

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.

UNITED STATES OF AMERICA, and
STATE OF COLORADO, *ex rel.* John W. Suthers, Attorney General,

Plaintiffs,

v.

BELLA HOMES, LLC, a Delaware limited liability company,
MARK STEPHEN DIAMOND, an individual,
DANIEL DAVID DELPIANO, an individual,
MICHAEL TERRELL, an individual, and
DAVID DELPIANO, an individual,

Defendants,

LAURA C. TABRIZIPOUR, an individual,

Relief-Defendant.

COMPLAINT

Plaintiffs, the United States of America, by United States Attorney John F. Walsh, and the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, through undersigned counsel, allege for their Complaint against Defendants, personally, jointly and severally, as follows:

INTRODUCTION

1. Plaintiff the United States of America (United States) brings this civil action to recover civil penalties under the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C. § 1833a, and for injunctive relief under the Fraud Injunction Statute, 18 U.S.C. § 1345, arising from Defendants' ongoing scheme to defraud distressed homeowners nationwide.

2. Plaintiff the State of Colorado brings this action under the Colorado Consumer Protection Act (CCPA), §§ 6-1-101 to 6-1-115, Colorado Revised Statutes (Colo. Rev. Stat.) (2011), and under the Mortgage Assistance Relief Services Rule (MARS Rule), effective December 29, 2010, the ban on advance fees, effective January 31, 2011, for preliminary and permanent injunctive relief and for penalties, disgorgement, restitution, and attorney fees. *See* Final Rule at 75 FR 75092 (Dec. 1, 2010), codified at 16 C.F.R. Part 322.

3. This action is brought against Bella Homes, LLC, Mark Stephen Diamond, Daniel David Delpiano, Michael Terrell, and David Delpiano, collectively as “Defendants,” and Laura C. Tabrizipour as a relief-defendant.

4. Beginning in or around March 2010 through the present, Defendants have been engaged in an ongoing foreclosure-rescue scheme to defraud distressed homeowners nationwide through the operation of Bella Homes, LLC (Bella Homes). Bella Homes claims to be a company “committed to helping homeowners remain in their homes and secure them for long time use.” *See* <http://bellahomesllc.net/>, viewed on January 10, 2012, attached as Exhibit 1. Rather than helping homeowners remain in their homes long term, as promised, Bella Homes preys upon distressed homeowners, duping them into paying thousands of dollars based on false promises and false representations, yet provides no meaningful assistance to prevent foreclosure or to allow homeowners to remain in their home for the time period promised by Bella Homes.

5. Bella Homes has fraudulently obtained approximately \$3,000,000 from over 450 homeowners across the nation, and is rapidly expanding its fraudulent operations. In the last two months of 2011 alone, it has fraudulently obtained approximately \$1,000,000 from homeowners.

6. As part of the scheme, Defendants solicit distressed homeowners to convey title to their home to Bella Homes for no consideration and to enter into purported three-, five-, or

seven-year lease agreements under which the homeowner pays Bella Homes monthly “rent.”

Bella Homes also collects an advance fee from the homeowner of three-months’ “rent” upon transferring title and signing the lease. Despite Bella Homes taking title to and collecting “rent” for the property, it does not pay the homeowner for the property and it does not pay off or assume the existing mortgage. Nor does Bella Homes make any of the mortgage payments or pay any of the taxes or insurance for the property.

7. To entice homeowners into this arrangement, Defendants make or cause to be made numerous material misrepresentations to convey the false and fraudulent impression that homeowners will be able to remain in their home for the duration of the lease with Bella Homes and then have an option to repurchase the home in three years from Bella Homes for significantly less than the amount currently owed on the mortgage. To this end, Defendants make or cause to be made misrepresentations to convey the false impression that Bella Homes will stop any foreclosure on the home, will negotiate the purchase of the existing mortgage on the home from the lender, and that federal law provides the homeowner the right to remain in the home during the entire lease term.

8. In summary, Bella Homes’ false representations include:

- The homeowner will avoid foreclosure;
- Bella Homes will purchase or settle the homeowner’s mortgage from the current lender;
- When the homeowner transfers title to the home to Bella Homes and enters a three-, five-, or seven-year lease with Bella Homes, he is protected by federal law from eviction for the term of the lease;
- Bella Homes acquires mortgages at well below market value, allows homeowners the option to repurchase the home in three years for 90% of the fair market value at that time, and credits

the homeowner 60% of the rent paid to the repurchase price;

- The new monthly payment and mortgage balance will ultimately be 40% to 60% lower than the current monthly payment and principal balance; and
- The homeowner will have no foreclosure on his credit report.

9. In fact, Bella Homes admits that it has not purchased any mortgages and lacks the financial capacity to purchase mortgages. Because neither Bella Homes nor the homeowner pays the mortgage, the home is inevitably foreclosed upon and the homeowner is ultimately evicted. Contrary to the representations, Bella Homes is not successful in stopping the foreclosure or eviction, and the homeowner is not protected by any law to remain in the home for the remainder of the lease term.

10. While the homeowner is led to believe that Bella Homes will stop the foreclosure and will enable the homeowner to remain in the home during the lease term, Bella Homes merely collects “rent” from the homeowner while the inevitable foreclosure and eviction proceedings ensue to the surprise and dismay of victimized homeowners.

11. Rather than provide meaningful assistance to homeowners, Bella Homes at most delays the foreclosure or eviction by filing frivolous legal pleadings. Bella Homes reaps a significant financial benefit from the delay by continuing to collect “rent” payments from the homeowner until the inevitable eviction.

12. Because of this fraudulent scheme, hundreds of homeowners have collectively paid approximately \$3,000,000 in “rent” to Bella Homes under the false pretense that Bella Homes will prevent any foreclosure, that they will have the right to remain in their home for the duration of the lease, and that they will have an exclusive option to repurchase their home at the end of the lease

term.

13. Bella Homes has not used any of the money collected from homeowners to purchase mortgages. Rather, the vast majority of the money it collects from homeowners has been used to pay the personal expenses of the individual Defendants.

14. Defendants' ongoing fraud poses a continuing and substantial financial harm to the distressed homeowners that Defendants prey upon, and Defendants continue to alienate and dissipate the proceeds of the fraud by funding their personal lifestyles.

15. Defendants are violating 18 U.S.C. § 1341 and § 1343 by engaging in a scheme or artifice to defraud and by using, or causing to be used, the United States mail and the wires to execute the scheme or artifice. Under 12 U.S.C. § 1833a and 18 U.S.C. § 1345, the United States may commence a civil action for civil penalties and to enjoin such conduct.

16. Defendants are also violating sections 322.3(b), 322.3(c), 322.5(a), and 322.6 of the MARS Rule, 16 C.F.R. Part 322, which:

[P]rohibits providers of such mortgage assistance relief services from making false or misleading claims . . . bar[s] the collection of advance fees for these services . . . [and] prohibit[s] anyone from providing substantial assistance or support to another they know or consciously avoid knowing is engaged in a violation of the Rule . . .

75 FR 75092, at 75092 (Dec. 1, 2010), Summary. Under § 322.10, the Colorado Attorney General may enforce the MARS Rule by bringing a civil action.

17. Defendants are also violating sections 6-1-105(1)(e), (g), and (u) of the CCPA through deceptive trade practices in the course of their business, vocation or occupation, and the Colorado Attorney General has express authority to prosecute those state law violations.

PARTIES

18. Plaintiffs are the United States of America and the State of Colorado.

19. Plaintiff United States of America has express authority to bring actions under 12 U.S.C. § 1833a and 18 U.S.C. § 1345.

20. John W. Suthers is the duly elected attorney general for the State of Colorado and has express authority under Colo. Rev. Stat. § 6-1-103, (2011), to enforce and prosecute violations of the CCPA, and under 16 C.F.R. § 322.10 and Section 626(b) of the 2009 Omnibus Appropriations Act, as amended, he has express authority to enforce and prosecute violations of the MARS Rule.

21. Defendant Bella Homes is a limited liability company organized and existing under the laws of the state of Delaware since March 29, 2010. Bella Homes operates from the personal residences of Defendants Daniel Delpiano, David Delpiano, and Mark Diamond, but maintains virtual offices advertised to the public as One Glenlake Parkway, Suite 700, Atlanta, Georgia 30328 and 7047 East Greenway Parkway, Suite 250, Scottsdale, Arizona 85254. Recently, Bella Homes opened an office at 3440 Preston Ridge Road, Suite 130, Alpharetta, Georgia 30002. On June 13, 2011, Bella Homes registered as a foreign entity doing business in Colorado. Bella Homes has transacted business within the District of Colorado, including directing the fraudulent scheme at citizens in this district. Upon learning of Plaintiffs' investigation, Bella Homes claims to have temporarily suspended its business operations in the state of Colorado as of October 2011.

22. Defendant Mark Stephen Diamond (Diamond) (DOB 1951) is a resident of Arizona at 8275 East Wood Drive, Scottsdale, Arizona 85260. Diamond is the chief executive officer and president of Bella Homes, and has formulated, directed, controlled, participated in, assisted with, or facilitated the acts or practices set forth in this Complaint. At all relevant times, Diamond has personally, and in combination and conspiracy with the other individual Defendants, directed and controlled Bella Homes and its business transactions directed at citizens within the District of

Colorado.

23. Defendant Daniel David Delpiano (Daniel Delpiano) (DOB 1959) is a resident of Georgia at 10450 Belladrum Drive, Alpharetta, Georgia 30022. Daniel Delpiano is the mastermind of the Bella Homes' scheme to defraud, and has formulated, directed, controlled, participated in, assisted with, or facilitated the acts or practices set forth in this Complaint. At all relevant times, Daniel Delpiano has personally, and in combination and conspiracy with the other individual Defendants, directed and controlled Bella Homes and its business transactions directed at citizens within the District of Colorado.

24. Daniel Delpiano is currently on supervised release for federal criminal convictions. On or about February 14, 2005, Daniel Delpiano was convicted in the District of Massachusetts of conspiracy to commit wire fraud. (Case No. 04-cr-10324). On or about November 27, 2006, Daniel Delpiano was convicted in the Middle District of Florida of conspiracy to commit mail fraud, wire fraud, and money laundering. (Case No. 06-cr-00341). On or about May 16, 2007, he was convicted in the state of Georgia of felony offenses of mortgage fraud and racketeering. (Georgia Superior Court, Case No. 07cr2694).

25. Defendant Michael Terrell (Terrell) (DOB 1953) is a resident of Georgia at 465 Kirkstall Trail, Alpharetta, Georgia 30222. He is an attorney licensed by the state of Georgia. Terrell, who holds himself out as the in-house counsel for Bella Homes, has formulated, directed, controlled, participated in, assisted with, or facilitated the acts or practices set forth in this Complaint. At all relevant times, Terrell has personally, and in combination and conspiracy with the other individual Defendants, directed and controlled Bella Homes and its business transactions directed at citizens within the District of Colorado.

26. Defendant David Delpiano (DOB 1989) (David Delpiano) is a resident of Georgia

at, upon information and belief, 10450 Belladrum Drive, Alpharetta, Georgia 30022 and/or 2616 Long Pointe, Roswell, Georgia 30076. He is the son of Daniel Delpiano. David Delpiano is the director of acquisitions for Bella Homes, and has formulated, directed, controlled, participated in, assisted with, or facilitated the acts or practices set forth in this Complaint. At all relevant times, David Delpiano has personally, and in combination and conspiracy with the other individual Defendants, directed and controlled Bella Homes and its business transactions directed at citizens within the District of Colorado.

27. Relief Defendant Laura C. Tabrizipour (DOB 1986) is a resident of Georgia at, upon information and belief, 10450 Belladrum Drive, Alpharetta, Georgia 30022 and/or 2616 Long Pointe, Roswell, Georgia 30076. She is the girlfriend of Defendant David Delpiano, is employed by Bella Homes, and has received substantial sums of the fraud-tainted money as a result of Defendants' scheme. She is named as a relief defendant only.

JURISDICTION AND VENUE

28. This Court has jurisdiction over this action pursuant to 12 U.S.C. § 1833a, 18 U.S.C. § 1345, 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

29. This Court has supplemental jurisdiction over the state law claims by the State of Colorado under 28 U.S.C. § 1367(a).

30. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2), 1395(b), and 18 U.S.C. § 1345, because this is an action for civil penalties and injunctive relief and because Defendants perpetrated their fraudulent scheme in this judicial district, including, but not limited to, recording deeds transferring title to real property located in this judicial district.

THE SCHEME TO DEFRAUD

The Bella Homes Website

31. As part of the scheme to defraud, Bella Homes maintains a website, <http://bellahomesllc.net/>, which describes the Bella Homes program. The homepage of the website contains numerous representations and promises about the Bella Homes program. According to the website, Bella Homes helps troubled homeowners by “purchasing” their home, leasing it back to them for a period of three to seven years, and then selling the home back to the homeowner for 90% of the appraised value. Specifically, the homepage of the website provides the following statements:

Bella Homes, LLC is the result of a collaboration of some of the best legal minds in the nation and is founded upon the fundamental principle that families, not banks, should own homes. We proudly stand out as an ethical and legitimate alternative to those less credible companies whose predatory tactics do nothing but exploit the homeowner’s financial predicament.

We are committed to helping troubled homeowners remain in their homes and secure them for long time use. Our program, which addresses a number of financial crises, is compliant with both state and federal law, is endorsed by the legal community and is highlighted by the following:

•We purchase homes from troubled homeowners whose homes are upside down with little to no equity[.]

•For qualified homeowners, we will purchase their home from them for the amount of the first mortgage and second mortgage and other liens and then lease their home back to them for a period of three to seven years.

•This lease will include an Option Memorandum, granting the homeowners an exclusive option to repurchase their home.

•Our goal, after we purchase a home or commercial property, is to purchase the underlying first mortgage on said property from the mortgage company or bank at a discount. If we

are unsuccessful in doing so, we will conduct a forensic audit of the mortgage to determine if the mortgage is illegal. If that is, indeed, the case, we will then file a lawsuit against the lender to prevent them from proceeding with foreclosure.

•Once we successfully purchase the mortgage from the lender, we will, at the end of their lease, sell the home back to them at 90% of the fair market value at that time and credit them at closing for 60% of the rent paid. If they are unable to obtain a mortgage, we will also provide them with owner financing through one of our subsidiaries or affiliates at the time they exercise their exclusive option to repurchase the home. Based on the foregoing, the homeowners' new monthly payment and mortgage balance will ultimately be 40% to 60% lower than their current monthly payment and principal balance.

•By the end of the lease, if we are unsuccessful in purchasing the mortgage from the lender, we will then deed the property back to the party that we purchased the home from.

See Exhibit 1 (<http://www.bellahomesllc.net/>, viewed on January 10, 2012) (emphasis added).

32. The website claims there will be protections to the homeowner by entering into a lease with Bella Homes and other financial benefits in working with Bella Homes. It states that the homeowner will have the right to remain in the home for the duration of the lease, will be protected from personal liability for any deficiency judgment, and will ultimately have a lower principal balance on the mortgage:

The transition from homeowner to tenant is but a temporary one and our leases are designed to afford you every right and protection available under law. By participating in our program, you can enjoy every benefit and safeguard that our program has to offer, all at no cost to you, including the following:

•In general, if there is a foreclosure of any dwelling or residential real property, any bank or entity taking over the property must do so subject to any existing lease that involves a "bona fide tenant" operating under a "bona fide lease". This means that a lease meeting the qualifications of the ACT will survive foreclosure and be enforceable for the remainder of the lease term.

- Protection from personal liability for any financial deficits due your lender after foreclosure or short sale, also known as a court-mandated deficiency judgment (which can be used by your lender to garnish your wages up to twenty years);

- A new, lower monthly payment, typically 40% - 60% of your current monthly payment;

- A new principal balance, typically 40% - 60% lower than your current principal balance;

...

- Owner financing, even if you have difficulty qualifying for a new mortgage at the time you exercise your exclusive option to purchase the home back from Bella.

- Peace of mind, perhaps the most important benefit of all.

See Exhibit 1 (<http://www.bellahomesllc.net/>, viewed on January 10, 2012) (emphasis added).

33. Until recently, the homepage of the Bella Homes website played a video introduction that promised that Bella Homes would purchase or settle the mortgage and the homeowner would avoid foreclosure:

We will purchase or settle your mortgage from your current lender, turn over the liability of your outstanding mortgage, and enter into an agreement with you so that you can continue to live right where you are. You'll avoid foreclosure. We'll relieve you from liability on money you owe your mortgage company.

(<http://www.bellahomesllc.net/>, viewed on December 8, 2011) (emphasis added). Sometime after December 8, 2011, the video introduction on the homepage of the website was removed.

34. The "About Us" link on the Bella Homes website plays a video segment that again represents that Bella Homes will purchase the mortgage and the homeowner will have an option to repurchase the home:

Typically, we acquire mortgages at well below market value then provide options to homeowners including repurchase at an attractive

and workable price. And, through it all, we provide those homeowners with unparalleled rights and protections and peace of mind.

(<http://www.bellahomesllc.net/>, viewed on January 17, 2012) (emphasis added).

35. The “Q&A” link on the Bella Homes website lists “Frequently Asked Questions.” This page contains additional representations that Bella Homes will purchase the mortgage and that the homeowner will have the right to remain in the home. It also represents that Bella Homes has successfully negotiated the purchase of mortgages with major banks:

Bella Homes’ objective is to purchase the mortgage from the lender at a discount.

How long does it take from the date I sell my home to Bella Homes, to purchase or payoff the underlying mortgage on the property? Each case is different, however this can take anywhere from 3 months to 30 months.

Does Bella Homes have examples where the attorney has successfully negotiated with a major bank? Yes, however attorneys will not discuss other clients’ negotiations, as that would be unethical.

What is the Foreclosure Act of 2009? This protects tenants from eviction because of foreclosure on the properties they are renting for the term of the lease. However this law does not allow for the homeowner to deed their home over to a friend or family member and then lease it back from that person. In this case the bank most likely would be able to evict. The sale must be a Bona fide sale to a real company like Bella Homes.

See Exhibit 1 (<http://www.bellahomesllc.net/>, viewed on January 10, 2012, FAQ nos. 8, 24, 52).

36. Each question on the “Q&A” page also includes a link to a video segment in which Defendant Terrell explains the answer. For example, under the question “What is the Foreclosure Act of 2009?” there is a link to a video segment in which Defendant Terrell explains:

The Protecting Tenants at Foreclosure Act of 2009 is a federal statute that provides protection for tenants who are living in houses

that have been or are being foreclosed. And, the critical aspect of this federal statute, for purposes of our clients, is that when they sign a lease with Bella Homes, going forward, if the lender is eventually able to foreclose against the property, they will still be protected under the terms of their lease agreement.

(<http://www.bellahomesllc.net/>, viewed on January 17, 2012, FAQ no. 52) (emphasis added).

37. The “Do I Qualify?” link on the Bella Homes website provides an online form for any homeowner to complete and submit online to apply for the Bella Homes program.

38. Defendant David Delpiano is primarily responsible for developing and maintaining the Bella Homes website through a third party web development company.

Bella Homes Solicitation: Pre-Approval Letter

39. As a further part of the scheme, upon receipt of the homeowner’s financial information, Bella Homes sends homeowners the following pre-approval letter containing false representations that homeowners, by paying rent to Bella Homes, will be able to reduce their mortgage balance and retain the right to remain in the home:

Congratulations! Your property has been pre-approved for the Bella Homes, LLC program whereby you can resolve your real estate challenges and reduce your mortgage balance and monthly payment by 40% to 60%.

...

Under our program, you will have the option of a three, five or seven-year lease. A seven-year lease may seem excessive at first but the safeguards it delivers are formidable: in the unlikely event that Bella Homes is unable to purchase or otherwise settle your mortgage and your property proceeds to foreclosure (rest assured, this has not happened to date) your lender will be legally bound under a new federal statute to honor the terms of the lease in effect at that time. This means that should your lender initiate foreclosure proceedings, they will be barred from removing you from your home until the term of your lease expires. Again, we have yet to encounter any such circumstances but we believe in being prepared for all possible scenarios.

See Bella Homes' Pre-Approval Letter (emphasis added), attached as Exhibit 2.

Bella Homes Solicitation: "Why Bella Homes?"

40. As a further part of the scheme, Bella Homes sends interested homeowners a solicitation containing false representations to lure the homeowner into the program. The solicitation titled "Why Bella Homes?" falsely claims that the financial benefits to working with Bella Homes include:

- No foreclosure on credit report
- No deficiency judgment (by mortgage company(ies))
- Mortgage forgiveness (when Bella Homes purchases the mortgage)
- Repurchase property at lower amount than current mortgage balance
- In most cases when home owner exercises their right to repurchase, Bella Homes will offer owner financing

See "Why Bella Homes?", attached as Exhibit 3.

Bella Homes Representatives

41. As a further part of the scheme, Bella Homes recruits representatives across the nation to solicit homeowners to participate in the Bella Homes program.

42. To recruit representatives, Bella Homes posts webinars on the Internet that describe the Bella Homes program and the opportunity to become a Bella Homes' representative. Defendant Diamond and Defendant Terrell have both appeared in the webinars to present information on the Bella Homes program.

43. Bella Homes promises to pay each representative a commission for every homeowner the representative signs up to the program, which is a percentage of the homeowner's first "rent" payment to Bella Homes.

44. To become a representative, the representative must pay Bella Homes an initial

enrollment fee of \$99.00 and a \$195.00 fee to complete mandatory online training. Each representative also has an option to pay a \$49.00 monthly fee to create his own replicate of the Bella Homes website in order to recruit homeowners for the program. Since August 2011, more than 200 people nationwide have signed up to become Bella Homes' representatives, and they have collectively paid more than \$138,000 in fees to Bella Homes.

45. To recruit homeowners for the program, some representatives mail solicitations containing the same false information provided by Bella Homes to homeowners who are delinquent in their mortgage payments and facing foreclosure. These solicitations and other advertisements are approved by Bella Homes.

46. Numerous persons nationwide have signed up to be Bella Homes' representatives, including at least five persons in Colorado. Defendant Diamond personally recruited one of the Colorado representatives and frequently communicated with him by telephone and e-mail regarding Bella Homes' operations in Colorado.

47. After the homeowners sign up with Bella Homes as a result of the representatives' contact, Bella Homes and the other Defendants have intentionally concealed relevant information from the representatives, such as the failure to purchase the mortgage and the eventual loss of the home to foreclosure and eviction, so that the representatives continue to market the program.

“Approval” into the Bella Homes Program

48. After a homeowner makes initial contact with Bella Homes in response to direct mail solicitations, fliers, contact with a representative, or referral, the homeowner submits a form containing his financial information to Bella Homes as part of a “qualification process.” Whether a homeowner qualifies for the program, however, is simply a matter of whether the homeowner can afford to pay “rent” to Bella Homes.

49. For example, as a November 15, 2010 e-mail exchange between Defendant Diamond and a Colorado representative illustrates, the sole qualification for the Bella Homes' program is whether the homeowner can afford to pay Bella Homes "rent":

Representative: "I received a second call today from a lady that has a large home in Aurora and would like to move back into her home. It is a 7 bedroom home and would be ideal for her foster care business. I don't know that she has the 3 months of lease payments ready to go, but could cash flow the home within a few months. Does this make sense to Bella?"

Diamond: "Do you know what she CAN afford right now and what payments she could afford moving forward." (Emphasis in original).

50. Bella Homes does nothing to verify the homeowner's financial information or whether the mortgage is capable of being purchased.

51. If the homeowner is able to pay "rent" to Bella Homes, however, the homeowner will qualify for the program.

The Closing

52. Once a homeowner signs up for the Bella Homes program, Bella Homes sends the homeowner a "pre-closing agreement." The pre-closing agreement includes a sales contract drafted by Bella Homes, in which Bella Homes agrees to purchase the home for zero dollars.

53. Bella Homes also drafts a lease agreement in which Bella Homes purports to "rent" the home to the homeowner for an amount substantially less than the homeowner's mortgage payment for a period of three, five, or seven years. Bella Homes generally offers to "rent" the home at 55 to 60 percent of the mortgage amount, thereby making the agreement both attractive and affordable for distressed homeowners struggling with mortgage payments.

54. Bella Homes also drafts an option agreement purporting to grant the homeowner an exclusive option to repurchase the home after three years from Bella Homes. Bella Homes

promises in the pre-closing agreement: “The Seller will have the Exclusive Option to purchase the residence at the end of the term of the Lease. At the time the Seller exercises their right to purchase the property, Buyer [Bella Homes] will sell the property at 90% of appraised value.” *See* pre-closing agreement, attached as Exhibit 4.

55. The pre-closing agreement also states: “Buyer [Bella Homes] intends to attempt to arrange a satisfactory resolution of the outstanding mortgage debt on the property. Buyer understands that Seller may elect to cease making mortgage payments after the Closing.” *Id.*

56. Bella Homes schedules and conducts a “closing” with the homeowner, at which time the homeowner executes a deed conveying title to the home to Bella Homes, signs the lease and option agreements, and pays Bella Homes an advance fee of three-months’ “rent.” No representative from Bella Homes attends the closing; rather, Bella Homes hires a notary to notarize the documents, which are then mailed to Bella Homes to be executed by Bella Homes. Bella Homes typically causes the deed to be recorded with the appropriate public office.

57. After the “closing” and the collection of the advance fee from the homeowner, Bella Homes thereafter continues to collect monthly “rent” payments from the homeowner.

58. Despite the fact that a deed is executed by the homeowner conveying title to Bella Homes and Bella Homes receives “rent” from the homeowner, including three months in advance, the mortgage is not paid by or transferred to Bella Homes. Bella Homes also does not pay any taxes or insurance for the property. In fact, despite collecting “rent” from homeowners, Bella Homes assumes no obligation for even basic maintenance or upkeep. Instead, the homeowner remains the mortgagor and thus responsible for the mortgage and everything else related to the home.

59. Homeowners are induced to enter into the Bella Homes program by the

representations that Bella Homes will negotiate the purchase of the mortgage from the lender for a reduced amount, that Bella Homes will stop any foreclosure, that the homeowner cannot be evicted from their home because of their new status as a tenant, and that the homeowner will have an option to repurchase their home at 90 percent of the new appraised value, with 60 percent of the “rent” payments applied to the repurchase price.

Bella Homes is Not Successful Purchasing the Homeowner’s Mortgage

60. Although there is no reasonable likelihood that Bella Homes will be successful in purchasing the homeowner’s mortgage from the lender, Bella Homes makes representations to the contrary. The website perpetuates this fraud by stating:

Does Bella Homes have examples where the attorney has successfully negotiated with a major bank? Yes, however attorneys will not discuss other clients’ negotiations, as that would be unethical.

Exhibit 1, <http://www.bellahomesllc.net/>, viewed on January 10, 2012.

61. After title to the home is conveyed to Bella Homes, Bella Homes may send a form letter to the lender or mortgage servicer announcing its purported desire to negotiate the purchase of the mortgage. Beyond sending a form letter, though, Bella Homes takes no meaningful steps to purchase the mortgage.

62. In response to a subpoena, Bella Homes admitted that it had not purchased a single mortgage. Upon information and belief, Bella Homes still has not purchased a single mortgage in nearly two years of existence.

63. Upon information and belief, it is unlikely that a mortgage lender would sell an individual mortgage to Bella Homes, because Bella Homes is not a lender or mortgage servicer and because most mortgages are pooled together and sold as mortgage-backed securities on the

secondary market, not sold individually.

64. Moreover, Bella Homes does not have sufficient assets, capital, funding, or credit to purchase the mortgages of the homeowners who have entered the Bella Homes program.

Bella Homes Does Not Prevent Foreclosure

65. Because neither Bella Homes nor the homeowner makes the mortgage payments, the home ultimately goes to a foreclosure sale, despite the promises made by Bella Homes that the homeowner will avoid foreclosure.

66. To dupe homeowners into believing that Bella Homes is providing meaningful assistance, Bella Homes claims that it prepares a “forensic audit” of the homeowner’s mortgage and files legal actions to stop the foreclosure proceedings. To this end, Bella Homes sometimes orders a “forensic audit” of the homeowner’s mortgage purportedly to determine whether inaccuracies or discrepancies exist for legal challenges to the foreclosure action.

67. The “forensic audit,” and possibly other legal work, is performed by a contractor who is an unlicensed attorney, has a felony conviction for forgery, is the subject of a cease and desist order preventing him from transacting a mortgage business, and is the president of a company whose mortgage broker license was revoked by the Georgia Department of Banking and Finance.

68. The “forensic audit” is a meaningless document in that it is merely a template that is not specific to the homeowner’s mortgage. It does not prevent the foreclosure sale or eviction, nor does it increase the likelihood of the lender negotiating with Bella Homes.

69. Bella Homes sometimes retains a local attorney for a small fee to use the findings of the “forensic audit” to file a lawsuit in an attempt to stop the foreclosure proceeding or eviction. Upon information and belief, Bella Homes has not prevailed in any of the lawsuits to permanently

stop or reverse any foreclosure or eviction action.

70. As an example, Bella Homes retained attorney Dale A. Calomeni to file suit on November 30, 2010 in Georgia Superior Court to stop the foreclosure proceedings against a homeowner in the Bella Homes program. On May 18, 2011, the court dismissed the suit on summary judgment. *See* Order, attached as Exhibit 5. On November 15, 2011, the home was sold at foreclosure. Similarly, Bella Homes retained attorney Stephen M. Maurillo to file suit on May 31, 2011 in Georgia Superior Court to stop the foreclosure proceedings against a homeowner in the Bella Homes program. After it was removed to federal district court in the Northern District of Georgia, the court dismissed the complaint, on October 18, 2011, for failure to state a claim. *See* Order, attached as Exhibit 6.

71. At most, the lawsuits merely delay the foreclosure or eviction, resulting in more “rent” payments to Bella Homes and a waste of judicial and party resources.

72. Even after Bella Homes was on notice that homeowners who signed up for the program still lost their homes in foreclosure sales, Bella Homes continues to falsely claim that Bella Homes is successful in stopping foreclosures. Specifically, after at least three Colorado homeowners in the Bella Homes program lost their homes to foreclosure sales in May and June 2011, Bella Homes sent letters to multiple homeowners in Colorado in August and September 2011 claiming that no property in the program had ever proceeded to foreclosure. *See* Letters dated August 31, 2011; September 12, 2011; September 19, 2011; September 20, 2011; and September 21, 2011, attached as Exhibit 7.

Bella Homes Does Not Protect the Homeowner from Eviction

73. Following the foreclosure sale, the homeowner will ultimately be evicted by the new owner, despite Bella Homes’ promised protections under the federal Protecting Tenants at

Foreclosure Act for the duration of the three-, five-, or seven-year lease agreement.

74. The Protecting Tenants at Foreclosure Act of 2009 (Act), Pub. L. 111–22, Title VII, § 702(a), 123 U.S. Stat. 1660–1661, effective May 20, 2009, provides protections to bona fide tenants who reside in properties subject to foreclosure, and states, in relevant part:

(a) IN GENERAL.-In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to-

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure-

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1), . . .

Pub. L. No. 111–22, § 702(a), 123 Stat. 1660 (2009) (emphasis added).

75. Under Section 702(a)(2)(A), the Act applies only to “any bona fide lease entered into before the notice of foreclosure.”

76. Under Section 702(b), the Act applies only to a bona fide lease in which “(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.” (Emphasis added).

77. The Act is intended to protect tenants who are the victims of the foreclosure crisis.

See 155 Cong. Rec. S5096-7 (daily ed. May 5, 2009) (statement of Sen. Gillibrand). Senator Christopher Dodd, one of the legislation's drafters, declared:

[F]or too long, tenants have been the innocent victims of the foreclosure crisis. Countless tenants across the country have been forced to leave their homes simply because their landlords were unable to pay their mortgages. . . . This new law protects tenants facing evictions due to foreclosure by ensuring that they can remain in their homes for the length of the lease or, at the least, receive sufficient notice and time to relocate their families and lives to a new home.

See 155 Cong. Rec. S8978–01 (August 6, 2009).

78. A notice published by the Department of Housing and Urban Development (HUD) explains the purpose of the Act:

[T]enants residing in residential properties were also victims of the foreclosure crisis. All too often, tenants were caught unaware that the residential property in which they reside was being foreclosed and were given little notice of the need to vacate the property. The objective of these new tenant protections is to ensure that tenants receive appropriate notice of foreclosure and are not abruptly displaced.

See Protecting Tenants at Foreclosure: Notice of Responsibilities Placed on Immediate Successors in Interest Pursuant to Foreclosure of Residential Property, 74 Fed. Reg. 30,106 (June 24, 2009).

79. As the HUD notice further stated: “The tenants to whom the notice must be provided must be bona-fide tenants as this term is defined in Section 702(b). Section 702(b) defines bona fide lease or tenancy, and under this definition, bona fide tenants do not include the mortgagor or the child, spouse or parent of the mortgagor.” 74 Fed. Reg. at 30,107.

80. Contrary to Bella Homes’ representations, the homeowner is not a bona fide tenant under Section 702(b) of the Act because the homeowner remains the mortgagor after conveying title to the property to Bella Homes. The Act’s protections therefore do not apply to any Bella

Homes' client.

81. Further, the Act does not apply to Bella Homes' clients because the lease agreement with Bella Homes is not the result of an arms-length transaction and is for rent substantially less than fair market rent.

82. Further, the Act does not protect many of Bella Homes' clients because the Bella Homes' lease is entered into after the foreclosure notice, not before, as required by Section 702(a)(2)(A).

83. Bella Homes knows that the plain language of the Act excludes from protection all homeowners who sign a lease agreement with Bella Homes, but nevertheless claims that the lease provides "formidable" safeguards. For example, in the "Why Bella Homes?" solicitation, Bella Homes falsely states:

[I]n the unlikely event that Bella Homes is unable to purchase or otherwise settle your mortgage and your property proceeds to foreclosure (rest assured, this has not happened to date) your lender will be legally bound under a new federal statute to honor the terms of the lease in effect at that time. This means that should your lender initiate foreclosure proceedings, they will be barred from removing you from your home until the term of your lease expires.

See Exhibit 3 (emphasis added). The website falsely states that the Act "protects tenants from eviction because of foreclosure on the properties they are renting for the term of the lease" and applies to "a Bona fide sale to a real company like Bella Homes." *See* Exhibit 1, (<http://www.bellahomesllc.net/>, viewed on January 10, 2012, FAQ no. 52).

84. Homeowners sign a long-term lease with Bella Homes and pay Bella Homes substantial amounts of "rent" because of the promise by Bella Homes that federal law affords them the right to remain in their home for three years or longer. Because many of these homeowners want to stay in their home, the fraudulent misrepresentation that the homeowner is allowed by

federal law to remain in the home is a particularly egregious and effective misrepresentation.

85. Bella Homes knows that homeowners in the Bella Homes program have been evicted from their homes, despite the lease agreement. Even after Bella Homes was on notice that homeowners who signed a lease agreement with Bella Homes were nonetheless evicted from their homes, Bella Homes still continued to make the same false promises that federal law protects the homeowners from eviction. Bella Homes continues to make this misrepresentation, which is attractive and compelling to distressed homeowners who have a sincere desire to remain in their home.

The Homeowner Will Not Have an Exclusive Option to Repurchase the Home

86. Because the home will ultimately be foreclosed upon by the lender well before the end of the three-year lease term, the homeowner will not have an exclusive option to repurchase the home from Bella Homes as promised. The homeowner, however, will have paid Bella Homes a substantial amount of nonrefundable “rent” before being evicted, particularly if Bella Homes has successfully delayed the foreclosure or eviction through frivolous legal filings.

87. Because the option to repurchase is illusory, the homeowner will never receive as a credit the promised 60 percent of “rent” payments applied to the repurchase price, which is yet another false promise by Bella Homes used to defraud homeowners.

USE OF THE MAILS AND WIRES TO EXECUTE THE SCHEME TO DEFRAUD

88. In furtherance of the scheme to defraud, Defendants have used, or caused to be used, the wires and the mail.

89. Defendants have sent, or caused to be sent, numerous emails between themselves, Bella Homes’ employees, Bella Homes’ representatives, and homeowners across the nation, in furtherance of the scheme to defraud. Defendants have also created a website for the purpose of

soliciting homeowners nationwide. The website is hosted on a server located in Texas.

90. Defendants have mailed, or caused to be mailed, numerous letters to homeowners and representatives in furtherance of the scheme to defraud. Defendants have also caused homeowners to mail “rent” checks in furtherance of the scheme to defraud.

**ILLUSTRATIONS OF HOMEOWNERS VICTIMIZED
BY THE BELLA HOMES PROGRAM**

Colorado Homeowner (“A.B.”)

91. A.B. and her husband are both small business owners, who owned a home in Adams County, Colorado, with a mortgage owned by Fannie Mae. After struggling with the mortgage payments as a result of a reduction in income, they signed up with Bella Homes in May 2011 based on Bella Homes’ promise that it would fight the foreclosure and allow them to stay in their home for at least three years regardless of the outcome of the foreclosure.

92. In April 2011, A.B. and her husband received a solicitation in the mail from a Bella Homes’ representative, who sent the solicitation to numerous other homeowners in foreclosure.

93. After receiving the solicitation, A.B. and her husband contacted and met with the representative to learn more about the Bella Homes program. A.B. and her husband provided their financial information to Bella Homes in order to “qualify” for the program.

94. Upon receipt of the information, Bella Homes delivered to A.B. a letter stating, “Congratulations! Your property has been pre-approved for the Bella Homes, LLC program whereby you can resolve your real estate challenges and reduce your mortgage balance and monthly payment by 40% to 60%.” See Letter dated April 21, 2011, attached as Exhibit 8.

95. This pre-approval letter also stated:

Under our program, you will have the option of a three, five or seven-year lease. A seven-year lease may seem

excessive at first but the safeguards it delivers are formidable: in the unlikely event that Bella Homes is unable to purchase or otherwise settle your mortgage and your property proceeds to foreclosure (rest assured, this has not happened to date) your lender will be legally bound under a new federal statute to honor the terms of the lease in effect at that time. This means that should your lender initiate foreclosure proceedings, they will be barred from removing you from your home until the term of your lease expires. Again, we have yet to encounter any such circumstances but we believe in being prepared for all possible scenarios.

We are experiencing an unprecedented response to our program. In order to address the overwhelming need and devote our attention and resources to those most serious about resolving their real estate challenges, we ask that you execute this agreement within seven days.

Please be aware that time is of the essence. It's important that we receive a fully executed agreement within ten days. otherwise we will have no choice but to declare this offer null and void. Furthermore, we will be unable to reconsider your property for inclusion in our program at a later date.

We encourage you to visit our website at www.bellahomesllc.net where you will find our mission statement, client testimonials and our most frequently asked questions.

See Exhibit 8 (emphasis added).

96. Bella Homes also enclosed with this pre-approval letter a document titled “Why Bella Homes?” stating the purported benefits to working with Bella Homes:

- No foreclosure on credit report
- No deficiency judgment (by mortgage company(ies))
- Mortgage forgiveness (when Bella Homes purchases the mortgage)
- Repurchase property at lower amount than current mortgage balance
- In most cases when homeowner exercises their right to repurchase, Bella Homes will offer owner financing

See “Why Bella Homes?”, attached as Exhibit 9. It also stated that A.B. would later receive, as a credit to the repurchase price, 60 percent of the total monthly “rent” payments made during the

lease term. *See id.*

97. Defendant Terrell then sent a letter stating, “Congratulations!! Your home has been approved by the Bella Homes’ Board of Directors to participate in one of our programs that will allow you and your family to stay in your home.” *See* Letter dated May 5, 2011, attached as Exhibit 10.

98. At the time of signing up A.B., Bella Homes knew A.B.’s mortgage lender had already commenced a foreclosure action against the property on or about February 3, 2011, thereby invalidating any protection afforded under the Protecting Tenants at Foreclosure Act.

99. In reliance on the representations by Bella Homes, A.B. signed at closing a deed transferring title to Bella Homes, a seven-year lease agreement with Bella Homes, and an option to repurchase the home from Bella Homes. Bella Homes did not provide any consideration for the “purchase” of the home, nor did it pay off or take over the existing mortgage.

100. Bella Homes required that A.B. pay \$6,110.29 in advance fees at the closing, and \$1,385 in monthly “rent” payments, an amount which was approved by at least Defendant David Delpiano.

101. Despite signing up with and paying more than \$7,000 to Bella Homes, A.B. and her husband lost their house to a foreclosure sale on June 14, 2011.

102. Bella Homes made no attempt to negotiate or otherwise purchase from the lender or servicer A.B.’s mortgage.

103. Bella Homes took no action to stop the foreclosure sale.

104. Despite signing up for the Bella Homes program and paying more than \$7,000 to Bella Homes, the lender commenced an eviction proceeding on July 18, 2011.

105. After A.B.’s husband notified Bella Homes of the eviction, Bella Homes, on July

25, 2011, retained a local attorney for \$1,500 to file a legal challenge to the eviction. Defendant Terrell notified A.B. that Bella Homes retained an attorney to respond to the eviction, stating that the attorney “is great. I believe that he is the best lawyer that Bella has in its network.”

106. This attorney never asserted the Protecting Tenants at Foreclosure Act of 2009 as a defense to the eviction, presumably because the attorney knew it afforded no protection to A.B. and her husband, who were the mortgagor and spouse and who entered into the lease after the foreclosure notice.

107. After numerous requests, A.B. finally received a copy of a “forensic audit” from Bella Homes, which was merely a template that contained the incorrect lender and mortgage servicer. The forensic audit did not stop the eviction.

108. In order to challenge the eviction, the court required A.B. to post a bond, because of the delay it would cause in transferring possession of the property to the new owner. When A.B. and her husband requested that Bella Homes assist with the bond payment, Bella Homes declined. Bella Homes also declined to purchase the mortgage from the new owner, Fannie Mae.

109. Because they could not afford to post the bond and realized that the situation was futile, A.B. and her husband agreed to vacate their home on or about August 2, 2011.

110. A.B. and her husband then had to move and find a new residence and pay actual rent and a security deposit to a legitimate landlord, which proved difficult because A.B. had already paid more than \$7,000 to Bella Homes as part of the fraudulent scheme.

Colorado Homeowner (“B.C.”)

111. B.C. has been employed with the same company for 15 years. B.C. and his wife owned a home in Douglas County, Colorado, with a first mortgage from Saxon and a second mortgage from Wells Fargo. After experiencing a reduction in income, B.C. and his wife signed

up for the Bella Homes program in April 2011 in order to remain in the home.

112. B.C. received a solicitation by mail from a Bella Homes' representative in February 2011. After receiving the solicitation, B.C. contacted the representative to set up a meeting.

113. After meeting with the Colorado representative to learn more about the Bella Homes program, B.C. provided his financial information in order to apply for the program.

114. Upon receipt of the financial information, Bella Homes sent a letter to B.C. stating, "Congratulations!! Your home has been approved by the Bella Homes' Board of Directors to participate in one of our programs that will allow you and your family to stay in your home." *See* Letter dated March 8, 2011, attached as Exhibit 11.

115. This letter also stated that "your lender will be legally bound under a new federal statute to honor the terms of the lease in effect at that time. This means that should your lender initiate foreclosure proceedings, they will be barred from removing you from your home until the term of your lease expires." *Id.*

116. At the time of signing up B.C., Bella Homes knew B.C.'s mortgage lender had already commenced a foreclosure action against the property on or about January 27, 2011, thereby invalidating any protection afforded by the Protecting Tenants at Foreclosure Act.

117. Bella Homes also provided B.C. with the document titled "Why Bella Homes?" stating that he would have no foreclosure on his credit report and he would later receive, as a credit to the repurchase price, 60 percent of the total monthly "rent" payments made during the three-year lease. *See* "Why Bella Homes?", attached as Exhibit 12.

118. On or about April 1, 2011, B.C. signed at closing a deed transferring title to Bella Homes, a three-year lease agreement with Bella Homes, and an option to repurchase the home from Bella Homes. Bella Homes did not provide any consideration for the "purchase" of the

home, and Bella Homes did not pay off or take over the existing mortgage.

119. Bella Homes required that B.C. pay \$8,550 in advance fees at the closing, and \$2,500 in monthly “rental” payments, which was approved by at least Defendant David Delpiano.

120. Despite signing up with and paying more than \$11,000 to Bella Homes, B.C. and his family lost their house to a foreclosure sale on May 18, 2011. B.C. discovered the foreclosure sale two weeks later when the new owner showed up at his home and introduced himself.

121. Bella Homes made no attempt to negotiate or otherwise purchase from the lender or servicer B.C.’s mortgage.

122. Bella Homes took no action to stop the foreclosure sale.

123. The new owner commenced an eviction proceeding on June 13, 2011. The new owner offered B.C. a six-week lease at \$1,500 per month, \$1,500 in moving expenses, and reimbursement of the six-week lease payments for a total of \$3,750. B.C., however, had already paid Bella Homes more than \$11,000 believing he and his family would remain in the home for at least three years. B.C. immediately notified Terrell of the eviction proceedings, including the proposal by the new owner for a temporary lease and move-out terms.

124. By e-mail dated June 14, 2011, Terrell wrote to B.C.: “I see where the investor is offering to cancel the eviction, provide a lease through the end of July and offering to pay you \$1500 plus a refund of lease payments to the ‘New Owner’ if the house passes inspection and you are out by July 15, 2011. I clearly remember your sentiments at the end of our last conversation but I have to ask you: do you at this time have any interest in cooperating with the investor based upon the terms shown in these documents?” Bella of course is prepared to proceed with a hearing/jury trial and fight the fight, make our arguments, submit the Bella lease for ratification by the court etc.” (Emphasis added). *See* E-mail dated June 14, 2011, attached as Exhibit 13.

125. When B.C. inquired with Terrell about the federal law and the protections Bella Homes claims it provides to B.C.'s lease, Terrell falsely stated, "Other courts will be dealing with the lease issue in the next few weeks." *Id.*

126. By e-mail dated June 15, 2011, B.C. requested that Terrell provide him with the name of the Colorado attorney that Bella Homes retained for him so that B.C. can meet with the attorney before the eviction hearing set for June 20, 2011.

127. This attorney never asserted the Protecting Tenants at Foreclosure Act as a defense to the eviction, presumably because the attorney knew it afforded no protection to B.C. and his wife because they were the mortgagors and because the lease was entered into after the foreclosure notice.

128. Because of the delay the eviction challenge would cause in transferring possession of the property to the new owner, the court required B.C. to post a bond in order to challenge the eviction. When B.C. requested that Bella Homes assist with the \$6,400 bond payment, Bella Homes declined. By refusing to post the bond, Bella Homes was not living up to the earlier promise made by Terrell that "Bella of course is prepared to proceed with a hearing/jury trial and fight the fight." B.C. then stopped paying Bella Homes additional "rent" and put the bond up with his own money.

129. Realizing that Bella Homes was not living up to its promises and that the situation had become futile, B.C. then settled the eviction action with the new owner, whereby he and his family were forced to move out of their home.

130. Furthermore, after B.C. received his bond payment back from the court and had to leave his home despite paying Bella Homes more than \$11,000, Terrell informed B.C. that he had "spoken with corporate" and demanded that B.C. pay half of the bond money to Bella Homes for

unpaid “rent” and execute a mutual release agreement.

Oregon Homeowner (“D.E.”)

131. D.E. and his wife owned a home in Multnomah County, Oregon. On November 4, 2010, D.E. and his wife signed up with Bella Homes after speaking to one of its employees.

132. D.E. and his wife signed up for the Bella Homes program because of the promise that their home would not go to a foreclosure sale and that they could remain in the home during the lease term with Bella Homes. When they signed up with Bella Homes, no foreclosure action had been commenced.

133. By letter dated November 2, 2010, Bella Homes sent a letter to D.E. and his wife stating, “Congratulations!! Your home has been approved by the Bella Homes’ Board of Directors to participate in one of our programs that will allow you and your family to stay in your home.”

134. D.E. signed at closing a deed transferring title to Bella Homes, a three-year lease agreement with Bella Homes, and an option to repurchase the home from Bella Homes. Bella Homes did not provide any monetary consideration for the “purchase” of the home, and Bella Homes did not pay off or take over the existing mortgage.

135. Bella Homes required that D.E. pay \$4,980 in advance fees at the closing, and \$1,500 in monthly “rent” payments for the first year.

136. After signing up with Bella Homes and making monthly payments in excess of \$10,000, D.E. and his wife discovered in January 2011 that their home was subject to the very foreclosure proceeding that Bella Homes was supposed to prevent.

137. D.E. and his wife immediately contacted Bella Homes about the foreclosure proceeding and learned that Bella Homes had done nothing. Bella Homes had not contacted the lender and had not hired a local attorney to represent them.

138. On January 17, 2011, D.E. sent an email to Laura Tabrizipour, a Bella Homes employee and girlfriend of Defendant David Delpiano:

Laura--got a notice delivered to our home from Citi Mtg asking us to call them immediately. 866 940-5787. Called and spoke with Akeia (ID# AH40977) who informed me that our home went into foreclosure Jan 10. She also informed me that they have no record of any authorization from Bella Homes being filed or any negotiations going on. According to Citi, we are still on the hook for foreclosure and they are proceeding just like they would with any foreclosure. . . . This chain of events is scaring us to death.

139. On February 18, 2011, D.E. wrote again to Laura Tabrizipour:

Laura-- We received a notice on the front door to call Citi Mtg immediately: 866 940 5787. Shall I call or will you call them? This is the kind of stuff that makes me nervous-- obviously someone from Citi has not been informed that Bella is in negotiations with them. Can I get an update please?

140. In response to this contact, Ms. Tabrizipour, on behalf of Bella Homes, falsely stated:

I can call the number, the lenders send out this notice to see if there is someone living in the house or to see if it has been abandoned. We are still in the process of trying to negotiate with Citi. Let me know if you have any other questions or need anything. Laura

(Emphasis added). Upon information and belief, Bella Homes did not have any ongoing negotiations with Citibank.

141. Bella Homes eventually referred D.E. to a Georgia attorney, Dale Calomeni, who has previously represented Defendant Daniel Delpiano in filing an August 27, 2010 legal challenge to a foreclosure of his multimillion dollar home in Georgia.

142. By email dated March 4, 2011, D.E. wrote to Mr. Calomeni, "Bella promised us that our home would not go to foreclosure when we signed on with them. The joke is on us. Only it's not funny. What a mess. Call me, please."

143. After receiving no assistance from Bella Homes, D.E. contacted on his own initiative an attorney who immediately reported Bella Homes to law enforcement.

144. Despite Bella Homes' promises to stop foreclosure and allow the homeowner to remain in the home for three years, and despite paying Bella Homes more than \$10,000, D.E. and his wife lost their home to foreclosure and had to move out of the home.

HARM CAUSED BY THE SCHEME TO DEFRAUD

145. As a result of Defendants' scheme to defraud, hundreds of homeowners nationwide have collectively paid approximately \$3,000,000 in the form of "rent" to Bella Homes, under the false pretense that they will not be foreclosed upon, will have the right to remain in their home for the duration of their lease with Bella Homes, and the exclusive option to repurchase their home at the end of the lease term.

146. Homeowners who have entered into the Bella Homes program, and paid substantial sums of money to Bella Homes, have been foreclosed upon and evicted from their homes. Many homeowners are still paying Bella Homes without realizing that they too will suffer a foreclosure sale or eviction despite participating in the Bella Homes program.

147. Bella Homes has not provided anything of value in consideration for the "rent" payments. The homeowners are in no better position after paying "rent" to Bella Homes than they would have been if they never signed up for the Bella Homes program. The homeowners would have been in a better position if they had continued to make their mortgage payment to their lender rather than paying "rent" to Bella Homes. In fact, working with Bella Homes often causes more harm to the homeowners beyond the lost "rent," because homeowners forgo opportunities to work with their lenders or with legitimate mortgage assistance providers.

148. The mortgage lender, mortgage servicer, and investor holding the note on the home

are also harmed by Bella Homes' scheme to defraud. The homeowner is fraudulently induced to pay "rent" to Bella Homes in lieu of making the mortgage payments. Some of the mortgage lenders and mortgage servicers detrimentally affected by Bella Homes' fraudulent scheme are federally insured financial institutions.

**DEFENDANTS HAVE PROFITED FROM THE SCHEME TO DEFRAUD AND ARE
ALIENATING AND DISPOSING OF THE PROCEEDS OF THE FRAUD**

149. Most of the money Bella Homes collects from homeowners has been diverted to the individual Defendants for their own personal use.

150. At least \$248,000 of the proceeds from the fraud were issued from Bella Homes' bank account to Diamond Corporation and Diamond & Associates, which are corporations controlled by Defendant Diamond.

151. At least \$321,000 of the proceeds from the fraud were issued to or used to pay personal expenses of Defendant Diamond, including more than \$277,000 for his American Express bills.

152. At least \$184,000 of the proceeds from the fraud were used by Defendant Daniel Delpiano for his personal expenses, including, upon information and belief, \$86,180 in ATM cash withdrawals using debit cards issued to Mark Diamond and to Daniel Delpiano. The ATM cash withdrawals were frequently in the amount of \$700.

153. In order to conceal his involvement in Bella Homes, Defendant Daniel Delpiano, who has multiple prior convictions, is not on the Bella Homes' payroll. Instead, he is on the payroll of Diamond Corporation, a company controlled by Defendant Diamond. Money issued from the Bella Homes' bank account to Diamond Corporation is then used to pay Daniel Delpiano a "salary" of approximately \$95,000 for the past year.

154. At least \$92,000 of the proceeds from the fraud were issued to Defendant David Delpiano for personal expenses.

155. At least \$49,000 of the proceeds from the fraud were issued to Defendant Terrell for personal expenses.

156. At least \$61,000 of the proceeds from the fraud were issued to Relief Defendant Laura Tabrizipour.

INJUNCTIVE RELIEF IS NECESSARY TO PROTECT THE PUBLIC AND TO PREVENT FURTHER DISSIPATION OF THE PROCEEDS OF THE FRAUD

157. Absent injunctive relief, Defendants' fraudulent conduct will continue and vulnerable homeowners will suffer even more losses. Defendants continue to use the website, webinars, and representatives to solicit homeowners to sign up for the Bella Homes program, and continue to collect "rent" from homeowners who have entered the program.

158. Absent injunctive relief, Defendants will continue to further dissipate the proceeds of the fraud. The proceeds of the fraud should be preserved in order to provide adequate relief to the victims of Defendants' fraud.

JOINT AND SEVERAL AND PERSONAL LIABILITY OF INDIVIDUAL DEFENDANTS

159. Each individual defendant has formulated, directed, controlled, approved of, participated in, assisted with, or facilitated the acts or practices set forth in this Complaint. The individual defendants are personally liable and jointly and severally liable, because they had authority to control the corporate defendant Bella Homes and/or they had actual knowledge of or were recklessly indifferent to the deception by Bella Homes.

160. The corporate form of Bella Homes is indistinct from the individual Defendants who, acting in concert, control the operations of Bella Homes for their own personal gain. Bella

Homes was created at the direction of Defendant Daniel Delpiano for the sole purpose of perpetrating the fraudulent scheme described in this Complaint. The funds and assets of Bella Homes are commingled with those of the individual Defendants, and are largely diverted for their own personal use. Bella Homes is vastly undercapitalized in light of the nature and magnitude of its purported corporate purpose, *i.e.*, the large-scale purchase of mortgages. Although Bella Homes has collected approximately \$3,000,000 from homeowners, it does not retain the capital necessary for its stated corporate purpose; rather, it diverts funds to the individual participants in the fraud.

161. Defendant Daniel Delpiano is the mastermind of Bella Homes and directs and controls much of the operation, though he does so covertly in order to portray Bella as a legitimate company, as opposed to a company run by a felon with fraud convictions. He personally hires and supervises many of Bella Homes' employees and contractors. He personally developed, created, or approved many of the documents presented to homeowners. The Bella Homes employees carrying out the day-to-day operations work in the basement of Defendant Daniel Delpiano's personal residence in Alpharetta, Georgia. He received significant income from the Bella Homes' operation, including frequent \$700 cash withdrawals from the Bella Homes' bank account and payments funneled through Diamond Corporation. Funds collected by Bella Homes, through its fraudulent collection of "rent" from homeowners, have been used not for its stated corporate purpose but instead to fund many of Daniel Delpiano's personal expenses, including his hair implants, tanning memberships, vacations, gifts for girlfriends, and luxury vehicles.

162. Defendant Daniel Delpiano devised the scheme to defraud and has or should have knowledge or awareness of the Bella Homes' material misrepresentations, is recklessly indifferent to the truth or falsity of such misrepresentations, or has an awareness of a high probability of fraud,

along with an intentional avoidance of the truth.

163. Defendant Mark Diamond, along with his longtime friend Defendant Daniel Delpiano, is the founder of Bella Homes and serves as the public face of the operation as president and chief executive officer. Defendant Diamond filed the articles of organization for Bella Homes. He opened the Bella Homes' bank account. He started its virtual office in Scottsdale, Arizona. He has signed or otherwise approved employment contracts at Bella Homes. At least in some cases, he has participated in the decision regarding the amount of "rent" that a homeowner will pay. He has personally presented information about Bella Homes on the Internet and has communicated with its representatives about the program. He has frequent phone conversations with Defendant Daniel Delpiano concerning the operations of Bella Homes. He has authorized or directed payments from the Bella Homes' bank account to himself and to Defendant Daniel Delpiano through his companies Diamond Corporation and/or Diamond & Associates.

164. Defendant Diamond has provided substantial assistance to the deceptive acts and practices through operation of the bank account, signing employment agreements, conducting webinars, and communicating with representatives. He has also directed Bella Homes' employees not to use Daniel Delpiano's name in connection with the company, in order to conceal Daniel Delpiano's control of and involvement in Bella Homes. He further conceals Daniel Delpiano's association with Bella Homes by using his other companies as a conduit to transfer the fraud proceeds to Daniel Delpiano.

165. Defendant Diamond and Defendant Daniel Delpiano have a longstanding relationship that includes a prior business entity that was the subject of one of Daniel Delpiano's felony convictions. In March 2003, Diamond replaced Daniel Delpiano as the owner and president of Equity One Financial, Inc., a Florida corporation formed by Daniel Delpiano. In

2005, Defendant Daniel Delpiano pleaded guilty to conspiracy to commit a \$12.5 million fraud on a commercial lender, which involved using Equity One Financial, Inc. as a conduit to transfer fraud-tainted funds. After his release from prison for this fraud, Daniel Delpiano and Diamond joined forces once again with Bella Homes, where Diamond agreed to, among other things, serve as the president of Bella Homes and use his companies Diamond Corporation and/or Diamond & Associates as a conduit to transfer fraud-tainted funds to Daniel Delpiano.

166. Defendant Diamond knowingly participates in the scheme to defraud. As Bella Homes' president and chief executive officer, and given his control of the Bella Homes' bank account, Defendant Diamond has or should have knowledge or awareness of the Bella Homes' material misrepresentations, is recklessly indifferent to the truth or falsity of such misrepresentations, or has an awareness of a high probability of fraud along with an intentional avoidance of the truth.

167. Defendant David Delpiano is Daniel Delpiano's son and serves as the point of contact for the Bella Homes' representatives nationwide. He is also primarily responsible for developing and maintaining the Bella Homes website. Along with his father, Daniel Delpiano, he personally directs his girlfriend, Laura Tabrizipour, to conduct the interaction with the homeowners and some of the representatives. David Delpiano, in conjunction with his father and in some cases Defendant Diamond, personally approves the amount of "rent" that each homeowner pays to Bella Homes.

168. Defendant David Delpiano knowingly participates in the scheme to defraud. He has or should have knowledge or awareness of the Bella Homes' material misrepresentations, is recklessly indifferent to the truth or falsity of such misrepresentations, or has an awareness of a high probability of fraud, along with an intentional avoidance of the truth.

169. Defendant Terrell has presented significant information about Bella Homes through the Bella Homes website and webinars on the Internet intended for representatives and prospective clients nationwide. He has also communicated significantly and repeatedly with homeowners by mail, e-mail, and telephone in order to perpetuate the fraudulent scheme. Through his communications with homeowners, he has personal knowledge that homeowners face foreclosure and eviction contrary to the numerous promises made by Bella Homes. Yet he continues to personally make misrepresentations to homeowners to further the scheme, and he has provided substantial assistance to the deceptive acts and practices.

170. Defendant Terrell knowingly participates in the scheme to defraud. As an experienced attorney, Defendant Terrell has or should have knowledge or awareness of the Bella Homes' material misrepresentations, is recklessly indifferent to the truth or falsity of such misrepresentations, or has an awareness of a high probability of fraud, along with an intentional avoidance of the truth.

THE FRAUD INJUNCTION STATUTE (18 U.S.C. § 1345)

171. The Fraud Injunction Statute, 18 U.S.C. § 1345, provides the United States Attorney General with the authority to commence a civil action in any federal court to enjoin violations of Title 18, Chapter 63, including the mail and wire fraud statutes, 18 U.S.C. § 1341 and 18 U.S.C. § 1343.

172. Under 18 U.S.C. § 1345(b), the Court may take such action as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought.

173. Under 18 U.S.C. § 1345(a)(2), the Court may enter a restraining order to prevent any person from withdrawing, transferring, removing, dissipating, or disposing of any property

obtained as a result of a “banking law violation,” or property of equivalent value. A “banking law violation” includes a violation of, or conspiracy to violate, the mail and wire fraud statutes, U.S.C. § 1341 and 18 U.S.C. § 1343, affecting a financial institution. 18 U.S.C. §§ 1345(a)(1)(B), 3322(d)(1)(B). A “financial institution” includes any “organization which finances or refinances any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.” 18 U.S.C. §§ 20, 27.

FIRREA (12 U.S.C. § 1833A)

174. The Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), 12 U.S.C. § 1833a, provides the Attorney General with the authority to commence a civil action to recover civil penalties against persons who commit specified violations, including violations of, or a conspiracy to violate, the mail and wire fraud statutes, 18 U.S.C. § 1341 and § 1343, where such violation affects a federally insured financial institution.

175. FIRREA provides that the Attorney General may recover civil penalties of up to one million dollars per violation. For continuing violations, the Attorney General may recover up to five million dollars or one million dollars a day, whichever is less. If the amount of any loss or gain stemming from such conduct exceeds that amount, the Attorney General may recover the gain or loss.

COLORADO CONSUMER PROTECTION ACT (Colo. Rev. Stat. §§ 6-1-101 - 6-1-115)

176. Under the CCPA, the Colorado Attorney General may file an action to enjoin Defendants from engaging in deceptive trade practices, to recover civil penalties, to obtain restitution, to disgorge unjust proceeds, and to recover attorney fees and costs.

MORTGAGE ASSISTANCE RELIEF SERVICES RULE (16 C.F.R. PART 322)

177. In 2009, Congress directed the FTC to prescribe rules prohibiting unfair or deceptive acts or practices for mortgage loans. *See* 2009 Omnibus Appropriations Act, Section 626, Pub. L. 111-8, 123 Stat. 524 (2009), as clarified by the Credit Card Accountability Responsibility and Disclosure Act, Section 511, Pub. L. 111-24, 123 Stat. 1734 (2009), and as amended by the Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, Section 1097, 124 Stat. 1376 (2010).

178. Pursuant to that direction, the FTC promulgated the MARS Rule, 16 C.F.R. Part 322, all but one of the provisions of which became effective on December 29, 2010. The remaining provision banning advance fees, Section 322.5, became effective on January 31, 2011.

179. Under 16 C.F.R. § 322.10 of the MARS Rule, “Any attorney general or other officer of a state authorized by the state to bring an action under this part may do so pursuant to Section 626(b) of the 2009 Omnibus Appropriations Act. . . .”

180. Section 626(b) of the 2009 Omnibus Appropriations Act, as amended by the 2010 Dodd-Frank Act, provides:

(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in practices that violate such rule, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States or other court of competent jurisdiction--

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damages, restitution, or other compensation on behalf of the residents of the State; or

(D) to obtain penalties and relief provided under the Consumer Financial Protection Act of 2010, the Federal Trade Commission Act, and such other relief as the court deems appropriate.

...

181. The MARS Rule defines “Mortgage Assistance Relief Service,” in relevant part, 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 any of the following:

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

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

16 C.F.R. § 322.2(i).

182. Defendants are engaged in providing mortgage assistance relief services as defined in the MARS Rule, 16 C.F.R. § 322.2(i).

183. The MARS Rule defines “mortgage assistance relief 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 such individual or entity. 16 C.F.R. § 322.2(j).

184. Defendants are mortgage assistance relief providers as defined in the MARS Rule, 16 C.F.R. § 322.2(j).

COUNT ONE

Fraud Injunction Act Claim to Enjoin Fraud (18 U.S.C. § 1345(a)(1)) (By United States Against All Defendants)

185. The allegations in paragraphs 1 through 184 are incorporated herein.

186. By virtue of the foregoing conduct, Defendants are knowingly participating in a continuing scheme or artifice to defraud, and are using the United States mails and wires to execute the scheme or artifice to defraud, in an ongoing violation of the federal mail and wire fraud statutes, 18 U.S.C. §§1341 and 1343.

187. Pursuant to 18 U.S.C. § 1345(a)(1), Defendants should be enjoined from continuing to violate the federal mail and wire fraud statutes to prevent a continuing and substantial injury to distressed homeowners.

COUNT TWO
Fraud Injunction Act Claim to Freeze Assets (18 U.S.C. § 1345(a)(2))
(By United States Against All Defendants and Relief Defendant)

188. The allegations in paragraphs 1 through 184 are incorporated herein.

189. By virtue of the foregoing, Defendants are knowingly participating in a continuing scheme or artifice to defraud, and are using the United States mails and wires to execute the scheme or artifice to defraud, in an ongoing violation of the federal mail and wire fraud statutes, 18 U.S.C. §§ 1341 and 1343. The ongoing violation of the federal mail and wire fraud statutes affect the financial institutions that originated, service, or hold the mortgages of the defrauded homeowners.

190. By virtue of the foregoing, Defendants and Relief Defendant have obtained money or property as a result of a banking law violation.

191. Pursuant to 18 U.S.C. § 1345(a)(2), Defendants and Relief Defendant should be enjoined from withdrawing, transferring, removing, dissipating, or disposing of the property obtained as a result of the banking law violation, or property of an equivalent value.

COUNT THREE
FIRREA Civil Penalties (12 U.S.C. § 1833a)
(By United States Against All Defendants)

192. The allegations in paragraphs 1 through 184 are incorporated herein.

193. By virtue of the foregoing, Defendants have repeatedly violated the federal mail and wire fraud statutes, 18 U.S.C. §§1341 and 1343, by having devised, or knowingly participated in, a scheme or artifice to defraud and by using the United States mails and wires to execute the scheme or artifice to defraud. Defendants' scheme to defraud has affected the federally insured financial institutions that originated, service, or hold the mortgages of the defrauded homeowners.

194. Pursuant to 12 U.S.C. § 1833a, Defendants are liable for civil penalties.

COUNT FOUR
FIRREA Civil Penalties for Conspiracy (12 U.S.C. § 1833a)
(By United States Against All Defendants)

195. The allegations in paragraphs 1 through 184 are incorporated herein.

196. By virtue of the foregoing, the individual Defendants entered into a conspiracy to violate the federal mail and wire fraud statutes, 18 U.S.C. §§ 1341 and 1343, by agreeing to accomplish a scheme or artifice to defraud and by using the United States mails and wires to execute the scheme or artifice to defraud. The individual Defendants' conspiracy to accomplish a scheme to defraud affects the federally insured financial institutions that originated, service, or hold the mortgages of the defrauded homeowners.

197. Pursuant to 12 U.S.C. § 1833a, Defendants are liable for civil penalties.

COUNT FIVE
MARS Rule Violation (16 C.F.R. § 322.3(b))
(By State of Colorado Against All Defendants)

198. The allegations in paragraphs 1 through 184 are incorporated herein.

199. By virtue of the foregoing, Defendants are violating Section 322.3(b) of the MARS

Rule by: “[m]isrepresenting, expressly or by implication, any material aspect of any mortgage assistance relief service, including but not limited to:

(1) The likelihood of negotiating, obtaining, or arranging any represented service or result, such as those set forth in § 322.2(i);

(2) The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result, such as those set forth in § 322.2(i);

...

(6) The terms or conditions of any refund, cancellation, exchange, or repurchase policy for a mortgage assistance relief service, including but not limited to the likelihood of obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted, for a mortgage assistance relief service;

(7) That the mortgage assistance relief service provider has completed the represented services or has a right to claim, demand, charge, collect, or receive payment or other consideration;

...

(10) The amount of money or the percentage of the debt amount that a consumer may save by using the mortgage assistance relief service;

(11) The total cost to purchase the mortgage assistance relief service

16 C.F.R. §322.2(b).

COUNT SIX

**MARS Rule Violation (16 C.F.R. § 322.3(c))
(By State of Colorado Against All Defendants)**

200. The allegations in paragraphs 1 through 184 are incorporated herein.

201. By virtue of the foregoing, Defendants are violating Section 322.3(c) of the MARS Rule by making a representation, expressly or by implication, about the benefits, performance, or efficacy of any mortgage assistance relief service without competent and reliable evidence that substantiates that the representation is true.

COUNT SEVEN
MARS Rule Violation (16 C.F.R. § 322.5(a))
(By State of Colorado Against All Defendants)

202. The allegations in paragraphs 1 through 184 are incorporated herein.

203. By virtue of the foregoing, Defendants are violating Section 322.5(a) of the MARS Rule, which makes it a violation of the MARS Rule to:

Request or receive payment of any fee or other consideration until the consumer has executed a written agreement between the consumer and the consumer's dwelling loan holder or servicer incorporating the offer of mortgage assistance relief the provider obtained from the consumer's dwelling loan holder or servicer.

COUNT EIGHT
MARS Rule Violation (16 C.F.R. § 322.6)
(By State of Colorado Against All Defendants)

204. The allegations in paragraphs 1 through 184 are incorporated herein.

205. By virtue of the foregoing, Defendants are violating Section 322.6 of the MARS Rule, which makes it a violation of the MARS Rule “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 this rule.”

COUNT NINE
CCPA (Colo. Rev. State. § 6-1-105(1)(e))
(By State of Colorado Against All Defendants)

206. The allegations in paragraphs 1 through 184 are incorporated herein.

207. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants are violating Colo. Rev. Stat. § 6-1-105(1)(e) by knowingly making false representations as to the characteristics, uses, or benefits of services, and as a result deceived and misled consumers.

COUNT TEN

**CCPA (Colo. Rev. Stat. § 6-1-105(1)(g))
(By State of Colorado Against All Defendants)**

208. The allegations in paragraphs 1 through 184 are incorporated herein.

209. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants are violating Colo. Rev. Stat. § 6-1-105(1)(g) by representing that services are of a particular standard, quality, or grade but knew or should have known that they are of another, and as a result deceived and misled consumers.

COUNT ELEVEN

**CCPA (Colo. Rev. Stat. § 6-1-105(1)(u))
(By State of Colorado Against All Defendants)**

210. The allegations in paragraphs 1 through 184 are incorporated herein.

211. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants are violating Colo. Rev. Stat. § 6-1-105(1)(u) by failing to disclose material information concerning services, which information was known at the time of an advertisement or sale and the failure to disclose such information was intended to induce the consumer to enter into a transaction, and as a result deceived and misled consumers.

UNITED STATES' PRAYER FOR RELIEF

Plaintiff the United States prays for judgment against Defendants and the Relief Defendant, personally, jointly, and severally, for the following relief:

Fraud Injunction Statute, 18 U.S.C. § 1345

A. An order permanently enjoining Defendants, personally, jointly and severally, including their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive order, from:

(i) engaging in any aspect of the fraudulent scheme, or any similar scheme, as set

forth in the Complaint;

- (ii) advertising, marketing to the public, or otherwise soliciting business as a mortgage relief or foreclosure rescue service;
- (iii) destroying, moving, altering, disposing of, or in any other fashion failing to maintain business, financial, accounting, real estate and legal records.

B. An order enjoining Defendants and Relief Defendant, personally, jointly and severally, including their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants and Relief Defendant with notice of such injunctive order, from:

- (i) alienating, withdrawing, transferring, removing, dissipating, or disposing of any property obtained as a result of Defendants' fraudulent activities, or property of an equivalent value.

C. Any such further and different relief as the Court may deem appropriate.

FIRREA, 12 U.S.C. § 1833a

A. Judgment for the United States against all Defendants; and

B. An order for civil penalties against all Defendants, personally, jointly and severally, for each violation, up to the greater of \$5,000,000, the amount of gain to Defendants, or the amount of loss to the victimized homeowners stemming from such conduct.

STATE OF COLORADO'S PRAYER FOR RELIEF

Plaintiff the State of Colorado prays for judgment against Defendants and Relief Defendant, personally, jointly and severally, as follows:

Mortgage Assistance Relief Services Rule

A. A finding that Defendants are mortgage assistance relief service providers as defined by

16 C.F.R. § 322.2(j) of the MARS Rule;

B. A finding that Defendants have violated the MARS Rule, 16 C.F.R. § 322.3(b) and 16 C.F.R. § 322.3(c), regarding prohibited representations;

C. A finding that Defendants have violated the MARS Rule, 16 C.F.R. § 322.5, regarding the prohibition on collection of advance payments.

D. A finding that Defendants have violated the MARS Rule, 16 C.F.R. § 322.2.6, regarding the assisting and facilitating a mortgage assistance relief service provider;

E. An order permanently enjoining Defendants from engaging in the acts and practices set forth in the Complaint that violate the MARS Rule; and

F. An order against Defendants for penalties and relief provided by the Federal Trade Commission Act, including penalties of \$16,000 per violation under 15 U.S.C. 5(m)(1)(A) and the Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461, as amended, as authorized by 16 C.F.R. 322.10 of the MARS Rule and Section 626(b)(4)(D) of the 2009 Omnibus Appropriations Act, Pub. L. 111-8, 123 Stat. 524 (2009), as clarified by the Credit Card Accountability Responsibility and Disclosure Act, Pub. L. 111-24, Section 511, 123 Stat. 1734 (2009), and as amended by the Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, Section 1097, 124 Stat 1376 (2010).

Colorado Consumer Protection Act (CCPA):

A. An order declaring Defendants’ above-described conduct to be in violation of the CCPA, Colo. Rev. Stat. § 6-1-105(1)(e), (g), and (u);

B. An order permanently enjoining Defendants, personally, jointly and severally, including their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive order, from engaging in any

deceptive trade practices as defined in and proscribed by the CCPA as set forth in the Complaint;

C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices;

D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to Colo. Rev. Stat. § 6-1-110(1);

E. An order pursuant to Colo. Rev. Stat. § 6-1-112(1)(a) for civil penalties payable to the general fund of the State of Colorado of not more than two thousand dollars for each such violation of any provision of the CCPA with respect to each consumer or transaction involved not to exceed five hundred thousand dollars for any related series of violations;

F. An order pursuant to Colo. Rev. Stat. § 6-1-112(1)(c) for civil penalties payable to the general fund of the State of Colorado of not more than ten thousand dollars for violations of any provision of the CCPA with respect to each elderly person;

G. An order requiring Defendants, personally, jointly and severally, to pay the costs and expenses of this action incurred by the Colorado Attorney General, including, but not limited to, attorney fees, pursuant to Colo. Rev. Stat. § 6-1-113(4); and

H. Any such further relief as this Court may deem just and proper to effectuate the purposes of the CCPA.

Respectfully submitted this 14th day of February, 2012,

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