

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
ORANGE COUNTY, FLORIDA
CIVIL ACTION**

STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

CASE NO:

v.

VICTOR LOPEZ & ASSOCIATES,
a Florida Corporation;

and

VICTOR LOPEZ, an Individual;
And ADA FORTY, an Individual;

Defendants.

COMPLAINT FOR INJUNCTIVE RELIEF, DAMAGES, AND OTHER STATUTORY

RELIEF

Plaintiff, STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS sues Defendants, VICTOR LOPEZ & ASSOCIATES, a
Florida Corporation, and VICTOR LOPEZ and ADA FORTY, as individuals, collectively
referred to herein as “Defendants” and alleges:

JURISDICTION AND VENUE

1. This is an action for injunctive and other statutory relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2008).
2. This action is also brought pursuant to the following statutes and codes:

- (a) §§ 501.1377(3)-(4), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings; and
- (b) § 817.014(1)(b), Florida Statutes (2008), Civil Theft.
- (c) § 2-2.002, Florida Administrative Code (2008), Advertising in Languages other than English.

3. This court has subject matter jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes (2008).

4. All actions material to the complaint have occurred within four years of the filing of this Action.

5. The statutory violations alleged herein occur in or affect more than one judicial circuit in the State of Florida, including Orange County, and the Ninth Judicial Circuit.

6. Venue is proper in Orange County, Florida.

PLAINTIFF

7. The Plaintiff is an “enforcing authority” of Chapter 501, Part II, Florida Statutes (2008), and is authorized to bring this action and seek injunctive relief and other statutory relief pursuant to that chapter.

8. Plaintiff has conducted an investigation of the matters alleged herein and Attorney General Bill McCollum has determined that this enforcement action serves the public interest, as required by § 501.207(2), Florida Statutes (2008).

DEFENDANTS

Victor Lopez & Associates

9. Defendant Victor Lopez & Associates, (hereafter “VLA”) is an active Florida for-profit corporation with its principal address at 1034 Plaza Drive, Kissimmee, Florida, 34743.

10. At all times relevant to this action, Defendant VLA marketed loan modification and foreclosure-related rescue services to homeowners and engaged in trade or commerce as defined in § 501.203(8) Florida Statutes (2008).

Victor Lopez

11. Defendant Victor Lopez (hereafter “Mr. Lopez”) is a natural person and serves as the President for VLA. As President, Mr. Lopez, presently and at all times material to the allegations of this Complaint controls and directly participates in the acts and practices of VLA, and possesses actual or constructive knowledge of all material acts and practices complained of herein. Mr. Lopez resides at 9948 Dean Oaks Court, Orlando, Florida, 32825.

12. Mr. Lopez is registered with the Florida Department of State, Division of Corporations as both the Registered Agent and President for VLA.

Ada Forty

13. Defendant Ada Forty (hereafter “Mrs. Forty”) is a natural person and serves as Director for VLA. As Director, Mrs. Forty, presently and at all times material to the allegations of this Complaint, participates in, controls, or possesses the authority to control VLA’s acts and practices, and possesses actual or constructive knowledge of all material acts and practices complained of herein. Mrs. Forty resides at 9948 Dean Oaks Court, Orlando, Florida, 32825.

COMMERCE

14. At all pertinent times Defendants engaged in trade or commerce, as defined by § 501.203(8), Florida Statutes (2008), within the State of Florida and within Orange County.

**STATEMENT OF FACTS AND
DEFENDANTS' COURSE OF CONDUCT**

Defendants' Loan Modification and Foreclosure-Related Rescue Services

15. At all pertinent times, Defendants marketed and continues to market loan modification and foreclosure-related rescue services to homeowners in Florida and throughout the United States.

16. Defendants advertise and promote the loan modification and foreclosure-related rescue services to homeowners through VLA's website, www.savemymortgageusa.com.

17. Under a heading entitled "**STOP FORECLOSURE**," VLA's website states that Defendants negotiate with a homeowner's mortgage lender, such as a bank, to:

- (a) "Lower monthly payment that you can afford;"
- (b) "Lower interest rates;"
- (c) "Lower loan balance;"
- (d) "Eliminate delinquent fees;" and
- (e) "Term of loan can be negotiated for modification."

(See copy of Defendants' website attached hereto as Exhibit "A")

18. Defendants' website prompts homeowners to call Defendants and inquire about Defendants' services.

19. In order to utilize Defendants' loan modification and foreclosure-related rescue services, homeowners must sign and return to Defendants a "Client Contract." (See "Client Contract" attached hereto as Exhibit "B").

20. Pursuant to paragraph 3 of Defendants' Client Contract, Defendants require homeowners to pay an up-front fee before the Defendants will render any loan modification and foreclosure-related rescue services.

21. Upon Plaintiff's information and belief, the up-front fee charged by the Defendants can be as high as \$1,800 (One Thousand, Eight Hundred Dollars).

22. Section 501.1377(3)(b), Florida Statutes (2008), prohibits a foreclosure-related rescue services company from imposing an up-front fee.

23. Defendants' Client Contract does not inform the homeowner of any of the following:

- (a) That VLA is prohibited by law from accepting any up-front fee;
- (b) That VLA must return any up-front fee within 10 days from the date that fee was collected;
- (c) The date and time by which a signed notice of cancellation must be sent by the homeowner to effectively cancel the agreement; and
- (d) Any notification that the homeowner should contact his/her lender or mortgage servicer prior to signing the agreement.

24. Upon Plaintiff's information and belief, Defendants collected money from homeowners before completing all contracted-for services. (See "Affidavit of Mohiuddin Ahmed" attached as Exhibit "C"; "Affidavit of Orlando Carroll" attached as Exhibit "D"; and also "Affidavit of Eduardo Mercado" attached as Exhibit "E")

25. In the Client Contract, Defendants falsely characterize payments as "donations" and imply that such a payment is tax-deductible; however VLA is not registered as a not-for-profit entity with the Florida Department of State, Division of Corporations.

26. Defendants regularly disseminate advertisements in Spanish but Defendants do not provide homeowners with a copy of the contractual terms in any language other than English.

27. Upon Plaintiff's information and belief, Defendants implied to prospective clients that VLA would provide legal services and or also legal representation for its clients, however VLA is not a law firm nor does VLA have any attorneys on its staff.

28. Upon Plaintiff's information and belief, Defendants are not providing the contracted for services and Defendants are refusing clients' requests for refunds.

COUNT ONE
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES
DECEPTIVE AND UNFAIR TRADE PRACTICES

28. Plaintiff repeats and realleges Paragraphs 1 through 28 with the same force and effect, as fully set forth above.

29. The Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2008), provides that "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

30. Defendants have violated and will continue to violate the Florida Deceptive and Unfair Trade Practices Act, § 501.201, Florida Statutes (2008), by using deceptive and unfair practices in the in-home marketing of loan modification and foreclosure-related rescue services.

31. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

32. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT TWO
VIOLATIONS OF § 501.1377(3)(b), FLORIDA STATUTES
VIOLATIONS INVOLVING HOMEOWNERS DURING THE COURSE OF
RESIDENTIAL FORECLOSURE PROCEEDINGS
PER SE VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES
DECEPTIVE AND UNFAIR TRADE PRACTICES

33. The Plaintiff repeats and realleges Paragraphs 1 through 28 with the same force and effect, as it fully set forth above.

34. Section 501.1377(3)(b), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings, provides that:

“In the course of offering or providing foreclosure-related rescue services, a foreclosure-rescue consultant may not:

(b) Solicit, charge, receive, or attempt to collect or secure payment, directly or indirectly, for foreclosure-related rescue services before completing or performing all services contained in the agreement for foreclosure-related rescue services.”

35. Pursuant to § 501.1377(7), Florida Statutes (2008),

“A person who violates any provision of this section commits an unfair and deceptive trade practice as defined in part II (Chapter 501 Part II, Florida Statutes) of this chapter. Violators are subject to the penalties and remedies provided in part II of this chapter, including a monetary penalty not to exceed \$15,000 per violation.”

36. As set forth in paragraphs 15 through 28 above, by charging an up-front fee to homeowners seeking foreclosure-related rescue services, Defendants have violated and will continue to violate § 501.1377(3)(b) and thus have committed acts or practices in trade or

commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of § 501.204(1), Florida Statutes (2008).

37. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

38. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT THREE
VIOLATIONS OF § 501.1377(4)(c), FLORIDA STATUTES
VIOLATIONS INVOLVING HOMEOWNERS DURING THE COURSE OF
RESIDENTIAL FORECLOSURE PROCEEDINGS
PER SE VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES
DECEPTIVE AND UNFAIR TRADE PRACTICES

39. The Plaintiff repeats and realleges Paragraphs 1 through 28 with the same force and effect, as fully set forth above.

40. Section 501.1377(4)(c), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings, provides that:

“An agreement for foreclosure-related rescue services must contain, immediately above the signature line, a statement in at least 12-point uppercase type that substantially complies with the following:

HOMEOWNER'S RIGHT OF CANCELLATION

YOU MAY CANCEL THIS AGREEMENT FOR FORECLOSURE-RELATED
RESCUE SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN
3 BUSINESS DAYS FOLLOWING THE DATE THIS AGREEMENT IS
SIGNED BY YOU.

THE FORECLOSURE-RESCUE CONSULTANT IS PROHIBITED BY LAW FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER FORM OF PAYMENT FROM YOU UNTIL ALL PROMISED SERVICES ARE COMPLETE. IF FOR ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE CANCELLATION, YOUR PAYMENT MUST BE RETURNED TO YOU NO LATER THAN 10 BUSINESS DAYS AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION NOTICE.

TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED (POSTMARKED) OR DELIVERED TO (NAME) AT (ADDRESS) NO LATER THAN MIDNIGHT OF (DATE).

IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR LENDER OR MORTGAGE SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR A RESTRUCTURING WITH YOU FREE OF CHARGE. ”

41. Pursuant to § 501.1377(7), Florida Statutes (2008),
“A person who violates any provision of this section commits an unfair and deceptive trade practice as defined in part II (Chapter 501 Part II, Florida Statutes) of this chapter. Violators are subject to the penalties and remedies provided in part II of this chapter, including a monetary penalty not to exceed \$15,000 per violation.”

42. As set forth in paragraphs 15 through 28 above, by failing to comply with the disclosure requirements in § 501.1377(4)(c), Florida Statutes (2008), Defendants have committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of § 501.204(1), Florida Statutes (2008).

43. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

44. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT FOUR
VIOLATIONS OF § 812.014(1)(b), FLORIDA STATUTES,
CIVIL THEFT
VIOLATIONS OF FLORIDA STATUTES, CHAPTER 501, PART II,
DECEPTIVE AND UNFAIR TRADE PRACTICES

45. The Plaintiff repeats and realleges Paragraphs 1 through 28 with the same force and effect, as fully set forth below:

46. Section 812.014(1)(b), Florida Statutes (2008) provides:

“(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.”

47. Pursuant to § 501.203(3)(c), Florida Statutes (2008), a violation of Florida Statutes, Chapter 501, Part II, Florida Statutes (2008) may be based upon “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

48. As set forth above, by collecting a fee for services that defendants either refused or failed to provide, defendants have violated § 812.014(1)(b), Florida Statutes (2008) and have thus committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes (2008).

49. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

50. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT FIVE
VIOLATIONS OF § 2-2.002, FLORIDA ADMINISTRATIVE CODE,
ADVERTISING IN A LANGUAGE OTHER THAN ENGLISH
PER SE VIOLATIONS OF FLORIDA STATUTES, CHAPTER 501, PART II,
DECEPTIVE AND UNFAIR TRADE PRACTICES

51. The Plaintiff repeats and realleges Paragraphs 1 through 28 with the same force and effect, as fully set forth below:

52. Section 2-2.002, Florida Administrative Code (2008) provides:

“It shall be an unfair or deceptive act or practice to disseminate any advertisement without including all required disclosures or limitations relating to the offer which are required to be included in the advertisement in the language principally used in the advertisement.”

53. Pursuant to § 501.203(3)(c) Florida Statutes (2008), a violation of Florida Statutes Chapter 501, Part II,(2008) may be based upon “[a]ny law, statute, rule, regulation, or ordinance

which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

54. As set forth above, by advertising to homeowners in Spanish but providing contracts drafted only in English, defendants have violated § 2-2.002, Florida Administrative Code (2008) and have thus committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes (2008).

55. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

56. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Florida, Office of the Attorney General, Department of Legal Affairs, respectfully requests that this Court grant:

A. Permanent injunctive relief against the Defendants for violations of Chapter 501, Part II, Florida Statutes (2008);

B. Permanent injunctive relief against the Defendants for violations of §§ 501.1377(3)-(4), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings;

C. Permanent injunctive relief against the Defendants for violations of § 2-2.002, Florida Administrative Code (2008), Advertising in a Language other than English.

D. Assess civil penalties against Defendants, in the amount of \$10,000 for each violation of Chapter 501, Part II, Florida Statutes, pursuant to § 501.2075, Florida Statutes (2008);

E. Appoint a receiver to oversee the performance of contracted services and/or reimburse of illegally obtained fees;

F. Award the Plaintiff attorneys' fees and costs pursuant to the provisions of Chapter 501, Part II, Florida Statutes, and as otherwise may be allowable by applicable statutes;

G. Require disgorgement of profits and award restitution and refunds to Florida consumers for each violation of Florida law; and

H. Award such other relief as the interests of justice shall require and that this Honorable Court may deem just and proper.

Respectfully Submitted,

BILL MCCOLLUM
ATTORNEY GENERAL

Jerrett D. Brock
Assistant Attorney General
Florida Bar # 0022369
Office of the Attorney General
Division of Economic Crimes
135 West Central Blvd., #1000
Orlando, FL 32801
(407) 245-0833, fax (407) 245-0365