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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 STATE OF ARIZONA, ex rel. THOMAS C.
HORNE, Attorney General,

11 Plaintiff,

12 -vs-

13 MAKING ALL HOMES AFFORDABLE,
14 LLC, an Arizona limited liability company,
and ALBERT FIGUEROA and ESMERELDA
15 FIGUEROA, husband and wife,

16 Defendants.
17

Case No: CV 2012-011000

COMPLAINT

(Unclassified Civil)

18 For its complaint, Plaintiff, the State of Arizona upon the relation of Thomas C. Horne,
19 Attorney General ("the State") alleges as follows:

20 **INTRODUCTION**

21 Defendants, Making All Homes Affordable, LLC ("MAHA") and Albert Figueroa,
22 advertise and sell a purported mortgage loan modification program to primarily Spanish
23 speaking homeowners in Arizona and elsewhere, a program that the Defendants represent will
24 result in homeowners successfully obtaining a mortgage loan modification.

25 In order to convince homeowners to pay up to \$1,885 for MAHA's program, MAHA's
26 salespersons and agents, including Defendant Figueroa himself, represent to homeowners in

1 face-to-face meetings that MAHA will help them obtain specific results, including new, fixed
2 interest rates of 2% on their mortgages, principal reductions that reflect their homes' current
3 values, and mortgage payments reduced by half. In some of these initial face-to-face meetings,
4 MAHA's salespersons also tell prospective clients that they will receive a new, specified
5 mortgage payment, an amount approximating 31% of their gross income, through the MAHA
6 program.

7 After homeowners are persuaded to buy the MAHA program they discover that it
8 consists of little more than the ability to access various standardized forms and information
9 regarding certain government mortgage modification programs on MAHA's own website; forms
10 and information that Defendant Figueroa obtained from government websites, such as
11 www.makinghomeaffordable.gov, created by the United States government as a free resource
12 for homeowners who need help with their home mortgages. MAHA also sold, as part of the
13 MAHA program, "customer technical e-mail support" that is nothing more than a MAHA
14 employee simply directing its customer to a particular location on the MAHA website.

15 In addition to misleading homeowners about the nature of the MAHA program, MAHA
16 misled consumers about its value, as homeowners did not obtain the specific results represented
17 by MAHA in its initial face-to-face meetings with MAHA salespersons.

18 MAHA also deceptively placed dozens of fabricated consumer testimonials on its website
19 in an effort to sell the program to homeowners. The fake testimonials reference specific results
20 that the purported MAHA customer supposedly obtained by using the MAHA program.

21 Finally, MAHA deceptively charged its customers a fake "tax" of 9.3% of the cost of the
22 program, in addition to the cost of the program itself.

23 The State alleges that the Defendants, by their actions described herein, violated the
24 Arizona Consumer Fraud Act, Arizona Revised Statutes ("A.R.S.") § 44-1521 et seq.

25 //

1 JURISDICTION AND VENUE

2 1. This action is brought pursuant to the Arizona Consumer Fraud Act to obtain
3 injunctive relief to prevent the unlawful acts and practices alleged in this Complaint and other
4 relief, including restitution, civil penalties, costs of investigation and attorney's fees.

5 2. This Court has jurisdiction to enter appropriate orders both prior to and following
6 a determination of liability pursuant to the Arizona Consumer Fraud Act.

7 3. Venue is appropriate in Maricopa County pursuant to A.R.S. § 12-401.

8 PARTIES

9 4. Plaintiff Thomas C. Horne is the Attorney General of Arizona.

10 5. Defendant Making All Home Affordable, LLC is an Arizona limited liability
11 company that advertises and sells a purported mortgage loan modification program from various
12 locations in Arizona, including over the internet and through agents at several "retail outlets" in
13 Tucson and Phoenix.

14 6. For purposes of this Complaint, any reference to the acts and practices of Making
15 All Homes Affordable, LLC shall mean that such acts and practices were by and through the
16 acts and practices of MAHA's officers, owners, members, directors, employees, representatives
17 and/or other agents.

18 7. Defendant Albert Figueroa is the owner and manager of MAHA and resides in
19 Maricopa County, Arizona. Defendant Figueroa engaged in the acts alleged herein on behalf of
20 the marital community he has with Defendant Esmerelda Figueroa, who is named solely for any
21 interest that she has in any community property held with Defendant Albert Figueroa.

22 FACTUAL BACKGROUND

23 8. Defendant Albert Figueroa, along with his brother Jonathan Figueroa, created
24 MAHA in August, 2010.

25 9. In March, 2011, Jonathan Figueroa resigned as a member and statutory agent of
26 MAHA, leaving Albert Figueroa as the only member and manager of MAHA.

1 10. Defendant Albert Figueroa created MAHA's business model and, since March,
2 2011, has been responsible for the marketing and sale of MAHA's mortgage modification
3 program to consumers.

4 11. Defendant Albert Figueroa trained all MAHA personnel and agents who
5 communicated with consumers inquiring about MAHA's mortgage modification program.

6 12. Defendant Albert Figueroa drafted all written scripts used by MAHA personnel
7 and agents who communicated with consumers inquiring about MAHA's mortgage modification
8 program.

9 13. Defendant Albert Figueroa supervised all MAHA salespersons who communicated
10 with consumers inquiring about MAHA's mortgage modification program.

11 14. Beginning at least as early as March, 2011 and continuing to the present, MAHA
12 advertised its mortgage modification program exclusively in Spanish language print and radio
13 media in the Phoenix metropolitan area.

14 15. Defendant Albert Figueroa approved the substantive content of all MAHA's
15 advertisements.

16 16. MAHA's advertisements stated that homeowners who use the MAHA program
17 could obtain results including: a fixed interest rate of 2% on their mortgage loans, principal
18 reductions on their mortgage loans, and mortgage payments reduced by half.

19 17. MAHA's print and radio advertisements directed homeowners interested in the
20 results described in MAHA's advertising to telephone MAHA at the number listed in the
21 advertisements.

22 18. When homeowners telephoned MAHA in response to MAHA's advertising, a
23 MAHA representative would tell the consumer that MAHA could help them and would direct
24 the consumer to collect certain specified documents, including income tax returns, paystubs,
25 bank statements, utility bills and mortgage statements and to bring them to the MAHA office for
26 a face-to-face meeting with a MAHA representative.

1 19. During face-to-face sales presentations with homeowners, MAHA represented to
2 specific homeowners that MAHA could help them obtain a new, fixed interest rate of 2% on
3 their mortgage.

4 20. During face-to-face sales presentations with homeowners, MAHA represented to
5 specific homeowners that MAHA could help them obtain principal reductions of their mortgages
6 that reflected their home's current value.

7 21. During face-to-face sales presentations with homeowners, MAHA represented to
8 specific homeowners that MAHA could help them obtain mortgage payments that were half of
9 the homeowners' current monthly payments.

10 22. During face-to-face sales presentations with homeowners, MAHA represented to
11 specific homeowners that MAHA could help them obtain new, lower specified mortgage
12 payments, equivalent to approximately 31% of their respective gross incomes.

13 23. At the time MAHA made the representations described herein to prospective
14 clients regarding the specific outcomes they could obtain if they purchased the MAHA program,
15 MAHA lacked any meaningful substantiation for the representations as to any particular
16 homeowner, as the homeowners' mortgage lenders and/or servicers had control over whether
17 modifications would be granted and on what terms.

18 24. Once consumers agreed to pay for the MAHA program, they discovered that it
19 consists of little more than the ability to access various forms and information on the MAHA
20 website, forms and information that Albert Figueroa obtained from government websites, such
21 as www.makinghomeaffordable.gov, created and sponsored by the United States government as
22 a free resource for homeowners who need help with their home mortgages.

23 25. MAHA represented to homeowners that their fee for the MAHA program included
24 three months of technical support.

25 26. The technical support that consumers pay for as part of the MAHA program
26 consists of nothing more than a MAHA representative directing consumers to a specific location

1 on the MAHA website that MAHA represents will help them with their problem or inquiry.

2 27. At all times relevant to this Complaint, MAHA owned and operated an internet
3 website on which it advertised its purported mortgage modification program.

4 28. Defendant Albert Figueroa approved the content and use of the MAHA website.

5 29. MAHA's website includes dozens of purported consumer testimonials that
6 describe the usefulness of the MAHA program and, in some cases, the specific results obtained
7 by the purported MAHA clients.

8 30. In nearly all cases, the testimonials on the MAHA website are fabricated, and not
9 of real MAHA clients.

10 31. MAHA charged and received from its clients a purported tax of 9.3% of the cost
11 of the MAHA program.

12 32. At no time relevant to this Complaint was MAHA assessed a sales tax by any
13 lawful taxing authority on amounts that MAHA received from the sale of its purported mortgage
14 modification program.

15 33. At no time relevant to this Complaint did MAHA remit any monies it collected
16 from consumers as a sales tax to any lawful taxing authority.

17 CLAIMS FOR RELIEF

18 Consumer Fraud Act Violations, A.R.S. § 44-1521, et seq.

19 Plaintiff re-alleges the prior allegations of this Complaint as though fully set forth herein.

20 1. The Defendants engaged in the use of deception, deceptive acts or practices, fraud,
21 false pretense, false promise, misrepresentation, or concealment, suppression or omission of any
22 material fact with intent that others rely upon such concealment, suppression or omission, in
23 connection with their advertisement, sale and/or delivery of MAHA's purported mortgage loan
24 modification. Such acts and practices include:

25 a. Actively creating a false impression with homeowners that MAHA would
26 help them achieve specific, favorable modifications to their mortgages when the MAHA

1 program consisted of little more than a do-it-yourself program, allowing consumers
2 access to forms and information on MAHA's website that are generally available for no
3 cost to consumers on various government websites;

4 b. Representing to prospective clients that MAHA could help them achieve
5 specific, favorable mortgage modifications when it had no substantiation for such
6 representations, given homeowners' mortgage lenders' and servicers' discretion to make
7 any modifications;

8 c. Using fabricated testimonials on its website of purported MAHA customers
9 that described the supposed benefits of the MAHA program as well as specific, favorable
10 results supposedly obtained by the purported MAHA customers, and;

11 d. Charging consumers an amount equal to 9.3% of the MAHA program fee
12 while representing that it was for a sales tax, when MAHA was not assessed a sales tax
13 by any lawful taxing authority nor did it remit such amounts to any lawful taxing
14 authority.

15 2. At all times relevant to this Complaint, the Defendant acted willfully, in violation
16 of A.R.S. § 44-1531.

17 **PRAYER FOR RELIEF**

18 Wherefore, Plaintiff respectfully requests that the Court:

19 1. Enter an injunction against the Defendants prohibiting them from engaging in the
20 unlawful acts and practices alleged in this Complaint and from doing any acts in furtherance of
21 such acts and practices, pursuant to A.R.S. § 44-1528;

22 2. Order the Defendants to restore to all persons any money and property acquired by
23 any unlawful means or practice alleged in the Complaint, as deemed appropriate by the Court
24 pursuant to A.R.S. § 44-1528;


25 3. Order the Defendants to pay to the State of Arizona a civil penalty of no more than
26 \$10,000 for each willful violation of the Consumer Fraud Act, pursuant to A.R.S. § 44-1531;

1 4. Order the Defendants to pay the State of Arizona its costs of investigation and
2 prosecution of this matter, including reasonable attorneys' fees, pursuant to A.R.S. § 44-1534,
3 and;

4 5. Such other and further relief as the Court deems just and proper.
5

6 RESPECTFULLY SUBMITTED this 25th day of July, 2012.
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8 THOMAS C. HORNE
9 Attorney General

10 By: 
11 Cherie L. Howe
12 Assistant Attorney General
13 Attorney for Plaintiff
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