

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

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

Case No.

Plaintiff,

vs.

**LAW & ASSOCIATES, LLC, and
THOMAS E. LAW, II,**

Defendants.

_____ /

COMPLAINT

Plaintiff, **STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS** (“Office of the Attorney General”), sues Defendants **LAW & ASSOCIATES, LLC, (“L&A”)** and **THOMAS E. LAW, II (“LAW”)** (hereinafter jointly referred to as Defendants) and alleges:

JURISDICTION AND VENUE

1. This is an action for monetary, injunctive, and other equitable and statutory relief brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2007).
2. This Court has jurisdiction pursuant to Chapter 501, Part II, Florida Statutes.
3. The acts or practices alleged herein occurred in the conduct of “trade or commerce” as defined in Section 501.203(8), Florida Statutes.
4. Office of the Attorney General seeks relief in an amount greater than \$15,000,

exclusive of interest, costs, and attorneys fees.

5. The violations herein affect more than one judicial circuit of the State of Florida.

6. Venue is proper in this court as the principal place of business of Defendant L&A is in Pinellas County, Florida; Defendant LAW resides in Pinellas County; and the statutory violations alleged herein occurred within and without Pinellas County.

7. Office of the Attorney General has conducted an investigation, and Attorney General Bill McCollum determined that an enforcement action serves the public interest.

8. All other conditions precedent to this action have occurred.

PARTIES

9. Plaintiff is an enforcing authority of Chapter 501, Part II, Florida Statutes, and is authorized to bring this action and to seek penalties and injunctive and other statutory relief pursuant thereto.

10. Defendant L&A is a Florida limited liability corporation with its principal place of business in Pinellas County Florida. Defendant LAW is the sole managing member of L&A. At all times material hereto, Defendants have conducted their business within the state of Florida and have marketed to residents of the state of Florida and across the country. LAW, as managing member of L&A, participated in the offending conduct as set out more fully below and has the responsibility and authority to prevent violations of Florida Statutes concerning deceptive and unfair trade practices. As sole managing member of L&A, LAW directly participated in the conduct alleged herein, or directed or controlled the practices and policies of L&A complained of herein and had authority to control them, and had actual or constructive knowledge of the acts and practices complained of herein.

ACTS COMMON TO ALL COUNTS
PRELIMINARY STATEMENTS

I. Summary of Conduct

11. Since approximately September, 2004, and continuing to present, Defendants purport to offer services to consumers throughout the United States, including, but not limited to, Florida consumers, to assist homeowners who are behind in their mortgage payments and facing potential foreclosure on their homes. Defendants advertise through direct mail and internet websites. Generally, an initial call with a potential customer is handled by a sales representative, who asks the consumer a number of purported “qualifying” questions and then proposes that L&A can assist the consumer with a number of different potential “programs” to save the home from foreclosure. The sales representative promises that the services are backed by a guarantee and the consumer is entitled to a full refund if the home is not saved from foreclosure. Consumers report that they were told they “had nothing to lose” by signing up for Defendants’ services, and that the company has a “97% success rate.” Defendants then obtain payment from the consumer of an advance fee through various payment devices, including a money gram. The fees charged vary, based on the number of mortgages involved, and range from approximately \$1500 or more for one mortgage to approximately \$2000 or more for two. Defendants do not initiate their purported services and contact the lender until all fees are paid in full.

12. Once payment is received, Defendants send to the consumer materials to be completed and signed, including the written contract or so called “Working Agreement,” containing terms and conditions of Defendants’ services. The Working Agreement includes

many restrictions and prohibitions that are not disclosed to the consumer prior to Defendants' collecting the fee. Many of these terms directly contradict the printed promotional materials and the assurances that are given to the consumer by the sales representatives. These terms are intended to substantially limit the consumer's ability to obtain a refund.

13. The consumer is directed to sign and return to Defendants the Working Agreement. In some instances, the terms of the Working Agreement provide that even if the consumer does not sign the agreement, the agreement is considered accepted after seven working days.

14. Once full payment is made, Defendants purportedly begin the "mitigation" process and contact the consumer's lender in an attempt to arrange a payment plan. When Defendants receive a response from the lender, Defendants are to contact the consumer and convey this information. Typically, once this information from the lender is conveyed to the consumer, if it is conveyed at all, Defendants' services end and it is up to the consumer to work out the details with the lender, if a repayment plan is offered, or to pay additional fees to Defendants for further assistance.

15. Office of the Attorney General has reviewed in excess of 65 consumer complaints about Defendants' business practices, all but 5 of which date from 2006 and 2007. These complaints include such allegations as the consumer received no services, or inadequate services, and Defendants refuse to honor their "money back guarantee"; no workout plan was offered and Defendants refuse to provide a refund; Defendants advised the consumer to file bankruptcy and refuse to provide a refund; the repayment plan offered was not feasible given the consumer's financial circumstances and Defendants refuse to provide a refund; or the consumer worked out a

plan with the lender without Defendants' assistance and Defendants refuse to provide a refund. Overall, consumer complaints arise from the fact that the consumer is misled by Defendants' promotional devices to believe that Defendants will save their home from foreclosure, when in fact the purported services that are provided for an excessive fee offer nothing more than a few phone calls to the lender to obtain information that the consumer could have just as easily obtained on his or her own and, contrary to Defendants' explicit representations and promises, do not result in a viable solution to foreclosure or a return of the fees paid.

II. Deceptive mailers

16. Among other devices, Defendants send deceptive letters or "notices" to individual homeowners to promote their services. On or about February, 2007, and continuing thereafter until at least November, 2007, Defendants have mailed, to certain homeowners who are delinquent in their mortgage payments a "notice" directing the homeowner to call Defendants' toll free number to "stop the foreclosure process." These notices vary slightly in the text that is included, specifically in the text that describes the services or workout options that are available to the consumer, but the basic format is consistent. For an illustrative example of a notice sent by Defendants in April 2007, see Exhibit 1, attached hereto and incorporated herein.

17. The notice uses a number of devices to suggest falsely that L&A has an existing business relationship with the lender or the homeowner. For example, the notice lists an "account" number in the header. However, neither the recipient nor the recipient's lender has solicited the business of L&A and therefore no "account" between L&A and the recipient exists. Furthermore, the notice directs the consumer to contact L&A quickly to avoid foreclosure.

Specifically the notice states: “ **WHAT YOU NEED TO DO: You must call 1-800-329-9973 within 72 hours** to see if you are eligible to take advantage of one of the workout options described below which may stop the foreclosure process.” In the description of the workout options, Defendants never disclose that the options they are discussing have to be negotiated with the lender. Instead the description states “we may be able to arrange a new repayment plan,” and “we may be able to restructure your loan.” This language purposefully creates the false impression that L&A is acting on behalf of the lender to offer a means to avoid foreclosure. Furthermore, the notice contains no disclosure that defendants are offering negotiation services for a fee. In fact, the “terms and conditions” of the offer that are printed on the back of the notice are deceptive and misleading themselves inasmuch as this disclosure refers to an offer for credit or a home equity loan and does not mention the terms and conditions that are part of the purported mitigation services that will be offered to the homeowner.

18. In August 2007, Defendants sent a variation of this notice to consumers stating that the recipient was “preapproved for a home loan with an interest rate as low as 6.7%” and offering to assist the recipient with obtaining a home equity loan. Based on information and belief, Defendants charge consumers who respond to this offer upfront fees comparable to those they charge to consumers seeking a workout or loan modification plan. For an illustrative example of the loan offer, see Exhibit 2, attached hereto and incorporated herein.

III. Deceptive Business Practices and False and Deceptive Statements on Internet Web pages

19. L&A maintains a number of domain names, including lawandassociates.org and avoidforeclosurestoday.com, which link to the same website. The information on the website is

periodically updated and changed.

20. Since at least 2007 and continuing to the present, Defendants' website has contained numerous deceptive and unfair statements and devices. Although the website is occasionally modified, deceptive practices have continued and are continuing on the various versions of the website. On two different occasions, the Office of the Attorney General electronically captured each webpage of Defendants' website. Exhibit 3, attached hereto and incorporated herein, represents Defendants' webpages as they existed on 9/4/07 and 9/5/07, and Exhibit 4, attached hereto and incorporated herein, represents the webpages as they existed on 1/7/08. These pages demonstrate the particular devices in use at those particular times and illustrate the ongoing deceptive practices and devices being used by Defendants in the various versions of the website created over time.

21. Similar to the misrepresentations contained in the promotional notices sent to consumers, Defendants' website misleads consumers to believe that Defendants will stop the foreclosure proceedings and prevent the loss of the home if the homeowner signs up immediately for Defendants' services. For example, in Exhibit 3, page 1, the "home" page of Defendants' website states: "If you want to get out of Foreclosure, we can negotiate with your Lender to Avoid Foreclosure or Stop Foreclosure, and get you back on the right track." In Exhibit 4, the home page of the website on 1/7/08 contains the statement: "[s]topping foreclosure is our specialty, we help thousands of homeowners every year by assisting with their foreclosure. Our staff of certified loss mitigation experts will negotiate with your lender the best possible solution to stop foreclosure." In fact, not one of the consumers whose complaint was reviewed by the Office of the Attorney General achieved through L&A a program that prevented foreclosure of

their home.

22. In numerous places, the website falsely claims that Defendants have a “97% success rate.” Defendants link this “success” rate directly to their ability to save a home from foreclosure. For example, in the “FAQs” section of the website, the following question is posed to L&A: “How successful and experienced is your firm at resolving foreclosure?” and the answer given is: “[o]ur success rate is over 97%.” (See Exhibit 3, page 11).

23. The false claim of a 97% success rate is repeated to consumers in the initial sales call with L&A. In fact, L&A does not have a success rate of over, or even approaching, 97% at preventing foreclosure.

24. Not only do Defendants misrepresent their success rate for stopping foreclosures, but Defendants also deceive consumers about the scope of their services. The webpages describe the business as “a foreclosure consulting agency that assists homeowners in avoiding or stopping foreclosures, specializes in out-of-court resolutions of mortgage foreclosures, negotiates with your lenders on your behalf and in your best interests, works diligently to obtain a fair solution for your current foreclosure situation.” (See Exhibit 3, page 3). A later version states: “There are many ways we can help! Forbearance, Loan Modification, Partial Claim, Deed in Lieu, Redemption, Short Sale.” (See Exhibit 4, page 1). The notices sent to individual consumers describe a different range of services, and most notably include, in some solicitations, a home equity loan and government assistance loans. In the initial sales call, Defendants’ sales representatives explain that L&A offers three programs for which the consumer is eligible: forbearance, loan modification or a special government loan program. However, based on information and belief, sales representatives are instructed by Defendant Law not to mention the

government loan program again after the initial sales pitch. In fact, consumers report that the solutions offered, if any, were forbearance, loan modification or filing of bankruptcy.

25. Defendants also use various devices on the website to suggest falsely that the company provides legal services. The headline of the web page features a picture of scales that are commonly used to symbolize the “scales of justice” and are typically associated with the practice of law. (See Exhibit 4, page 1). Defendants’ webpages also feature numerous pictures of law books and gavels (see, for example, Exhibit 3, pages 2 and 3). In Exhibit 4, page 1, there is a picture of law books on a table, under which it states, “[o]ur mitigation experts know the foreclosure laws and how the foreclosure process is handled and will aggressively fight for your rights as a homeowner.” The company name itself, “Law & Associates,” gives the false impression that the business engages in legal practice. In fact, based on information and belief, many consumers who call in to L&A think that L&A is a law firm

26. Despite the fact that neither Thomas Law nor any other employee of L&A is a licensed attorney, L&A has provided legal advice and recommended that consumers file bankruptcy. As an example, Defendant LAW has stated in writing, with respect to one consumer, that L&A recommended the consumer file bankruptcy and that “[w]e put many hours of phone work into this case with time spent pleading with the attorneys on her behalf as well as explaining all of her rights in the foreclosure process.”

27. Defendants also solicit new customers with the false promise of a “free consultation.” In numerous places on the L&A website, Defendants prompt consumers to “call today for a free consultation.” In fact, Defendants do not provide a “free” consultation. In the initial sales call with the consumer, Defendants advise that the consumer may be eligible for any

number of programs, however no particular recommendation is provided, if at all, until after the full fee is paid. Defendants' Working Agreement also provides that the initial consultation is not free. The Working Agreement states that Defendants' fee includes the initial assessment time incurred by Law & Associates. The Agreement further provides that the amount earned in the initial consideration of a "Solution" amounts to the Defendants' entire advance fee. (See Exhibit 5, page 2, attached hereto and incorporated herein).

IV. Deceptive "Money Back Guarantee"

28. Defendants advertise a "Money Back Guarantee" to deceive consumers and lead them to believe that L&A will refund their payment if L&A is unable to stop foreclosure. For example, the L&A webpage states "[w]hen you decide to enroll in our program, be assured that **if we can not negotiate a plan with your lender or provide you with a viable strategy to avoid or stop your foreclosure, you *will* be covered by our Money Back Guarantee.**" (See Exhibit 3, page 2; and Exhibit 4, page 9). The hyperlink to the details of the purported "money back guarantee" states: "**We Will Return Our Fee To You Guaranteed**" and provides no further details, terms, conditions, or restrictions on this guarantee, other than to repeat the promise that appears on the main page. (See Exhibit 4, page 11). In the initial sales call, Defendants repeat the "money back guarantee" without disclosing any limitations on the guarantee. In fact, the consumer never learns of any restrictions on the guarantee until after the advance fee is paid.

29. In actual practice, Defendants repeatedly refuse to refund payments to consumers who have not achieved a viable solution to foreclosure. In fact, Defendant LAW has consistently

refused to provide refunds and has directed other employees of L&A to find any reason they can to deny a refund request. In almost every complaint reviewed by the Office of the Attorney General, the consumer did not receive a refund from Defendants despite the fact that he or she made a request for a refund based on unsatisfactory results with L&A.

30. Once the consumer has paid for Defendants' purported services, L&A sends the consumer a package of documents, including the "Home Owner Working Agreement." Exhibit 5, attached hereto and incorporated herein, contains an illustrative example of the Defendants' Working Agreement. This document contains numerous terms that contradict the written representations on the website and the oral promises of the sales representatives. For example, the Agreement states: "Homeowner understands that the fee is earned at the point a Solution is recommended regardless of outcome," and fees will only be returned if L&A is "unsuccessful in obtaining a Solution." The Agreement broadly defines a "solution" to include not only a process of solving a problem, but also "an explanation, clarification, etc." This definition varies materially from the webpage promise to provide a "viable strategy to avoid or stop foreclosure."

31. The Working Agreement prepared by the Defendants also further restricts the "money back guarantee" by providing for the consumer's "forfeiture" of the fee in certain previously undisclosed circumstances, such as the homeowner's contact with the lender, homeowner's failure to make payment or initial contributions towards arrears in amounts negotiated by L&A, homeowner's failure to comply with the recommendation of L&A, and homeowner's failure to make a claim for refund within 90 days of initial payment. None of these material requirements or restrictions is conveyed to the consumer prior to payment. In fact, Defendants have denied refunds and asserted that the consumer forfeited the fee under the terms

of the Working Agreement,. in circumstances such as the lender contacts the consumer directly and they workout a resolution without the assistance of Law & Associates, the consumer's financial circumstances make the consumer ineligible for a workout agreement, the consumer cannot afford to make the full payment to Law & Associates, and other instances in which a program to stop foreclosure was not provided.

32. L&A consistently uses the strict terms of the "Home Owner Working Agreement" to reject consumer requests for refunds. Even when the lender refuses to work with L&A, Defendants will refuse to issue a refund.

33. Defendants seek to disclaim in the Working Agreement all of L&A's prior material misrepresentations made to induce the consumer's purchase of Defendants' services by stating "[t]his agreement sets forth the entire understanding between Homeowner and Law & Associates, LLC and supersedes all prior representations **whether written** or oral **by either party.**"

V. Abuse of Trust and Confidential Relationship with Client.

34. A confidential relationship exists between the consumer and L&A inasmuch as L&A's purported mitigation services require the consumer to disclose to L&A confidential financial information and involve L&A's handling of the consumers' financial affairs and providing advice concerning financial and legal matters. Furthermore, L&A instructs consumers not to deal directly with their mortgage servicers and similar financial institutions or risk violating the L&A contract and voiding the purported L&A "Money Back Guarantee."

35. In furtherance of this confidential relationship, consumers transfer funds to

Defendants in reliance upon the false and fraudulent representations by Defendants. Funds generated by Defendants' false and fraudulent representations unjustly enrich Defendants and Defendants cannot in equity and good conscience retain these consumer funds.

36. Due to the confidential nature of the relationship between the consumers and the Defendants, Office of the Attorney General seeks a constructive trust on the proceeds of fees paid by the consumers to L&A for the purpose of consumer restitution.

COUNT I
VIOLATIONS OF FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT,
CHAPTER 501, PART II, FLORIDA STATUTES.

Office of the Attorney General sues Law & Associates and Thomas Law, and alleges:

37. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

38. Section 501.204(1), Florida Statutes, states, “[u]nfair 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.”

39. As set forth in paragraphs 10 through 36 above, Defendants have committed and are committing acts or practices in trade or commerce which shock the conscience; have engaged in or are engaging in representations, acts, practices or omissions which are material, and which are likely to mislead consumers acting reasonably under the circumstances; and have committed and are committing acts or practices in trade or commerce which offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers. Thus, Defendants have engaged in and are engaging in unfair or deceptive or unconscionable acts or practices in the conduct of any trade or commerce in violation of § 501.204(1), Florida Statutes.

40. Defendants obtain money by false pretenses and false representations while involved in sales and marketing of the services offered by L&A.

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

42. Defendants have willfully engaged in the acts and practices when they knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

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

COUNT II
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES,
THROUGH FALSE AND MISLEADING ADVERTISING
PROHIBITED BY §§ 817.06 AND 817.41

Office of the Attorney General sues Defendants and alleges:

44. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

45. Section 817.06(1), Florida Statutes, provides in part:

No person . . . shall, with intent to offer or sell or in anywise dispose of merchandise, . . . service or anything offered by such person . . . directly or indirectly, to the public, for sale or distribution or issuance, or with intent to increase the consumption or use thereof, or with intent to induce the public in any manner to enter into any obligation relating thereto . . . knowingly or intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state in a newspaper or other publication or in the form of a book,

notice, handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding such . . . service or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive, or misleading.

46. Section 817.41(1) Florida Statutes, provides:

It shall be unlawful for any person to make or disseminate or cause to be made or disseminated before the general public of the state, or any portion thereof, any misleading advertisement. Such making or dissemination of misleading advertising shall constitute and is hereby declared to be fraudulent and unlawful, designed and intended for obtaining money or property under false pretenses.

47. As set forth in paragraphs 10 through 33 above, Defendants have, with intent to offer or sell “foreclosure consulting services,” made and disseminated and continue to make and disseminate, “misleading advertising” as defined by § 817.40(5), Florida Statutes, which are statements to and before the public, which are known, or through the exercise of reasonable care or investigation could or might be ascertained, to be untrue or misleading, and which are so made or disseminated with the intent or purpose of selling services and to induce the public to enter into obligations relating to such services.

48. Defendants willfully engage in the acts and practices alleged herein and knew or should have known at the time they advertised that their advertising and marketing materials contained assertions, representations, and statements which are untrue, deceptive, or misleading.

49. Pursuant to § 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, 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.”

50. Defendants, by disseminating false and misleading advertisements, violated

§ 817.06(1), Florida Statutes, and 817.41, Florida Statutes, and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of § 501.204, Florida Statutes, and are subject to civil penalties and equitable remedies as imposed therein.

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

COUNT III
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH
FAILURE TO COMPLY WITH RULE 2-18.002, FLORIDA ADMINISTRATIVE CODE

Office of the Attorney General sues Law & Associates and Thomas Law and alleges:

52. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

53. Rules 2-18.002 of the Florida Administrative Code requires that any contract for consumer services that includes services to be rendered in the future on a continuing basis, include the date of the transaction and the name and address of the seller and contain a notice of the consumer's 3-day right to cancel. The notice of the right to cancel must be placed in immediate proximity to the space reserved for the signature of the consumer.

54. As set forth in paragraphs 12, 13, 27 and 30 to 33 and in attached Exhibit 5, which is incorporated herein, Defendants' contract does not contain the required cancellation notice or the required seller's information.

55. Pursuant to Rule 2-18.002(2), it is an unfair or deceptive practice to fail to provide the notices and the seller's information required by Rule 2-18.002.

56. Section 501.203(3)(c), Florida Statutes, states that a violation of Chapter 501, Part

II, may be based on a violation of “any violation of . . . the rules adopted under this act”.

57. Rule 2-18.002 was adopted under Chapter 501, Part II, Florida Statutes.

58. By failing to provide the notices and address of the seller, Defendants violated Rule 2-18.002 and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of § 501.204, Florida Statutes and are subject to civil penalties and equitable remedies as imposed therein.

59. Defendants willfully engaged in the acts and practices alleged herein.

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

COUNT IV
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES,
THROUGH VIOLATIONS OF
TELEMARKETING SALES RULE 16 C.F.R. § 310.3

Office of the Attorney General sues Law & Associates and Thomas Law and alleges:

61. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

62. Defendants have engaged in telemarketing to induce sales of their purported foreclosure rescue services. The Telemarketing Sales Rules (“TSR”) 16 C.F.R. Part 310 defines telemarketing as “a plan, program, or campaign which is conducted to induce the purchase of goods or services . . . by use of one or more telephones and which involves more than one interstate telephone call.” 16 C.F.R. § 310.2 (cc). A telemarketer is defined as “any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or

donor. 16 C.F.R. § 310.2(bb).

63. Pursuant to the TSR, 16 C.F.R. § 310.3(a), it is a deceptive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Before a customer pays for goods or services offered, failing to disclose truthfully, in a clear and conspicuous manner, the following material information

...

(ii) All material restrictions, limitations, or conditions to purchase, receive or use the goods or services that are the subject of the sales offer.

...

(iii) . . . if the seller or telemarketer makes a representation about a refund, cancellation, exchange, or repurchase policy, a statement of all material terms and conditions of such policy;

(2) Misrepresenting, directly or by implication, in the sale of . . . services any of the following material information:

...

(ii) Any material restriction, limitation, or condition to purchase, receive, or use . . . services that are the subject of a sales offer;

(iii) Any material aspect of the performance, efficacy, nature, or central characteristics of . . . services that are the subject of a sales offer;

(iv) Any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies;

...

(4) Making a false or misleading statement to induce any person to pay for . . . services . . .

64. Defendants have failed and continue to fail to disclose material terms and conditions of its refund policy until after the consumer has paid for the services offered.

65. Defendants have misrepresented and continue to misrepresent material restrictions, limitations, and conditions on its services and refund policies.

66. Defendants have misrepresented and continue to misrepresent material aspects of the performance, efficacy, nature, and central characteristics of the services it offers.

67. Defendants have misrepresented and continue to misrepresent material aspects of the nature or terms of its refund, and cancellation policies.

68. Defendants have made and continue to make false and misleading statements to induce persons to pay for their services.

69. Defendants willfully engaged in the acts and practices alleged herein.

70. Section 501.203(3)(c), Florida Statutes, states that a violation of Chapter 501, Part II, may be based on a violation of “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

71. As set forth above and in paragraphs 11 through 36 herein, Defendants have violated and continue to violate the provisions of 16 C.F.R. § 310.3 and therefore are engaged in deceptive and unfair acts and practices in trade or commerce, in violation of § 501.204, Florida Statutes and are subject to civil penalties and equitable remedies as imposed therein.

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

COUNT V
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH
VIOLATIONS OF CHAPTER 817, PART IV, FLORIDA STATUTES-
DEBT MANAGEMENT SERVICES

Office of the Attorney General sues Law & Associates and Thomas Law, and alleges:

73. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

74. Pursuant to § 817.801(4), Florida Statutes, “[d]ebt management services’ means services provided to a debtor by a credit counseling organization for a fee to: (a) Effect the adjustment, compromise, or discharge of any . . . note, or other indebtedness of the debtor.”

75. Section 817.802(1), Florida Statutes, provides that

[i]t is unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than \$50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than \$120 per year for additional consultations . . .

76. As alleged in paragraphs 11 through 15 and 27 through 33, L&A has charged and accepted from debtors residing in this state an unlawful fee.

77. Pursuant to § 817.806(1), Florida Statutes, “[a]ny person who violates any provision of this part commits an unfair or deceptive trade practice as defined in Part II of Chapter 501. Violators shall be subject to the civil penalties and equitable remedies provided therein.”

COUNT VI
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH
VIOLATIONS OF §687.141

Office of the Attorney General sues Law & Associates and Thomas Law, and alleges:

78. Paragraphs 1 through 36 are hereby realleged and incorporated herein by reference, as if fully set forth below.

79. Section 687.14(4), Florida Statutes, defines a loan broker as

any person. . . who:

(a) For or in expectation of consideration assists or advises a borrower in obtaining or attempting to obtain a loan of money . . .

(b) For or in expectation of consideration assists or advises a borrower in obtaining or attempting to obtain a loan of money . . .

Section 687.141, Florida Statutes provides:

No Loan Broker shall:

(1) Assess or collect an advance fee from a borrower to provide services as a loan broker.

(2) Make or use any false or misleading representations or omit any material fact in the offer or sale of the services of a loan broker or engage, directly or indirectly, in any act that operates or would operate as a fraud or deception upon any person in connection with the offer or sale of the services of a loan broker, notwithstanding the absence of reliance by the buyer.

80. Section 501.203(3)(c), Florida Statutes, states that a violation of Chapter 501, Part II, may be based on a violation of “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

81. As set forth in paragraphs 16 through 18 and 24 and in Exhibits 1 and 2, attached hereto and incorporated herein, Defendants have knowingly and willfully acted as loan brokers in offering to obtain refinancing and home equity loans to consumers and thereby have violated and continue to violate Section 687.141, Florida Statutes, by demanding an advance fee and making misrepresentations and false statements to consumers regarding the terms of Defendants’ offer of services. Defendants therefore are engaged in deceptive and unfair acts and practices in trade or commerce, in violation of §501.204, Florida Statutes and are subject to civil penalties and equitable remedies as imposed therein.

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

PRAYER FOR RELIEF

WHEREFORE, Office of the Attorney General asks for judgment.

A. Temporarily and permanently enjoining Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of Chapter 501, Part II, Florida Statutes, as specifically alleged above and any similar acts and practices;

B. Assessing civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, Florida Statutes; and Fifteen Thousand Dollars (\$15,000) for each such violation that victimizes, or attempts to victimize, a senior citizen or handicapped person, in accordance with § 501.2077, Florida Statutes;

C. Awarding reasonable attorney's fees and costs pursuant to §§ 501.2075 and 501.2105 Florida Statutes;

D. Awarding restitution to consumers for the acts and practices of the Defendants in accordance with § 501.207(3), Florida Statutes;

E. Imposing reasonable restrictions upon the future activities of Defendants including, but not limited to, prohibiting Defendants from engaging in the sale or marketing of mitigation services, credit counseling services, or any other related financial services;

F. Ordering the suspension or revocation of licenses, permits, or prior approval granted to Defendants by any State department or agency;

G. Requiring that Defendants disgorge all revenue, and all interest or proceeds derived therefrom, generated as a result of the unconscionable, unfair and deceptive practices set forth in this count;

H. Imposing a constructive trust on the fees consumers paid to enroll in the New Leaf program, and the proceeds of those fees;

I. Declaring the practices described above unfair, deceptive, unconscionable, and otherwise unlawful;

J. Imposing an equitable lien on the proceeds of the L&A business activities; and

K. Granting such other relief as this court deems just and proper, including, but not limited to, all other relief allowable under § 501.207(3), Florida Statutes.

Respectfully submitted,

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