

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

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SEP 10 2013

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

State of Ohio, ex rel.	)	Case No. 12 CV 014948
Attorney General Michael DeWine	)	
	)	Judge Mark A. Serrott
Plaintiff,	)	
	)	<u>AMENDED DEFAULT JUDGMENT</u>
vs.	)	<u>ENTRY AND ORDER</u>
	)	
Making Home Affordable,	)	
	)	
Defendant.	)	
	)	

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This cause came to be heard upon the Plaintiff's Motion for Default Judgment against Defendant Making Home Affordable pursuant to Civil Rule 55(A). Plaintiff commenced this action with the filing of its Complaint on December 5, 2012. Service was obtained on the Defendant on February 8, 2013 after the Franklin County Clerk's Office mailed via certified mail the Summons and Complaint to the defendant and received a signed return receipt, thus evidencing proper service pursuant to Civ. R. 4.1(A). More than twenty-eight (28) days after such service, the Defendant has failed to answer or otherwise defend or appear in any manner during this action. Therefore, the Plaintiff is entitled to a default judgment pursuant to Civil Rule 55(A).

The Court finds the Plaintiff's Motion to be well taken and hereby GRANTS the Plaintiff's Motion for Default Judgment pursuant to Civil Rule 55(A) against Defendant Making Home Affordable (Defendant). The Court makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The actions of the Defendant, hereinafter described, have occurred in Franklin County, Ohio and other counties in Ohio.
2. Defendant is loan modification company with its principal place of business located at 1927 Harbor Blvd, Costa Mesa, California 92627.
3. Defendant has also done business as Retention Division, FHA Processing, Retention Services, Saving Your Home, Re-Instatement Division, Reinstatement Department, Home Retention Service, Chaidez Law, MHA Legal Department, Save the American Dream, Homestart Services, MHA Group, American Law Center, and Consolidated Financial Solutions.
4. Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions either directly or indirectly, by soliciting and selling loan modification services to consumers in the State of Ohio for purposes that were primarily for personal, family, or household use.
5. Defendant used direct mail solicitations to solicit consumers facing foreclosure for its loan modification and foreclosure assistance services.
6. Defendant solicited consumers who were already facing foreclosure or were already behind on their mortgages.
7. Some of the Defendant's direct mail solicitations used the official Making Home Affordable federal government logo and referred to "HUD," which had the capacity to deceive and mislead the consumer that the mailing was from HUD, that the Defendant was an agency of

the federal government, or that the program was funded and/or operated by the federal government when such in fact was not true.

8. Defendant has represented itself to be HUD when speaking with consumers on the telephone and listed the government website, [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov), on its paperwork.
9. Defendant has told some consumers that its services are free, even though Defendant charged consumers fees ranging from several hundred to several thousand dollars for its services. Consumers were not told that the money they paid was for Defendant's services; instead, Defendant led them to believe this money would be paid to their lenders and go towards their modification.
10. Before requesting payment from consumers, the Defendant requested that the consumers fill out a financial information packet and return it to the Defendant.
11. After consumers returned the financial information packet, they were told that they had been accepted for a modification. Consumers who were "accepted" were then sent what appeared to be a loan modification, complete with a new payment amount and a new payment date.
12. Defendant then told consumers to either send the Defendant a lump sum payment that would be held in escrow or to make a new payment amount directly to the Defendant.
13. In some instances, consumers sent certified funds to the Defendant, however the money was sent in the names of the consumers' lenders. The Defendant asked those consumers to re-issue the checks in the Defendant's name.
14. Defendant accepted monies from consumers for services, and made no attempts to contact consumers' lenders or had no meaningful communication with their lenders.
15. Defendant failed to deliver the services for which consumers paid and failed to make refunds.

**CONCLUSIONS OF LAW**

16. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Ohio Consumer Sales Practices Act ("CSPA").
17. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County.
18. The Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.01 et seq. and by virtue of his statutory and common law authority to protect the interest of the citizens of Ohio.
19. Defendant is a "supplier" as that term is defined in R.C. 1345.01(C), since the defendant engaged in the business of effecting "consumer transactions," either directly or indirectly, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A), (C), and (D) of the CSPA.
20. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and the Failure to Deliver Rule, Ohio Administrative Code Sections 109:4-3-09(A)(2)(a) and 109:4-3-09(A)(2)(b), by accepting money from consumers for services and failing to make full delivery or a refund.
21. Defendant committed deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(1) by representing that the Defendant had sponsorship, approval, performance characteristics, accessories, uses, or benefits that it did not have. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3). See *State of Ohio ex rel Petro v. Ohio Resources*

Corporation, Fairfield County Common Pleas Court Case No. 03 CVH 114, Public Inspection File No. 10002217.

22. Defendant committed unconscionable acts or practices in violation of the CSPA, R.C. 1345.03(A), as set forth in R.C. 1345.03(B)(3), by entering into consumer transactions while knowing of the inability of the consumers to receive substantial benefit from the subject of the transactions. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3). See *State of Ohio ex rel Cordray v. Twenty First Century Legal Services*, Franklin County Common Pleas Court Case No. 09 CVH 069535, Public Inspection File No. 10002884.
23. Defendant committed unconscionable acts or practices in violation of R.C. 1345.03(A), as set forth in R.C. 1345.03(B)(5) by knowingly making misleading statements of opinion on which the consumers relied to their detriment. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3). See *State of Ohio ex rel Cordray v. Twenty First Century Legal Services*, Franklin County Common Pleas Court Case No. 09 CVH 069535, Public Inspection File No. 10002884.

### **ORDER**

For the purposes of affecting this Default Judgment Entry and Order, it is hereby ORDERED, ADJUDGED, and DECREED that:

24. The Plaintiff's request for a Declaratory Judgment that the acts and practices set forth above are in violation the CSPA is hereby GRANTED.

25. Defendant Making Home Affordable, under this or any other names, its officers, partners, agents, servants, representatives, salespersons, employees, successors or assigns, and all persons acting in concert and participation with it directly or indirectly through any corporate device, partnership or association, in connection with any consumer transaction, is hereby PERMANENTLY ENJOINED from engaging in any unfair, deceptive, and unconscionable acts and practices that violate the CSPA, R.C. 1345.01 et seq., including, without limitation, the conduct described in the Conclusions of Law Paragraphs 20 - 23.
26. Pursuant to R.C. 1345.07(D), Defendant is hereby assessed a civil penalty in the amount of One Hundred Thousand Dollars (\$100,000.00).
27. Defendant shall pay all court costs associated with this matter.
28. Regarding consumer damages, it is further ORDERED that Defendant shall provide consumer restitution in the amount of One Hundred, Twenty-Seven Thousand, Two Hundred and Ninety-Nine Dollars and 00/100 Cents (\$127,299.24). Payment shall be due upon acceptance of this Consent Judgment by the Court. Payment shall be made by delivering a certified check or money order, payable to the "Ohio Attorney General's Office," directed to:

**Teresa Goodridge  
Finance Assistant  
Consumer Protection Section  
30 E. Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215**

IT IS SO ORDERED.

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DATE

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JUDGE MARK A. SERROTT

PREPARED BY:

Melissa Szozda /s/

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Melissa Szozda (0083551)  
Assistant Attorney General  
Consumer Protection Section  
30 E. Broad Street  
Floor 14  
Columbus, OH 43213  
Phone: 614-466-8831

Counsel for Plaintiff

Franklin County Court of Common Pleas

**Date:** 07-18-2013  
**Case Title:** OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-  
MAKING HOME AFFORDABLE  
**Case Number:** 12CV014948  
**Type:** DEFAULT JUDGMENT FOR CASE

It Is So Ordered.

The image shows a handwritten signature in cursive script, which appears to read "Mark Serrott". The signature is written over a circular, embossed or stamped seal. The seal contains text around its perimeter, which is partially obscured by the signature, but it likely represents the official seal of the Franklin County Court of Common Pleas.

/s/ Judge Mark Serrott