loan, in violation of R.C. § 1322.062(D).
67. Defendant Magellan failed to provide, or provided incomplete, GFE Addenda to consumers in connection with the origination of a residential mortgage loan, in violation of R.C. § 1322.062(D).
68. Defendant Magellan failed to provide, or provided incomplete, written escrow disclosures to consumers not later than twenty-four hours before the loan was closed, in violation of R.C. § 1322.063(A).
69. Defendant Magellan failed to timely inform consumers of material changes in the loan, in violation of R.C. § 1322.064(A)(1).

70. Defendant Magellan failed to timely inform consumers of an increase in fees payable to the mortgage broker or lender when said fees increased by the greater of 10% or one-hundred dollars, in violation of R.C. § 1322.064(A)(2).
71. Defendant Magellan engaged in conduct that constitutes improper, fraudulent, or dishonest dealings by underestimating settlement costs in required disclosures to consumers, in violation of R.C. § 1322.07(C).
72. Defendant Magellan attempted to influence the independent judgment of appraisers licensed under R.C. § 4763 regarding the appraised value of residential property, in violation of R.C. § 1322.07(G).
73. Defendant Magellan, by failing to provide disclosures required by the CSPA, TILA, RESPA and the Ohio MBA, and by failing to disclose to consumers on the GFE that a YSP would be paid to Defendant Magellan by the lender, failed to act in good faith and with fair dealing in connection with the brokering or originating of mortgage loans, in violation of R.C. § 1322.081(A)(4).
74. The acts and practices described in paragraphs 64 through 73 violate the Consumer Sales Practices Act, R.C. § 1345.01 et seq.

THIRD CAUSE OF ACTION

Violations of the Real Estate Settlement Procedures Act (RESPA)

75. Plaintiff, State of Ohio, ex rel. Nancy H. Rogers, Attorney General incorporate by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
76. Defendant Magellan, operating as a mortgage broker, provided federally related mortgage loan applicants an inaccurate GFE of the amount of or range of

charges for the specific settlement services the buyer was likely to incur in connection with the settlement, in violation of RESPA, 12 U.S.C. § 2604(c), 24 C.F.R. § 3500.7(b) and (c).

77. Defendant Magellan, operating as a mortgage broker, failed to disclose to consumers that the servicing of their loan may be assigned, sold, or transferred to any person at any time while the loan is outstanding, in violation of RESPA 12 U.S.C. § 2605(a).
78. Defendant Magellan, operating as a non bank mortgage lender, provided federally related mortgage loan applicants an inaccurate GFE of the amount of or range of charges for the specific settlement services the buyer was likely to incur in connection with the settlement, in violation of RESPA, 12 U.S.C. § 2604(c), 24 C.F.R. § 3500.7(a).
79. Defendant Magellan, operating as a non bank mortgage lender, failed to disclose to consumers that the servicing of their loan may be assigned, sold, or transferred to any person at any time while the loan is outstanding, in violation of RESPA 12 U.S.C. § 2605(a).
80. Defendant Magellan, operating as a mortgage broker, failed to disclose to consumers on the GFE that a YSP would be paid to Defendant Magellan by the lender, in violation of RESPA 12 U.S.C. § 2601 et seq., 24 C.F.R. § 3500 et seq. app. B.

FOURTH CAUSE OF ACTION

Violations of the Truth in Lending Act (TILA)

81. Plaintiff, State of Ohio, ex rel. Nancy H. Rogers, Attorney General incorporate by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
82. Defendant Magellan failed to provide, or provided incomplete, written three day right to cancel disclosures to consumers who were refinancing existing residential mortgage loans, in violation of TILA, 15 U.S.C. § 1635 and 12 C.F.R. § 226.23.
83. Such acts and practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 *et seq.* Defendant Magellan committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

FIFTH CAUSE OF ACTION

Violations of the Home Buyers Protection Act

84. Plaintiff, State of Ohio, ex rel. Nancy H. Rogers, Attorney General incorporate by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
85. Defendant Magellan engaged in a transaction, practice, or course of business that was not in good faith or fair dealing, or that operated a fraud upon a person, in connection with its residential non bank mortgage lending, in violation of R.C. § 1349.41.

86. Defendant Magellan failed to provide federally related mortgage loan applicants with an accurate GFE of the amount of or range of charges for the specific settlement services the buyer was likely to incur in connection with the settlement, as required by RESPA, 12 U.S.C. § 2604(c), 24 C.F.R. § 3500.7(a), in violation of R.C. § 1349.41.
87. Defendant Magellan failed to provide, or provided incomplete, written three day right to cancel disclosures to consumers who were refinancing existing residential mortgage loans, as required by TILA, 15 U.S.C. § 1635 and 12 C.F.R. § 226.23, in violation of R.C. § 1349.41.
88. Defendant Magellan failed to provide accurate disclosures as required by TILA, 15 U.S.C. § 1638 and 12 C.F.R. § 226.18, in violation of R.C. § 1349.41.
89. The acts and practices described in paragraphs 85 through 88 violate the Consumer Sales Practices Act, R.C. § 1345.01 et seq.

SIXTH CAUSE OF ACTION

Violations of the Consumer Sales Practices Act

90. Plaintiff, State of Ohio, ex rel. Nancy H. Rogers, Attorney General incorporate by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Forty-Nine (1-49) of this Complaint.
91. Defendant Magellan failed to provide accurate disclosures as required by TILA, 15 U.S.C. § 1638 and 12 C.F.R. § 226.18, in violation of R.C. § 1345.02.
92. Defendant Magellan failed to provide, or provided incomplete, written three day right to cancel disclosures to consumers who were refinancing existing

residential mortgage loans as required by TILA, 15 U.S.C. § 1635 and 12 C.F.R. § 226.23, in violation of R.C. § 1345.02.

93. Defendant Magellan, operating as a non bank mortgage lender, failed to provide federally related mortgage loan applicants with an accurate GFE of the amount of or range of charges for the specific settlement services the buyer was likely to incur in connection with the settlement as required by RESPA, 12 U.S.C. § 2604(c), 24 C.F.R. § 3500.7(a), in violation of R.C. § 1345.02.
94. Defendant Magellan engaged in a transaction, practice, or course of business that was not in good faith or fair dealing, or that operated a fraud upon any person in connection with its residential non bank mortgage lending in violation of R.C. § 1349.41, in violation of R.C. § 1345.02
95. Defendant Magellan, operating as a mortgage broker, failed to provide federally related mortgage loan applicants an accurate GFE of the amount of or range of charges for the specific settlement services the buyer was likely to incur in connection with the settlement, as required by RESPA, 12 U.S.C. § 2604(c), 24 C.F.R. § 3500.7(b) and (c), in violation of R.C. § 1345.02.
96. Defendant Magellan, operating as a mortgage broker, failed to disclose to consumers on the GFE that a YSP would be paid to the mortgage broker by the lender as required by RESPA, 12 U.S.C § 2601 et seq., 24 C.F.R. § 3500 et seq. app. B., in violation of R.C. § 1345.02.
97. Defendant Heflin committed an unfair or deceptive act or practice in violation of R.C. § 1345.02, by inflating the appraised value of residential properties in Franklin County and other Ohio counties in the State of Ohio.

98. Defendant Magellan failed to make available for distribution to consumers who applied for residential mortgage loans an informational document published in accordance with division (A)(4) of R.C. § 1345.05(G) and O.A.C. 109:4-3-29(B), in violation of R.C. § 1345.02.
99. Defendant Magellan failed to retain the consumers' written acknowledgement of receipt of the informational document as required by R.C. § 1345.05(G) and O.A.C. 109:4-3-29(E), in violation of R.C. § 1345.02.
100. Defendant Magellan failed to provide a written disclosure notice to consumers at the closing of the consumer transaction that the consumer was not required to complete a consumer transaction merely because the consumer had received prior estimates of closing costs or had signed an application and should not close a loan transaction that contains different terms and conditions than those the consumer was promised, in violation of R.C. § 1345.031(B)(8) and O.A.C. 109:4-3-23.
101. Defendant Magellan engaged in "flipping" mortgage loans by making mortgage loans that refinanced an existing mortgage loan when the new loan did not have a reasonable, tangible net benefit to the consumer considering all of the circumstances, including the terms of both the new and refinanced loans, the costs of the new loan and the consumer's circumstances, in violation of R.C. § 1345.031(B)(12) and O.A.C. 109:4-3-26.
102. Defendant Magellan, operating as a mortgage broker, arranged mortgage loans knowing there was no reasonable probability of payment of the obligation by the consumer, in violation of R.C. § 1345.031(B)(14) and O.A.C. 109:4-3-27.

103. Defendant Magellan committed unconscionable acts or practices in violation of R.C. § 1345.031(B)(10), R.C. § 1322.07(G), and OAC 109:4-3-24(B) by attempting to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified under Chapter 4763 of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan.
104. Defendant Heflin committed an unconscionable act or practice in violation of R.C. § 1345.031(A), by charging consumers appraiser fees that were substantially in excess of the price at which registered appraisers charge for similar services in consumer transactions by like consumers.
105. Defendant Heflin committed an unfair and deceptive act or practice and an unconscionable act or practice by failing to respond to the May 5, 2008 subpoena issued by Plaintiff Nancy H. Rogers, Attorney General of Ohio, as required by R.C. § 4763.13(A) and USPAP, adopted on July 1, 2006, in violation of R.C. §§ 1345.02 and 1345.031(A).
106. The acts and practices described in paragraph 105 violate the Consumer Sales Practices Act, R.C. § 1345.01 et seq.
107. The acts and practices, described in paragraph 103 above, regarding undue influence on appraisers have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendant Magellan committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff John Reardon, Superintendent Division of Financial Institutions, Ohio Department of Commerce respectfully prays that this Court:

1. **ISSUE PERMANENT INJUNCTION**, enjoining Defendant Magellan Mortgage Corporation, its agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Ohio Mortgage Broker Act

Plaintiff, Nancy H. Rogers, Attorney General of Ohio respectively prays as follows:

1. **ISSUE PERMANENT INJUNCTION**, enjoining Defendant Magellan Mortgage Corporation, its agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act (CSPA), R.C. § 1345.01 et seq., the Ohio Mortgage Broker Act (MBA), R.C. § 1322.01 et seq., R.C. § 1349.41, the Truth in Lending Act (TILA), 15 U.S.C. § 1601 et seq., and the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2601 et seq., and 24 CFR § 3500.01 et seq.
2. **ISSUE PERMANENT INJUNCTIVE RELIEF**, enjoining Defendant Thomas E. Heflin, his agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with

them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act (CSPA), R.C. § 1345.01 et seq., the Ohio Mortgage Broker Act (MBA), R.C. § 1322.01 et seq., R.C. § 1349.41, the Truth in Lending Act (TILA), 15 U.S.C. § 1601 et seq., and the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2601 et seq., and 24 CFR § 3500.01 et seq.

3. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice described in Plaintiff's Complaint violates the CSPA, R.C. § 1345.01 et seq., the Ohio MBA, R.C. § 1322.01 et seq., R.C. § 1349.41, the Real Estate Appraisers Act, R.C. § 4763.01 et seq., the TILA, 15 U.S.C. § 1601 et seq., and RESPA, 12 U.S.C. § 2601 et seq., and 24 CFR § 3500.01 et seq., in the manner set forth in this Complaint.
4. **ISSUE A DECLARATORY JUDGMENT** declaring that a violation of R.C. § 1322.01 et seq., R.C. § 1349.41, the Real Estate Appraisers Act, R.C. § 4763.01 et seq., 15 U.S.C. § 1601 et seq., 12 U.S.C. § 2604, 12 U.S.C. § 2605, 12 U.S.C. § 2607 and 24 C.F.R. § 3500.7 in connection with a consumer transaction is a violation of the CSPA, R.C. § 1345.01 et seq.
5. **ORDER** Defendants Magellan and Heflin, pursuant to R.C. § 1345.07(B), to reimburse all consumers damaged by Defendants unfair, deceptive, and unconscionable acts or practices.
6. **ORDER** Defendant Magellan, pursuant to the Homebuyers Protection Act, R.C. § 1349.41, to reimburse all consumers damaged by Defendant Magellan's unfair and deceptive acts and practices by a non bank mortgage lender.

7. **ORDER** Defendant Magellan, pursuant to the Ohio Mortgage Broker Act (MBA), R.C. § 1322.01 et seq., to reimburse all consumers damaged by Defendant Magellan's Ohio MBA violations.
8. **ORDER** Defendant Magellan, pursuant to the Truth in Lending Act (TILA), 15 U.S.C. § 1601 et seq., to reimburse all consumers damaged by Defendant Magellan's TILA disclosure violations.
9. **ORDER** Defendant Magellan, pursuant to the Real Estate Settlement Procedures Act (RESPA), § 12 U.S.C. 2601 et seq., to reimburse all consumers damaged by Defendant Magellan's RESPA violations.
10. **ASSESS, FINE, AND IMPOSE** upon each Defendant a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per violation of § 1345.01 et seq. pursuant to R.C. § 1345.07(D).
11. **ORDER**, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendant Magellan to maintain in its possession and control for a period of five (5) years all business records relating to Defendant Magellan's brokering and lending of residential mortgage loans to individuals, and to permit the Ohio Attorney General or her representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.
12. **ORDER**, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendant Heflin to maintain in its possession and control for a period of five (5) years all business records relating to Defendant Heflin's appraisals of residential property in connection with residential

mortgage loans in Ohio and to permit the Ohio Attorney General or her representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.

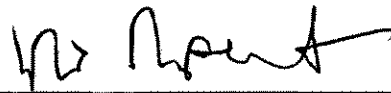
13. **ENJOIN** Defendants from engaging as suppliers in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations due hereunder.

Plaintiffs further request that this Court:

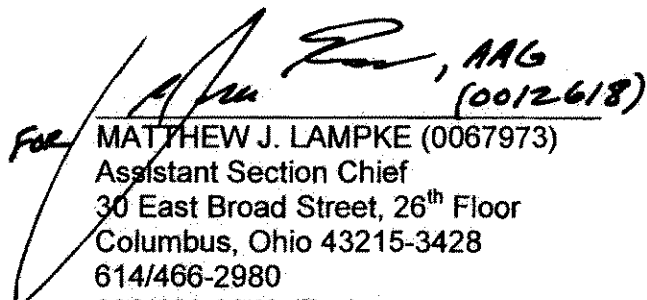
14. **GRANT** the Ohio Attorney General and the Ohio Division of Financial Institutions their costs in bringing this action.
15. **ORDER** Defendants to pay all court costs.
16. **GRANT** such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

NANCY H. ROGERS
ATTORNEY GENERAL OF OHIO



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