

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. STEVEN M. JAEGER,
Acting Supreme Court Justice

AYANA RUSH, GUL MAGSOOD, ANGEL
OSMANZAI, RAHIM MAQSOOD, MOHAMMED
SHUKRAN, RITA IDAVOY, REBECCA VERNA,
BRIAN VERNA, ARIEL CROSS-EDWARDS,

Plaintiffs,

-against-

SAVE MY HOME CORP., SAVE MY HOME
NOW, INC., SAVE MY HOME TODAY, INC.,
SAVE MY HOME U.S.A., INC., BENJAMIN
ABRAHAM, AMIT SINGH, DANIELLE DOE,
HUMA HALIMI (a/k/a HELEN HALIMI),
NAVIN MENON (a/k/a NAVIN MENIN, a/k/a
NOVIN MENON), CHRIS MARINO, THE
SELIG LAW GROUP, P.C., EXPRESS
MODIFICATIONS, INC., DAVID GOTTERUP,
EXPRESS HOME SOLUTIONS, INC. (a/k/a
EXPRESS HOME 411, a/k/a EXPRESS DEBT
SOLUTIONS), KENNETH SAROSI, BRIAN
MANGAN, MICHAEL ANDERSON, SANDRA
GONZALEZ, DELSY VALASQUEZ, TANNIA
GRIGO, MILADYS DOE, RICHARD MASINI,
EDWIN GARCIA, ROBERT WEINREB, EMPIRE
HOME SAVER INCORPORATED (a/k/a
EMPIRE HOME SAVINGS),

Defendants.

TRIAL/IAS, PART 43
NASSAU COUNTY
INDEX NO.: 003605-2011

MOTION SUBMISSION
DATE: 7-13-11

MOTION SEQUENCE
NO. 2

The following papers read on this motion:

Notice of Motion, Affirmation, and Exhibits

X

Plaintiffs' motion for an order pursuant to CPLR 3215 granting default judgment
in favor of plaintiffs on each cause of action against all defaulting defendants is
determined as set forth below.

This action was commenced on March 9, 2011. The complaint alleges ten separate causes of action against the defendants: violation of Banking Law §590, violation of RPL §265-b, breach of contract, common law fraud, fraudulent inducement, fraudulent concealment, civil conspiracy to commit fraud, aiding and abetting fraud, and violations of GBL §§ 349 and 350.

Plaintiffs are a group of low-to-middle income homeowners who allege they were defrauded and victimized by defendants' for-profit loan modification businesses. Defendants offer to negotiate with the homeowner's bank or mortgage lender to modify the terms of the mortgage in exchange for an "illegal" upfront fee, which they promise to return if unsuccessful.

In these transactions, defendants offered to negotiate mortgage loans for plaintiffs despite not being "mortgage brokers" as required by the Banking Law. Defendants also offered to perform "distressed property consulting services", but failed to do so in the manner required by New York Real Property Law § 265-b. In each case, Defendants breached their contract with Plaintiffs by failing to perform the services required and/or by refusing to provide the full or partial refund that had been previously promised. Further, Defendants engaged in a scheme to defraud Plaintiffs by misrepresenting, concealing, or omitting information regarding the services Defendants promised to perform.

In each case, Defendants refused to refund the homeowner's money as promised when the homeowner realized he or she had been victimized.

All defendants except Huma Halimi (a/k/a Helen Halimi), Amit Singh, and Richard Masini were properly served with copies of the Summons and Complaint

pursuant to the applicable sections of CPLR Article 3, namely §308 or 311 (See Exhibit S to the Affidavit of Hyon Min Rhu sworn to on June 16, 2011). Defendant Brian Mangan filed an Answer and defendant Robert Weinreb moved to dismiss the complaint. The parties agreed to voluntarily discontinue the action against Weinreb.

In addition, on May 4, 2011, pursuant to CPLR 3215(g)(3) plaintiffs properly served an additional copy of the summons and complaint upon each natural person defendant and, pursuant to CPLR 3215(g)(4) upon each corporation defendant. To the date of the motion, the Postal Service was unable to deliver the mailings to six (6) corporate defendants and to Kenneth Sarosi. A second additional mailing was sent to Sarosi at his place of business on June 14, 2011 pursuant to CPLR 3215(g).

Thus, the Defaulting Defendants consist of all named defendants except Brian Mangan, Robert Weinreb, Huma Halimi (a/k/a Helen Halimi), Amit Singh, and Richard Masini, who have failed to answer or otherwise appear in this action.

It appears from a review of the affidavits of counsel and each of the plaintiffs, as well as the documentary evidence attached, that all necessary parties have been served with notice of this application and that the relief requested is appropriate.

Accordingly, it is hereby

ORDERED, that the Plaintiffs' motion seeking an Order awarding them a default judgment against the Defaulting Defendants, pursuant to CPLR §3215, is **GRANTED**; and it is further

ORDERED, that this matter shall be set down for an inquest, subject to the approval of the Justice there presiding and provided a Note of Issue has been filed at least ten (10) days prior thereto, in the Calendar Control Part on the 12th day of

September, 2011 at 9:30 a.m. to assess the appropriate amount of damages. This directive with respect to a hearing is subject to the right of the Justice presiding in the Calendar Control Part to refer the matter to a Justice, Judicial Hearing Officer of a Court Attorney/Referee as he or she deems appropriate; and it is further

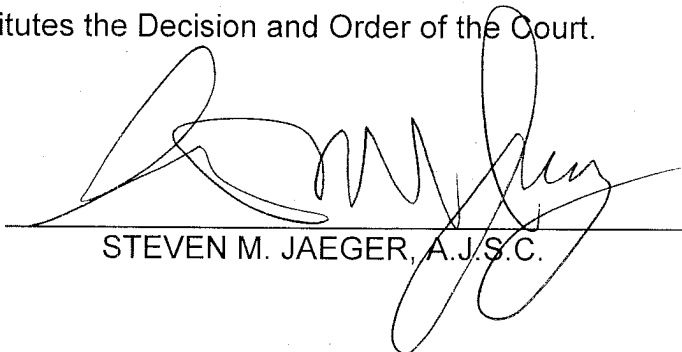
ORDERED, that the Plaintiffs' counsel shall submit a Permanent Injunction Order against the Defaulting Defendants on Notice to any party entitled to notice; and it is further

ORDERED, that a copy of this Order shall be served on the Calendar Clerk along with the Note of Issue. The failure to file a Note of Issue as directed or appear as directed may be deemed an abandonment of the claims giving rise to the hearing.

All matters not decided herein are hereby **DENIED**.

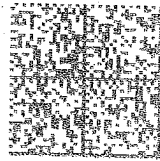
This Decision constitutes the Decision and Order of the Court.

Dated: July 20, 2011



STEVEN M. JAEGER, A.J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
JUSTICES' CHAMBERS
MINEOLA, N.Y. 11501



U.S. POSTAGE & PITNEY BOWES



ZIP 11501 \$000.44°
02 1W
0001361514 JUL 21 2011

J. Candellaro
22

Davis Polk & Wardwell, LLP
450 Lexington Avenue
New York, NY 10017

10017+3322

