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20 UNITED STATES DISTRICT COURT  
 21 CENTRAL DISTRICT OF CALIFORNIA

22 FEDERAL TRADE COMMISSION, )  
 23 )  
 24 Plaintiff, )  
 25 vs. )  
 26 )  
 27 CONSUMER ADVOCATES GROUP )  
 28 EXPERTS, LLC, a California Limited )  
 Liability Company, also d.b.a. )  
 Consumer Advocates Group; )  
 PARAMOUNT ASSET )  
 MANAGEMENT CORP., a California )  
 Corporation, also d.b.a. National )  
 Financial Rescue Corp., National )  
 Financial Rescue Group, and American )  
 Forensic Loan Auditors; )

CV12-04736 PDP(cw)

Case No.:

**COMPLAINT FOR PERMANENT  
 INJUNCTION AND OTHER  
 EQUITABLE RELIEF**

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1 ADVOCATES FOR CONSUMER )  
2 AFFAIRS EXPERT, LLC, a California )  
3 Limited Liability Company; and )  
4 RYAN ZIMMERMAN, )  
5 Defendants. )

6  
7 Plaintiff, the Federal Trade Commission (“FTC”), for its complaint alleges:

8 1. The FTC brings this action under Sections 13(b) and 19 of the Federal  
9 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the 2009  
10 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678  
11 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability  
12 Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123  
13 Stat. 1734-64 (May 22, 2009) (“Credit Card Act”), and amended by the Dodd-  
14 Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203,  
15 Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-Frank Act”), 12  
16 U.S.C. § 5538, to obtain temporary, preliminary, and permanent injunctive relief,  
17 rescission or reformation of contracts, restitution, the refund of monies paid,  
18 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts  
19 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the  
20 Mortgage Assistance Relief Services Rule, 15 C.F.R. Part 322 (“MARS Rule”),  
21 recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015  
22 (“Regulation O”), in connection with the marketing and sale of mortgage  
23 assistance relief services.

24 **JURISDICTION AND VENUE**

25 2. This Court has subject matter jurisdiction over this matter pursuant to  
26 28 U.S.C. §§ 1331, 1337(a), and 1345; 15 U.S.C. §§ 45(a), 53(b), and 57b; and  
27 Section 626 of the Omnibus Act, as clarified by Section 511 of the Credit Card  
28 Act, and amended by Section 1097 of the Dodd-Frank Act, 12 U.S.C. § 5538.

1 3. Venue in the Central District of California is proper under 28 U.S.C.  
2 §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

3 **PLAINTIFF**

4 4. The FTC is an independent agency of the United States Government  
5 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC  
6 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
7 affecting commerce. Pursuant to the Omnibus Act § 626, 123 Stat. at 678, as  
8 clarified by the Credit Card Act § 511, 123 Stat. 1763-64, the FTC promulgated  
9 and enforces the MARS Rule, 16 C.F.R. Part 322, which, among other things,  
10 requires MARS providers to make certain disclosures, prohibits MARS providers  
11 from making certain representations, and prohibits MARS providers from  
12 collecting a fee in advance of the consumer's acceptance of mortgage assistance  
13 relief obtained by the MARS provider. The Dodd-Frank Act § 1097, 124 Stat. at  
14 2102-03, 12 U.S.C. § 5538, transferred rulemaking authority over the MARS Rule  
15 to the Consumer Financial Protection Bureau, which recodified the Rule as 12  
16 C.F.R. Part 1015, effective December 30, 2011, and designated it "Regulation O."  
17 Pursuant to Dodd-Frank Act § 1097, 12 U.S.C. § 5538, the FTC retains authority to  
18 enforce the MARS Rule and Regulation O.

19 5. The FTC is authorized to initiate federal district court proceedings, by  
20 its own attorneys, to enjoin violations of the FTC Act, the Omnibus Act, as  
21 clarified by the Credit Card Act and amended by the Dodd-Frank Act, the MARS  
22 Rule, and Regulation O, and to secure such equitable relief as may be appropriate  
23 in each case, including rescission or reformation of contracts, restitution, the  
24 refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§  
25 53(b), 56(a)(2)(A)-(B), 57b; and § 626, 123 Stat. 678, as clarified by § 511, 123  
26 Stat. 1763-64 and amended by § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538.

1 **DEFENDANTS**

2 6. Defendant Consumer Advocates Group Experts, LLC (“CAG”), is a  
3 California limited liability company. Its registered address is 100 West Broadway,  
4 Suite 100, Glendale, CA 91210. It also uses the addresses 11901 Santa Monica  
5 Blvd., Suite 574, West Los Angeles, CA 90025, and 3699 Wilshire Blvd., Suite  
6 220, Los Angeles, CA 90010. Consumer Advocates Group Experts, LLC, does  
7 business as Consumer Advocates Group and transacts or has transacted business in  
8 this district and throughout the United States.

9 7. Defendant Paramount Asset Management Corporation (“Paramount”)  
10 is a California corporation. Its registered address is 3699 Wilshire Blvd., Suite  
11 220, Los Angeles, CA 90010. Paramount, which also does business as National  
12 Financial Rescue Corporation, National Financial Rescue Group, and American  
13 Forensic Loan Auditors, transacts or has transacted business in this district and  
14 throughout the United States.

15 8. Defendant Advocates for Consumer Affairs Expert, LLC (“ACA”) is  
16 a California limited liability company. Its registered address is 11870 Santa  
17 Monica Blvd., Suite 540, West Los Angeles, CA 90025. It has also used the  
18 address, 11901 Santa Monica Blvd., Suite 574, Los Angeles, CA 90025.  
19 Advocates for Consumer Affairs Expert, LLC, transacts or has transacted business  
20 in this district and throughout the United States.

21 9. Defendant Ryan Zimmerman, acting alone or in concert with others,  
22 has formulated, directed, controlled, had the authority to control, or participated in  
23 the acts or practices set forth in this Complaint. Zimmerman is an officer of CAG.  
24 He is listed as the contact for Mailboxes & More and United States Postal Service  
25 for the address associated with CAG. Zimmerman is also listed as the registrant  
26 for the domain name used by CAG. Zimmerman is or has been a signatory on at  
27 least one CAG bank account and has signed checks on behalf of CAG.  
28 Zimmerman is the CEO and registered agent of Paramount. He is or has been the

1 signatory on at least one Paramount bank account and has signed checks on behalf  
2 of Paramount. Zimmerman is listed as the sole manager and member of ACA on  
3 ACA's Statement of Information that was filed with the California Secretary of  
4 State. He applied for a United States Postal Service account for ACA, identified  
5 himself as the Officer of ACA on the application, and is listed as the recipient of  
6 all ACA mail. Zimmerman resides in this district and, in connection with the  
7 matters alleged herein, transacts or has transacted business in this district and  
8 throughout the United States.

9 10. Defendants CAG and Paramount have operated as a common  
10 enterprise while engaging in the unlawful acts and practices alleged below. CAG  
11 and Paramount are commonly controlled, share the same office space, and have  
12 commingled corporate funds. Because CAG and Paramount have operated as a  
13 common enterprise, each of them is jointly and severally liable for the acts and  
14 practices alleged below. Individual Defendant Ryan Zimmerman has formulated,  
15 directed, controlled, had authority to control, or participated in the acts and  
16 practices of CAG and Paramount.

### 17 **COMMERCE**

18 11. At all times material to this Complaint, Defendants have maintained a  
19 substantial course of trade in or affecting commerce, as "commerce" is defined in  
20 Section 4 of the FTC Act, 15 U.S.C. § 44.

### 21 **GOVERNMENT MORTGAGE ASSISTANCE**

22 12. Numerous mortgage lenders and servicers have offered certain  
23 borrowers the opportunity to modify loans that have become unaffordable. Many  
24 of these loan modification programs have expanded dramatically as lenders have  
25 increased participation in the federal government's "Making Home Affordable"  
26 program, a plan to stabilize the U.S. housing market and help millions of  
27 Americans reduce their monthly mortgage payments to more affordable levels.  
28 The Making Home Affordable program includes the Home Affordable

1 Modification Program, in which the federal government has committed up to \$75  
2 billion to keep significant numbers of Americans in their homes by preventing  
3 avoidable foreclosures. The mortgage assistance relief service advertised on  
4 Defendants' websites are not connected with the Making Home Affordable  
5 program or affiliated or otherwise associated with, or endorsed, sponsored, or  
6 approved by, the United States government in any way.

### 7 **DEFENDANTS' BUSINESS ACTIVITIES**

8 13. Defendants have diverted consumers from the authentic, government-  
9 affiliated programs by engaging in a course of conduct to advertise, market,  
10 promote, offer to sell, and sell to consumers purported mortgage assistance relief  
11 services.

12 14. Since at least October 2010, Defendants CAG, Paramount, and  
13 Zimmerman ("CAG Defendants") have marketed and sold mortgage assistance  
14 relief services to consumers nationwide.

15 15. Since at least January 2012, Defendants ACA and Zimmerman  
16 ("ACA Defendants") have marketed and sold mortgage assistance relief services to  
17 consumers nationwide.

18 16. Defendants have marketed their mortgage assistance relief services to  
19 homeowners who are in financial distress, behind on their mortgage loans, or in  
20 danger of losing their homes to foreclosure.

21 17. To induce consumers to purchase their services, Defendants represent  
22 that, for an up-front fee ranging from \$1,995 to \$2,590, they will conduct a  
23 forensic audit of the consumer's home loan documents, identifying flaws in the  
24 loan documents, which Defendants will then use as a negotiating tool with the  
25 consumer's mortgage lender to negotiate reduced interest rates or principal and  
26 reduced monthly mortgage payments.

1   **DEFENDANTS' REPRESENTATIONS**

2   CAG Defendants

3           18. The CAG Defendants have marketed their mortgage assistance relief  
4 services via the Internet on www.consumer-advocates-group.com, making claims  
5 about how their mortgage assistance relief services will help homeowners.

6           19. Calling themselves “Forensic Loan Audit Specialists,” the CAG  
7 Defendants claim that CAG has a team of experts that conducts an extensive and  
8 thorough examination of consumer loan documents for violations of state and  
9 federal laws. Defendants state that “[i]f a note contains state or federal lending  
10 violations, the Loan is NOT enforceable.” (Emphasis in original.)

11          20. The CAG Defendants claim that CAG will then use those violations to  
12 negotiate with the consumer’s lender to modify the loan. They further state that  
13 the loan audit findings “may be the grounds to help move a non-judicial  
14 foreclosure action (currently in 29 states), if necessary, into jurisdiction [sic],  
15 which can STOP FORECLOSURE in its tracks.” (Emphasis in original.)

16          21. The website contains statements that induce consumers to purchase  
17 CAG Defendants’ mortgage assistance relief services, including the following:

- 18           a. “Let us help you save your dream; Your HOME!”
- 19           b. “Up to 95% of mortgages may be legally unenforceable due to  
20 defects like lost documents, improper notices, appraisal and/or  
21 predatory lending... After our examinations, lenders suddenly get  
22 religion and become much more cooperative in renegotiating....”
- 23           c. “After the Audit and Review of the current terms of your  
24 predatory or unaffordable loan, and documenting the Federal,  
25 State Violations and Fraud your lender may have no other choice  
26 but to alter the payment terms to make the loan affordable and  
27 equitable with a possible princip[al] balance reduction as well.”
- 28

1 d. **“CAN’T I DO THE LOAN MODIFICATION MYSELF?**

2 You can, but it’s highly recommended that you don’t. Over 87%  
3 of homeowners fail in their attempt to modify their mortgage.”

4 (Emphasis in original.)

5 22. The CAG Defendants’ website also contains numerous purported  
6 customer testimonials touting CAG Defendants’ ability to arrange loan  
7 modifications and/or stop foreclosures. The claimed testimonials from customers  
8 include the following statements:

9 a. “They did a wonderful job and saved my home. I received a  
10 3.25% 30 yr fixed... Wells Fargo kept telling me that my loan  
11 mod was denied. CAG put together my package in 30 days and  
12 got me APPROVED in under 90 days!” (Emphasis in original.)

13 b. “I went from a very high payment and upside down in my loan to  
14 a 56k principal reduction and they cut my payment by 45%.  
15 Wow, I was so relieved and I am happy with their process. You  
16 need to follow their directions and trust them in their process to  
17 get your file done quickly.”

18 c. “Luckily I hired Consumer Advocates Group to help me with my  
19 BofA loan... They saved my home and got me down from a  
20 8.25% to a 3.875% 30 yr fixed.”

21 d. “Their key relationships and strategies really make a difference...  
22 We received a 2.75% 30 yr Fixed after only waiting 90 days.”

23 e. “... they saved my home and cut my payments in HALF!!!”  
24 (Emphasis in original.)

25 f. “Consumer Advocates Group not only saved my home and gave  
26 me more financial freedom, they also saved my marriage and my  
27 family. After fighting with Bank of America for over a year with  
28



1 no results, they stepped in and negotiated a 2.75% rate, and put  
2 equity back in our home.”

3 g. “First off, let me explain their KEY strategy. They do a  
4 comprehensive Forensic loan Audit which really puts the banks on  
5 their heels during the negotiation stages... Processing wrapped up  
6 my case in under 90 days and I received a 3.125% 30 yr fixed.”  
7 (Emphasis in original.)

8 h. “Now [I] can sleep peaceful at night knowing [I] can afford my  
9 new mortgage payment which is 35% lower than what [I] was  
10 paying from the start.”

11 23. The CAG Defendants’ website directs consumers to fill out an online  
12 request form, call a toll-free number, or send an e-mail to [processing@consumer-](mailto:processing@consumer-advocates-group.com)  
13 [advocates-group.com](mailto:processing@consumer-advocates-group.com).

14 24. After a consumer submits an online request form, leaves a message on  
15 CAG’s toll-free telephone number, or sends an e-mail, a CAG salesperson calls the  
16 consumer. The salesperson explains that CAG will charge the consumer an up-  
17 front fee, typically ranging from \$2,000 to \$2,590, for CAG’s forensic audit and  
18 loan modification services.

19 25. During the phone call, the salesperson claims that CAG will review  
20 the consumer’s loan documents to uncover violations of federal and state mortgage  
21 and credit laws, which CAG will then use as leverage with the banks during loan  
22 modification negotiations. In some instances, the salesperson claims that there is a  
23 “100%” chance that the forensic audit will uncover violations of federal and state  
24 mortgage and credit laws.

25 26. In numerous instances, the CAG salesperson claims that consumers  
26 are virtually guaranteed to get a modification of their existing mortgage based on a  
27 forensic audit of their loan documents. In numerous instances, the CAG  
28

1 salesperson claims that he or she is “positive” or that there is a “100%” chance that  
2 the consumer will get a loan modification or a refund.

3 27. The CAG Defendants’ salespersons routinely tell consumers that  
4 CAG has special relationships and contacts with all major lenders and has  
5 successfully negotiated numerous loan modifications with them.

6 28. In some instances, the CAG Defendants’ salespersons claim that CAG  
7 can negotiate with the consumer’s lender to lower the consumer’s monthly  
8 mortgage payment by 50 percent.

9 29. The salesperson instructs the consumer not to contact the lender  
10 because it would hinder the negotiation process. The salesperson claims that he or  
11 she will handle all communications with the consumer’s lender.

12 30. In some cases, the salesperson instructs the consumer to stop making  
13 further monthly mortgage payments on his or her loan.

14 31. The salesperson informs the consumer that CAG will begin the  
15 consumer’s forensic loan audit once it receives the consumer’s payment.

16 32. When the consumer agrees to sign up for the service, the consumer  
17 receives a “Client Welcome Pack” by U.S. mail or e-mail. The Client Welcome  
18 Pack includes a financial worksheet, loan modification information worksheet, and  
19 hardship letter instructions. The Pack instructs the consumer to send in certain  
20 financial documents to CAG.

21 33. According to the instructions in the “Client Welcome Pack,” the  
22 consumer is instructed not to contact his or her lender:

23 **Block out all lender calls, and under no circumstances should you**  
24 **speak to the collection department or any other department at your**  
25 **lender during our case preparation...**

26 **DO NOT CALL YOUR LENDER ASKING WHAT IS GOING ON**  
27 **WITH MY CASE.**

28 (Emphasis in original.)

1       34.    The Client Welcome Pack also informs the consumer that the loan  
2 modification process will take approximately “120 to 180 days.”

3       35.    The Client Welcome Pack guarantees a “100% refund of the service  
4 fee... (Minus a \$750.00 Processing Fee)” if the consumer does not receive the  
5 promised service.

6                               ACA Defendants

7       36.    The ACA Defendants have marketed their mortgage assistance relief  
8 services via the Internet on [www.aca-portal.com](http://www.aca-portal.com), making claims about how their  
9 mortgage assistance relief services will help homeowners.

10      37.    The ACA Defendants’ website claims that ACA has a “network of  
11 experienced certified forensic loan auditors,” that specializes in identifying  
12 deceptive, fraudulent, abusive, and predatory lending practices in the consumer’s  
13 mortgage loan documents.

14      38.    The website states that as a result of the forensic loan audit, ACA may  
15 be “successful in wiping out large portions of princip[al]... [t]ypically 50-80%!”  
16 The ACA Defendants’ website further states that in “most cases the interest and  
17 payment will be reduced permanently.”

18      39.    The ACA Defendants’ website directs consumers to fill out an online  
19 request form, call a toll-free number, or send an email to [processing@aca-](mailto:processing@aca-portal.com)  
20 [portal.com](http://portal.com).

21      40.    The ACA Defendants charge an up-front fee, typically ranging from  
22 \$1,995 to \$2,450, for their forensic audit and loan modification services.

23      41.    During the sales call, the ACA salesperson claims that the consumer is  
24 virtually guaranteed a loan modification. In some instances, the ACA Defendants  
25 claim that they can obtain a specific monthly mortgage payment or a reduced  
26 interest rate for the consumer.

1           42. In some instances, the ACA Defendants' salespersons represent to the  
2 consumer that the loan modification has already been approved by the consumer's  
3 lender.

4           43. In some instances, the ACA Defendants' salespersons represent to the  
5 consumer that the loan modification will be completed by a certain date.

6           44. In some instances, the ACA Defendants' salespersons claim that if the  
7 consumer does not get the loan modification, the consumer will get a refund.

8           45. The ACA Defendants' salespersons instruct consumers not to contact  
9 the lender because it would hinder the negotiations process.

10          46. The salesperson informs the consumer that ACA will begin the  
11 consumer's forensic loan audit once it receives the consumer's payment.

12          47. When the consumer agrees to sign up for the service, the consumer  
13 receives a "Start-up Pack." The Pack includes a fee agreement, a financial  
14 worksheet, loan modification information worksheets, and hardship letter  
15 instructions. The Pack instructs consumers to send in certain financial documents  
16 to ACA.

17          48. The "Start-up Pack" also guarantees a "100% refund of the service  
18 fee" if the consumer does not receive one of the identified solutions from the  
19 consumer's lender, which includes a loan modification.

## 20    **CONSUMER RESULTS**

21          49. In numerous instances, consumers who pay fees to Defendants do not  
22 obtain loan modifications or have their mortgage payments substantially reduced.

23          50. When consumers contact Defendants for status updates, Defendants  
24 fail to answer or return consumers' telephone calls or emails. When consumers are  
25 able to reach Defendants, Defendants' salespersons generally assure consumers  
26 that their files are being handled.

27          51. In numerous instances, consumers learn from their lenders that the  
28 lenders have never been contacted by Defendants. In other instances, consumers

1 learn from their lenders that Defendants did contact the lender, but failed to follow  
2 up.

3 52. In numerous instances in which consumers do not obtain loan  
4 modifications, Defendants do not provide any refunds to consumers.

5 **DEFENDANTS FAIL TO MAKE THE REQUIRED DISCLOSURES**

6 53. Nowhere in Defendants' general commercial communications,  
7 including Defendants' websites and e-mails, do Defendants make the following  
8 disclaimers:

- 9 a. That the Defendant is not associated with the government, and its  
10 service is not approved by the government or the consumer's  
11 lender;
- 12 b. That, even if a consumer accepts the Defendants' offer and uses  
13 the Defendants' service, the consumer's lender may not agree to  
14 change the consumer's loan.

15 54. Nowhere in Defendants' consumer-specific commercial  
16 communications, including Defendants' websites, emails, and telephone calls, do  
17 Defendants make the following disclaimers:

- 18 a. That the consumer may stop doing business with the Defendants  
19 at any time. Further, that the consumer may accept or reject the  
20 offer of mortgage assistance Defendants obtain from the  
21 consumers' lender and that, if the consumer rejects the offer, the  
22 consumer does not have to pay the Defendants. If the consumer  
23 accepts the offer, the consumer will have to pay the Defendants  
24 for their services;
- 25 b. That Defendants are not associated with the government, and their  
26 services are not approved by the government or the consumers'  
27 lender; and

1 c. That, even if a consumer accepts the Defendants' offer and uses  
2 the Defendants' service, the consumer's lender may not agree to  
3 change the consumer's loan.

4 55. Nowhere in Defendants' general commercial communications,  
5 consumer-specific commercial communications, or other communications,  
6 including Defendants' websites, emails, or telephone calls, do Defendants disclose  
7 that, if consumers stop paying their mortgage, consumers could lose their homes  
8 and damage their credit ratings.

9 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

10 56. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
11 deceptive acts and practices in or affecting commerce."

12 57. Misrepresentations or deceptive omissions of material fact constitute  
13 deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

14 **Count I**

15 58. In numerous instances, in connection with the advertising, marketing,  
16 promoting, offering for sale, sale, or performance of mortgage assistance relief  
17 services, Defendants have represented, directly or indirectly, expressly or by  
18 implication, that Defendants generally will obtain for consumers mortgage loan  
19 modifications that will make consumers' payments substantially more affordable.

20 59. In truth and in fact, Defendants generally do not obtain for consumers  
21 mortgage loan modifications that will make consumers' payments substantially  
22 more affordable.

23 60. Therefore, Defendants' representation as set forth in Paragraph 58 is  
24 false and misleading and constitutes a deceptive act or practice in violation of  
25 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

26 **Count II**

27 61. In numerous instances, in connection with the advertising, marketing,  
28 promoting, offering for sale, sale, or performance of mortgage assistance relief

1 services, Defendants have represented, expressly or by implication, that as a result  
2 of a forensic loan audit provided by Defendants, they generally will obtain for  
3 consumers mortgage loan modifications that will make consumers' payments  
4 substantially more affordable.

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

9 63. Therefore, Defendants' representation as set forth in Paragraph 61 is  
10 false and misleading and constitutes a deceptive act or practice in violation of  
11 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### 12 **Count III**

13 64. In numerous instances, in connection with the advertising, marketing,  
14 promoting, offering for sale, sale, or performance of mortgage assistance relief  
15 services, Defendants have represented, directly or indirectly, expressly or by  
16 implication, that they will refund the consumer's fee if Defendants fail to obtain  
17 the promised mortgage loan modification.

18 65. In truth and in fact, in numerous instances in which Defendants have  
19 made the representation set forth in Paragraph 64, Defendants do not refund the  
20 consumer's fee when Defendants fail to obtain the promised mortgage loan  
21 modification.

22 66. Therefore, Defendants' representation as set forth in Paragraph 64 is  
23 false and misleading and constitutes a deceptive act or practice in violation of  
24 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### 25 **THE MORTGAGE ASSISTANCE RELIEF SERVICES RULE**

26 67. In 2009, Congress directed the FTC to prescribe rules prohibiting  
27 unfair or deceptive acts or practices with respect to mortgage loans. Omnibus Act  
28 § 626, 123 Stat. 678, as clarified by Credit Card Act § 511, 123 Stat. 1763-64.

1 Pursuant to that direction, the FTC promulgated the MARS Rule, 16 C.F.R. Part  
2 322, all but one of the provisions of which became effective on December 29,  
3 2010. The remaining provision, Section 322.5, became effective on January 31,  
4 2011. The Dodd-Frank Act §1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538,  
5 transferred rulemaking authority over the MARS Rule to the Consumer Financial  
6 Protection Bureau, which recodified the Rule as 12 C.F.R. Part 1015 effective  
7 December 30, 2011, and designated it “Regulation O.” The FTC retains authority  
8 to enforce the MARS Rule pursuant to Dodd-Frank Act § 1097, 12 U.S.C. 5538.

9 68. The MARS Rule and Regulation O define “mortgage assistance relief  
10 provider” as “any person that provides, offers to provide, or arranges for others to  
11 provide, any mortgage assistance relief service” other than the dwelling loan  
12 holder, the servicer of a dwelling loan, or any agent or contractor of such  
13 individual or entity. 16 C.F.R. § 322.2(j), recodified as Regulation O, 12 C.F.R. §  
14 1015.2(j).

15 69. Defendants are “mortgage assistance relief providers” or “providers”  
16 engaged in providing “mortgage assistance relief services” as those terms are  
17 defined in the MARS Rule, 16 C.F.R. § 322.2(i) and (j), recodified as Regulation  
18 O, 12 C.F.R. § 1015.2(i) and (j).

19 70. The MARS Rule and Regulation O prohibit any mortgage assistance  
20 relief provider from representing, expressly or by implication, in connection with  
21 the advertising, marketing, promotion, offering for sale, sale, or performance of  
22 any mortgage assistance relief service, that a consumer cannot or should not  
23 contact or communicate with his or her lender or servicer. 16 C.F.R. § 322.3(a),  
24 recodified as Regulation O, 12 C.F.R. § 1015.3(a).

25 71. The MARS Rule and Regulation O prohibit any mortgage assistance  
26 relief provider from misrepresenting, expressly or by implication, any material  
27 aspect of any mortgage assistance relief service, including but not limited to the  
28 following:



- 1 a. The likelihood of negotiating, obtaining, or arranging any  
2 represented service or result. 16 C.F.R. §322.3(b)(1), recodified  
3 as Regulation O, 12 C.F.R. § 1015.3(b)(1);
- 4 b. The amount of time it will take the mortgage assistance relief  
5 service provider to accomplish any represented service or result.  
6 16 C.F.R. § 322.3(b)(2), recodified as Regulation O, 12 C.F.R. §  
7 1015.3(b)(2);
- 8 c. The terms or conditions of any refund, cancellation, exchange, or  
9 repurchase policy for a mortgage assistance relief service,  
10 including but not limited to the likelihood of obtaining a full or  
11 partial refund, or the circumstances in which a full or partial  
12 refund will be granted, for a mortgage assistance relief service.  
13 16 C.F.R. § 322.3(b)(6), recodified as Regulation O, 12 C.F.R. §  
14 1015.3(b)(6); or
- 15 d. The amount of money or the percentage of the debt amount that a  
16 consumer may save by using the mortgage assistance relief  
17 service. 16 C.F.R. § 322.3(b)(10), recodified as Regulation O, 12  
18 C.F.R. § 1015.3(b)(10).

19 72. The MARS Rule and Regulation O prohibit any mortgage assistance  
20 relief provider from making a representation, expressly or by implication, about the  
21 benefits, performance, or efficacy of any mortgage assistance relief service unless,  
22 at the time such representation is made, the provider possesses and relies upon  
23 competent and reliable evidence that substantiates that the representation is true.  
24 16 C.F.R. § 322.3(c), recodified as Regulation O, 12 C.F.R. § 1015.3(c).

25 73. The MARS Rule and Regulation O prohibit any mortgage assistance  
26 relief service provider from failing to place the following statements in every  
27 general commercial communication:  
28

1 a. "(Name of company) is not associated with the government, and  
2 our service is not approved by the government or your lender."

3 16 C.F.R. § 322.4(a)(1), recodified as Regulation O, 12 C.F.R. §  
4 1015.4(a)(1); and

5 b. In cases where the mortgage assistance relief service provider has  
6 represented, expressly or by implication, that consumers will  
7 receive any mortgage assistance relief service or result, "[e]ven if  
8 you accept this offer and use our service, your lender may not  
9 agree to change your loan." 16 C.F.R. § 322.4(a)(2), recodified as  
10 Regulation O, 12 C.F.R. § 1015.4(a)(2).

11 74. The MARS Rule and Regulation O prohibit any mortgage assistance  
12 relief service provider from failing to disclose the following information in every  
13 consumer-specific commercial communication:

14 a. "You may stop doing business with us at any time. You may  
15 accept or reject the offer of mortgage assistance we obtain from  
16 your lender [or servicer]. If you reject the offer, you do not have  
17 to pay us. If you accept the offer, you will have to pay us (insert  
18 amount or method for calculating the amount) for our services."  
19 16 C.F.R. § 322.4(b)(1), recodified as Regulation O, 12 C.F.R.  
20 1015.4(b)(1);

21 b. "(Name of company) is not associated with the government, and  
22 our service is not approved by the government or your lender."  
23 16 C.F.R. § 322.4(b)(2), recodified as Regulation O, 12 C.F.R. §  
24 1015.4(b)(2); and

25 c. In cases where the mortgage assistance relief service provider has  
26 represented, expressly or by implication, that consumers will  
27 receive the provider's service or result, "[e]ven if you accept this  
28 offer and use our service, your lender may not agree to change

1                    your loan.” 16 C.F.R. § 322.4(b)(3), recodified as Regulation O,  
2                    12 C.F.R. § 1015.4(b)(3).

3            75.    The MARS Rule and Regulation O prohibit any mortgage assistance  
4 relief service provider, in cases where the provider has represented, expressly or by  
5 implication, in connection with the advertising, marketing, promotion, offering for  
6 sale, sale, or performance of any mortgage assistance relief service, that the  
7 consumer should temporarily or permanently discontinue payments, in whole or in  
8 part, on a dwelling loan, from failing to disclose, clearly and prominently, and in  
9 close proximity to any such representation, that “[i]f you stop paying your  
10 mortgage, you could lose your home and damage your credit rating.” 16 C.F.R. §  
11 322.4(c), recodified as 12 C.F.R. § 1015.4(c).

12            76.    The MARS Rule and Regulation O prohibit any mortgage assistance  
13 relief provider from requesting or receiving payment of any fee or other  
14 consideration until the consumer has executed a written agreement between the  
15 consumer and the consumer’s dwelling loan holder or servicer incorporating the  
16 offer of mortgage assistance relief the provider obtained from the consumer’s  
17 dwelling loan holder or servicer. 16 C.F.R. § 322.5(a), recodified as 12 C.F.R. §  
18 1015.5(a).

19            77.    Pursuant to the Omnibus Act § 626, 123 Stat. at 678, as clarified by  
20 the Credit Card Act § 511, 123 Stat. at 1763-64 and amended by the Dodd-Frank  
21 Act § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538, and pursuant to Section  
22 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the MARS Rule and  
23 Regulation O constitutes an unfair or deceptive act or practice in or affecting  
24 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### 25                                    **Count IV**

26            78.    In numerous instances, in connection with the advertising, marketing,  
27 promoting, offering for sale, sale, or performance of any mortgage assistance relief  
28 service, Defendants have requested or received payment of a fee or other

1 consideration before the consumer has executed a written agreement between the  
2 consumer and the consumer's dwelling loan holder or servicer incorporating the  
3 offer of mortgage assistance relief the Defendants obtained from the consumer's  
4 dwelling loan holder or servicer.

5 79. Defendants' practices as alleged in Paragraph 78 are unfair or  
6 deceptive acts or practices that violate Sections 322.5(a) of the MARS Rule, 16  
7 C.F.R. § 322.5(a) and Regulation O, 12 C.F.R. § 1015.5(a).

8 **Count V**

9 80. In numerous instances, in connection with the advertising, marketing,  
10 promoting, offering for sale, sale, or performance of any mortgage assistance relief  
11 service, Defendants have represented, expressly or by implication, that a consumer  
12 cannot or should not contact or communicate with his or her lender or servicer.

13 81. Defendants' practices as alleged in Paragraph 80 are unfair or  
14 deceptive acts or practices that violate Section 322.3(a) of the MARS Rule, 16  
15 C.F.R. § 322.3(a), and Regulation O, 12 C.F.R. § 1015.3(a).

16 **Count VI**

17 82. In numerous instances, in connection with the advertising, marketing,  
18 promoting, offering for sale, sale, or performance of any mortgage assistance relief  
19 service, Defendants have misrepresented, expressly or by implication, material  
20 aspects of those services, including, but not limited to:

- 21 a. Defendants' likelihood of obtaining a modification of mortgage  
22 loans for consumers that will make their payments substantially  
23 more affordable;
- 24 b. Defendants' likelihood of obtaining a modification of mortgage  
25 loans for consumers that will make their payments substantially  
26 more affordable as a result of a forensic loan audit provided by  
27 Defendants;

- c. The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result;
- d. 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; or
- e. The amount of money or percentage of the debt amount that a consumer may save by using the mortgage assistance relief service.

83. Defendants' practices as alleged in Paragraph 82 are unfair or deceptive acts or practices that violate Sections 322.3(b)(1), (2), (6), and (10) of the MARS Rule, 16 C.F.R. § 322.3(b)(1), (2), (6), and (10), and Regulation O, 12 C.F.R. § 1015.3(b)(1), (2), (6), and (10).

**Count VII**

84. In numerous instances, in connection with the advertising, marketing, promoting, offering for sale, sale, or performance of any mortgage assistance relief service, Defendants have made representations, expressly or by implication, about the benefits, performance, or efficacy of their mortgage assistance relief services when, at the time such representations were made, the Defendants did not possess and rely upon competent and reliable evidence that substantiated that the representations were true, including but not limited to representations about:

- a. The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result;  
or
- b. The amount of money or the percentage of the debt amount that a consumer may save by using the mortgage assistance relief service.

1 85. Defendants' practices as alleged in Paragraph 84 are unfair or  
2 deceptive acts or practices that violate Section 322.3(c) of the MARS Rule, 16  
3 C.F.R. § 322.3(c), and Regulation O, 12 C.F.R. 1015.3(c).

4 **Count VIII**

5 86. In numerous instances, in connection with the advertising, marketing,  
6 promoting, offering for sale, sale, or performance of any mortgage assistance relief  
7 service, Defendants have failed to place the following statements, in a clear and  
8 prominent manner, in their general commercial communications:

- 9 a. "(Name of company) is not associated with the government, and  
10 our service is not approved by the government or your lender;"  
11 and  
12 b. "Even if you accept this offer and use our service, your lender  
13 may not agree to change your loan."

14 87. Defendants' practices as alleged in Paragraph 86 are unfair or  
15 deceptive acts or practices that violate Sections 322.4(a)(1) and (2) of the MARS  
16 Rule, 16 C.F.R. §§ 322.4(a)(1) and (2), and Regulation O, 12 C.F.R. §  
17 1015.4.(a)(1) and (2).

18 **Count IX**

19 88. In numerous instances, in connection with the advertising, marketing,  
20 promoting, offering for sale, sale, or performance of any mortgage assistance relief  
21 service, Defendants have failed to disclose the following information, in a clear  
22 and prominent manner, in their consumer-specific commercial communications:

- 23 a. "You may stop doing business with us at any time. You may  
24 accept or reject the offer of mortgage assistance we obtain from  
25 your lender [or servicer]. If you reject the offer, you do not have  
26 to pay us. If you accept the offer, you will have to pay us (insert  
27 amount or method for calculating the amount) for our services;"  
28

1 b. "(Name of company) is not associated with the government, and  
2 our service is not approved by the government or your lender;"  
3 and

4 c. "Even if you accept this offer and use our service, your lender  
5 may not agree to change your loan."

6 89. Defendants' practices as alleged in Paragraph 88 are unfair or  
7 deceptive acts or practices that violate Sections 322.4(b)(1), (2), and (3) of the  
8 MARS Rule, 16 C.F.R. §§ 322.4(b)(1), (2), and (3), and Regulation O, 12 C.F.R. §  
9 1015.4(b)(1), (2), and (3).

10 **COUNT X**

11 90. In numerous instances, in connection with the advertising, marketing,  
12 promotion, offering for sale, sale, or performance of any mortgage assistance relief  
13 service, where Defendants have represented, expressly or by implication, that the  
14 consumer should temporarily or permanently discontinue payments, in whole or in  
15 part, on a dwelling loan, the Defendants have failed to disclose, clearly and  
16 prominently, and in close proximity to any such representation, that, "[i]f you stop  
17 paying your mortgage, you could lose your home and damage your credit rating."

18 91. Defendants' practices as alleged in Paragraph 90 are unfair or  
19 deceptive acts or practices that violate Section 322.4(c) of the MARS Rule, 16  
20 C.F.R. § 322.4(c), and Regulation O, 12 C.F.R. § 1015.4(c).

21 **CONSUMER INJURY**

22 92. Consumers have suffered and will continue to suffer substantial  
23 injury as a result of Defendants' violations of the FTC Act and the MARS Rule. In  
24 addition, Defendants have been unjustly enriched as a result of their unlawful acts  
25 and practices. Absent injunctive relief by this Court, Defendants are likely to  
26 continue to injure consumers, reap unjust enrichment, and harm the public interest.  
27  
28

1                                   **THE COURT’S POWER TO GRANT RELIEF**

2           93.    Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court  
3 to grant injunctive and such other relief as the Court may deem appropriate to halt  
4 and redress violations of any provision of law enforced by the FTC. The Court, in  
5 the exercise of its equitable jurisdiction, may award ancillary relief, including  
6 rescission or reformation of contracts, restitution, the refund of monies paid, and  
7 the disgorgement of ill-gotten monies, to prevent and remedy any violation of any  
8 provision of law enforced by the FTC.

9           94.    Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 626 of the  
10 Omnibus Act, respectively, authorize this Court to grant such relief as the Court  
11 finds necessary to redress injury to consumers resulting from Defendants’  
12 violations of the MARS Rule/Regulation O, including the rescission or reformation  
13 of contracts, and the refund of money.

14                                   **PRAYER FOR RELIEF**

15           Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act,  
16 15 U.S.C. 53(b) and 57b, the Omnibus Act, and the Court’s own equitable powers,  
17 requests that the Court:

18           A.    Award Plaintiff such preliminary injunctive and ancillary relief as  
19 may be necessary to avert the likelihood of consumer injury during the pendency  
20 of this action and to preserve the possibility of effective final relief, including but  
21 not limited to, temporary and preliminary injunctions;

22           B.    Enter a permanent injunction to prevent future violations of the FTC  
23 Act and the MARS Rule/Regulation O by Defendants;

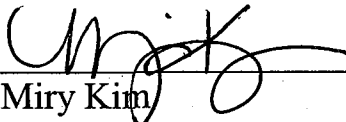
24           C.    Award such relief as the Court finds necessary to redress injury to  
25 consumers resulting from Defendants’ violations of the FTC Act and the MARS  
26 Rule/Regulation O, including, but not limited to, rescission or reformation of  
27 contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten  
28 monies; and



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

3  
4 Dated: May 30, 2012

5 Respectfully submitted,  
6 WILLARD K. TOM  
7 General Counsel

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9   
10 Miry Kim  
11 Mary T. Benfield  
12 Attorneys for Plaintiff  
13 Federal Trade Commission  
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