

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION, )

Plaintiff, )

v. )

FREEDOM COMPANIES MARKETING, INC., )  
a Minnesota corporation, also d/b/a Freedom )  
Companies, Freedom Financial Mortgage, and )  
Advantage Solutions Group, )

FREEDOM COMPANIES LENDING, INC., )  
a Minnesota corporation, also d/b/a Freedom )  
Companies, Freedom Financial Mortgage, and )  
Advantage Solutions Group, )

FREEDOM COMPANIES, INC., a Minnesota )  
corporation, also d/b/a Freedom Companies, )  
Freedom Financial Mortgage, and Advantage )  
Solutions Group, )

FREEDOM INFORMATION SERVICES, INC., )  
a Florida corporation, also d/b/a Freedom )  
Companies, Freedom Financial Mortgage, and )  
Advantage Solutions Group, )

HAITI MANAGEMENT, INC., a Florida )  
corporation, also d/b/a Freedom Companies, )  
Freedom Financial Mortgage, and Advantage )  
Solutions Group, )

GRUPO MARKETING DOMINICANA, a )  
foreign corporation, also d/b/a Freedom )  
Companies, Freedom Financial Mortgage, and )  
Advantage Solutions Group, and )

DAVID PREINER, individually and as owner, )  
officer, or director of Freedom Companies )  
Marketing, Inc., Freedom Companies Lending, )  
Inc., Freedom Companies, Inc., Freedom )  
Information Services, Inc., Haiti Management, Inc., )

) Ca: 12cv5743  
)  
) Jur Judge Milton I. Shadur  
) Mag. Judge Young B. Kim  
) M

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

**RECEIVED**

JUL 23 2012

THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

and Grupo Marketing Dominicana, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123 Stat. 1734, 1763-64 (May 22, 2009) (“Credit Card Act”), and amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-Frank Act”), 12 U.S.C. § 5538, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322 (“MARS Rule”), recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015 (“Regulation O”), in connection with the marketing and sale of mortgage assistance relief services (“MARS”).

**JURISDICTION AND VENUE**

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

3. Venue is proper in this district under 28 U.S.C. §§ 1391(b), (c), and (d) and 15 U.S.C. § 53(b).

**PLAINTIFF**

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

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

## DEFENDANTS

6. Defendant Freedom Companies Marketing, Inc., also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a Minnesota corporation with a registered office at 1724 Peltier Lake Dr., Centerville, Minnesota 55038. It also uses the address 444 North Michigan Avenue, 12th Floor, Chicago, Illinois 60611. Freedom Companies Marketing, Inc. transacts or has transacted business in this district and throughout the United States.

7. Defendant Freedom Companies Lending, Inc., also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a Minnesota corporation with a registered office at 1724 Peltier Lake Dr., Centerville, Minnesota 55038. It also uses the address 444 North Michigan Avenue, 12th Floor, Chicago, Illinois 60611. Freedom Companies Lending, Inc. transacts or has transacted business in this district and throughout the United States.

8. Defendant Freedom Companies, Inc., also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a Minnesota corporation with a registered office at 1724 Peltier Lake Dr., Centerville, Minnesota 55038. It also uses the address 444 North Michigan Avenue, 12th Floor, Chicago, Illinois 60611. Freedom Companies, Inc. transacts or has transacted business in this district and throughout the United States.

9. Freedom Information Services, Inc. also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a Florida corporation with a registered office and principal place of business at 7950 NW 53rd Street, Suite 337, Miami, Florida 33166. Freedom Information Services, Inc. transacts or has transacted business in this district and throughout the United States.

10. Haiti Management, Inc., also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a Florida corporation with its principal place of business at 4865 47th Place, Vero Beach, Florida 32967. Haiti Management, Inc. transacts or has transacted business in this district and throughout the United States.

11. Grupo Marketing Dominicana, also doing business as Freedom Companies, Freedom Financial Mortgage, and Advantage Solutions Group, is a foreign corporation with its principal place of business at Edificio Ozama Traveling Building, Avenida Sabana Larga, No. 61, Esquina Puerto Rico, Santo Domingo, Dominican Republic. Grupo Marketing Dominicana transacts or has transacted business in this district and throughout the United States.

12. David F. Preiner is the officer, director, and Chief Executive Officer of Freedom Companies Marketing, Inc., Freedom Companies Lending, Inc., Freedom Companies, Inc., Freedom Information Services, Inc., Haiti Management, Inc., and Grupo Marketing Dominicana. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Preiner, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

13. Defendants Freedom Companies Marketing, Inc., Freedom Companies Lending, Inc., Freedom Companies, Inc., Freedom Information Services, Inc., Haiti Management, Inc., and Grupo Marketing Dominicana (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the unlawful acts and practices alleged below. Corporate Defendants have conducted the business practices described below through an interrelated network of companies that have common ownership, officers, managers, business functions, employees, and office locations, and that have commingled funds and operate a common

scheme. Because the Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Individual Defendant David Preiner has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

### **COMMERCE**

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

### **GOVERNMENT MORTGAGE ASSISTANCE**

15. Numerous mortgage lenders and servicers have offered certain borrowers the opportunity to modify loans that have become unaffordable. Many of these loan modification programs have expanded as lenders participate in the federal government’s “Making Home Affordable” program, a plan to stabilize the U.S. housing market and help consumers reduce their monthly mortgage payments to more affordable levels. The Making Home Affordable program includes the Home Affordable Modification Program, in which the federal government has committed up to \$75 billion to keep consumers in their homes by preventing foreclosures. The mortgage assistance relief service marketed and sold by Defendants is not connected with the Making Home Affordable program or otherwise associated with, or endorsed, sponsored or approved by, the United States Government in any way.

### **DEFENDANTS’ BUSINESS ACTIVITIES**

16. Since at least 2009, Defendants have advertised, marketed, offered to sell, and sold to consumers throughout the United States mortgage assistance relief services, including, but not limited to, mortgage loan modification services.

17. In marketing their mortgage assistance relief services, Defendants aggressively target Spanish-speaking consumers, focusing on those who are in financial distress, behind on their mortgage loans, or in danger of losing their homes to foreclosure.

**Defendants' Deceptive Telemarketing Sales Pitch**

18. Defendants' telemarketers contact consumers by telephone and offer to help consumers obtain mortgage loan modifications that will significantly reduce consumers' monthly mortgage payments and interest rates.

19. To create a false sense of trust, Defendants' telemarketers typically speak solely in Spanish to targeted consumers, most of whom speak little or no English. Defendants' telemarketers empathize with consumers about the economy and go to great lengths to assure skeptical consumers that Defendants are a reputable company located in the United States with expertise in negotiating modifications with mortgage lenders.

20. Defendants' telemarketers tell consumers that loan modifications are available through a federal government program created by President Obama to assist homeowners in lowering their mortgage payments. Defendants' telemarketers often tell consumers that they qualify for a loan modification under this program. In numerous instances, Defendants' telemarketers attempt to bolster their credibility by falsely claiming or leading consumers to believe that they are affiliated with or approved by the United States Government to obtain loan modifications for consumers under the government assistance program.

21. After asking consumers basic questions about their income and current mortgage, Defendants guarantee, or virtually guarantee, that Defendants will be able to obtain a loan modification for the consumers, even those consumers who have previously applied for but been denied modifications by their own lenders.

22. Defendants then typically provide consumers with a fabricated quote of the consumer's modified monthly mortgage payment. Defendants' quote is always markedly lower than the consumer's current monthly payment, typically hundreds or even thousands of dollars lower, and often barely half of the consumer's current payment. The quoted payment would typically result in substantial savings over the term of the consumer's loan, including savings of tens or even hundreds of thousands of dollars.

23. Defendants also provide consumers during the telemarketing call with a quote of the new interest rate on their modified mortgage, which is typically several percentage points lower than the consumer's current interest rate, and often less than 3.0%.

24. Defendants further promise consumers that the entire loan modification process will be completed within 30 to 90 days.

25. For their loan modification services, Defendants charge consumers an up-front, advance fee, ranging from \$995 to \$1500. Defendants characterize the fee in various ways, such as by calling it a processing fee or a legal fee. Defendants assure consumers that this is a one-time fee that will cover all costs associated with obtaining the loan modification, juxtaposing this one-time fee with the substantial savings that purportedly will result from the loan modification. Defendants instruct consumers to pay this fee immediately, typically by personal check, before Defendants begin any work on consumers' behalf.

26. So that consumers are able to afford Defendants' fee, Defendants also often instruct consumers to stop paying on their current mortgage. Defendants claim, among other things, that the delinquency will demonstrate the consumer's hardship and inability to pay and will actually benefit their loan modification application. In some instances, Defendants tell consumers that it is in fact required that they stop paying their mortgage to obtain a loan



modification. Defendants also frequently assure consumers that their lender will forgive all past-due payments and late fees associated with the consumers' account after the loan modification process is completed. Defendants fail to disclose that consumers who stop paying their mortgages could lose their homes or damage their credit ratings.

27. Consumers who follow Defendants' instructions and cease making their mortgage payments frequently receive notices from their lenders demanding payment or even threatening foreclosure. Defendants tell consumers to ignore these threats and assure them that it is normal for lenders to send such notices before the loan modification process is complete.

#### **Defendants' Failure to Provide Any Service**

28. In most or all cases, after consumers pay Defendants the advance fee, Defendants fail to provide anything of value to consumers.

29. After the initial telemarketing sales call, Defendants typically send consumers a package of documents with numerous blank forms and agreements for consumers to complete and return. The blank forms request detailed information regarding the consumers' mortgage loan and their current financial situation, including income and liabilities. Along with the completed forms, consumers are asked to provide Defendants with copies of several financially sensitive documents and the advance fee for Defendants' services. In the package's cover letter, Defendants state that once they receive the completed forms and documents, they will "begin the modification process."

30. After consumers return the required payment and documentation to Defendants, they often do not hear anything from Defendants for several weeks. Some consumers eventually get a call from Defendants several weeks later, while other consumers hear nothing and must make repeated attempts to call Defendants before they are able to talk to a live person.

31. Regardless of who initiates the contact, Defendants almost always tell consumers that they need to pay additional fees for their loan modifications to be completed, fees that were not disclosed during the initial sales call. Defendants warn that the additional fees, which typically vary from \$495 to \$995, are required to complete the modification process.

32. To induce consumers to pay the additional fees, Defendants assure consumers that their modifications are going well and are close to completion. In many instances, in fact, Defendants give consumers the “good news” that they qualify for an even lower interest rate or monthly payment than was promised during the original telemarketing call. Defendants routinely string consumers along in this fashion in multiple follow-up conversations, all of which usually involve requests for additional fees. As a result, many consumers end up paying Defendants thousands of dollars in additional fees.

33. Defendants also often send consumers letters with the official Making Home Affordable government logo and/or the logo of the consumers’ mortgage lender or servicer at the top, despite the fact that Defendants are not connected, affiliated, or associated with, or endorsed, sponsored, or approved by, any of these entities. These letters, among other things, inform consumers that their loan modification applications have been approved and request that consumers send additional money to cover a “closing fee.”

34. In many cases, Defendants do not even contact consumers’ lenders at all, much less actually obtain a mortgage loan modification for their customers. At most, Defendants sometimes make a perfunctory contact with consumers’ lenders to request a loan modification, but are denied and do not take any further action. This is something that consumers could easily have done for themselves, without paying thousands of dollars to Defendants.

## VIOLATIONS OF THE FTC ACT

35. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

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

### COUNT ONE

#### **Misrepresentations (Obtaining Mortgage Loan Modifications)**

37. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of mortgage assistance relief services, Defendants have represented, directly or indirectly, expressly or by implication, that Defendants will obtain a modification of a mortgage loan for a consumer that will make the consumer’s payments substantially more affordable.

38. In truth and in fact, in numerous instances in which Defendants have made the representation set forth in Paragraph 37 of this Complaint, Defendants do not obtain for a consumer a mortgage loan modification that will make the consumer’s payments substantially more affordable.

39. Therefore, Defendants’ representation as set forth in Paragraph 37 of this Complaint is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT TWO

#### **Misrepresentations (Affiliation, Endorsement, or Approval)**

40. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of mortgage assistance relief services, Defendants have

represented, directly or indirectly, expressly or by implication, that Defendants' mortgage assistance relief service is affiliated with, endorsed or approved by, or otherwise associated with the United States Government, a governmental homeowner assistance plan, or the maker, holder, or servicer of the consumer's dwelling loan.

41. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 40 of this Complaint, Defendants' mortgage assistance relief service is not affiliated with, endorsed or approved by, or otherwise associated with the United States Government, a governmental homeowner assistance plan, or the maker, holder, or servicer of the consumer's dwelling loan.

42. Therefore, Defendants' representations as set forth in Paragraph 40 of this Complaint are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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

43. In 2009, Congress directed the FTC to prescribe rules prohibiting unfair or deceptive acts or practices with respect to mortgage loans. Omnibus Act § 626, 123 Stat. 678, as clarified by Credit Card Act § 511, 123 Stat. at 1763-64. 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, Section 322.5, became effective on January 31, 2011. The Dodd-Frank Act §1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538, transferred rulemaking authority over the MARS Rule to the Consumer Financial Protection Bureau, which recodified the Rule as 12 C.F.R. Part 1015 effective December 30, 2011, and designated it "Regulation O." The FTC retains authority to enforce the MARS Rule pursuant to Dodd-Frank Act § 1097, 12 U.S.C. § 5538.

44. The MARS Rule and Regulation O define “mortgage assistance relief provider” and “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), recodified as Regulation O, 12 C.F.R. § 1015.2(j).

45. Defendants are “mortgage assistance relief provider[s]” or “provider[s]” engaged in providing “mortgage assistance relief service[s]” as those terms are defined in the MARS Rule, 16 C.F.R. § 322.2(i) and (j), recodified as Regulation O, 12 C.F.R. § 1015.2(i) and (j).

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

a. The likelihood of negotiating, obtaining, or arranging any represented service or result. 16 C.F.R. § 322.3(b)(1), recodified as Regulation O, 12 C.F.R. § 1015.3(b)(1);

b. The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result. 16 C.F.R. § 322.3(b)(2), recodified as Regulation O, 12 C.F.R. § 1015.3(b)(2);

c. That a mortgage assistance relief service is affiliated with, endorsed or approved by, or otherwise associated with the United States Government, a governmental homeowner assistance plan, or the maker, holder, or servicer of the consumer’s dwelling loan, 16 C.F.R. §§ 322.3(b)(3), recodified as Regulation O, 12 C.F.R. §§ 1015.3(b)(3);  
and

d. The total cost to purchase the mortgage assistance relief service, 16 C.F.R. § 322.3(b)(11), recodified as Regulation O, 12 C.F.R. § 1015.3(b)(11).

47. The MARS Rule and Regulation O prohibit any mortgage assistance relief service provider from failing to disclose in a clear and prominent manner the following information in every consumer-specific commercial communication:

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

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

c. In cases where the mortgage assistance relief service provider has represented, expressly or by implication, that consumers will receive the provider’s service or result, “[e]ven if you accept this offer and use our service, your lender may not agree to change your loan.” 16 C.F.R. § 322.4(b)(3), recodified as Regulation O, 12 C.F.R. § 1015.4(b)(3).

48. The MARS Rule and Regulation O prohibit any mortgage assistance relief service provider, in cases where the provider has represented, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, that the consumer should temporarily or permanently discontinue payments, in whole or in part, on a dwelling loan, from failing to disclose, clearly

and prominently, and in close proximity to any such representation, that “[i]f you stop paying your mortgage, you could lose your home and damage your credit rating.” 16 C.F.R. § 322.4(c), recodified as 12 C.F.R. § 1015.4(c).

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

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

## **VIOLATIONS OF THE MORTGAGE ASSISTANCE RELIEF SERVICES RULE**

### **COUNT THREE**

#### **Material Misrepresentations**

51. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, Defendants have misrepresented, expressly or by implication, material aspects of that service, including, but not limited to:

- a. Defendants' likelihood of obtaining a modification of a mortgage loan for a consumer that will make the consumer's payments substantially more affordable;
- b. The amount of time it will take Defendants to obtain a mortgage loan modification;
- c. That Defendants' mortgage assistance relief service is affiliated with, endorsed or approved by, or otherwise associated with the United States Government, a governmental homeowner assistance plan, or the maker, holder, or servicer of the consumer's dwelling loan; and
- d. The total cost to purchase the mortgage assistance relief service.

52. Defendants' acts or practices as alleged in Paragraph 51 above violate Sections 322.3(b)(1), (2), (3), and (11) of the MARS Rule, 16 C.F.R. §§ 322.3(b)(1), (2), (3), and (11), and Regulation O, 12 C.F.R. §§ 1015.3(b)(1), (2), (3), and (11).

#### **COUNT FOUR**

##### **Failure to Disclose (Consumer-Specific Commercial Communications)**

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

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



b. “(Name of company) is not associated with the government, and our service is not approved by the government or your lender;” and

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

54. Defendants’ acts or practices as alleged in Paragraph 53 above, violate Sections 322.4(b)(1), (2), and (3) of the MARS Rule, 16 C.F.R. §§ 322.4(b)(1), (2), and (3), and Regulation O, 12 C.F.R. §§ 1015.4(b)(1), (2), and (3).

### **COUNT FIVE**

#### **Failure to Disclose (Consequences of Discontinuing Payments)**

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

56. Defendants’ acts or practices as alleged in Paragraph 55 above, violate Section 322.4(c) of the MARS Rule, 16 C.F.R. § 322.4(c), and Regulation O, 12 C.F.R. § 1015.4(c).

### **COUNT SIX**

#### **Collection of Advance Payments**

57. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, Defendants have requested or received payment of a fee or other consideration before 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 Defendants obtained from the consumer's dwelling loan holder or servicer.

58. Defendants' acts or practices as alleged in Paragraph 57 above, violate Section 322.5(a) of the MARS Rule, 16 C.F.R. § 322.5(a) and Regulation O, 12 C.F.R. § 1015.5(a).

### **CONSUMER INJURY**

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

### **THIS COURT'S POWER TO GRANT RELIEF**

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

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

**PRAYER FOR RELIEF**

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

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

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

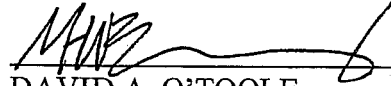
C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the MARS Rule/Regulation O, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of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

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

Respectfully submitted,

WILLARD K. TOM  
General Counsel

DATED: July 23, 2012



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DAVID A. O'TOOLE  
JOANNIE T. WEI  
MATTHEW H. WERNZ  
Federal Trade Commission  
55 West Monroe Street, Suite 1825  
Chicago, Illinois 60603  
(312) 960-5634 [telephone main]  
(312) 960-5600 [facsimile]

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION