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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

SEP 26 2012

J. BRANNON

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 *will seek *pro hac vice* admission

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11
 12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 13 COUNTY OF RIVERSIDE

14 LAURA COX, an individual; TROY COX,
 15 an individual; KENNETH PAYNE, an
 individual; THOMAS RAWDON, an
 16 individual; RICHARD WHITEHURST, an
 individual; AMOS HOOLIHAN, an
 17 individual; VIOLET HOOLIHAN, an
 individual; GREGORY SCOTT, an
 18 individual; SUSAN MOTLEY, an individual;
 CHRISTOPHER MOTLEY, an individual;
 19 ALLISON CHORPENING, an individual;
 MARK CHORPENING, an individual;
 20 MARC JAFFA, an individual; JUDY
 TRAVIS, an individual; KAREN WARREN,
 21 an individual; and PATRICIA LEVITAN, an
 individual,

22 Plaintiffs,

23 v.

24 CERTIFIED FINANCIAL PROTECTION
 25 GROUP, LLC, a California limited liability
 company; FINANCIAL HOPE FOR
 26 AMERICA, INC., a California corporation;
 SAFEHOUSE 911, LLC, d/b/a SAFEHOUSE
 27 PROFESSIONAL MORTGAGE
 RESTRUCTURING 911, a California limited
 28 liability company; U.S. FINANCIAL

RIC 1214494

Case No.

COMPLAINT FOR

1. BREACH OF CONTRACT
2. BREACH OF FIDUCIARY DUTY
3. BREACH OF IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING
4. INTENTIONAL MISREPRESENTATION
5. NEGLIGENT MISREPRESENTATION
6. FALSE PROMISE
7. FALSE ADVERTISING
8. UNFAIR COMPETITION
9. VIOLATION OF MORTGAGE FORECLOSURE CONSULTANTS ACT
10. VIOLATION OF ELDER FINANCIAL ABUSE ACT

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ADVANTAGE, a California unincorporated entity; MICHAEL B. WAYMAN, an individual; DONALD BROKAW, an individual; and DOES 1 through 99, inclusive,

Defendants.

II. UNFAIR OR DECEPTIVE PRACTICES AGAINST SENIOR CITIZENS AND DISABLED PERSONS
DEMAND FOR JURY TRIAL

1 Plaintiffs LAURA COX, TROY COX, KENNETH PAYNE, THOMAS RAWDON,
2 RICHARD WHITEHURST, AMOS HOOLIHAN, VIOLET HOOLIHAN, GREGORY SCOTT,
3 SUSAN MOTLEY, CHRISTOPHER MOTLEY, ALLISON CHORPENING, MARK
4 CHORPENING, MARC JAFFA, JUDY TRAVIS, KAREN WARREN and PATRICIA
5 LEVITAN allege as follows:

6 INTRODUCTION

7 1. Over the past several years, Defendants Certified Financial Protection Group,
8 LLC (“Certified Financial”), Financial Hope for America, Inc. (“Financial Hope”), Safehouse
9 911, LLC (“Safehouse”), U.S. Financial Advantage, Michael B. Wayman and Donald Brokaw
10 (collectively, “Defendants”) have engaged in a nation-wide scheme to defraud homeowners,
11 including Plaintiffs, by promising to perform loan modification and other services, guaranteeing
12 successful results backed by full money-back guarantees, and then failing to provide any loan
13 modification services or issue the agreed-upon refund.

14 2. The recent economic recession provided Defendants with fertile hunting grounds
15 for their fraudulent scheme, as homeowners throughout the nation lost their jobs and saw their
16 home values plummet. When the housing bubble burst, these homeowners found themselves
17 overextended, struggling to pay their mortgages, and financially trapped in their homes.

18 3. Sensing an opportunity, Defendants concocted a scheme to extract thousands of
19 dollars in fees by fraudulently promising to obtain loan modifications for struggling
20 homeowners.

21 4. Preying on Plaintiffs’ few remaining hopes, Defendants touted their years of
22 experience and successful track record of obtaining loan modifications through aggressive
23 advertising on television, websites, and direct mailings, coupled with the use of local referral
24 agents and unsolicited telephone marketing. To further entice homeowners, Defendants claimed
25 they would (i) conduct forensic loan audits; (ii) obtain loan modifications within sixty to ninety
26 days or refund all or almost all of the homeowners’ payments; and (iii) utilize Defendants’ “team
27 of lawyers” to aggressively negotiate with homeowners’ lenders.

28 5. Through these marketing efforts, Defendants lured Plaintiffs into sham contracts

1 under which Plaintiffs paid thousands of dollars in upfront fees and/or provided access to their
2 bank accounts for monthly withdrawals. Simultaneously, Defendants often advised Plaintiffs to
3 stop paying and communicating with their mortgage provider. Defendants claimed this would
4 accelerate the loan modification process and, most importantly, free up the necessary funds to
5 pay Defendants.

6 6. However, Defendants never performed or intended to perform any of these loan
7 modification services. Rather, Defendants only brought Plaintiffs closer to foreclosure when
8 they followed Defendants' advice to not pay or contact their lenders for months while
9 Defendants were supposedly working to secure their loan modifications. After weeks or months
10 without communication from Defendants, many Plaintiffs attempted to contact Defendants for a
11 refund or a status update, but their calls, letters and e-mails were ignored or they were shuffled
12 among unhelpful employees.

13 7. While Defendants could avoid Plaintiffs' calls, emails and letters, they could not
14 prevent the deluge of fraud reports Plaintiffs and other homeowners filed with state agencies,
15 local Better Business Bureaus ("BBB") and websites such as *ripoffreport.com*. Defendants
16 falsely assured prospective and current clients that these complaints were the result of false
17 accusations or the conduct of a limited number of rogue associates. However, when Defendants'
18 false representations proved insufficient, Defendants simply formed new businesses to continue
19 perpetrating their scheme on new, unsuspecting clients.

20 8. In their wake, Defendants left a slew of defrauded, damaged and devastated
21 homeowners. Not only did Plaintiffs lose thousands of dollars directly to Defendants, but many
22 suffered damage to their credit scores, paid late fees and financial penalties, underwent
23 bankruptcy proceedings, experienced severe emotional and financial stress, and some even lost
24 their homes to foreclosure.

25 9. Resolving to stop Defendants from engaging in the same or other similar
26 schemes, Plaintiffs come before the Court to request injunctive, monetary and other appropriate
27 relief. By this action, Plaintiffs seek to enjoin Defendants from these deceptive and predatory
28 practices and to attach Defendants' assets to safeguard Plaintiffs' recovery. Plaintiffs also seek

1 to recover damages in an amount to be proved at trial, together with pre-judgment interest at the
2 statutory rate, as well as other applicable actual and consequential damages. Finally, Plaintiffs
3 seek punitive damages to prevent Defendants and others from engaging in similar schemes, and
4 any other relief the Court deems just and appropriate, including appropriate attorneys' fees and
5 costs.

6 **PARTIES**

7 10. Plaintiffs Laura and Troy Cox are individuals with a primary place of residence in
8 Oregon City, Oregon. Mr. and Mrs. Cox hired Defendant Certified Financial to perform loan
9 modification services.

10 11. Plaintiff Kenneth Payne is an individual with a primary place of residence in
11 Okeechobee, Florida. Mr. Payne hired Defendant Financial Hope to perform loan modification
12 services.

13 12. Plaintiffs Thomas Rawdon and Richard Whitehurst are individuals with a primary
14 place of residence in Yamhill, Oregon. Mr. Rawdon and Mr. Whitehurst hired Defendant
15 Certified Financial to perform loan modification services.

16 13. Plaintiffs Amos and Violet Hoolihan are individuals with a primary place of
17 residence in Marana, Arizona. Mr. and Mrs. Hoolihan hired Defendants Safehouse to perform
18 loan modification services.

19 14. Plaintiff Gregory Scott is an individual with a primary place of residence in
20 Oakland, California. Mr. Scott hired Defendant Financial Hope to perform loan modification
21 services.

22 15. Plaintiffs Susan and Christopher Motley are individuals with a primary place of
23 residence in McMinnville, Oregon. Mr. and Mrs. Motley hired Defendant Certified Financial to
24 perform loan modification services.

25 16. Plaintiffs Allison and Mark Chorpening are individuals with a primary place of
26 residence in Middleburg Heights, Ohio. Mr. and Mrs. Chorpening hired Defendant Safehouse
27 and Certified Financial to perform loan modification services.

28 17. Plaintiff Marc Jaffa is an individual with a primary place of residence in Clovis,

1 California. Mr. Jaffa hired Defendant Certified Financial to perform loan modification services.

2 18. Plaintiff Judy Travis is an individual with a primary place of residence in
3 Rainbow, California. Ms. Travis hired Defendant Certified Financial to perform loan
4 modification services.

5 19. Plaintiff Karen Warren is an individual with a primary place of residence in
6 Lubbock, Texas. Ms. Warren hired Defendant U.S. Financial Advantage to perform loan
7 modification services.

8 20. Plaintiff Patricia Levitan is an individual with a primary place of residence in
9 Grass Valley, California. Ms. Levitan hired Defendant Financial Hope to perform loan
10 modification services.

11 21. The plaintiffs referred to in paragraphs 10 through 20 above may be referred to
12 collectively in this Complaint as "Plaintiffs."

13 22. On information and belief, Defendant Certified Financial is a suspended
14 California limited liability company with its headquarters in Temecula, California. Certified
15 Financial purports to offer financial advising and counseling, loan modification assistance and
16 foreclosure assistance.

17 23. On information and belief, Defendant Financial Hope is a California corporation
18 with its headquarters in Temecula, California. Financial Hope purports to offer financial
19 advising and counseling, loan modification assistance and foreclosure assistance.

20 24. On information and belief, Defendant Safehouse, doing business as Safehouse
21 Professional Mortgage Restructuring 911, is a suspended California limited liability company
22 with its headquarters in Temecula, California. Safehouse purports to offer financial advising and
23 counseling, loan modification assistance and foreclosure assistance.

24 25. On information and belief, U.S. Financial Advantage is an unincorporated entity
25 with its headquarters in Vista, California. U.S. Financial Advantage purports to offer financial
26 advising and counseling, loan modification assistance and foreclosure assistance.

27 26. The defendants identified in paragraphs 22 through 25 above may be referred to
28 collectively in this Complaint as the "Entity Defendants."

1 27. On information and belief, Defendant Michael B. Wayman is an individual with a
 2 primary place of residence in California. On information and belief, Defendant Wayman served
 3 as an executive and managing officer for Certified Financial, Financial Hope, Safehouse and
 4 U.S. Financial Advantage.

5 28. On information and belief, Defendant Donald Brokaw is an individual with a
 6 primary place of residence in California. On information and belief, Defendant Brokaw served
 7 as an executive and managing officer for Certified Financial, Financial Hope and Safehouse.

8 29. The defendants identified in paragraphs 27 through 28 above may be referred to
 9 collectively in this Complaint as the “Individual Defendants.”

10 30. The true names and capacities, whether individual, corporate, associate, or
 11 otherwise, of defendants sued herein as Does 1 through 99, inclusive, presently are unknown to
 12 Plaintiffs, who therefore sue these defendants by fictitious names. Plaintiffs will seek leave to
 13 amend this Complaint to allege the true names of Does 1 through 99 when the same have been
 14 ascertained. On information and belief, each of the fictitiously named Defendants participated in
 15 some or all of the acts alleged here.

16 31. At all relevant times, each of the Defendants acted as the principal, agent or
 17 representative of each of the other Defendants. In all of their alleged actions, each Defendant
 18 was acting within the course and scope of the agency relationship with each of the other
 19 Defendants, and with the permission and ratification of each of the other Defendants.

20 32. Whenever reference is made in this Complaint to an act of any Defendant, such
 21 allegation shall mean that such Defendant did the alleged act personally or through Defendants’
 22 officers, directors, employees, agents and/or representatives acting within the actual or ostensible
 23 scope of their authority.

24 **JURISDICTION AND VENUE**

25 33. The Court has jurisdiction over this breach of contract, fraud, tort and injunctive
 26 relief action pursuant to Section 410.10 of the California Code of Civil Procedure because the
 27 Individual Defendants reside in the State of California and the Entity Defendants all have their
 28 principal places of business in California and, to the extent they are incorporated, are

1 incorporated in California.

2 34. Venue in this Court is proper pursuant to Section 395(a) of the California Code of
3 Civil Procedure because, on information and belief, Defendants Certified Financial, Financial
4 Hope and Safehouse are all located in Riverside County.

5 **OVERVIEW OF THE SCHEME**

6 35. Defendants' scheme consisted of eight parts: (i) create a corporate entity claiming
7 to provide loan modification services; (ii) aggressively market the entity's services;
8 (iii) guarantee loan modifications and foreclosure avoidance; (iv) enter into written contracts
9 designed to mask the fraud; (v) require clients to pay thousands of dollars in upfront or monthly
10 membership fees; (vi) perform few or no services, thus ensuring that no loan modification would
11 be secured; (vii) avoid communication with clients and refuse to issue any refunds; and (viii)
12 create a different corporate entity once the current scheme was revealed in order to continue
13 Defendants' fraudulent loan modification practices.

14 **Background**

15 36. Plaintiffs and countless other homeowners throughout the nation found
16 themselves in dire financial straits during the recent economic recession because of plummeting
17 housing prices, a shrinking jobs market and a frozen credit market. Many people could not sell
18 their homes or afford their current mortgages any longer. Plaintiffs and other homeowners had
19 difficulty obtaining loan modifications on their own. Thus, Defendants launched their fraudulent
20 scheme to extract money from homeowners by selling false promises of guaranteed loan
21 modifications.

22 37. The Individual Defendants created numerous corporate entities to operate their
23 loan modification scheme, including: Safehouse (incorporated on September 11, 2008); Certified
24 Financial (incorporated on November 19, 2008); and Financial Hope (incorporated on
25 December 18, 2008). Defendants also established a strong Internet presence to further attest to
26 these entities' purported legitimacy through more than fifty related websites, such as *fha365.org*,
27 *non-profitloanmodification.org*, *fh4achapter.org*, and *certifiedfinancialprotectiongroup.com*.
28 Defendants filled their websites with information about home loans, video testimonials from

1 previous “success stories,” and descriptions of their various services. With their true fraudulent
2 intentions masked behind a corporate veil and polished websites, Defendants then used an
3 aggressive marketing strategy to lure potential victims, including Plaintiffs, into written
4 contracts.

5 Marketing Campaign

6 38. Defendants aggressively marketed their loan modification scheme through
7 television advertisements, mailing campaigns, YouTube videos, sophisticated websites, local
8 referral agents, and targeted, unsolicited phone calls to distressed homeowners. Defendants’
9 television advertisements and direct mailings promoted their websites and loan modification
10 services. Defendants filled their websites and YouTube channels with emotional testimonial
11 videos from supposedly satisfied customers who attested to Defendants’ ability to delay
12 foreclosures, obtain loan modifications and negotiate with banks.

13 39. Knowing they could capitalize on the good will and trust that local insurance
14 agents, real estate agents and financial advisors had accrued in their communities, Defendants
15 hired such people as referral or affiliate agents. Many of these agents were known and trusted
16 within their community, which added to Defendants’ apparent legitimacy, and the local agents
17 often assisted in enticing homeowners to contract with Defendants and pay the requisite upfront
18 fees. These agents apparently received commissions for every client that contracted with and
19 paid Defendants.

20 40. Additionally, Defendants cold-called defaulted homeowners (apparently using
21 publicly available lists of defaulted homeowners) and enticed them into their scheme with
22 promises of quick, easy loan modifications.

23 41. Defendants lured homeowners further into their scheme by claiming high success
24 rates and promising quick, guaranteed results. At various times, Defendants claimed (i) a 90% to
25 99% success rate; (ii) that they were affiliated with the government; or (iii) that their “team of
26 lawyers” would aggressively negotiate with the banks on Plaintiffs’ behalf. Finally, Defendants
27 guaranteed they could obtain a loan modification and fend off any foreclosure or they would
28 refund all or most of Plaintiffs’ pre-paid fees. Defendants successfully used these false promises

1 and guarantees to convince thousands of homeowners to enter into written contracts for their
2 services.

3 **Contract and Fees**

4 42. After luring Plaintiffs with promises of success and guaranteed loan
5 modifications, Defendants demanded upfront fee payments before they would begin providing
6 any services. Defendants required Plaintiffs and other victims to pay “processing” or “filing”
7 fees ranging from \$475 to \$3,700. Because many homeowners could not pay such large upfront
8 fees, Defendants also offered monthly “membership” packages that required an initial down
9 payment followed by monthly payments.

10 43. Defendants’ contracts purport to memorialize a deal whereby Plaintiffs paid
11 Defendants’ upfront fees in exchange for an analysis of the legality of their mortgage (typically
12 referred to as a “forensic loan audit”), after which Defendants would provide free loan
13 modification and foreclosure avoidance services. Specifically, Defendants promised to “perform
14 a computer review of the loan documents supplied by Client to determine if the closed loans
15 comply with” various federal and state lending laws and “deliver a detailed Audit/Analysis
16 Report to the Client citing the located violations, if any, and the severity of such violations.”
17 However, Defendants never performed any such analysis and never provided an “Audit/Analysis
18 Report” to any Plaintiff. Rather, because California prohibits upfront fee payments for loan
19 modification services, Defendants only included this service so they could require upfront fee
20 payments while still claiming to be in compliance with the law.

21 44. Similarly, Defendants misled Plaintiffs about the contract’s contents. After
22 guaranteeing loan modifications and foreclosure avoidance, Defendants included a boilerplate
23 contractual clause that states “[Defendants do] not and cannot assure a successful outcome or
24 resolution.”

25 45. Defendants also occasionally included a document that revealed their post-hoc
26 efforts to conceal their fraud. The Department of Housing and Urban Development (“HUD”)
27 began publishing reports about scam organizations like Defendants’ entities in 2008. HUD
28 informed consumers that scam organizations often asked for upfront fee payments, guaranteed

1 report, or falsely told that someone would contact them shortly. Many Plaintiffs also sought the
2 promised refund of their money because no loan modification had been obtained, but Defendants
3 never provided it.

4 50. While Defendants dodged Plaintiffs' requests, they continued to withdraw
5 "membership fees" from Plaintiffs' bank accounts, aggressively pursued Plaintiffs who did not
6 pay their monthly fees, and even offered extra "enhanced services" to some Plaintiffs for
7 additional money. Defendants repeatedly called delinquent clients to demand their money and
8 threaten to cease providing services if they were not paid. Defendants also regularly requested
9 additional fees to "expedite" the process and, in at least one instance, claimed to have discovered
10 a "new modification process" that they offered for an additional \$300.

11 51. However, Defendants could not stop the growing number of online complaints
12 and negative BBB reviews lodged against them. As numerous victims realized Defendants had
13 scammed them for thousands of dollars, they reported Defendants to various state agencies and
14 local BBBs, and posted internet warnings to alert others about the scam. In response, Defendants
15 attempted to prolong the useful life of their fraudulent companies by providing potential clients
16 with "Formal Responses" to these complaints. In these responses, Defendants claimed to have
17 "investigated and resolved" all complaints against them and that the complaints originated from
18 "disgruntled consumers who received loan modifications." Defendants even boasted of filing a
19 lawsuit against the BBB for defamation because the BBB would not remove consumer
20 complaints against the Defendants. Plaintiffs could not find evidence that any such lawsuit was
21 ever filed despite a diligent search.

22 52. Once Defendants' current entities were correctly identified as scam organizations,
23 Defendants began using new business names, such as Brookshire Holloway, U.S. Financial
24 Advantage and Home Safe Financial. As with the previous entities, Defendants created a
25 sprawling web presence, aggressively marketed their services, guaranteed loan modifications and
26 promised to prevent foreclosures.

27 53. At the helm of each of Defendants' discarded and new businesses were the
28 Individual Defendants, who plundered the Entity Defendants' assets for personal use, grossly

1 undercapitalized the Entity Defendants and disregarded corporate formalities. On information
2 and belief, the Individual Defendants were the founders, partners, officers and/or owners of each
3 of the Entity Defendants, and while their exact duties remain unclear, they exercised control over
4 the day-to-day operations of the Entity Defendants.

5 54. On information and belief, the Individual Defendants received salaries and an
6 additional share of the profits from the Entity Defendants and diverted business funds for non-
7 corporate uses. For example, Defendant Wayman apparently purchased real property in his
8 individual name in Tennessee and paid for cosmetic treatments for his wife with the Entity
9 Defendants' money. Both Individual Defendants also commingled the Entity Defendants' funds,
10 failing to segregate one entity's finances from another's.

11 55. On information and belief, the Individual Defendants also failed to adequately
12 capitalize the Entity Defendants, which not only ensured Plaintiffs would not receive the
13 promised money-back guarantees, but also ensured the Entity Defendants could not pay any
14 potential legal liabilities that would arise from their fraudulent practices.

15 56. Rather than observe the various corporate formalities, the Individual Defendants
16 used the Entity Defendants as mere instrumentalities to conduct their fraudulent scheme. Unless
17 the Defendants are enjoined and prevented from creating new entities, Defendants undoubtedly
18 will continue to engage in these illegal and harmful activities and seriously harm even more
19 homeowners.

20 **INDIVIDUAL PLAINTIFF EXPERIENCES**

21 **Laura and Troy Cox**

22 57. Mrs. Laura Cox and Mr. Troy Cox purchased their house with a \$254,000 loan
23 from National City Bank in 2003 (later transferred to PNC Bank), and thereafter obtained
24 another \$44,000 mortgage from CitiMortgage.

25 58. In late 2009, Mr. and Mrs. Cox encountered difficulty paying their mortgage after
26 Mrs. Cox became disabled and unable to work. Suffering from serious neck and spine problems,
27 Mrs. Cox was forced to quit her job. To take care of his ailing wife, Mr. Cox transitioned to a
28 lower-paying position within his company, which required less travel. In the wake of these

1 efforts to cope with Mrs. Cox's unexpected medical problems, Mr. and Mrs. Cox struggled to
2 pay their mounting medical, mortgage and credit card bills.

3 59. In November or December 2009, Mrs. Cox received an advertisement in the mail
4 from Certified Financial offering loan modification services. She contacted Certified Financial
5 shortly thereafter, and Certified Financial claimed that it had "over 100 employees whose sole
6 purpose is to make sure that you have a great experience and result with your forensic audit and
7 loan modification" and that it would obtain for her a reduced monthly mortgage payment of less
8 than half of her previous monthly payment. Additionally, Certified Financial claimed it was "a
9 legitimate, ethical and professional establishment that is currently bonded and registered with the
10 Department of Justice and compliant in all 50 states" and possessed a "B+" BBB rating.

11 60. After analyzing some of Mr. and Mrs. Cox's financial information, Certified
12 Financial showed them a proposal that it would purportedly offer to their bank that would result
13 in savings of \$6,829.92 per year.

14 61. Based on these representations and the proposal, Mr. and Mrs. Cox hired Certified
15 Financial and paid \$3,000 to a Certified Financial intermediary who travelled to their house to
16 collect the payment and reassure them about the company. This intermediary pressured
17 Mrs. Cox to contract with Certified Financial before the end of 2009 as its prices would rise.
18 Mr. and Mrs. Cox paid the \$3,000 by personal check and signed Certified Financial's contract, as
19 well as various other documents, such as a power of attorney. The contract promised a refund of
20 \$2,500 (the entire fee except for \$500 for a forensic loan audit) if Certified Financial did not
21 obtain a loan modification for them.

22 62. Shortly thereafter, Certified Financial pressured Mrs. Cox to quickly send in her
23 financial documents, which she did. Then, a disturbing pattern began to emerge between
24 Mrs. Cox and Certified Financial. She would repeatedly and quickly send in any documents
25 Certified Financial requested, but would encounter only stony silence in return. She would
26 request a status update, and again would hear either nothing or be provided very opaque and
27 limited information, such as that her case file was being returned to case management for follow
28 up with the lender. However, no information was provided as to what Certified Financial was

1 following up on with the lender. After months of Mrs. Cox's persistent questioning, Certified
2 Financial claimed to have sent a loan modification application to their lender.

3 63. Mrs. Cox continued to contact Certified Financial for a case update, but still
4 found the company's representatives unresponsive. Certified Financial would not return her
5 repeated phone calls, faxes and e-mails, would change the representatives with whom she
6 worked, and would not provide answers to her inquiries. Additionally, the *vipwindow.com*
7 website (provided so she could check her case status) stopped working.

8 64. By mid-2010, Mr. and Mrs. Cox had received letters of denial from their lenders.
9 Consequently, Mrs. Cox requested a refund from Certified Financial in a letter dated August 6,
10 2010. However, Certified Financial never provided the promised refund, nor responded to
11 Mrs. Cox's letter, faxes or repeated phone calls.

12 65. As a result of their interactions with Certified Financial, Mr. and Mrs. Cox lost
13 \$3,000, increased their chances of foreclosure and suffered severe emotional stress.

14 **Kenneth Payne**

15 66. Mr. Kenneth Payne purchased his house with a mortgage, which is currently held
16 by GMAC. In or around 2008, Mr. Payne ran into financial difficulty after his mother fell ill and
17 needed additional financial assistance. He helped pay his mother's hospital and car bills by
18 obtaining a second mortgage on his home from Wells Fargo. Accordingly, Mr. Payne now had
19 two mortgages on his home for \$130,000 and \$50,000, respectively.

20 67. Mr. Payne initially contacted Home Safe Financial, later Financial Hope, after
21 seeing the company's advertisements on television in or around April 2010. (At some point late
22 in this process, Financial Hope took over his file from Home Safe Financial.) Mr. Payne then
23 spoke with several different individuals at Home Safe Financial regarding loan modification and
24 loan audit services. Home Safe Financial guaranteed Mr. Payne a loan modification and
25 promised a 100% refund if the company was not successful. Moreover, Home Safe Financial
26 boasted about its high success rate and appeared to be affiliated with the government.

27 68. After signing a contract on April 12, 2010, Mr. Payne started making monthly
28 payments of \$285 towards the \$2,500 total fee that Home Safe Financial initially requested for

1 their services. Upon Home Safe Financial's request, Mr. Payne sent his financial documents,
2 including his W-2, Social Security number and paycheck stubs, to Home Safe Financial shortly
3 thereafter. Home Safe Financial also advised Mr. Payne not to contact his lender throughout the
4 process.

5 69. After paying approximately \$1,700 in fees, Mr. Payne stopped paying Home Safe
6 Financial because he had not received any services and was beginning to suspect that Home Safe
7 Financial was scamming him. Home Safe Financial continued to call Mr. Payne to request
8 payments, but he refused to make any additional payments. Despite Mr. Payne's repeated
9 requests for his refund, Home Safe Financial never refunded his money as promised.

10 70. After Home Safe Financial remained silent for a few weeks in response to Mr.
11 Payne's repeated attempts to contact them, he reached out to the local BBB about Home Safe
12 Financial and Financial Hope. The BBB looked into Home Safe Financial and Financial Hope,
13 but could not locate the entities.

14 71. As a result of his interactions with Home Safe Financial and Financial Hope, Mr.
15 Payne is at greater risk of foreclosure, and he lost \$1,700.

16 **Thomas Rawdon and Richard Whitehurst**

17 72. Mr. Thomas Rawdon purchased his house in 1995. Mr. Rawdon subsequently
18 refinanced his mortgage with Mr. Richard Whitehurst in 2001 so they would both have title to
19 the house. Mr. Rawdon owned and operated a classic car and other various businesses. Mr.
20 Rawdon and Mr. Whitehurst also ran an architectural and design firm together. They
21 successfully paid down their mortgage over many years.

22 73. However, Mr. Rawdon and Mr. Whitehurst were hit hard by the collapse of the
23 housing market and precipitous economic decline that engulfed the nation. Their businesses
24 began to fail and clients cancelled four of the architectural firm's largest contracts. Mr. Rawdon
25 and Mr. Whitehurst could not find tenants for some rental houses they owned because of the
26 local collapsed rental market, as well as one of the houses becoming uninhabitable due to
27 vandalism. As a result, they fell behind on their mortgage payments up to the point of default.

28 74. Thereafter, Mr. Whitehurst moved to Texas in 2008 to work at his parents' horse

1 ranch, and Mr. Rawdon remained in Oregon to pursue his master's degree in architecture.

2 Throughout this time period, Mr. Rawdon and Mr. Whitehurst remained in constant contact and
3 were struggling to save their home from foreclosure.

4 75. In or around September 2009, Certified Financial contacted Mr. Rawdon and Mr.
5 Whitehurst through a direct mailing that they believed was from a governmental entity. The
6 mailing touted that the "Governmental Economic Stimulus Act of 2008" enabled Mr. Rawdon
7 and Mr. Whitehurst to modify their existing loan and reduce their monthly mortgage payments.
8 In describing their services, Certified Financial cited an "example" case where it reduced a
9 homeowner's interest rate from 8.5% to 2% and monthly mortgage payment from \$2,960 to
10 \$1,086. Based on this mailing, Mr. Rawdon contacted Certified Financial and arranged a
11 conference call to discuss its services.

12 76. Over the next few weeks, Mr. Rawdon and Mr. Whitehurst talked with Certified
13 Financial through two conference calls and various emails to learn about its services. Certified
14 Financial claimed an affiliation with the government throughout these calls, and a Certified
15 Financial employee known as "Mike" explicitly stated that he was an attorney licensed in
16 California. Certified Financial also claimed that for a \$3,000 "processing" fee it would obtain a
17 loan modification within a couple months under a governmental program and provide a full
18 refund if it did not achieve these results.

19 77. Certified Financial stated that it would not retain the \$3,000 fee for itself, but
20 rather the payment was Mr. Rawdon's and Mr. Whitehurst's first payment towards their newly
21 modified loan. When asked how it earned its money from the transaction, Certified Financial
22 stated that the government paid it for every successful loan modification it obtained.

23 78. Despite paying the \$3,000 "processing" fee, Mr. Rawdon and Mr. Whitehurst
24 never received the promised services. Rather, Certified Financial constantly requested that
25 Mr. Rawdon and Mr. Whitehurst send in financial documents and various other forms, and then
26 resend them because some documents were allegedly missing or an additional form was needed.
27 After sending and resending their documents and forms to Certified Financial repeatedly,
28 Mr. Rawdon and Mr. Whitehurst received no services, never received a loan modification and

1 never received their promised refund when they requested it. Instead, Certified Financial
2 apparently transferred their account to another company in May 2011, and then it disappeared
3 and disconnected its phone lines.

4 79. As a result of their interactions with Certified Financial, Mr. Rawdon and
5 Mr. Whitehurst lost \$3,000, their risk of foreclosure increased and their credit scores decreased.

6 **Amos and Violet Hoolihan**

7 80. Mr. Amos Hoolihan (eighty-one years old) and Mrs. Violet Hoolihan (eighty
8 years old) purchased their home with a mortgage from Countrywide (now Bank of America) in
9 1995. Currently, Mr. and Mrs. Hoolihan have two mortgages on their home, the first with Bank
10 of America for \$100,000 and the second with Wells Fargo Bank for \$20,000.

11 81. In early 2009, Safehouse sent Mr. and Mrs. Hoolihan a flyer touting its loan
12 modification services. Although Mr. and Mrs. Hoolihan were only behind approximately one
13 month on their mortgage payments at that time, they were struggling to make their monthly
14 mortgage payments. Accordingly, Mrs. Hoolihan called the number on the flyer and spoke with
15 various Safehouse employees who guaranteed that Mr. and Mrs. Hoolihan would receive a loan
16 modification "within a few weeks."

17 82. Mr. and Mrs. Hoolihan eventually signed a contract with Safehouse and paid
18 \$1,500 towards the total \$3,000 fee Safehouse requested. Mr. and Mrs. Hoolihan skipped one
19 mortgage payment during 2009, but resumed paying their lenders after discussing the issue with
20 their daughter, Lori, who advised them to make their mortgage payments.

21 83. Mrs. Hoolihan, Lori, and a woman working for Mrs. Hoolihan all continuously
22 called Safehouse for status updates, but Safehouse would not return their calls. On the few
23 occasions someone answered the phone, the representative would not provide any helpful
24 information regarding their loan modification. Safehouse then ceased all communications with
25 the Hoolihans.

26 84. Shortly after Safehouse ceased all communications with Mr. and Mrs. Hoolihan,
27 another company, Radian Guarantee ("Radian"), contacted them and requested the other \$1,500
28 purportedly owed to Safehouse. Radian claimed an affiliation with Safehouse, but Mr. and Mrs.

1 Hoolihan refused to pay Radian any money. Rather, the Hoolihans repeatedly tried to contact
2 Safehouse to obtain their promised refund, but to no avail. They even asked Radian for a refund,
3 but Radian refused their request.

4 85. As a result of Safehouse's actions, Mr. and Mrs. Hoolihan lost \$1,500, their credit
5 score decreased, their risk of foreclosure increased, their finances were significantly harmed and
6 they suffered severe stress.

7 **Gregory Scott**

8 86. Mr. Gregory Scott inherited the single-family home he grew up in from his
9 grandmother in 2005. Shortly thereafter, Mr. Scott took out a \$380,000 mortgage on the
10 property from Litton Loan Services.

11 87. In or around 2008, Mr. Scott encountered some financial trouble and began to
12 struggle to pay his mortgage. Unemployed for a substantial period of time and unable to find
13 work, Mr. Scott eventually declared bankruptcy in 2008. He subsequently tried to obtain a loan
14 modification by working directly with his bank, but he was denied the requested modification in
15 March 2009.

16 88. Around the same time, a neighborhood acquaintance told Mr. Scott that Financial
17 Hope could obtain a loan modification for him. The acquaintance was apparently a Financial
18 Hope "affiliate," and he referred numerous people throughout the neighborhood to Financial
19 Hope.

20 89. After falling eight months behind in his mortgage payments, Mr. Scott contacted
21 Financial Hope and spoke with various employees. Financial Hope claimed it was a full-service
22 financial assistance firm that could help him with loan modifications, bankruptcy, credit
23 improvement/counseling and also could provide him with legal representation. In addition,
24 Financial Hope claimed a 95% success rate in obtaining loan modifications.

25 90. Mr. Scott eventually agreed to pay an initial fee of \$495 and \$199 per month in
26 "membership fees" for Financial Hope's services. He paid \$199 per month to Financial Hope in
27 cash or money orders, as it required, from September 2009 through October 2010. Throughout
28 this time, Mr. Scott did not contact his lender directly because Financial Hope advised him that it

1 would handle all such communications.

2 91. After approximately a year of paying his monthly membership fees, Mr. Scott
3 received a notice of foreclosure in the fall of 2010. Mr. Scott called Financial Hope to find out
4 why he had received a foreclosure notice. Instead of answering his question, Financial Hope
5 offered to stop the process for an additional \$2,500 fee. Mr. Scott paid \$2,450 of this fee in two
6 installments in October and November 2010.

7 92. Despite Financial Hope's promises and Mr. Scott's long history of payments,
8 Mr. Scott's home was foreclosed upon shortly thereafter. Mr. Scott requested a full refund from
9 Financial Hope, but Financial Hope denied his refund request.

10 93. As a result of Financial Hope's actions, Mr. Scott lost over \$5,731. In addition,
11 Financial Hope's failure to provide services contributed to Mr. Scott's foreclosure, his decreased
12 credit score and the deterioration of his financial position.

13 **Susan and Christopher Motley**

14 94. Mr. Christopher Motley and Mrs. Susan Motley purchased their house with a
15 \$246,000 mortgage from Chase in May 2008. By late 2009, Mr. and Mrs. Motley had difficulty
16 paying their mortgage because Mrs. Motley had lost her job. By December 2009, the Motleys
17 were two or three months behind on their mortgage payments.

18 95. In December 2009, Certified Financial contacted Mr. and Mrs. Motley through a
19 written advertisement which appeared to indicate that the company was associated with the
20 federal government. Mrs. Motley subsequently called Certified Financial, and a Certified
21 Financial employee promised her a loan modification and guaranteed she could avoid
22 foreclosure. Certified Financial also (i) claimed a 99% success rate; (ii) promised a loan
23 modification within three to four months; and (iii) promised her a refund if the loan modification
24 proved unsuccessful (minus the \$500 cost of a "forensic loan audit" to determine the legality of
25 her loan).

26 96. In December 2009, Mr. and Mrs. Motley contracted with Certified Financial and
27 paid a \$3,000 upfront fee via personal check. On December 16, 2009, Defendant Wayman sent
28 Mr. and Mrs. Motley an e-mail acknowledging receipt of payment and promising to "make every

1 attempt to find a financial resolution to your current mortgage crisis.”

2 97. Certified Financial also advised Mrs. Motley to stop making mortgage payments
3 to her lender to speed up the loan modification process. Based on this advice, Mr. and
4 Mrs. Motley made no mortgage payments for eight months from December 2009 to July 2010.

5 98. Eventually, Certified Financial informed Mr. and Mrs. Motley that their loan
6 modification had been denied. Thereafter, Mr. and Mrs. Motley requested a refund, which they
7 never received.

8 99. As a result of Certified Financial’s actions, Mr. and Mrs. Motley lost \$3,000, were
9 forced to enter bankruptcy to avoid foreclosure upon their home, and suffered other financial and
10 emotional damages.

11 **Allison and Mark Chorpening**

12 100. Mr. Mark Chorpening and Mrs. Allison Chorpening purchased their house with a
13 \$99,900 mortgage in October 2006. While Mrs. Chorpening retained sole title to the house, they
14 both paid the monthly mortgage payments. Since purchasing their house, the mortgage has been
15 serviced by Countrywide, New Century and Bank of America (the current lender).

16 101. During the fall of 2008, a string of unfortunate incidents befell Mr. and
17 Mrs. Chorpening, and they began to struggle to pay their mortgage. Mrs. Chorpening developed
18 a severe back problem that rendered her disabled and consequently reduced her income. Mr. and
19 Mrs. Chorpening were also victimized by several robberies. As a result, in September 2008, they
20 fell one month behind on their mortgage payments and filed for bankruptcy.

21 102. Against this troubling backdrop, a Safehouse employee, who identified himself as
22 a lawyer, cold-called Mr. and Mrs. Chorpening and sought to convince them to hire Safehouse.
23 Safehouse claimed it would obtain a loan modification for them in less than six months if they
24 stopped paying their mortgage provider. Safehouse assured Mr. and Mrs. Chorpening that it
25 would prevent any foreclosure and “take care of [them].”

26 103. Safehouse requested a \$1,500 payment to obtain a loan modification for the
27 Chorpenings. Mr. and Mrs. Chorpening could not afford the entire \$1,500 payment, so
28 Safehouse advised them to cancel their latest mortgage payment check (which they had recently

1 mailed). Safehouse then agreed to accept as payment the full amount of the check, and also
2 agreed to reduce their fees by any costs Mr. and Mrs. Chorpening incurred due to the
3 cancellation of their check. As they could not otherwise afford Safehouse's services, Mr. and
4 Mrs. Chorpening followed Safehouse's advice by cancelling their latest mortgage check. They
5 then signed a contract with and paid Safehouse a total of \$879.65 (\$900 minus the cancelled
6 check fee) to secure a loan modification, which Safehouse promised would be quickly
7 forthcoming.

8 104. Over the following months, Mr. and Mrs. Chorpening checked their case status by
9 calling or emailing Safehouse and Certified Financial employees or logging onto the
10 *vipwindow.com* website. (At some point, Safehouse transferred Mr. and Mrs. Chorpening's file
11 to Certified Financial.) They were always reassured that someone was working on the file, but
12 they were never provided any actual proof of this work. Safehouse and Certified Financial later
13 requested an additional \$600 because the original payment had been reduced from \$1,500 to
14 \$900, which Mr. and Mrs. Chorpening refused to pay. Safehouse and Certified Financial even
15 offered a "new modification process" that it recently "discovered" that would guarantee results
16 within sixty days for an additional \$297 payment. Mr. and Mrs. Chorpening declined this offer,
17 and, after months of inactivity, requested a refund instead. They never received a refund.

18 105. As a result of interacting with Safehouse and Certified Financial, Mr. and
19 Mrs. Chorpening suffered financial and emotional harm, lost \$879.65, and their credit scores
20 decreased. They are currently working with the Cleveland Housing Network, a not-for-profit
21 housing organization, to obtain a loan modification. Their house is in a forbearance period and
22 they have a trial modification that began in July 2012. However, they are still at risk of suffering
23 a foreclosure on their house.

24 **Marc Jaffa**

25 106. Mr. Marc Jaffa and his wife (from whom he is now separated) purchased a house
26 with a \$97,000 mortgage from Washington Mutual in September 2000 (subsequently sold to
27 Chase). Shortly thereafter, Mr. Jaffa became permanently disabled after suffering a severe back
28 injury and was unable to work. Eventually, they refinanced their loan upwards to \$169,000 and

1 obtained a second home mortgage from Chase for \$60,000 to cover their mounting expenses.
2 Then, Mr. Jaffa received a stage three colon cancer diagnosis in October 2008. The resulting
3 medical treatment and bills added to their increasing debts, and they began to encounter severe
4 difficulty in paying their mortgages.

5 107. Brent Medearis, who previously employed Mr. Jaffa's sister, introduced Mr. Jaffa
6 to Certified Financial in February 2010. Mr. Medearis operated his own financial services
7 business, VIP Financial Services. Mr. Medearis and Certified Financial assured Mr. Jaffa that
8 Certified Financial would obtain a loan modification for him that would reduce his monthly
9 mortgage payments and offered a full refund (minus \$500 for a "processing" fee) if it proved
10 unsuccessful. Mr. Medearis also personally guaranteed to refund the remaining \$500 if Certified
11 Financial failed.

12 108. Certified Financial sent Mr. Jaffa a "Formal Response – Rip Off Report" and
13 "Formal Response – Better Business Bureau" to dispute the online complaints against Certified
14 Financial with *ripoffreport.com* and the BBB. These documents indicated that Defendant
15 Wayman had drafted them.

16 109. Mr. Jaffa eventually contracted with Certified Financial and paid \$2,500 (via four
17 post-dated personal checks) between February and May 2010. Mr. Jaffa made no payments
18 directly to Mr. Medearis, but Mr. Medearis stated that Certified Financial would pay him for his
19 services. Additionally, Mr. Medearis advised Mr. Jaffa at this time to stop paying and speaking
20 with his mortgage provider, which he did beginning in April 2010.

21 110. While Mr. Medearis may have contacted Chase for Mr. Jaffa, a loan modification
22 was never obtained and Mr. Jaffa did not receive any services from Certified Financial. Despite
23 his cancer, Mr. Jaffa expended significant energy seeking updates from Certified Financial, but
24 he never received any helpful information. Mr. Jaffa requested a refund once he realized
25 Certified Financial was never going to provide him with any actual services. In August 2010,
26 Mr. Medearis told Mr. Jaffa that Certified Financial had gone out of business and would not
27 provide Mr. Jaffa any refund.

28 111. As a result of his interactions with Certified Financial, Mr. Jaffa lost \$2,500, his

1 credit rating decreased and his risk of foreclosure sharply increased. In August 2011, Mr. Jaffa
2 sold his home in a short sale to avoid foreclosure. Throughout this process, Mr. Jaffa suffered
3 extreme stress.

4 Judy Travis

5 112. Ms. Judy Travis purchased her home with a \$230,000 mortgage from Winstar
6 Mortgage Partners in 2003 (which was subsequently sold to Countrywide Financial (now owned
7 by Bank of America)). In 2005, she refinanced her mortgage for an additional \$100,000 to
8 facilitate the purchase of an investment property in East Lake, California. Ms. Travis
9 consistently made all of her mortgage payments until 2009.

10 113. Foreseeing financial trouble and wanting to lower her monthly loan payments,
11 Ms. Travis talked to a co-worker who introduced her to Hercules Dinglasan, a local insurance
12 and financial services agent that worked with Certified Financial as a referral agent. Mr.
13 Dinglasan subsequently introduced Ms. Travis to John, the "CEO" of Certified Financial, and
14 arranged for her to tour Certified Financial's offices in July 2009. After seeing the
15 approximately 60 employees, numerous advertisements, and various "client success stories"
16 posted on the walls, Ms. Travis believed that she had found a reputable company that could help
17 her with the loan modification process.

18 114. Ms. Travis's expectations only grew when Mr. Dinglasan touted Certified
19 Financial's 90-100% success rate and told her she would receive a 100% money-back refund if it
20 was unsuccessful in obtaining a loan modification. With a "team of lawyers" assisting it,
21 Certified Financial also guaranteed her a successful loan modification. All Ms. Travis had to do
22 was pay an upfront filing and attorneys' fees payment of \$3,700, and, as Mr. Dinglasan advised
23 her to do, stop making her monthly mortgage payments to "speed up the modification process."

24 115. After signing a contract, paying the fee, and ceasing her monthly mortgage
25 payments as advised, Ms. Travis waited for Certified Financial to perform its promised services.
26 However, Certified Financial never took any actions on her behalf. Rather, it took her money,
27 unsuccessfully requested an additional \$900 fee to expedite the process, and avoided her follow-
28 up communications and request for a refund. Ms. Travis never received her 100% money-back

1 refund.

2 116. Once she recognized Certified Financial had scammed her, Ms. Travis was too far
3 behind in her mortgage payments to avoid foreclosure. By January 2012, Ms. Travis was over
4 two-and-a-half years behind on her mortgage payments and her mortgage provider began to
5 foreclose on her home.

6 117. As a result of dealing with Certified Financial, Ms. Travis lost \$3,700, her credit
7 rating significantly decreased and she recently filed for bankruptcy.

8 **Karen Warren**

9 118. Ms. Karen Warren purchased her home with a loan from New Century Mortgage
10 in 2005.

11 119. A U.S. Financial Advantage employee cold-called Ms. Warren in February 2011,
12 but did not reveal how it obtained Ms. Warren's contact information. U.S. Financial Advantage
13 claimed it worked with attorneys and guaranteed Ms. Warren a loan modification.

14 120. Ms. Warren eventually entered into a contract with U.S. Financial Advantage and
15 began paying \$125 per month towards the total \$900 to \$1,100 requested fee under an agreed
16 upon payment plan. However, Ms. Warren researched the company at the BBB website after
17 paying her first monthly fee and realized that U.S. Financial Advantage was a scam organization
18 with numerous complaints against it. Accordingly, she cancelled the debit card which U.S.
19 Financial Advantage used to automatically withdraw her monthly payments. Thereafter, U.S.
20 Financial Advantage repeatedly called her to request money, but she refused to pay any more
21 money and requested a refund of the \$125 she previously paid. She never received a refund.
22 Ms. Warren never received any services from U.S. Financial Advantage, and she suffered
23 financial and emotional harm as a result of her dealings with U.S. Financial Advantage.

24 **Patricia Levitan**

25 121. Ms. Patricia Levitan, a seventy-year old female, purchased her home during the
26 1980s and fully paid off the mortgage by approximately 1987. She then acquired a home equity
27 line of credit from Chase in 2005. While she consistently paid this loan for many years, she
28 encountered financial difficulties in the summer of 2009 because of a family emergency.

1 122. Ms. Levitan's son, his partner, and their two children needed to purchase a new
2 house because they were having difficulty carrying their disabled son up the flight of stairs at
3 their current house. Thus, Ms. Levitan loaned them money to purchase property, which they did
4 that summer. They planned to pay Ms. Levitan back by selling another property they co-owned
5 with Ms. Levitan. However, they were unable to sell the property because of the economic
6 downturn and the cratering of the housing market. Thus, the loan was never paid back.

7 123. As she recovered from this loss, Ms. Levitan was also saving money for
8 retirement. Accordingly, she expressed interest in reducing her monthly mortgage payments to
9 her real estate agent from Alpine Sierra Mortgage (the realtor who helped her son buy a new
10 house and attempted to sell his old house). The agent mentioned that she had heard that
11 companies were helping homeowners obtain loan modifications and indicated Financial Hope
12 provided such services. The agent did not appear to have any working relationship with
13 Financial Hope, rather, she simply appeared to have been passing along information she learned
14 elsewhere.

15 124. Ms. Levitan visited Financial Hope's website and investigated the company to
16 ensure its legitimacy. She then spoke with Financial Hope over the phone several times, during
17 which Financial Hope claimed it was a 501(c)(3) non-profit organization and offered her loan
18 modification services. Financial Hope claimed a high success rate, boasted of hundreds of past
19 successes for prior clients, offered a full refund if it was unsuccessful, and advised her not to
20 contact her lenders.

21 125. In July 2009, Ms. Levitan contracted with and paid Financial Hope a \$495 upfront
22 fee and agreed to pay \$199 per month in membership fees. Shortly after signing up for Financial
23 Hope's services, Ms. Levitan became suspicious and started to believe the company was
24 scamming her. Specifically, Ms. Levitan was concerned that Financial Hope had neither
25 produced any results nor provided her with any case updates or indication of any
26 progress. Consequently, she did not pay any monthly membership fees.

27 126. In June 2010, Financial Hope contacted her and requested \$1,393 in past-due
28 membership fees. Ms. Levitan disputed this amount, but she eventually paid \$300 to settle the

1 matter and she never heard from Financial Hope after that payment. Ms. Levitan reported
2 Financial Hope to the BBB and the California State Attorney General's Office, but no action was
3 taken on her behalf.

4 127. As a result of Financial Hope's actions, Ms. Levitan lost \$795 and suffered severe
5 emotional distress.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 (By All Plaintiffs Against All Defendants)

9 **Breach of Contract**

10 128. Plaintiffs incorporate by reference and restate the allegations contained in
11 Paragraphs 1 through 127 of this Complaint.

12 129. Defendants entered into written and oral contracts with Plaintiffs for loan
13 modification and other related services, breached these contracts through substantial non-
14 performance and damaged Plaintiffs in an amount to be proved at trial.

15 **SECOND CAUSE OF ACTION**

16 (By All Plaintiffs Against All Defendants)

17 **Breach of Fiduciary Duty**

18 130. Plaintiffs incorporate by reference and restate the allegations contained in
19 Paragraphs 1 through 127 of this Complaint.

20 131. Plaintiffs contractually retained Defendants as their agents to act on their behalf in
21 negotiating home loan modifications, preventing foreclosures and taking various other related
22 actions for them. As such, Defendants owed Plaintiffs a fiduciary duty to act with the utmost
23 good faith and in their best interests.

24 132. Defendants knowingly acted against Plaintiffs' interests when they did not
25 perform services as promised. Additionally, Defendants failed to act as a reasonably careful
26 agent would have acted under the same or similar circumstances when and if they attempted to
27 perform any services for Plaintiffs.

28 133. Defendants' wrongful conduct was a substantial factor in harming Plaintiffs, and

1 Defendants damaged Plaintiffs in an amount to be proved at trial.

2 **THIRD CAUSE OF ACTION**

3 (By All Plaintiffs Against All Defendants)

4 **Breach of the Implied Duty of Good Faith and Fair Dealing**

5 134. Plaintiffs incorporate by reference and restate the allegations contained in
6 Paragraphs 1 through 127 of this Complaint.

7 135. Defendants contracted with Plaintiffs for loan modification and other related
8 services. Plaintiffs performed all or substantially all of their significant obligations under the
9 contract or were excused from such performance because of Defendants' non-performance.

10 Additionally, all conditions required for Defendants' performance had occurred.

11 136. Defendants unfairly interfered with Plaintiffs' right to receive the benefits of the
12 contracts through their wrongful conduct and they damaged Plaintiffs in an amount to be proved
13 at trial.

14 **FOURTH CAUSE OF ACTION**

15 (By All Plaintiffs Against All Defendants)

16 **Fraud – Intentional Misrepresentation**

17 137. Plaintiffs incorporate by reference and restate the allegations contained in
18 Paragraphs 1 through 127 of this Complaint.

19 138. Among other falsehoods, Defendants misrepresented to Plaintiffs that they had a
20 high success rate in obtaining loan modifications, that they would negotiate a loan modification
21 with Plaintiffs' lenders and that Plaintiffs would receive all or substantially all of their money
22 back if Defendants did not obtain a loan modification on their behalf.

23 139. Defendants knew these representations were false when made, or they made the
24 representations recklessly and without regard for the truth of the representation.

25 140. Defendants intended that Plaintiffs would rely on these misrepresentations and
26 they used the misrepresentations to convince Plaintiffs to pay fees for loan modification services.

27 141. Plaintiffs reasonably relied on Defendants' representations, and such reasonable
28 reliance was a substantial factor in the harm and damages Plaintiffs suffered, the exact amount to

1 be proved at trial.

2 **FIFTH CAUSE OF ACTION**

3 (By All Plaintiffs Against All Defendants)

4 **Fraud – Negligent Misrepresentation**

5 142. Plaintiffs incorporate by reference and restate the allegations contained in
6 Paragraphs 1 through 127 of this Complaint.

7 143. Among other falsehoods, Defendants misrepresented to Plaintiffs that they had a
8 high success rate in obtaining loan modifications, that they would negotiate a loan modification
9 with Plaintiffs' lenders and that Plaintiffs would receive all or substantially all of their money
10 back if Defendants did not obtain a loan modification on their behalf.

11 144. Defendants possessed no reasonable grounds to believe these representations were
12 true when made, and Defendants intended for Plaintiffs to rely on these misrepresentations.

13 145. Plaintiffs reasonably relied on Defendants' representations, and such reasonable
14 reliance was a substantial factor in the harm and damages Plaintiffs suffered, the exact amount to
15 be proved at trial.

16 **SIXTH CAUSE OF ACTION**

17 (By All Plaintiffs Against All Defendants)

18 **Fraud – False Promise**

19 146. Plaintiffs incorporate by reference and restate the allegations contained in
20 Paragraphs 1 through 127 of this Complaint.

21 147. Among other falsehoods, Defendants misrepresented to Plaintiffs that they had a
22 high success rate in obtaining loan modifications, that they would negotiate a loan modification
23 with Plaintiffs' lenders and that Plaintiffs would receive all or substantially all of their money
24 back if Defendants did not obtain a loan modification on their behalf.

25 148. These promises were integral to Plaintiffs' decisions to enter into contracts with
26 Defendants. However, Defendants did not intend to perform the promised services or provide
27 any refunds after failing to obtain any loan modifications.

28 149. Defendants intended that Plaintiffs would rely on these false promises, and they

1 used the false promises to convince Plaintiffs to pay fees for their services.

2 150. Defendants did not perform the promised acts; for example, loan modifications
3 were not obtained and payments made under the agreements were not refunded to Plaintiffs.

4 151. Plaintiffs' reasonable reliance on Defendants' representations constituted a
5 substantial factor in the damages Plaintiffs suffered, the exact amount to be proved at trial.

6 **SEVENTH CAUSE OF ACTION**

7 (By All Plaintiffs Against All Defendants)

8 **False Advertising**

9 152. Plaintiffs incorporate by reference and restate the allegations contained in
10 Paragraphs 1 through 127 of this Complaint.

11 153. Defendants publicly disseminated advertisements through various media, such as
12 letters, television and the Internet, to Plaintiffs that contained statements offering services to
13 reduce monthly mortgage payments, prevent foreclosures and/or provide forensic loan audits.

14 154. Through these advertising methods, Defendants led Plaintiffs and the public to
15 believe that Defendants intended to perform mortgage loan modification services, prevent
16 foreclosures and provide forensic loan auditing services.

17 155. Defendants' statements were untrue or misleading, and Defendants did not
18 provide any of these services. Defendants knew, or in the exercise of reasonable care should
19 have known, that these advertisements were untrue or misleading to Plaintiffs and other
20 consumers.

21 156. Defendants' advertisements concerned real property, or services related to their
22 disposition or performance.

23 157. Plaintiffs relied on Defendants' advertisements and statements regarding
24 Defendants' abilities and claims to obtain loan modification mortgages and provide other
25 services when entering into contracts. Plaintiffs' reasonable reliance on Defendants'
26 advertisements constituted a substantial factor in the harm Plaintiffs suffered, the exact amount
27 to be proved at trial.

28

1 **EIGHTH CAUSE OF ACTION**

2 (By All Plaintiffs Against All Defendants)

3 **Unfair Competition**

4 158. Plaintiffs incorporate by reference and restate the allegations contained in
5 Paragraphs 1 through 127 of this Complaint.

6 159. Defendants guaranteed various services to Plaintiffs, such as obtaining a loan
7 modification or preventing foreclosure.

8 160. Plaintiffs contracted with and paid Defendants for these services and reasonably
9 relied on Defendants' guarantees.

10 161. However, Defendants provided few or no services for Plaintiffs and refused to
11 refund Plaintiffs' payments. Defendants engaged in an unfair pattern and practice in breaching
12 these contracts and/or acting unfairly against Plaintiffs by guaranteeing successful loan
13 modifications or foreclosure prevention services and then failing to provide these services.

14 162. Defendants violated numerous statutes through their false and deceptive
15 advertisements, acceptance of upfront fees for loan modification services, and their unfair and
16 deceptive acts and practices in connection with their advertised services.

17 163. Defendants also misled Plaintiffs and other members of the public by claiming
18 that lawyers were affiliated with their companies or that their services were legal in nature when
19 Defendants were not attorneys, were not working with attorneys and were not providing legal
20 services.

21 164. By using a guarantee as a material inducement for Plaintiffs to enter into contracts
22 with Defendants—and failing to provide Plaintiffs with the promised money-back guarantee
23 after Defendants failed to perform the promised loan modification services—Defendants
24 engaged in an unfair pattern and practice of breaching the guarantee and/or acting unfairly
25 against Plaintiffs.

26 165. Defendants' actions, individually and collectively, are unlawful, unfair or
27 fraudulent business acts or practices within the meaning of California Business and Professions
28 Code Section 17200, *et seq.*

1 166. Defendants' unlawful, unfair or fraudulent business acts or practices were a
2 substantial factor in the harm Plaintiffs suffered, and Plaintiffs lost money and/or property that
3 are subject to restitution.

4 167. Unless Defendants are restrained from continuing these unlawful, unfair and
5 fraudulent business acts or practices, Plaintiffs and members of the public will suffer irreparable
6 injury.

7 168. Accordingly, Plaintiffs are entitled to equitable relief in the form of restitution and
8 injunctions and any other equitable relief permissible under California Business and Professions
9 Code Section 17203.

10 **NINTH CAUSE OF ACTION**

11 (By Mr. Rawdon, Mr. Whitehurst and Mr. Scott Against All Defendants)

12 **Violation of Mortgage Foreclosure Consultants Act**

13 169. Plaintiffs incorporate by reference and restate the allegations contained in
14 Paragraphs 1 through 56, 72 through 79, and 86 through 93 of this Complaint.

15 170. Defendants are foreclosure consultants under California Civil Code Section
16 2945.1, and they violated the prohibitions of California Civil Code Section 2945, *et seq.*, by (i)
17 failing to provide required notices in their contracts; (ii) demanding and collecting payments
18 before providing any of the contracted for services; (iii) taking the power of attorney from an
19 owner; (iv) inducing and attempting to induce owners into contracts that violated California Civil
20 Code Section 2945, *et seq.*; (v) not properly registering with the Department of Justice or
21 maintaining the requisite surety bonds; and (vi) requiring clients to waive some of the protections
22 of California Civil Code Section 2945, *et seq.*

23 171. Such actions were a substantial factor in the harm Plaintiffs suffered, the exact
24 amount to be proved at trial, and Plaintiffs thereby seek to recover these damages and other
25 appropriate relief.

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1 **TENTH CAUSE OF ACTION**

2 (By Mr. and Ms. Hoolihan and Ms. Levitan Against All Defendants)

3 **Violation of Elder Financial Abuse Act**

4 172. Plaintiffs incorporate by reference and restate the allegations contained in
5 Paragraphs 1 through 56, 80 through 85, and 121 through 127 of this Complaint.

6 173. Defendants took, hid, appropriated, or retained Mr. and Mrs. Hoolihan's and
7 Ms. Levitan's (collectively, "Elderly Plaintiffs") property or assisted another to accomplish such
8 actions for a wrongful use or with the intent to defraud them.

9 174. Defendants' actions were a substantial factor in harming the Elderly Plaintiffs,
10 and the Elderly Plaintiffs were harmed by Defendants' actions in an amount to be proved at trial.

11 175. At all relevant times, the Elderly Plaintiffs were sixty-five years or older or
12 dependent adults within the respective meanings of California Welfare and Institutions Code
13 Sections 15610.27 and 15610.2.

14 **ELEVENTH CAUSE OF ACTION**

15 (By Mrs. Cox, Mr. and Mrs. Hoolihan, Mrs. Chorpening,

16 Mr. Jaffa and Ms. Levitan Against All Defendants)

17 **Unfair or Deceptive Practices against Senior Citizens and Disabled Persons**

18 176. Plaintiffs incorporate by reference and restate the allegations contained in
19 Paragraphs 1 through 65, 80 through 85, 100 through 111, and 121 through 127 of this
20 Complaint.

21 177. Defendants violated California Civil Code Section 3345 when they obtained
22 upfront payments for loan modification services, which they guaranteed but never performed,
23 from Mr. and Mrs. Hoolihan, Ms. Levitan, Mrs. Cox, Mrs. Chorpening, and Mr. Jaffa
24 (collectively, "Section 3345 Plaintiffs").

25 178. Defendants did not provide a refund to the Section 3345 Plaintiffs as promised
26 after Defendants failed to obtain loan modifications for them.

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28 ///

1 179. Defendants knew or should have known that their conduct was directed at one or
2 more senior citizens or disabled persons.

3 180. Defendants' conduct caused the Section 3345 Plaintiffs to suffer loss and
4 encumbrance of a primary residence, and substantial loss of property set aside for retirement
5 and/or assets essential to their health and welfare.

6 181. The Section 3345 Plaintiffs are substantially more vulnerable than other members
7 of the public to Defendants' unfair and deceptive practices because of their age, poor health,
8 impaired understanding and restricted mobility or disability.

9 182. As a result of Defendants' unfair and/or deceptive practices, the Section 3345
10 Plaintiffs have suffered and will suffer substantial physical, emotional, and economic damage,
11 and they have lost money and/or property.

12 183. At all relevant times, Mr. and Mrs. Hoolihan, and Ms. Levitan were sixty-five
13 years or older and thus senior citizens as defined by California Civil Code 1761(f). At all
14 relevant times, Mrs. Cox, Mrs. Chorpening, and Mr. Jaffa were disabled persons as defined by
15 California Civil Code Section 1761(g).

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

18 1. For the purposes of this prayer for relief, the term "Mortgage Assistance Relief
19 Services" shall mean any service, plan or program offered or provided to the consumer in
20 exchange for consideration, that is represented, expressly or by implication, to assist or attempt
21 to assist the consumer with any of the following:

- 22 a. Stopping, preventing or postponing any mortgage or deed of trust foreclosure sale
23 for the consumer's dwelling, any repossession of the consumer's dwelling or
24 otherwise saving the consumer's dwelling from foreclosure or repossession;
- 25 b. Negotiating, obtaining or arranging a modification of any term of a dwelling loan,
26 including a reduction in the amount of interest, principal balance, monthly
27 payments or fees;
- 28 c. Obtaining any forbearance or modification in the timing of payments from any

- 1 dwelling loan holder or servicer on any dwelling loan;
- 2 d. Negotiating, obtaining, or arranging any extension of the period of time within
- 3 which a consumer may:
- 4 i. Cure his or her default on a dwelling loan,
- 5 ii. Reinstate his or her dwelling loan,
- 6 iii. Redeem a dwelling, or
- 7 iv. Exercise any right to reinstate a dwelling loan or redeem a dwelling;
- 8 e. Obtaining any waiver of an acceleration clause or balloon payment contained in
- 9 any promissory note or contract secured by any dwelling; or
- 10 f. Negotiating, obtaining, or arranging:
- 11 i. A short sale of a dwelling,
- 12 ii. A deed-in-lieu of foreclosure, or
- 13 iii. Any other disposition of a dwelling other than a sale to a third party who
- 14 is not the dwelling loan holder;

15 2. Preliminarily and permanently restrain and enjoin Defendants, their successors,

16 agents, representatives, employees, and all other persons acting in concert with Defendants,

17 from, directly and indirectly:

- 18 a. Marketing, advertising, offering, selling or carrying out Mortgage Assistance
- 19 Relief Services, or aiding and abetting the marketing, advertising, offering, selling
- 20 or carrying out of Mortgage Assistance Relief Services;
- 21 b. Owning, managing, operating, creating or assisting in the creation of any entity
- 22 that markets, advertises, offers, sells or carries out Mortgage Assistance Relief
- 23 Services;
- 24 c. Being employed by, or serving as a consultant to, any person or entity that sells or
- 25 carries out Mortgage Assistance Relief Services;
- 26 d. Engaging in unfair competition as defined in Business and Professions Code
- 27 section 17200, including but not limited to:
- 28 i. Charging consumers an upfront fee for Mortgage Assistance Relief

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Services;

- ii. Misrepresenting to consumers the nature and mechanics of Mortgage Assistance Relief Services;
- iii. Falsely promising to engage in negotiations with consumers' mortgage lenders or servicers;
- iv. Misrepresenting the progress of loan modification applications;
- v. Falsely representing that refunds would be issued if the offered Mortgage Assistance Relief Services did not succeed;
- vi. Encouraging consumers to stop paying their monthly mortgage payments and/or communicating with their lenders or servicers; and
- vii. Forming a business or organizational entity or operating as a "doing business as" organization as a method of evading consumers' complaints.

- e. Engaging in advertising, marketing or promoting its services and products in a false, materially misleading or deceptive manner in the State of California under Business and Professions Code section 17200 and/or section 17500;
- f. Engaging in the operation of any business or practice or sales of goods without the appropriate licenses; and
- g. Engaging in any business or commercial activity without a legally registered and incorporated entity;

3.. Order Defendants to return all documents to Plaintiffs and, at the conclusion of this litigation, remove from Defendants' files all of Plaintiffs' personal and financial information;

4. Declare that the corporate veils of all Entity Defendants and all related, affiliated or incorporated entities are pierced and that the Individual Defendants are liable for the conduct and debts of all relevant corporate entities;

5. Declare that the corporate veils of all Entity Defendants and all related, affiliated or incorporated entities are pierced and that the assets of all such corporate entities are available to satisfy all claims against any other corporate entity;

- 1 6. On the First Cause of Action: Damages of not less than \$25,930.65, plus other
- 2 actual and consequential damages in an amount to be determined at trial;
- 3 7. On the Second Cause of Action: Damages of not less than \$25,930.65, plus
- 4 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 5 8. On the Third Cause of Action: Damages of not less than \$25,930.65, plus
- 6 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 7 9. On the Fourth Cause of Action: Damages of not less than \$25,930.65, plus
- 8 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 9 10. On the Fifth Cause of Action: Damages of not less than \$25,930.65, plus
- 10 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 11 11. On the Sixth Cause of Action: Damages of not less than \$25,930.65, plus
- 12 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 13 12. On the Seventh Cause of Action: Damages of not less than \$25,930.65, plus other
- 14 actual and consequential damages in an amount to be determined at trial;
- 15 13. On the Eighth Cause of Action: Damages of not less than \$25,930.65, plus other
- 16 actual and consequential damages in an amount to be determined at trial;
- 17 14. On the Ninth Cause of Action: Damages of not less than \$8,731, plus treble,
- 18 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 19 15. On the Tenth Cause of Action: Damages of not less than \$2,295, plus exemplary
- 20 and other actual and consequential damages in an amount to be determined at trial;
- 21 16. On the Eleventh Cause of Action: Damages of not less than \$8,674.65, plus
- 22 exemplary and other actual and consequential damages in an amount to be determined at trial;
- 23 17. Interest at the legal rate on all claims for compensatory damages;
- 24 18. Costs and expenses of this action;
- 25 19. Reasonable attorneys' fees to the extent permitted by law; and

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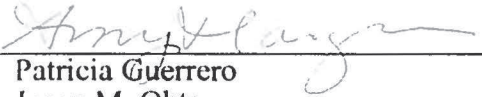
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20. Such other and further relief as the Court may deem just and proper.

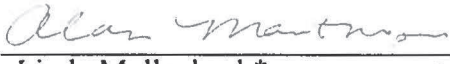
Dated: September 26, 2012

Respectfully submitted,

LATHAM & WATKINS LLP

By 
Patricia Guerrero
Jason M. Ohta
Amy Hargreaves
Matthew E. Ichinose
Patrick C. Justman

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

By 
Linda Mullenbach*
Alan Martinson
*will seek *pro hac vice* admission

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

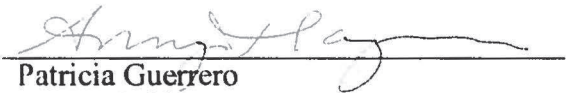
Plaintiffs LAURA COX, TROY COX, KENNETH PAYNE, THOMAS RAWDON,
RICHARD WHITEHURST, AMOS HOOLIHAN, VIOLET HOOLIHAN, GREGORY SCOTT,
SUSAN MOTLEY, CHRISTOPHER MOTLEY, ALLISON CHORPENING, MARK
CHORPENING, MARC JAFFA, JUDY TRAVIS, KAREN WARREN and PATRICIA
LEVITAN demand a jury trial on all triable issues.

Dated: September 26, 2012

Respectfully submitted,

LATHAM & WATKINS LLP

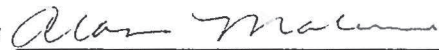
By



Patricia Guerrero
Jason M. Ohta
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Patrick C. Justman

LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW

By



Linda Mullenbach*
Alan Martinson
*will seek *pro hac vice* admission

Attorneys for Plaintiffs