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EDMUND G. BROWN JR.
Attorney General of California
FRANCES T. GRUNDER
Senior Assistant Attorney General
KATHRIN SEARS
Supervising Deputy Attorney General
SHELDON H. JAFFE (State Bar 200555)
ALEXANDRA ROBERT GORDON (State Bar 207650)
CONOR P. MOORE (State Bar 230079)
AMY C. TENG (State Bar 228133)
Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004



Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

RMR GROUP LOSS MITIGATION, LLC, a California limited liability company; LIVING WATER LENDING, INC., a California corporation; SHIPPEY & ASSOCIATES, P.C., a California professional corporation; MICHAEL SCOTT ARMENDARIZ, an individual; RUBEN CURIEL, an individual; RICARDO HAAG, an individual; KARLA C. SHIPPEY, an individual; ARTHUR S. ALDRIDGE, an individual; and DOES 1 through 100, inclusive,

Defendants.

[EXEMPT FROM FILING FEES UNDER GOVT. CODE SEC. 6103]

Case No.
COMPLAINT FOR CIVIL PENALTIES, PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

1 Plaintiff, the People of the State of California, by and through Edmund G. Brown Jr.,
2 Attorney General of the State of California, alleges the following on information and belief:

3 1. This action is brought against Defendants, who regularly violate California law
4 while preying on consumers facing foreclosure and the loss of their homes. Defendants have
5 unlawfully charged customers up front fees (ranging in the thousands of dollars) while falsely
6 promising to help them negotiate better mortgage terms from their lenders and to rescue them
7 from foreclosure. Despite taking these exorbitant advance fees, Defendants provide little or no
8 assistance to their customers.

9 2. As many other foreclosure rescue companies have done, in an attempt to avoid
10 statutory prohibitions on collecting fees before any services have been rendered, Defendants have
11 included one or more attorneys in their scheme. Noting the alarming trend in the number of
12 complaints issued against attorneys involved with foreclosure rescue companies, the State Bar has
13 issued an Ethics Alert cautioning attorneys from lending their names to loan modification
14 companies when non-lawyers purportedly negotiate with the lenders on the customers' behalf but
15 actually provide little to no services; meanwhile, the non-lawyers also collect fees from the
16 consumers and provide distressed homeowners with reckless and harmful advice on how to deal
17 with their lenders.

18 3. Numerous California consumers have fallen prey to Defendants' unlawful scam,
19 losing thousands of dollars that could have been used toward mortgage payments or finding new
20 housing. In this action, Plaintiff seeks an order permanently enjoining Defendants from engaging
21 in their unlawful business practices, granting restitution for affected consumers, imposing civil
22 penalties, and granting all other relief available under California law.

23 DEFENDANTS AND VENUE

24 4. Defendant RMR Group Loss Mitigation, LLC (RMR Group), is a California
25 limited liability company with its principal place of business at 109 North Maple Street, Suite C,
26 Corona, California 92880. Defendant RMR Group has also conducted business at 1318 East
27 Shaw Avenue, Suite 200, Fresno, California 93711; 5011 Argosy Avenue, Suite 13, Huntington
28 Beach, California 92648; and 780 West Town and Country Road, Orange, California 92868.

1 Defendant RMR Group is not a law corporation or licensed as a real estate broker or an entity
2 authorized to make loans or extensions of credit. Defendant RMR Group operates a web site at
3 www.rmrhope.com. At all relevant times, Defendant RMR Group has transacted and continues to
4 transact business throughout California, including Orange County.

5 5. Defendant Living Water Lending, Inc. (Living Water Lending), is a California
6 corporation with its principal place of business at 1200 Quail Street, Suite 260, Newport Beach,
7 California 92660. Defendant Living Water Lending has also conducted business at 7777 Center
8 Avenue, Suite 690, Huntington Beach, California 92647, and 2200 Hammer Avenue, Suite 103,
9 Norco, California 92860. At all relevant times, Defendant Living Water Lending has transacted
10 and continues to transact business throughout California, including Orange County. At all
11 relevant times, Defendant Living Water Lending was a corporation licensed by the California
12 Department of Real Estate (DRE).

13 6. Defendant Shippey & Associates is a California professional corporation with its
14 principal place of business at 4506 E. La Palma Avenue, Anaheim, California 92807. Defendant
15 Shippey & Associates has also conducted business at 4848 Lakeview Avenue, Suite E, Yorba
16 Linda, California 92886. At all relevant times, Defendant Shippey & Associates has transacted
17 and continues to transact business throughout California, including Orange County.

18 7. Defendant Michael Scott Armendariz (Armendariz), an individual, is a principal of
19 RMR Group and Living Water Lending. Defendant Armendariz resides at 202 Memphis Avenue,
20 Huntington Beach, California 92648. At all relevant times, Defendant Armendariz was a real
21 estate broker licensed by DRE. Defendant Armendariz, acting alone or in concert with others,
22 has formulated, directed, controlled, authorized, or participated in the acts and practices set forth
23 in this Complaint. At all relevant times, Defendant Armendariz has transacted and continues to
24 transact business throughout California, including Orange County. Defendant Armendariz is a
25 resident of Orange County.

26 8. Defendant Ruben Curiel (Curiel), an individual, is a principal of RMR Group.
27 Curiel resides at 1821 Marion Avenue, Apartment 4, Lancaster, California 93535. Defendant
28 Curiel, acting alone or in concert with others, has formulated, directed, controlled, authorized, or

1 participated in the acts and practices set forth in this Complaint. From January 26, 2007 to July
2 27, 2008, Defendant Curiel was a real estate salesperson licensed by DRE. On July 27, 2008,
3 DRE conditionally suspended Defendant Curiel's salesperson license for failing to meet
4 education requirements. At all relevant times, Defendant Curiel has transacted and continues to
5 transact business throughout California, including Orange County.

6 9. Defendant Ricardo Haag (Haag), an individual, is a principal of RMR Group.
7 Haag resides at 12961 Rae Court, Corona, California 92880. Defendant Haag, acting alone or in
8 concert with others, has formulated, directed, controlled, authorized, or participated in the acts
9 and practices set forth in this Complaint. Defendant Haag is not an attorney and is not licensed as
10 a real estate broker or person authorized to make loans or extensions of credit. At all relevant
11 times, Defendant Haag has transacted and continues to transact business throughout California,
12 including Orange County.

13 10. Defendant Karla C. Shippey (Shippey), an individual, is a licensed California
14 attorney doing business at Defendant Shippey & Associates. Defendant Shippey lists her
15 business address as 4506 East La Palma Avenue, Anaheim, California 92807. Defendant
16 Shippey resides at 20754 Ivy Circle, Yorba Linda, California 92887. Defendant Shippey, acting
17 alone or in concert with others, has formulated, directed, controlled, authorized, or participated in
18 the acts and practices set forth in this Complaint. At all relevant times, Defendant Shippey has
19 transacted and continues to transact business throughout California, including Orange County.
20 Defendant Shippey is a resident of Orange County.

21 11. Defendant Arthur Steven Aldridge (Aldridge), an individual, is a licensed
22 California attorney. Defendant Aldridge lists his business address as P.O. Box 6893, Thousand
23 Oaks, California 91359. Defendant Aldridge resides at 32040 Wallington Court, Westlake
24 Village, California. At all relevant times, Defendant Aldridge was a real estate broker licensed by
25 DRE. Defendant Aldridge, acting alone or in concert with others, has formulated, directed,
26 controlled, authorized, or participated in the acts and practices set forth in this Complaint. At all
27 relevant times, Defendant Aldridge has transacted and continues to transact business throughout
28 California, including Orange County.

1 12. The true names and capacities, whether individual, corporate, associate or
2 otherwise, of defendants sued herein as Does 1 through 100, inclusive, presently are unknown to
3 Plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff will seek leave to
4 amend this Complaint to allege the true names of Does 1 through 100 when the same have been
5 ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the
6 fictitiously named defendants participated in some or all of the acts alleged herein.

7 13. The defendants identified in Paragraphs 4 through 12 above are referred to
8 collectively in this Complaint as the “Defendants.”

9 14. At all times mentioned herein, each of the Defendants acted as the principal, agent,
10 or representative of each of the other Defendants, and in doing the acts herein alleged, each
11 Defendant was acting within the course and scope of the agency relationship with each of the
12 other Defendants, and with the permission and ratification of each of the other Defendants.

13 15. At all relevant times, Defendants have controlled, directed, formulated, known
14 and/or approved of, and/or agreed to the various acts and practices of each of the Defendants.

15 16. Whenever reference is made in this Complaint to any act of any Defendant or
16 Defendants, such allegation shall mean that such Defendant or Defendants did the acts alleged in
17 this Complaint either personally or through the Defendant’s or Defendants’ officers, directors,
18 employees, agents and/or representatives acting within the actual or ostensible scope of their
19 authority.

20 17. At all times mentioned herein, each Defendant knew that the other Defendants
21 were engaging in or planned to engage in the violations of law alleged in this Complaint.
22 Knowing that other Defendants were engaging in such unlawful conduct, each Defendant
23 nevertheless facilitated the commission of those unlawful acts. Each Defendant intended to and
24 did encourage, facilitate, or assist in the commission of the unlawful acts alleged in this
25 Complaint, and thereby aided and abetted the other Defendants in the unlawful conduct.

26 18. Defendants have engaged in a conspiracy, common enterprise, and common
27 course of conduct, the purpose of which is and was to engage in the violations of law alleged in
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1 this Complaint. The conspiracy, common enterprise, and common course of conduct continue to
2 the present.

3 19. Whenever reference is made in this Complaint to any act of Defendants, such
4 allegation shall mean that each Defendant acted individually and jointly with the other
5 Defendants named in that cause of action.

6 20. Each Defendant committed the acts, caused or directed others to commit the acts,
7 or permitted others to commit the acts alleged in this Complaint. Additionally, some or all of the
8 defendants acted as the agents of the other defendants, and all of the Defendants acted within the
9 scope of their agency if acting as an agent of another.

10 21. The violations of law alleged in this Complaint occurred in Orange County and
11 elsewhere throughout California and the United States.

12 DEFENDANTS' BUSINESS ACTS AND PRACTICES

13 22. Since at least Spring 2008, Defendants have advertised, marketed, offered for sale,
14 and sold purported mortgage loan modification and foreclosure rescue services. As more
15 particularly alleged below, Defendants engaged in a scheme to swindle distressed homeowners by
16 enticing them to engage the Defendants to negotiate loan modifications with their respective
17 lenders. Defendants falsely represented both their success rate in negotiating loan modifications
18 for customers and the type of loan modification they could secure for homeowners, including
19 lower, fixed interest rates, principal reductions, lower monthly payments, and forgiveness of
20 arrears. Defendants market their services to homeowners who are in financial distress and in
21 danger of losing their homes to foreclosure.

22 23. Defendant RMR Group is not licensed by DRE. None of the Defendants have
23 submitted advance fee agreement applications and none of the Defendants have received the
24 required response from DRE — known as “no objection” — allowing them to charge advance
25 fees from consumers.

26 24. Defendants market and sell their loan modification services to consumers who are
27 particularly vulnerable to fraud, including those 65 years of age or older.

1 25. Defendants also market and sell their loan modification services to Spanish-
2 speaking consumers.

3 26. Before engaging Defendants' services, many of Defendants' customers had
4 already defaulted on their mortgages by falling behind on their mortgage payments.

5 27. Defendants market and sell their loan modification services to consumers even
6 when they are aware that a lender has recorded a notice of default on the consumer's home.

7 28. Defendants market and sell their loan modification services to consumers even
8 when they are aware that a lender may have posted a notice of trustee sale on the consumer's
9 property, which typically occurs three months after a notice of default has been recorded and
10 notifies the homeowner that a sale will take place within 20 days.

11 29. Defendants solicit consumers for loan modification services in a number of ways,
12 including advertising on the radio. The radio advertisements aired in both Spanish and English.
13 In these advertisements, consumers were told that those suffering a financial hardship should
14 contact their bank or the "help center" to "recover [their] home[s] today." The radio
15 advertisements list a local telephone number for the "help center." Some of the radio
16 advertisements particularly mention Defendant Aldridge by name and include his California bar
17 license number. Some of the advertisements also mentioned a money-back guarantee. When
18 consumers dial the telephone number listed, they are connected to Defendants and Defendants'
19 representatives.

20 30. Defendants also solicited consumers through in-home solicitations.

21 31. When consumers speak to Defendants over the telephone or in person, they are
22 told that Defendants have significant negotiating experience and success in negotiating with their
23 particular lenders. Defendants also tell consumers that their success rate in modifying loans is
24 90%, 99%, or 100%. Defendants' representatives would tell potential customers that they did not
25 personally know any customers who were not able to obtain loan modifications through
26 Defendants. In fact, Defendants are unable to obtain loan modifications for most of their
27 customers.

1 32. Despite the fact that they are unable to negotiate loan modifications for most of
2 their customers, Defendants make the following false statements to the consumer after obtaining
3 information about the prospective customer's mortgage:

4 (a) Defendants guarantee a loan modification for their customers;

5 (b) Defendants will be able to negotiate lower interest rates, including securing
6 fixed rates for adjustable loans, from lenders;

7 (c) Defendants will be able to secure principal reductions of the consumer's
8 mortgage;

9 (d) Defendants will be able to secure lower monthly mortgage payments for
10 the consumer;

11 (e) Defendants will be able to eliminate a consumer's second mortgage
12 through a loan modification;

13 (f) Defendants will be able to get the consumer's arrears forgiven by the
14 consumer's lenders; and

15 (g) Defendants will be able to help consumers avoid foreclosures.

16 33. In some cases, Defendants have promised consumers that they could obtain
17 interest rates in the range of 4%; conversion of adjustable rate loans to low fixed-rate loans; 50%
18 principal reductions; and principal reductions of \$100,000 or more. Based on Defendants'
19 presentation of such favorable proposed terms, consumers are induced to sign contracts to engage
20 Defendants' loan modification services.

21 34. Defendants tell consumers that the loan modification process may be completed as
22 in as few as 4 to 6 weeks. In fact, most customers never obtain a loan modification from
23 Defendants.

24 35. Defendants also tell consumers that if Defendants are unable to obtain a loan
25 modification for them, they will be able to receive a refund of all fees paid (or, in some cases,
26 minus a processing fee). This money-back guarantee was included in the radio advertisements.
27 When customers request a refund, however, Defendants deny the request or do not respond at all.
28

1 36. Defendants also falsely tell consumers that attorneys affiliated with Defendants
2 review customers' financial paperwork and also negotiate with the lenders on their behalf. Indeed,
3 as a result of Defendants' solicitation, some of Defendants' customers are pressed by Defendants'
4 representatives to sign or otherwise unwittingly sign contracts with Defendants Aldridge, Shippey,
5 and Shippey & Associates, believing the contracts are with Defendant RMR Group. These
6 contracts obligate consumers to pay Defendants Aldridge, Shippey, and Shippey & Associates a
7 fee and authorize Defendants Aldridge, Shippey, and Shippey & Associates to hire the other
8 Defendants, even though the consumer has never spoken with nor ever heard of Defendants
9 Aldridge, Shippey, and Shippey & Associates. Customers are not given any opportunity to speak
10 with or have any contact with any attorneys affiliated with Defendants about their loans, and
11 neither Defendants Aldridge, Shippey, Shippey & Associates, nor any other attorneys affiliated
12 with Defendants review customers' financial documents or negotiate with lenders on their behalf.
13 Moreover, Defendants' customers are informed by their lenders that the lenders have not been
14 contacted by Defendants Aldridge, Shippey, and Shippey & Associates, or any of their lawyers,
15 on the customers' behalf.

16 37. While California's law defining and regulating foreclosure consultants under the
17 Mortgage Foreclosure Consultant Act (the Act), as codified in Civil Code section 2945 *et seq.*,
18 includes exceptions for attorneys licensed to practice law in California when "render[ing]
19 [foreclosure consultant] service in the course of his or her practice as an attorney at law" (Civil
20 Code, § 2945.1(b)(1)), and while Defendants Aldridge and Shippey are attorneys licensed to
21 practice law in California, the exemption does not apply here, nor do any of the exceptions set
22 forth in the Act. Defendants Aldridge and Shippey do not perform (or claim to perform)
23 foreclosure consultant services for consumers while also providing them with legal services.

24 38. Defendants improperly collect fees before completing all services they agree to
25 provide to consumers.

26 39. Defendants' contracts with consumer are deficient in multiple ways, including but
27 not necessarily limited to the following:
28

1 (a) Defendants do not include a notice, printed in at least 14-point boldface
2 type, advising consumers that Defendants cannot take money until they have completely finished
3 doing everything they say they would do, and that Defendants cannot make consumers sign any
4 lien, deed of trust, or deed;

5 (b) Defendants fail to include in their contracts the address where a consumer
6 may send notice of cancellation of the contract with Defendants;

7 (c) Defendants do not always providing consumers with a notice of
8 cancellation form prescribed by law;

9 (d) Defendants collect advance fees for loan modification services, even when
10 the consumers they solicited for services had already defaulted on their mortgage obligations,
11 lenders had recorded notices of default against the consumers' properties, and/or lenders had
12 issued a notice of trustee sale of the consumers' properties, as described in Paragraphs 26 through
13 28 above; and

14 (e) Defendants are not registered with the Department of Justice as foreclosure
15 consultants.

16 40. Defendants inform consumers that they will be acting as their agent and negotiator
17 with their lenders. To that end and to control what is communicated to the lenders, Defendants
18 instruct customers not to speak to their lenders about their financial circumstances and to avoid
19 responding to any communications they received from the lender. Defendants instruct customers
20 to forward all communications from the lender to Defendants. In this way, Defendants'
21 customers are shut out of negotiations with their lender and depend on Defendants for
22 information about the progress of their loan modifications. However, when Defendants fail to
23 contact or remain in contact with their lenders, and the customers follow Defendants' advice and
24 steadfastly refuse to communicate with their lenders, the lenders cancel or reject the loan
25 modification application or rescind offers of modification altogether, due to the borrowers'
26 perceived lack of interest or cooperation with the lenders.

27 41. Defendants require consumers to pay Defendants an upfront fee ranging from
28 \$ 2,000 to \$ 3,600 before Defendants will render loan modification services. Many of the

1 distressed homeowners solicited do not have sufficient financial resources to make their mortgage
2 payments at all, much less pay Defendants' upfront fee and continue making their mortgage
3 payments.

4 42. Defendants inform consumers that they may suspend their mortgage payments (or
5 continue to do so, as the case may be) while they have engaged Defendants for loan modification
6 services. By doing so, consumers could then apply whatever money they would have normally
7 used to make mortgage payments to pay Defendants' upfront fee. Defendants assure consumers
8 that their lenders will either forgive these missed payments altogether or include them as part of a
9 future modification agreement. Defendants also advise consumers that lenders will not modify
10 mortgages that are not already in default, and that lenders will not be convinced that consumers
11 are in financial distress until they actually fail to make their monthly mortgage payment. As a
12 result, Defendants' customers, in reliance on this advice and assurance, miss mortgage payments
13 or continue to do so. In fact, heeding this advice caused many customers to have their foreclosure
14 proceeding accelerated by their lenders.

15 43. Defendants also prepare false financial statements that do not reflect their
16 customers' actual income and expenses and submit the fraudulently modified information to
17 lenders. Specifically, Defendants inflate income amounts or create additional income streams,
18 while also reducing expenses and debts, so that the financial worksheet ultimately submitted to
19 the lender reflects income greater than expenses. When their customers inquire about this
20 practice, Defendants explain that it was to ensure the success of their loan modification
21 application to the lender. In other instances, Defendants knowingly submit false information
22 related to consumers' income and expenses to federally insured lenders without consumers'
23 knowledge and/or permission.

24 44. Defendants and their representatives solicit and market their loan modification
25 services to Spanish-speaking consumers in Spanish but present these consumers with English-
26 language contracts to execute. Defendants and their representatives did not explain the contract
27 terms to the Spanish-speaking consumers before they are asked to sign the documents. These
28

1 consumers do not receive Spanish-language copies of their contracts with Defendants either
2 before or after signing the copies printed in English.

3 45. After Defendants receive the advance fee payments from customers, Defendants
4 rarely remain in contact with them. While customers repeatedly call, e-mail, fax, or even visit
5 Defendants' offices seeking updates on the status of their loan modification applications,
6 Defendants regularly failed to respond to their inquiries.

7 46. In the instances where customers are able to make contact with Defendants and
8 their agents, Defendants tell customers to remain patient because negotiations are proceeding
9 normally with the lender. In other instances, Defendants tell customers that a modification
10 agreement is imminent or that Defendants have finalized modification agreements with their
11 lenders. These representations are false, and Defendants know they are false at the time they are
12 stated.

13 47. In fact, despite assurances to their customers to the contrary, Defendants make
14 very little effort to initiate contact or negotiate with lenders. Beyond forwarding to the lenders
15 authorization forms signed by their customers allowing Defendants to discuss the consumers'
16 loan with the lenders and sending the doctored financial worksheets that Defendants themselves
17 drafted, Defendants make no attempt to seek a loan modification on behalf of their customers.
18 Defendants' customers are informed by their lenders that the lenders have not been contacted by
19 Defendants Aldridge, Shippey, and Shippey & Associates, or any of their lawyers, on the
20 customers' behalf. This essentially represents the entirety of the actual services provided by
21 Defendants.

22 48. When customers contact their lenders to confirm Defendants' statements about the
23 progress of their modification application, their lenders tell them they received no
24 communications from Defendants or, at most, that the only communication the lenders received
25 from Defendants was the signed authorization form allowing Defendants to discuss the
26 consumers' loan with the lenders and the financial worksheet. Often, the lenders try to contact
27 Defendants for more information regarding their clients' loans to no avail.

28

1 49. After customers realize that Defendants are not going to provide assistance with a
2 loan modification, the customers demand the promised refund of their fees. Defendants regularly
3 deny these refund requests or promise customers refunds but then fail to return any funds.

4 50. Defendants fail to obtain for their customers the promised mortgage loan
5 modifications that would lower their interest rates and/or principal. Instead, despite having paid
6 thousands of dollars to Defendants to prevent such an occurrence, customers lose their homes to
7 foreclosure or are forced to attempt to negotiate a modification with their lenders without any
8 assistance from Defendants.

9 51. Consumers have suffered and continue to suffer substantial monetary loss to
10 Defendants as a result of Defendants' unlawful acts and practices. Defendants have been unjustly
11 enriched as a result of the unlawful practices set forth in this Complaint. Absent injunctive relief
12 from the Court, Defendants are likely to continue to injure consumers and harm the public interest.

13 FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

14 VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500

15 (UNTRUE OR MISLEADING REPRESENTATIONS)

16 52. Plaintiff realleges Paragraphs 1 through 51 and incorporates these Paragraphs by
17 reference as though they were fully set forth in this cause of action.

18 53. Defendants have violated and continue to violate Business and Professions Code
19 section 17500 by making or causing to be made untrue or misleading statements with the intent to
20 induce members of the public to purchase Defendants' services, as described in Paragraphs 29
21 through 36. Defendants' untrue or misleading representations include, but are not limited to, the
22 following:

- 23 (a) That Defendants' success rate in modifying loans is 90%, 99%, or 100%;
- 24 (b) That Defendants have significant negotiating experience and success with
25 particular lenders;
- 26 (c) That Defendants guarantee a loan modification for customers;
- 27 (d) That Defendants will be able to secure lower interest rates, including fixed
28 rates for adjustable loans, for customers;

1 (e) That Defendants will be able to secure principal reductions of the
2 customers' mortgages;

3 (f) That Defendants will be able to secure lower monthly mortgage payments
4 for customers;

5 (g) That Defendants will be able to eliminate a customer's second mortgage
6 through a loan modification;

7 (h) That Defendants will be able to get customers' arrears forgiven by the
8 customers' lenders;

9 (i) That Defendants will be able to help consumers avoid foreclosure;

10 (j) That there is a money-back guarantee and Defendants will refund the
11 upfront fees that Defendants collected from their customers if they do not get a loan modification;
12 and

13 (k) That attorneys affiliated with Defendants review the customers' financial
14 paperwork and also negotiate with the lenders on their behalf.

15 54. At the time the representations set forth in Paragraph 53 were made, Defendants
16 knew or by the exercise of reasonable care should have known that the representations were
17 untrue or misleading.

18 SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

19 VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

20 (UNFAIR COMPETITION)

21 55. Plaintiff realleges Paragraphs 1 through 54 and incorporates these Paragraphs by
22 reference as though they were fully set forth in this cause of action.

23 56. From a date specific unknown to Plaintiff and continuing to the present,
24 Defendants, and each of them, have engaged in and continue to engage in, aided and abetted and
25 continue to aid and abet, and conspired to and continue to conspire to engage in acts or practices
26 that constitute unfair competition as defined in Business and Professions Code section 17200.

27 Such acts or practices include, but are not limited to, the following:
28

1 (a) Failing to perform on their promises, made in exchange for upfront fees
2 from their customers, that Defendants would negotiate modifications of their mortgage loans and
3 secure lower and/or fixed interest rates, principal reductions, and, in some cases, elimination of
4 second mortgages. Defendants did little or nothing to help customers modify their mortgage
5 loans. Instead, consumers, having already paid large sums of money to Defendants, lost their
6 homes or were forced to attempt a loan modification on their own, as described in Paragraph 50
7 above;

8 (b) Luring customers into paying upfront fees with promises to refund all, or
9 most, of the upfront fees if they do not get a loan modification. When customers learned that
10 their lenders were unwilling to modify their loans, or that Defendants had done little or nothing to
11 assist in a modification, they demanded the promised refund. Despite Defendants' promises,
12 Defendants regularly denied customers' refund requests, as described in Paragraphs 35 and 49
13 above;

14 (c) Deceiving customers into believing that failing to contact their lenders, or
15 evading their lenders' communications, would increase the odds that their modification
16 applications would be successful. Customers relied on Defendants' advice because Defendants
17 assured them that Defendants would remain in contact with lenders. In fact, Defendants were not
18 in contact with lenders and lenders assumed that consumers were not willing to work with the
19 lender to save their homes. Heeding Defendants' advice placed customers in even greater
20 jeopardy of losing their homes, as described in Paragraph 40 above;

21 (d) Deceiving customers into believing that suspending mortgage payments,
22 and diverting those funds to pay Defendants' upfront fees instead, would increase the odds that
23 their modification application would be successful. Defendants also promised their customers
24 that the missed mortgage payments would not endanger or adversely impact lenders' decisions on
25 their modification applications or otherwise accelerate the foreclosure process. Defendants'
26 advice placed consumers in even greater jeopardy of losing their homes, as described in
27 Paragraphs 41 and 42 above;

28

1 (e) Negotiating with consumers in a language other than English, but requiring
2 consumers to sign contracts printed in English, as described in Paragraph 44 above;

3 (f) Violating Penal Code section 487, by taking money of a value exceeding
4 \$400 from consumers by theft, as described in Paragraphs 41, 50, and 51 above;

5 (g) Violating Penal Code section 532, by knowingly and designedly obtaining
6 consumers' money by false pretenses, as described in Paragraphs 32 and 41 above;

7 (h) Violating Civil Code section 1632 by negotiating foreclosure consultant
8 contracts primarily in Spanish to Spanish-speaking consumers, but not providing a translation of
9 the contract in that language before requiring the consumer to sign a contract printed in English,
10 as described in Paragraph 44 above;

11 (i) Violating Business and Professions Code sections 6151 and 6152, by
12 engaging in "running and capping," the practice of non-attorneys obtaining business for an
13 attorney, as described in Paragraph 36 above;

14 (j) Violating Business and Professions Code section 6155, by Defendants
15 RMR Group, Living Water Lending, Armendariz, Curiel, Haag, and Does 1-100 in directly or
16 indirectly referring potential clients to Defendants Shippey, Aldridge, and Shippey Law Firm
17 without seeking registration as a lawyer referral service by the State Bar, and by Defendants
18 Shippey, Aldridge, and Shippey Law Firm in accepting referrals of such potential clients, as
19 described in Paragraph 36 above;

20 (k) Violating 18 United States Code section 1014 and California Penal Code
21 section 532a by knowingly submitting false statements regarding their customers' income and
22 expenses in attempt to induce federally insured lenders to agree to modifications of the
23 customers' mortgage loans, as described in Paragraph 43 above; and

24 (l) Violating Business and Professions Code section 17500, as more
25 particularly alleged in Paragraphs 52 through 54 above.

1 THIRD CAUSE OF ACTION AGAINST DEFENDANTS RMR GROUP, LIVING WATER
2 LENDING, ARMENDARIZ, CURIEL, HAAG, AND DOES 1 THROUGH 50
3 (COLLECTIVELY NON-ATTORNEY DEFENDANTS)
4 VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200
5 (UNFAIR COMPETITION)

6 57. Plaintiff realleges Paragraphs 1 through 56 and incorporates these Paragraphs by
7 reference as though they were fully set forth in this cause of action.

8 58. From a date specific unknown to Plaintiff and continuing to the present, Non-
9 Attorney Defendants, and each of them, have engaged in and continue to engage in, aided and
10 abetted and continue to aid and abet, and conspired to and continue to conspire to engage in acts
11 or practices that constitute unfair competition as defined in Business and Professions Code
12 section 17200. Such acts or practices include, but are not limited to, the following:

13 (a) Violating Civil Code section 2945.3, subdivision (b) by not including the
14 required notice in their contract, as described in Paragraph 39 above;

15 (b) Violating Civil Code section 2945.3, subdivision (d) by failing to include
16 in their contracts the address where a consumer may send notice of cancellation of the contract
17 with Defendants, as described in Paragraph 39 above; and

18 (c) Violating Civil Code section 2945.3, subdivisions (e) and (f) by not always
19 providing consumers with the Notice of Cancellation form required under the statute, as described
20 in Paragraph 39 above.

21 FOURTH CAUSE OF ACTION AGAINST NON-ATTORNEY DEFENDANTS
22 VIOLATION OF SECTION 2945.4 OF THE CIVIL CODE

23 59. Plaintiff realleges Paragraphs 1 through 58 and incorporates these Paragraphs by
24 reference as though they were fully set forth in this cause of action.

25 60. In addition to the conduct alleged as part of the Second and Third Causes of
26 Action in this Complaint, Non-Attorney Defendants also violate subdivision (a) of section 2945.4
27 of the Civil Code by collecting advance fees for loan modification services even when the
28 consumers they solicited for services had already defaulted on their mortgage obligations, lenders

1 had recorded notices of default against the consumers' properties, and/or lenders had issued a
2 notice of trustee sale of the consumers' properties, as described in Paragraphs 26 through 28 and
3 Paragraph 39 above.

4 FIFTH CAUSE OF ACTION AGAINST NON-ATTORNEY DEFENDANTS

5 VIOLATION OF SECTION 2945.45 OF THE CIVIL CODE

6 61. Plaintiff realleges Paragraphs 1 through 60 and incorporates these Paragraphs by
7 reference as though they were fully set forth in this cause of action.

8 62. In addition to the conduct alleged as part of the Second, Third, and Fourth Causes
9 of Action in this Complaint, Non-Attorney Defendants also violate section 2945.45 of the Civil
10 Code by failing to register with the Department of Justice as foreclosure consultants, as described
11 in Paragraph 39 above.

12 SIXTH CAUSE OF ACTION AGAINST DEFENDANTS

13 SHIPPEY, ALDRIDGE, AND SHIPPEY LAW FIRM

14 VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

15 (UNFAIR COMPETITION)

16 63. Plaintiff realleges Paragraphs 1 through 62 and incorporates these Paragraphs by
17 reference as though they were fully set forth in this cause of action.

18 64. In addition to the conduct alleged as part of the Second Cause of Action in this
19 Complaint, Defendants Shippey, Aldridge, and Shippey Law Firm, as attorneys, have engaged in
20 unfair competition as defined in Business and Professions Code section 17200 by engaging in
21 acts and practices which include, but are not necessarily limited to:

22 (a) Violating the fiduciary duty and duties of good faith and fair dealing owed
23 to their clients/customers by failing to review financial documents or negotiate with lenders on
24 their behalf, as described in Paragraph 36 above;

25 (b) Violating California Rules of Professional Conduct, rule 1-320(A) by
26 directly or indirectly sharing legal fees with a non-lawyer, as described in Paragraph 36 above;

27 (c) Violating California Rules of Professional Conduct, rule 1-320(B) by
28 compensating persons or entities for the purpose of securing employment or as a reward for

1 having made a recommendation resulting in the employment of Defendants Shippey, Aldridge,
2 and Shippey Law Firm by a client, as described in Paragraph 36 above;

3 (d) Violating California Rules of Professional Conduct, rule 1-300(A) by
4 aiding persons or entities in the unauthorized practice of law, as described in Paragraph 36 above;

5 (e) Violating California Rules of Professional Conduct, rule 3-110(A) by
6 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
7 described in Paragraph 36 above; and

8 (f) Violating California Rules of Professional Conduct, rule 4-200(A) by
9 entering into an agreement for, charge, or collect an illegal or unconscionable fee, as described in
10 Paragraph 36 above.

11 65. From a date specific unknown to Plaintiff and continuing to the present,
12 Defendants Shippey, Aldridge, and Shippey Law Firm, and each of them, have aided and abetted
13 and continue to aid and abet, and conspired to and continue to conspire to engage in acts or
14 practices that constitute unfair competition as defined in Business and Professions Code section
15 17200. Such acts or practices include, but are not limited to, the following:

16 (a) Violating Civil Code section 2945.3, subdivision (b) by not including the
17 required notice in their contract, as described in Paragraph 39 above;

18 (b) Violating Civil Code section 2945.3, subdivision (d) by failing to include
19 in their contracts the address where a consumer may send notice of cancellation of the contract
20 with Defendants, as described in Paragraph 39 above;

21 (c) Violating Civil Code section 2945.3, subdivisions (e) and (f) by not always
22 providing consumers with the Notice of Cancellation form required under the statute, as described
23 in Paragraph 39 above; and

24 (d) Violating Civil Code section 2945.4, subdivision (a) by collecting advance
25 fees for loan modification services even when the consumers they solicited for services had
26 already defaulted on their mortgage obligations, lenders had recorded notices of default against
27 the consumers' properties, and/or lenders had issued a notice of trustee sale of the consumers'
28 properties, as described in Paragraphs 26 through 28 and Paragraph 39 above.

1 necessary to restore to any person in interest any money or property, real or personal, which may
2 have been acquired by means of any such practice, under the authority of Business and
3 Professions Code section 17535;

4 4. That the Court make such orders or judgments as may be necessary, including
5 preliminary injunctive and ancillary relief, to prevent the use or employment by any Defendant of
6 any practice which constitutes unfair competition or as may be necessary to restore to any person
7 in interest any money or property, real or personal, which may have been acquired by means of
8 such unfair competition, under the authority of Business and Professions Code section 17203;

9 5. That the Court assess a civil penalty of \$2,500 against each Defendant for each
10 violation of Business and Professions Code section 17200, in an amount according to proof but
11 not less than \$ 7,500,000, under the authority of Business and Professions Code section 17206;

12 6. That the Court assess a civil penalty of \$2,500 against each Defendant for each
13 violation of Business and Professions Code section 17500, in an amount according to proof, but
14 not less than \$ 7,500,000, under the authority of Business and Professions Code section 17536;

15 7. That the Court assess a civil penalty of \$2,500 against each Defendant for each
16 violation of Business and Professions Code section 17200 perpetrated against a senior citizen or
17 disabled person, in an amount according to proof but not less than \$ 7,500,000, under the
18 authority of Business and Professions Code section 17206.1;

19 8. That the Court assess a fine of not more than \$10,000 against each Non-Attorney
20 Defendant for each violation of Civil Code section 2945.4, in an amount according to proof but
21 not less than \$7,500,000, under the authority of Civil Code section 2945.7;

22 9. That the Court assess a fine of not less than \$1,000 and not more than \$25,000
23 against each Non-Attorney Defendant for each violation of Civil Code section 2945.45(a), in an
24 amount according to proof, under the authority of subdivision (d) of Civil Code 2945.45;

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- 10. That Plaintiff recovers its costs of suit, including costs of investigation; and
- 11. For such other and further relief that the Court deems just, proper, and equitable.

Dated: July __, 2009

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
FRANCES GRUNDER
Senior Assistant Attorney General
KATHRIN SEARS
Supervising Deputy Attorney General

By: _____
AMY C. TENG
Deputy Attorney General
Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF
CALIFORNIA

