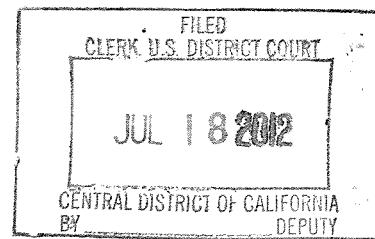


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16
17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

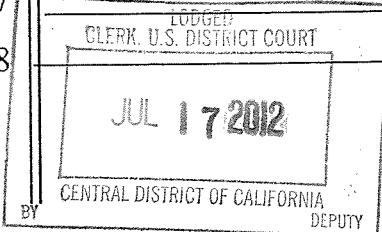
19 Consumer Financial Protection Bureau,
20 Plaintiff,

21 v.
22 Chance Edward Gordon, an individual,
23 and also d/b/a Gordon & Associates,
The Law Offices of Chance E. Gordon,
24 The Law Offices of C. Edward
Gordon, The C.E.G. Law Firm,
25 National Legal Source, Resource Law
Center, Resource Law Group, and
Resource Legal Group;

Case No. CV12-06147 PSWL(MRWx)

26
27
28
**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
RELIEF**

(FILED UNDER SEAL)



The Gordon Law Firm, P.C.,
a professional corporation;
Abraham Michael Pessar, an
individual;
Division One Investment and Loan,
Inc.,
a corporation, and also d/b/a
Division One Business Solutions, D1
Companies, Division One, Division 1,
Home Savers National, D1 Marketing
Solutions, and Relief Council; and
Processing Division, L.L.C.,
a limited liability company, and also
d/b/a Qualification Intake Department,
Division One, The Relief Network, and
Relief Network;

Defendants.

14 Plaintiff, the Consumer Financial Protection Bureau (“CFPB” or “Bureau”),
15 alleges:

16 1. The Bureau brings this action under (1) Sections 1031(a), 1036(a), 1054, and
17 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a),
18 5536(a), 5564, and 5565; and (2) Section 626 of the Omnibus Appropriations Act, 2009,
19 as amended by Section 1097 of the CFPA, 12 U.S.C. § 5538, and the Mortgage
20 Assistance Relief Services Rule, 16 C.F.R. Part 322 (“MARS Rule”), recodified as
21 Mortgage Assistance Relief Services, 12 C.F.R. Part 1015 (collectively, “Regulation O”).
22 Defendants have violated the CFPA and Regulation O in connection with the marketing
23 and sale of their mortgage assistance relief services.

JURISDICTION AND VENUE

25 2. This Court has subject-matter jurisdiction over this action because it is
26 “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.

3 3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c), and 12
4 U.S.C. §§ 2614 and 5564(f).

PLAINTIFF

6 4. Plaintiff Bureau is an independent agency of the United States charged with
7 regulating the offering and provision of consumer financial products or services under
8 Federal consumer financial laws. 12 U.S.C. § 5491(a). The Bureau’s regulatory
9 authority extends to the provision of financial advisory services to consumers, which
10 constitute consumer financial products or services. 12 U.S.C. §§ 5481(5);
11 5481(15)(A)(viii). Financial advisory services include services to assist consumers with
12 debt management or debt settlement, modifications to the terms of any extension of
13 credit, or foreclosure avoidance. 12 U.S.C. § 5481(15)(A)(viii); *see also id.* § 5481(5).
14 The Bureau is authorized to take appropriate enforcement action to address violations of
15 Federal consumer financial law, including the CFPA and Regulation O. *See* 12 U.S.C. §§
16 5511(c)(4); 5512(a); 5564(a).

17 5. Section 1036(a) of the CFPA, 12 U.S.C. § 5536(a), prohibits unfair,
18 deceptive, or abusive acts or practices, or other violations of Federal consumer financial
19 law, by any covered person or service provider. Regulation O requires mortgage
20 assistance relief providers to make certain disclosures, prohibits such providers from
21 making certain representations, and prohibits such providers from collecting a fee until
22 the consumer has executed a written agreement with their lender or servicer incorporating
23 the offer of mortgage assistance relief services obtained by the mortgage assistance relief
24 provider.

25 6. The Bureau is authorized to initiate federal district court proceedings, by its
26 own attorneys, to enjoin violations of the CFPA and Regulation O, and to secure such
27 relief as may be appropriate in each case, including rescission or reformation of contracts.

1 the refund of moneys paid, restitution, and disgorgement or compensation for unjust
2 enrichment. 12 U.S.C. §§ 5531, 5564(a) and (b), and 5565.

3 **DEFENDANTS**

4 7. Defendant Chance Edward Gordon (“Gordon”) is an individual who, acting
5 alone or in concert with others, and through his interrelated companies described below,
6 has engaged in the offering or providing of mortgage assistance relief services, as defined
7 in Regulation O (16 C.F.R. § 322.2, recodified as 12 C.F.R. § 1015.2), including but not
8 limited to loan modifications and foreclosure relief services. Defendant Gordon has also
9 operated and continues to operate businesses that offer to provide or provide mortgage
10 assistance relief services. His businesses include, but are not limited to, National Legal
11 Source, Resource Law Center, Resource Law Group, Resource Legal Group, Gordon &
12 Associates, The Law Offices of Chance E. Gordon, The Law Offices of C. Edward
13 Gordon, and The C.E.G. Law Firm (collectively, “Gordon Entities”) and The Gordon
14 Law Firm, P.C. At all times material to this complaint, acting alone or in concert with
15 others, Defendant Gordon has directly participated in the acts and practices set forth in
16 this complaint. At all times material to this complaint, Gordon transacts or has transacted
17 business in the Central District of California.

18 8. Defendant The Gordon Law Firm, P.C. (“Gordon Law Firm”) is a California
19 professional corporation owned, directed, and/or controlled by Defendant Gordon with a
20 last known physical business address at 5455 Wilshire Boulevard, Suite 2010, Los
21 Angeles, California 90036. At all times material to this complaint, Gordon Law Firm
22 transacts or has transacted business in the Central District of California.

23 9. Defendant Abraham Michael Pessar (“Pessar”) is an individual who, acting
24 alone or in concert with others, and through his company described below, has engaged
25 in the offering or providing of mortgage assistance relief services, as defined in
26 Regulation O (16 C.F.R. § 322.2, recodified as 12 C.F.R. § 1015.2), including but not
27 limited to loan modification and foreclosure relief services. Defendant Pessar has also

1 operated and continues to operate businesses that offer to provide or provide mortgage
2 assistance relief services. His businesses include, but are not limited to, Division One
3 Investment and Loan, Inc., and Processing Division, L.L.C. At all times material to this
4 complaint, acting alone or in concert with others, Defendant Pessar has directly
5 participated in the acts and practices set forth in this complaint. In connection with the
6 matters alleged herein, Pessar transacts or has transacted business in the Central District
7 of California.

8 10. Defendant Division One Investment and Loan, Inc., d/b/a Division One
9 Business Solutions, D1 Companies, Division One, Division 1, Home Savers National,
10 and D1 Marketing Solutions, Relief Council (“Division One Investment”) is a California
11 corporation owned, directed, and/or controlled by Defendant Pessar with a last known
12 physical business address at 5455 Wilshire Boulevard, Suite 2005, Los Angeles,
13 California 90036. At all times material to this complaint, Division One Investment
14 transacts or has transacted business in the Central District of California.

15 11. Defendant Processing Division, L.L.C., d/b/a Qualification Intake
16 Department, Division One, The Relief Network, and Relief Network (“Processing
17 Division”) is a California limited liability company owned, directed, and/or controlled by
18 Defendant Pessar with a last known physical business address at 5455 Wilshire
19 Boulevard, Suite 1814, Los Angeles, California 90036. At all times material to this
20 complaint, Processing Division transacts or has transacted business in the Central District
21 of California.

22 12. At all times material to this complaint, Gordon Law Firm, Division One
23 Investment, and Processing Division (collectively, “Corporate Defendants”) have
24 operated as a common enterprise while engaging in the violations of Federal consumer
25 financial law set forth below. The Corporate Defendants have conducted the business
26 practices described below through an interrelated network of companies that have
27 common business functions, employees, and office locations. Moreover, the Corporate
28

1 Defendants have also commingled funds and shared marketing materials. Because the
2 Corporate Defendants have operated as a common enterprise, each of them is jointly and
3 severally liable for the acts and practices alleged below. Defendants Gordon (who also
4 operates through the Gordon Entities) and Pessar are the sole owners of the Corporate
5 Defendants that comprise the common enterprise.

6 **SUMMARY OF COMPLAINT**

7 13. Since at least early 2010, Gordon (including the Gordon Entities), Gordon
8 Law Firm, Pessar, Division One Investment and Processing Division (collectively
9 “Defendants”) have engaged in an ongoing, unlawful mortgage relief scheme that preys
10 on financially distressed homeowners nationwide by falsely promising a loan
11 modification in exchange for an advance fee. Defendants attract distressed homeowners
12 via websites, mailers, and phone calls, deceptively promising substantial relief from
13 unaffordable mortgages and foreclosures. Defendants promise a substantial reduction in
14 the homeowners’ mortgage payments in exchange for an advance fee ranging from
15 \$2,500 to \$4,500. Rather than helping homeowners modify their mortgage loans or avoid
16 foreclosure, Defendants dupe distressed homeowners into paying thousands of dollars
17 based on false promises and misrepresentations. Indeed, Defendants provide little, if any,
18 meaningful assistance to modify homeowners’ mortgage loans or prevent foreclosure.

19 14. As part of the scheme, Defendants gain consumers’ confidence by
20 misrepresenting affiliation with government entities in direct mail solicitations sent to
21 consumers. For example, one solicitation Defendants sent states at the top of the
22 solicitation in large, capitalized font “NOTICE OF HUD RIGHTS.” Defendants also
23 make or have made representations on the telephone in the initial sales pitch to
24 consumers that Defendants are the government, are affiliated with the government, or that
25 they are “sponsored” by a government grant.

26 15. During the initial calls and interactions with homeowners, Defendants
27 promise homeowners substantial reductions in homeowners’ mortgage payments and

1 interest rates in exchange for an upfront fee. To entice homeowners into this
2 arrangement, Defendants represent to consumers that the firm has successfully obtained a
3 large number of modifications in the past and are one of the best firms at obtaining loan
4 modifications.

5 16. Defendants typically require consumers to sign paperwork indicating that the
6 consumer's upfront payment is for Defendants' "Pre-Litigation Monetary Claims
7 Program" ("Pre-Litigation Program"). Defendants' Pre-Litigation Program purportedly
8 provides the homeowner with a detailed legal analysis of illegal conduct engaged in by
9 their particular lender, often called a "forensic audit." At the same time, Defendants
10 purport to provide loan modification services for free under the guise of pro bono legal
11 services. Defendants, however, tell consumers that failure to make a payment will result
12 in an inability to process the consumer's paperwork and to submit the documents,
13 including the loan modification documents that are purportedly prepared pro bono, to the
14 lender. Defendants' bifurcated business model involving a fee-based "forensic audit" and
15 pro bono "legal services" is specifically designed to avoid the mandates of laws such as
16 MARS and Regulation O that prohibit advance fees and deception by mortgage relief
17 operations like those run by Defendants.

18 17. In reality, Defendants do little or nothing to assist consumers. Rather,
19 Defendants direct consumers to avoid interactions with their lender and to stop making
20 their mortgage payments. While Defendants fail to take any meaningful action, many
21 consumers enter foreclosure or lose their properties.

22 18. In numerous instances, consumers who paid Defendants' fee have suffered
23 significant economic injury, including foreclosure and the loss of their properties.

GOVERNMENT MORTGAGE ASSISTANCE

25 19. Numerous mortgage lenders and servicers have offered certain borrowers the
26 opportunity to modify loans that have become unaffordable. Many of these loan
27 modification programs have expanded dramatically as lenders have increased

1 participation in the federal government's "Making Home Affordable" program, a plan to
2 stabilize the U.S. housing market and help millions of Americans reduce their monthly
3 mortgage payments to more affordable levels. The Making Home Affordable program
4 includes the Home Affordable Modification Program, to which the federal government
5 has committed up to \$75 billion to keep significant numbers of Americans in their homes
6 by preventing avoidable foreclosures. While Defendants rely on references to the
7 Making Home Affordable program to market their services, they are not connected with
8 the program and are not affiliated or otherwise associated with, or endorsed, sponsored,
9 or approved by, the United States government in any way.

10 **DEFENDANTS' BUSINESS ACTIVITIES**

11 20. Since at least early 2010, Defendants, acting alone or in concert with others,
12 have engaged in a course of conduct to offer or provide to homeowners mortgage
13 assistance relief services, including mortgage loan modification, foreclosure relief
14 services, and forensic audit services.

15 21. To induce consumers to purchase their services, Defendants have
16 disseminated or caused to be disseminated advertisements for mortgage assistance relief
17 services. Defendants market their services using direct mail solicitations that solicit
18 inbound calls from homeowners. Defendants also market their services via outbound
19 telephone calls and Internet websites to consumers throughout the United States who are
20 in financial distress, behind on their mortgage loans, or in danger of losing their homes to
21 foreclosure.

22 **Defendants' Deceptive Direct Mail Solicitation**

23 22. As part of the scheme, Defendants send direct mail solicitations to
24 financially distressed homeowners throughout the United States to convince consumers to
25 call Defendants to inquire about Defendants' purported loan modification services.

26 23. In numerous instances, Defendants' direct mail solicitations contain images
27 and language representing an affiliation with government entities and a toll-free phone

1 number to call for help. The solicitations tell consumers that previous attempts have been
2 made to contact them and urge consumers to call the listed toll-free number before the
3 deadline for the “Stimulus Program” occurs.

4 24. For example, one direct mail solicitation Defendants sent to consumers
5 states that it is a “Notice of HUD Rights” and refers to “Stimulus Programs HAM[P] or
6 HARP” and 2% interest rates for which the consumer may qualify:

7

8 **NOTICE OF HUD RIGHTS**



10 Qualification Intake Department
1718 M Street, NW #221
Washington, DC 20036

11 **Se Habla Español**
12 Intake Dept. Toll-Free Help Line:
877-499-2228

13 In no way are we attempting to collect any
debt. None of the information you give us
will be used for any Debt-Collection
Purposes.

14 It's very important that you are aware of
these options. We have made several
unsuccessful attempts at contacting you.
Please contact us as soon as possible. The
deadline to enter into a Stimulus Program is
coming soon. Your rights may include but
are not limited to:

- 15
- 16
- 17
- 18
- 19
- 20
1. Qualify for Stimulus Programs HAM or HARP.
 2. You can be current or late on mortgage and still qualify.
 3. Interest rates qualify at 2% and DTI at 31% and you do not have to be upside down on home value. Please call now for help on qualifying.

21 The Washington, D.C., address provided in this solicitation is actually a UPS Store
22 mailbox. Defendants do not otherwise have a business presence in Washington, D.C.
23 Indeed, this address appears to be designed solely to deceive consumers into believing
24 that Defendants have an affiliation with Washington, D.C.-based government entities.

25 25. The reverse side of the direct mail solicitation indicates that applicants have
26 a high likelihood of “qualifying” for mortgage loan modification and foreclosure

1 prevention services, stating: “It’s a fact: 84% OF ALL HOME MORTGAGES MAY
2 QUALIFY even if you think your situation is hopeless.”

3 26. In numerous instances, consumers call the toll-free number with the belief
4 they are calling the Department of Housing and Urban Development (“HUD”) or a HUD-
5 affiliated entity for loan assistance. Instead, consumers reach Defendants.

6 27. Some of Defendants’ direct mail solicitations refer to the Making Home
7 Affordable Program and include the consumer’s loan amount, a reference number, an
8 indication that the consumer is “pre-qualified,” and an estimated reduction amount.

9 28. For example, one direct mail solicitation Defendants sent to consumers
10 states:

11

12 PROGRAM: **MAKING HOMES AFFORDABLE**
13 REFERENCE CODE: **1209034141**

14 Our offices will assist
you in determining what
programs are available
and whether or not you
qualify for those programs.
Please do not hesitate,
assistance is available.
Call our Toll-Free Help
line 877-499-2228.

15

16

17

18 OPTIONS FOR REDUCTION

19

ESTIMATED REDUCTION
As Low As \$1,548 Per Month
NOTICE EXPIRATION DATE
January 9, 2012

20

21

ELIGIBLE PROPERTY	STATUS	
[REDACTED]	PRE-QUALIFIED	
REFERENCE CODE	LOAN AMOUNT	
1209034141	\$416,708	
PRESIDENT	DATE APPROVALS	ACTIVE
PAYMENT REDUCTION POSSIBLE (UNCONFIRMED)	PENDING INTEREST RATES AS LOW AS 2%	NO RECORD
QUALIFICATION INTAKE DEPARTMENT 877-499-2228 SE HABLA ESPAÑOL		
PRINTED FIRST-CLASS MAIL U.S. POSTAGE PAID MAILED FROM ZIP CODE 46602 PERMIT #2, 1528		

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29. Defendants’ direct mail solicitations fail to disclose in a clear and prominent
manner that that (1) Defendants’ company is not associated with the government, nor
approved by the government or consumer’s lender; (2) even if the consumer uses
Defendants’ service the consumer’s lender may not agree to modify the loan; and (3) if
Defendants tell a consumer to stop paying their mortgage, that the consumer could lose
his or her home and damage his or her credit rating.

Defendants' Deceptive Sales Scheme

30. Consumers who respond to Defendants' marketing efforts have home mortgage loans, and typically are having difficulty making their monthly payments.

31. Consumers who call the toll-free numbers listed on the postcards or who receive outbound telemarketing calls speak with Defendants' telephone sales representatives.

32. In numerous instances, Defendants promise to obtain loan modifications that will substantially lower consumers' monthly mortgage payments or interest rates in exchange for an advance fee.

33. In numerous instances, Defendants lead consumers to believe that Defendants are affiliated with a government entity or that a government entity referred Defendants to the consumer. In some cases, Defendants represent that they are the government or that they are “sponsored” by a government grant and are thus affiliated with a government agency.

34. In numerous instances, Defendants tell consumers that Defendants have special expertise in modification with mortgage lenders and that they have proven prior success in obtaining loan modifications from the consumers' specific lenders.

35. In numerous instances, Defendants represent that Defendants will obtain a specific reduction in consumers' mortgage interest rates or payment amounts. In many cases, Defendants promise a specific rate reduction to 2%.

36. In numerous cases, Defendants claim they can prevent foreclosures or that the modification process will stay lenders' ability to foreclose. Defendants make such representations even to those consumers who inform Defendants that their lenders have previously denied modifications or sent foreclosure notices.

37. In numerous instances, Defendants discourage consumers from communicating directly with their lenders. Defendants tell consumers (including

1 consumers who receive foreclosure notices) not to contact their lenders and claim
2 Defendants will handle all communications with consumers' lenders.

3 38. In numerous instances, Defendants encourage consumers to stop making
4 mortgage payments, and in some instances tell consumers that delinquency will
5 demonstrate the consumers' hardship to the consumers' lenders. In those instances,
6 Defendants do not disclose that if consumers stop making mortgage payments they could
7 lose their home and damage their credit rating.

8 39. In numerous instances, Defendants tell consumers that Defendants are a law
9 firm or are affiliated with a law firm that specializes in obtaining loan modifications and
10 that this specialized knowledge and expertise will ensure Defendants' success in
11 obtaining loan modifications for consumers.

12 40. In numerous instances, typically in subsequent calls or emails, Defendants
13 introduce their Pre-Litigation Program to consumers. Defendants claim their “Pre-
14 Litigation Program” will provide homeowners with a detailed analysis of illegal conduct
15 engaged in by their particular lender to be used as leverage to improve the outcome of
16 negotiating a loan modification with the consumer’s lender. In numerous instances
17 Defendants instruct consumers to sign a Pre-Litigation Agreement or a Fee Agreement
18 that states consumers’ payment of an upfront fee is for Defendants’ forensic audit
19 services.

20 41. Defendants generally charge a fee ranging from \$2,500 to \$4,500.
21 Defendants typically tell consumers that they must make the first payment, usually one-
22 third of Defendants' fee, before Defendants will begin to provide their services.

Defendants' Websites

24 42. Defendants maintain or have maintained numerous websites including:
25 reliefcouncil.org, thereliefnetwork.org, prelitlaw.com, resourcelawgroup.com,
26 resourcelawcenter.com, resourcelegalgroup.com, and nationallegalsource.com.
27 Defendants' websites permit consumers to submit personal information online to request

1 a call-back or submit an email address to subscribe to a newsletter. The websites indicate
2 that the businesses are located at the same address as the Gordon Law Firm.

3 43. In numerous instances, Defendants' websites fail to disclose that the entity is
4 not associated with the United States government and that their service is not approved
5 by the government or the consumer's lender.

6 44. In numerous instances, Defendants' websites fail to disclose that even if
7 consumers use the modification service, their lender may not agree to change their loan.

8 **Defendants Do Not Obtain the Promised Modification and**
9 **Cause Consumer Injury**

10 45. In numerous instances, Defendants fail to obtain a loan modification,
11 substantially reduce consumers' mortgage payments, or stop foreclosure.

12 46. In numerous instances, after consumers pay Defendants' requested advance
13 fees, Defendants fail to conduct forensic audits.

14 47. In numerous instances, after consumers have paid their fees, Defendants fail
15 to answer or return consumers' telephone calls and emails and fail to provide updates
16 about the status of Defendants' purported communications with lenders. When
17 consumers are able to reach Defendants, Defendants generally assure consumers that
18 Defendants are working with the consumers' lenders and that the lenders will not
19 foreclose on the consumers' homes while processing their applications for a loan
20 modification.

21 48. Consumers often encounter difficulty in obtaining requested refunds from
22 Defendants. In many instances, consumers only receive refunds after making complaints
23 to or threatening to complain to entities such as the Better Business Bureau, the State Bar
24 of California, or law enforcement authorities. In many instances, Defendants do not
25 provide any refund or refund an amount substantially less than consumers paid.

26 49. In numerous instances, consumers who paid Defendants' fees suffer
27 significant economic injury, including foreclosure and the loss of their properties.

Role of Individual Defendant Gordon

50. Defendant Gordon, acting individually or in concert with others, has engaged in the offering or providing of mortgage assistance relief services. Gordon is the sole owner of the Gordon Law Firm.

51. Defendant Gordon also personally registered numerous fictitious business names used by Defendants to solicit consumers, including National Legal Source, Resource Law Center, Resource Law Group, Resource Legal Group, Gordon & Associates, The Law Offices of Chance E. Gordon, The Law Offices of C. Edward Gordon, and The C.E.G. Law Firm.

52. Defendant Gordon registered and pays for website domains used by Defendants to market their services, many of which use his fictitious business names. Defendant Gordon also pays for telephone and facsimile numbers used to perpetrate the scheme, and pays Defendants' telemarketer employees. He is the signatory on contracts and fee agreements executed with many consumers. Defendant Gordon is also the authorized signatory for the Gordon Law Firm bank accounts.

53. Defendant Gordon is licensed to practice law in the state of California only.

Role of Individual Defendant Pessar

54. Defendant Pessar, acting individually or in concert with others, has engaged in the offering or providing of mortgage assistance relief services. Pessar is the sole owner for Defendants Division One Investment, and Processing Division.

55. Defendant Pessar is the registrant and billing contact for website domains used by Defendants to market their services. He is the account holder and pays for the telephone numbers used by Defendants to conduct their telemarketing and pays Defendants' telemarketer employees. He also pays for telephone and facsimile numbers used by the Gordon Law Firm. Additionally, Defendant Pessar, on behalf of his company Defendant Processing Division, registered the business name Qualification Intake Department – the named entity on Defendants' postcards. Defendant Pessar is

1 also the authorized signatory for the Defendants Division One Investment and Processing
2 Division bank accounts.

3 **VIOLATIONS OF THE CFPA**

4 56. Sections 1031 and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531,
5 5536(a)(1)(B), prohibit covered persons from engaging “in any unfair, deceptive, or
6 abusive act or practice.” Section 1036(a)(3) of the CFPA, 12 U.S.C. § 5536(a)(3), further
7 prohibits any person from “knowingly or recklessly provid[ing] substantial assistance to a
8 covered person or service provider in violation of the provisions of section 1031 . . . and
9 notwithstanding any provision of [Title X], the provider of such substantial assistance
10 shall be deemed to be in violation of that section to the same extent as the person to
11 whom such assistance is provided.”

12 57. Defendants are “covered person[s]” and “service provider[s]” within the
13 meaning of the CFPA, 12 U.S.C. §§ 5481(6) and 5481(25).

14 **COUNT I**

15 58. In numerous instances, in connection with the offering or provision of
16 mortgage assistance relief services, Defendants, either acting alone or in concert with
17 others, represent, directly or indirectly, expressly or by implication, that consumers will
18 or likely will obtain mortgage loan modifications that substantially reduce consumers’
19 mortgage payments or interest rates, or help consumers avoid foreclosure.

20 59. In truth and in fact, Defendants generally do not obtain for consumers
21 mortgage loan modifications that substantially reduce consumers’ mortgage payments or
22 interest rates, and generally do not help consumers avoid foreclosure.

23 60. Therefore, Defendants’ representations as set forth in Paragraph 58 are false
24 and misleading and constitute a deceptive act or practice in violation of Sections 1031
25 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536.

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COUNT II

2 61. In numerous instances, in connection with the offering or provision of
3 mortgage assistance relief services, Defendants, either acting alone or in concert with
4 others, represent, directly or indirectly, expressly or by implication, that consumers will
5 or likely will obtain mortgage loan modifications that substantially reduce consumers'
6 mortgage payments or interest rates as a result of a forensic audit provided by
7 Defendants.

8 62. In truth and in fact, Defendants generally do not obtain for consumers
9 mortgage loan modifications that will make consumers' mortgage payments substantially
10 more affordable as a result of a forensic audit provided by Defendants.

11 63. Therefore, Defendants' representations as set forth in Paragraph 61 are false
12 and misleading and constitute a deceptive act or practice in violation of Sections 1031
13 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536.

14

COUNT III

15 64. In numerous instances, in connection with the offering or provision of
16 mortgage assistance relief services, Defendants, either acting alone or in concert with
17 others, represent, directly or indirectly, expressly or by implication, that Defendants are
18 the United States government or are affiliated with, endorsed or approved by, or
19 otherwise associated with the United States government.

20 65. In truth and in fact, Defendants are not affiliated with, endorsed or approved
21 by, or otherwise associated with the United States government.

22 66. Therefore, Defendants' representations as set forth in Paragraph 64 are false
23 and misleading and constitute a deceptive act or practice in violation of Section 1036 of
24 the CFPA, 12 U.S.C. § 5536.

25

REGULATION O

26 67. In 2009, Congress directed the Federal Trade Commission ("FTC") to
27 prescribe rules prohibiting unfair or deceptive acts or practices with respect to mortgage

1 loans. 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524,
2 678 (Mar. 11, 2009), as clarified by the Credit Card Accountability Responsibility and
3 Disclosure Act of 2009, Public Law 111-24, Section 511, 123 Stat. 1734, 1763-64 (May
4 22, 2009). Pursuant to that direction, the FTC promulgated the MARS Rule, 16 C.F.R.
5 Part 322, all but one of the provisions of which became effective on December 29, 2010.
6 The remaining provision, Section 322.5, became effective on January 31, 2011. The
7 CFPA § 1097, 12 U.S.C. § 5538, transferred rulemaking authority over the MARS Rule
8 to the Bureau, which recodified the Rule as 12 C.F.R. Part 1015, and designated it
9 “Regulation O.” The Bureau has authority to enforce Regulation O pursuant to the CFPA
10 § 1097 and § 1054, 12 U.S.C. §§ 5538, 5564.

11 68. Regulation O defines “mortgage assistance relief service” as “any service,
12 plan, or program, offered or provided to the consumer in exchange for consideration, that
13 is represented, expressly or by implication, to assist or attempt to assist the consumer
14 with . . . [n]egotiating, obtaining, or arranging a modification of any term of a dwelling
15 loan, including a reduction in the amount of interest, principal balance, monthly
16 payments, or fees” 16 C.F.R. § 322.2(i)(2), recodified as 12 C.F.R. § 1015.2. This
17 provision also encompasses “‘forensic audits’ and other services in which the provider
18 purports to review, and identify potential errors in, loan documents or documents sent by
19 a consumer’s lender or servicer in order to avert foreclosure or obtain concessions from
20 the lender or servicer.” Mortgage Assistance Relief Services; Final Rule, 75 Fed. Reg.
21 75, 100 n.110 (December 1, 2010) (discussion of Section 322.2 Definitions).

22 69. Regulation O defines “mortgage assistance relief service provider” as “any
23 person that provides, offers to provide, or arranges for others to provide, any mortgage
24 assistance relief service,” other than the dwelling loan holder, the servicer of a dwelling
25 loan, or any agent or contractor of such individual or entity. 16 C.F.R. § 322.2(j),
26 recodified as 12 C.F.R. § 1015.2.

1 70. Defendants are “mortgage assistance relief provider[s]” engaged in the
2 provision of “mortgage assistance relief services” as those terms are defined in
3 Regulation O. 16 C.F.R. § 322.2(j), recodified as 12 C.F.R. § 1015.2.

4 71. Regulation O prohibits any mortgage assistance relief service provider from
5 representing, expressly or by implication, that a consumer cannot or should not contact or
6 communicate with his or her lender or servicer. 16 C.F.R. § 322.3(a), recodified as 12
7 C.F.R. § 1015.3(a).

8 72. Regulation O prohibits any mortgage assistance relief service provider from
9 misrepresenting, expressly or by implication, the likelihood of negotiating, obtaining, or
10 arranging any represented service or result. 16 C.F.R. §§ 322.3(b)(1)-(2), recodified as
11 12 C.F.R. §§ 1015.3(b)(1)-(2).

12 73. Regulation O prohibits any mortgage assistance relief service provider from
13 failing to place a statement in every *general commercial communication* disclosing that
14 (i) the provider is not associated with the government and its service is not approved by
15 the government or any lender, and (ii) in cases where the provider has represented,
16 expressly or by implication, that consumers will receive certain services or results, a
17 statement disclosing that the lender may not agree to modify a loan, even if the consumer
18 uses the provider's service. 16 C.F.R. §§ 322.4(a)(1)-(2), recodified as 12 C.F.R. §§
19 1015.4(a)(1)-(2).

20 74. Regulation O prohibits any mortgage assistance relief service provider from
21 failing to place a statement in every *consumer-specific commercial communication* (i)
22 confirming that the consumer may stop doing business with the provider or reject an offer
23 of mortgage assistance without having to pay for the services, (ii) disclosing that the
24 provider is not associated with the government and its service is not approved by the
25 government or any lender, and (iii) in cases where the provider has represented, expressly
26 or by implication, that consumers will receive certain services or results, disclosing that

the lender may not agree to modify a loan, even if the consumer uses the provider's service. 16 C.F.R. §§ 322.4(b)(1)-(3), recodified as 12 C.F.R. §§ 1015.4(b)(1)-(3).

75. Regulation O prohibits any mortgage assistance relief service provider, in cases where the provider has represented that the consumer should temporarily or permanently discontinue payments on a dwelling loan, from failing 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. 16 C.F.R. § 322.4(c), recodified as 12 C.F.R. § 1015.4(c).

76. 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. 16 C.F.R. § 322.5(a), recodified as 12 C.F.R. § 1015.5(a).

77. Pursuant to the CFPA, § 1097, 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 IV

78. In numerous instances, since the effective dates of the MARS Rule, in connection with the offering or provision of mortgage assistance relief services, Defendants, either acting alone or in concert with others, ask for or receive their payment before consumers have executed a written agreement between the consumer and the loan holder or servicer that incorporates the offer obtained by Defendants, in violation of Regulation O, 16 C.F.R. § 322.5(a), recodified as 12 C.F.R. § 1015.5(a).

COUNT V

79. In numerous instances, since the effective dates of the MARS Rule, in connection with the offering or provision of mortgage assistance relief services,

1 Defendants, either acting alone or in concert with others, fail to make the following
2 disclosures:

- 3 a. in all general commercial communications –
 - 4 i. “[Name of Company] is not associated with the government, and
5 our service is not approved by the government or your lender,” in
6 violation of Regulation O, 16 C.F.R. § 322.4(a)(1), recodified as
7 12 C.F.R. § 1015.4(a)(1); and
 - 8 ii. “Even if you accept this offer and use our service, your lender may
9 not agree to change your loan,” in violation of Regulation O, 16
10 C.F.R. § 322.4(a)(2), recodified as 12 C.F.R. § 1015.4(a)(2);
- 11 b. in all consumer-specific commercial communications –
 - 12 i. “You may stop doing business with us at any time. You may
13 accept or reject the offer of mortgage assistance we obtain from
14 your lender [or servicer]. If you reject the offer, you do not have to
15 pay us. If you accept the offer, you will have to pay us [insert
16 amount or method for calculating the amount] for our services,” in
17 violation of Regulation O, 16 C.F.R. § 322.4(b)(1), recodified as
18 12 C.F.R. § 1015.4(b)(1);
 - 19 ii. “[Name of company] is not associated with the government, and
20 our service is not approved by the government or your lender,” in
21 violation of Regulation O, 16 C.F.R. § 322.4(b)(2), recodified as
22 12 C.F.R. § 1015.4(b)(2); and
 - 23 iii. “Even if you accept this offer and use our service, your lender may
24 not agree to change your loan,” in violation of Regulation O, 16
25 C.F.R. § 322.4(b)(3), recodified as 12 C.F.R. § 1015.4(b)(3); and
- 26 c. in all general commercial communications, consumer-specific
27 commercial communications, and other 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 that “[i]f you stop paying your mortgage, you could lose your home and damage your credit rating,” in violation of Regulation O, 16 C.F.R. § 322.4(c), recodified as 12 C.F.R. § 1015.4(c).

COUNT VI

80. In numerous instances, since the effective dates of the MARS Rule, in connection with the offering or provision of mortgage assistance relief services, Defendants, either acting alone or in concert with others, represent, expressly or by implication, that a consumer cannot or should not contact or communicate with his or her lender or servicer, in violation of Regulation O, 16 C.F.R. § 322.3(a), recodified as 12 C.F.R. § 1015.3(a).

COUNT VII

81. In numerous instances, since the effective dates of the MARS Rule, in connection with the offering or provision of mortgage assistance relief services, Defendants, either acting alone or in concert with others, misrepresent, expressly or by implication, material aspects of their services, including, but not limited to:

- a. Defendants' likelihood of obtaining a modification of mortgage loans for consumers that will substantially reduce consumers' mortgage payments, in violation of Regulation O, 16 C.F.R. § 322.3(b)(1), recodified as 12 C.F.R. § 1015.3(b)(1);
 - b. Defendants' likelihood of obtaining a modification of mortgage loan for consumers that will substantially reduce consumers' mortgage payments as a result of a forensic audit provided by Defendants, in violation of

Regulation O, 16 C.F.R. § 322.3(b)(1), recodified as 12 C.F.R. § 1015.3(b)(1); and

- c. Defendants' affiliation with, endorsement or approval by, or otherwise association with the United States government, a governmental homeowner assistance plan, or any Federal, State, or local governmental agency, unit, or department, in violation of Regulation O, 16 C.F.R. § 322.3(b)(3)(i), (ii), and (iii), recodified as 12 C.F.R. §§ 1015.3(b)(3)(i), (ii), and (iii).

CONSUMER INJURY

82. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the CFPA and Regulation O. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

83. The CFPA empowers this Court to grant any appropriate equitable relief including, without limitation, permanent or temporary injunction, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and monetary relief, to prevent and remedy any violation of any provision of law enforced by the Bureau. 12 U.S.C. §§ 5538(a) and 5565(a).

PRAYER FOR RELIEF

84. Wherefore, Plaintiff Consumer Financial Protection Bureau, pursuant to Sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565, and the Court's own equitable powers, requests that the Court:

- a. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency

of this action, and to preserve the possibility of effective final relief, including but not limited to a temporary restraining order, a preliminary injunction, an order freezing assets, immediate access, and appointment of a receiver;

b. Enter a permanent injunction to prevent future violations of the CFPA and Regulation O by Defendants;

c. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the CFPA and Regulation O, including but not limited to rescission or reformation of contracts, the refund of moneys paid, restitution, and disgorgement or compensation for unjust enrichment; and

d. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: July 17, 2012

Respectfully Submitted,

Kent Markus
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