



provisions of the Consumer Fraud and Deceptive Business Practices Act (“Consumer Fraud Act”), 815 ILCS 505/1 *et seq.*, the Mortgage Rescue Fraud Act, 765 ILCS 940/1 *et seq.*, and her common law authority as Attorney General to represent the People of the State of Illinois.

3. Venue for this action properly lies in Cook County, Illinois, pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, in that Defendants are doing business in Cook County, Illinois.

### PARTIES

4. Plaintiff, THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the Attorney General of the State of Illinois is authorized to enforce the Consumer Fraud Act, 815 ILCS 505/7(a), and the Mortgage Rescue Fraud Act, 765 ILCS 940/55(a).

### ZeTrust

5. Defendant, ZETRUST LEGAL SERVICES, P.C. (“ZETRUST”), is an Illinois professional corporation with its principal place of business at 5440 North Cumberland Avenue, Suite 150 in Chicago, which is in Cook County.

6. ZETRUST is a duly registered professional corporation in the State of Illinois.

7. Illinois Supreme Court Rule 721 (c) states professional corporations are not authorized to engage in the practice of law without a certificate of registration issued by the Illinois Supreme Court.

8. ZETRUST does not have a certificate of registration from the Illinois Supreme Court.

### Daniel Scott

9. Defendant, DANIEL SCOTT (“SCOTT”), is an individual living in Chicago, Illinois, which is in Cook County.

10. SCOTT is the president, secretary, and registered agent of ZETRUST.

11. SCOTT is an attorney licensed to practice law in the State of Illinois since on or about November of 1992.

12. SCOTT's registered law business with the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois is Chepov & Scott, LLC, which is located at the same address as ZETRUST.

13. SCOTT, at all times material to this Complaint, formulated, directed, controlled, had the authority to control and/or participated in the acts and practices of ZETRUST, including the acts or practices set forth in this Complaint.

14. For purposes of this Complaint for Injunctive and Other Relief, any references to the acts and practices of SCOTT and ZETRUST shall mean that such acts and practices are by and through the acts of SCOTT and/or ZETRUST's officers, members, owners, directors, employees, salespersons, representatives, and/or other agents.

#### **TRADE AND COMMERCE**

15. Subsection 1(f) of the Consumer Fraud Act, 815 ILCS 505/1(f), defines "trade" and "commerce" as follows:

The terms 'trade' and 'commerce' mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

16. Defendants were, at all times relevant hereto, engaged in trade and commerce in the State of Illinois by advertising, soliciting, offering, and selling loan modification services to Illinois consumers.

## BACKGROUND

17. Consumer demand for modifications of residential mortgage loans has dramatically increased in the past few years.
18. As a result, for-profit entities have emerged, often known as “mortgage rescue consultants,” that offer distressed homeowners loan modification services.
19. Many entities exploit distressed homeowners’ frustration with the loan modification process, promising guaranteed results and specialized knowledge of the loan modification process, and charging significant, nonrefundable fees for services that they cannot perform.
20. These entities have included attorneys and law firms.
21. To curb this type of abuse, occurring nationally by loan modification entities, federal and state governments’ enacted legislation and regulation.
22. For example, the Federal Trade Commission (“FTC”) issued the Mortgage Assistance Relief Services (“MARS”) rule, effective January 31, 2011, which, in part, limit the fees for-profit providers can charge for loan modification services and impose substantial disclosure requirements in consumer contracts. Mortgage Assistance Relief Services; Final Rule, 75 Fed. Reg. 75092 (Dec. 1 2010) (codified at 16 C.F.R. 322 *et. seq.*).
23. The MARS rule specifically contemplates abuse by lawyers, stating in the discussion of the Rule that “the record shows that a substantial number of attorneys have engaged in the types of deceptive and unfair conduct the Rule prohibits.” Mortgage Assistance Relief Services; Final Rule, 75 Fed. Reg. 75092, 75128 (Dec. 1 2010) (codified at 16 C.F.R. 322 pt. 322.7).
24. As a result, the Final Rule “strikes a balance between allowing consumers to continue to have access to bona fide legal assistance, while at the same time preventing or deterring unfair

or deceptive practices by attorneys.” Mortgage Assistance Relief Services; Final Rule, 75 Fed. Reg. 75092, 75128 (Dec. 1 2010) (codified at 16 C.F.R. 322 pt. 322.7).

25. The Final Rule exempts attorneys subject to specific qualifications that they are duly licensed, practicing, and compliant with state laws and regulations.

26. Similarly, Illinois passed the Mortgage Rescue Fraud Act, 765 ILCS 940/1 *et seq.*, which became effective on January 1, 2007, and places similar limitations on the fees for-profit mortgage rescue consultants can charge and the disclosures they must give distressed homeowners. The Illinois Mortgage Rescue Fraud Act also contemplates that lawyers, who are exempt from the Mortgage Rescue Fraud Act, must actually be “engaged in the practice of law to claim the exception.” 765 ILCS 940/5.

## **DEFENDANTS’ UNFAIR AND DECEPTIVE BUSINESS PRACTICES**

### Defendants’ Business Structure

27. From at least August 4, 2009 until the present, Defendants have engaged in the course of trade or commerce in the State of Illinois by advertising, soliciting, offering, and selling loan modification services to Illinois consumers.

28. The name ZETRUST LEGAL SERVICES, P.C. and the representations Defendants makes on their website leads consumers to believe Defendants provide legal services. For example, Defendants state on their website, “If you have witnessed a personal tragedy or lost a job, and think you cannot do anything to save your home, ZeTrust Legal Services P.C. is here to give you the foreclosure help you need and deserve. To help you avoid foreclosure is our top priority.” See, Exhibit 1, ZETRUST Website, attached herein. Despite several similar claims on Defendants’ website, Defendants expressly state in client agreements that they do not provide legal services.

29. Specifically, Defendants' client agreements with consumers are limited to providing loan modification services. For example, Defendants' client agreements state, "No litigation or litigation related activities are included at this time, and this Agreement DOES NOT encompass such matters. Additionally, this Agreement DOES NOT encompass any representation related to any foreclosure or other legal matters in relation to the Client's real property, other than the representation specified above" (emphasis in original). See, Exhibit 2, Client Agreement, attached herein.

30. SCOTT created and maintains the operating procedures for ZETRUST, but non-lawyers employed by Defendants meet with consumers and handle Defendants' daily operations.

31. Many of Defendants' clients never met with an attorney working for Defendants, including SCOTT.

#### Defendants' Loan Modification Services

32. Defendants advertise loan modification services on various Polish radio stations, including WNVR AM 1030 Chicago Polish Radio.

33. Defendants also advertise through their website, <http://www.zetrust.com>.

34. Defendants state on their website, "We will do all of the negotiating for you, so you can take a breather in these troubling times." See, Exhibit 1, ZETRUST Website, attached herein.

35. Defendants state on their website, "Please be assured we will work with you until some type of resolution has been solved. Our experience and relationships with lenders and banks allow us the fortunate opportunity of having extensive knowledge of the foreclosure process. Together we will save your home. Contact us now!" See, Exhibit 1, ZETRUST Website, attached herein.

36. Defendants enter into agreements with consumers titled "Attorney-Client Agreement – Loan Modification." See, Exhibit 2, Client Agreement, attached herein.
37. Defendants require consumers to pay an up-front fee of approximately \$1,500 to \$3,000 for loan modification services before they will begin the loan modification process.
38. In some instances, Defendants allow consumers to pay in installments.
39. In some instances, Defendants represent to consumers that a loan modification will be completed within approximately three to four months, when in fact Defendants have strong reasons to suspect that the loan modification likely will not be completed within three to four months.
40. In some instances, Defendants represent to consumers that they will be approved for a modification, when in fact Defendants do not know if they will be approved.
41. In some instances, Defendants also represent to consumers that they will be approved for modifications with specific terms when in fact Defendants do not know if they will be approved or what the specific terms will be.
42. In some instances, Defendants tell consumers to stop making their mortgage payments so they will become eligible for a loan modification.
43. After Defendants enter into agreements with consumers and accept consumers' money, consumers have difficulty communicating with Defendants.
44. In most instances, consumers call Defendants multiple times without receiving a return call.
45. In other instances, consumers go to Defendants' address to speak with someone regarding their accounts, but the consumers are turned away.

46. In some instances, Defendants failed to submit the proper paperwork to consumers' mortgage companies.

47. In other instances, Defendants failed to comply with deadlines set by consumers' mortgage company.

48. In some instances, Defendants tell consumers they are working on their loan modification after the bank has already denied the consumers' application for a loan modification.

49. In the vast majority of cases, consumers never see or speak with SCOTT.

50. In the few cases wherein consumers did speak with SCOTT, the contact was brief and occurred only after the consumers made repeated demands to speak with SCOTT.

51. In many instances, Defendants did not provide consumers with any services.

52. Furthermore, in many instances, Defendants refused to refund consumers' money.

### **CONSUMER ILLUSTRATIONS**

53. To date, twenty-one consumers have filed complaints against Defendants with the Office of the Illinois Attorney General. The unlawful conduct of Defendants is ongoing and continuous and has the potential to impact any Illinois consumers who purchase Defendants' goods or services. The following allegations in Paragraphs 54 through 125 are pled as examples of Defendants' unlawful business practices and are not meant to be exhaustive. Any examples provided of specific consumer experiences are simply illustrations and should not be construed as the only instance in which an Illinois consumer was harmed or could potentially be harmed by Defendants. Plaintiff reserves the right to prove that consumers other than those who have complained to the Office of the Illinois Attorney General have been injured as a result of Defendants' unlawful practices.

Wojciech's Glod

54. Wojciech Glod is a resident of Burbank, Illinois.
55. Mr. Glod learned of ZETRUST from an interview with Ania Smulka, a ZETRUST employee, on WNVR AM 1030 Chicago Polish Radio.
56. Shortly before November 28, 2009, Mr. Glod contacted Defendants to seek assistance with modifying his mortgage.
57. Shortly before November 28, 2009, Mr. Glod met with Ms. Smulka to discuss Defendants' loan modification services.
58. Ms. Smulka told Mr. Glod that Defendants would assist him with a loan modification.
59. Ms. Smulka told Mr. Glod that Defendants would complete his loan modification within three months.
60. Furthermore, Ms. Smulka told Mr. Glod that Defendants could obtain a loan modification that would reduce his monthly payment by \$400.
61. On or around November 28, 2009, Mr. Glod entered into an agreement with Defendants for assistance with a loan modification for a total of \$1,500.
62. On or around November 28, 2009, Mr. Glod paid Defendants \$500.
63. Shortly after November 28, 2009, Mr. Glod paid Defendants an additional \$1,000.
64. Sometime after Mr. Glod signed the contract with Defendants, Ms. Smulka told Mr. Glod that Defendants could obtain a loan modification that would reduce his monthly payment by only \$280 rather than \$400.
65. After Mr. Glod paid Defendants, he had difficulty reaching Defendants.
66. Mr. Glod called Defendants several times without receiving a return call.
67. Mr. Glod's bank called him and notified him it was closing his loan modification file,

because Defendants failed to submit all required information.

68. Mr. Glod requested a refund from Defendants.

69. Defendants refused to refund Mr. Glod's money.

Magdalena Kania

70. Magdalena Kania is a resident of Mount Prospect, Illinois.

71. Ms. Kania learned of ZETRUST from an advertisement on WNWI AM 1080 Chicago Polish Radio.

72. Shortly before August 7, 2009, Ms. Kania contacted Defendants to seek assistance with modifying her mortgage.

73. On or around August 7, 2009, Ms. Kania met with Ms. Smulka to discuss Defendants' loan modification services.

74. Ms. Smulka told Ms. Kania that Defendants would assist her with a loan modification.

75. Ms. Smulka represented to Ms. Kania that she would not be eligible for a loan modification unless she was delinquent by at least three mortgage payments.

76. Ms. Smulka told Ms. Kania to stop paying her mortgage.

77. Ms. Kania stopped paying her mortgage per Defendants' instruction.

78. On or around August 7, 2009, Ms. Kania entered into an agreement with Defendants for assistance with a loan modification.

79. On or around August 7, 2009, Ms. Kania paid Defendants \$1,400.

80. After Ms. Kania paid Defendants, she had difficulty reaching Defendants.

81. Ms. Kania called Defendants several times without receiving a return call.

82. In December of 2009, Ms. Kania's bank gave her a trial loan modification.

83. In December of 2009, Ms. Kania's bank requested additional documentation before it

would give her a permanent modification.

84. In April of 2010, Ms. Kania's bank called her and notified her it was closing her loan modification file, because Defendants failed to submit all required information.

85. Shortly after receiving the call from her bank, Ms. Kania notified Defendants that her bank closed her loan modification file.

86. Ms. Kania requested a refund from Defendants.

87. Defendants refused to refund Ms. Kania's money.

88. Moreover, Defendants demanded Ms. Kania pay the remaining \$600 she owes to Defendants pursuant to the August 7, 2009 agreement even though she never received a loan modification or any other service from Defendants.

Andrzej Simson

89. Andrzej Simson is a resident of Harwood Heights, Illinois.

90. Mr. Simson learned of ZETRUST from an advertisement on WNVR AM 1030 Chicago Polish Radio.

91. Shortly before March 27, 2010, Mr. Simson contacted Defendants to seek assistance with modifying his mortgage.

92. On or around March 27, 2010, Mr. Simson met with Ms. Smulka to discuss Defendants' loan modification services.

93. Ms. Smulka told Mr. Simson that Defendants would assist him with a loan modification.

94. Ms. Smulka represented to Mr. Simson that Defendants would complete Mr. Simson's loan modification within three to four months.

95. Ms. Smulka represented to Mr. Simson that Defendants could obtain a modification

that would reduce the interest on Mr. Simson's mortgage to 2% for the first five years and then increase by .5% every year after the first five years until it returned to his original interest rate.

96. On or around March 27, 2010, Mr. Simson entered into an agreement with Defendants for assistance with a loan modification.

97. Ms. Smulka added a handwritten provision to the March 27, 2010 contract stating Defendants would refund Mr. Simson's money if his bank denied his application for a loan modification.

98. On or around March 27, 2010, Mr. Simson paid Defendants \$1,500.

99. Mr. Simson's bank denied his application for a loan modification.

100. Mr. Simson requested that Defendants refund his money.

101. Ms. Smulka agreed to refund Mr. Simson's money in three installments of \$500.

102. Ms. Smulka told Mr. Simson she was personally issuing the refund from her own pocket, because Defendants refused to refund Mr. Simson's money.

103. Ms. Smulka refunded \$1,000 of Mr. Simson's money.

104. Ms. Smulka did not refund Mr. Simson's remaining \$500.

105. Mr. Simson requested his remaining \$500 from Defendants, but Defendants refused to refund it.

#### Elzbieta Ciesla

106. Elzbieta Ciesla is a resident of Streamwood, Illinois.

107. In the beginning of 2009, Ms. Ciesla started having financial problems after paying expenses associated with attending her father's funeral in Poland and having her income reduced when her children's father lost his job and stopped paying child support.

108. On or around July 28, 2009, Ms. Ciesla's bank filed a foreclosure action against her.

109. George Chepov, an attorney Ms. Ciesla contacted and SCOTT's law partner, recommended Ms. Ciesla contact ZETRUST.
110. Ms. Ciesla contacted ZETRUST to seek assistance with modifying her mortgage.
111. When Ms. Ciesla contacted ZETRUST, she was more than thirty days delinquent on her mortgage.
112. Defendants represented to Ms. Ciesla that she could obtain a loan modification even though her bank previously denied her request for a loan modification.
113. Defendants required Ms. Ciesla to pay \$1,500 for its loan modification services.
114. On or around July 10, 2010, Ms. Ciesla paid Defendants \$500.
115. On or around August 9, 2010, Ms. Ciesla paid Defendants \$500.
116. Ms. Ciesla agreed to pay Defendants the remaining \$500 in a future installment.
117. Even though Ms. Ciesla was delinquent on her mortgage payments, she continued to send partial payments to her bank.
118. Defendants told Ms. Ciesla to stop paying her mortgage because Defendants said her mortgage company would no longer accept her payments.
119. Ms. Ciesla told Defendants that she had a hearing in her foreclosure case on August 4, 2010.
120. Defendants told Ms. Ciesla that she did not need to appear at the August 4, 2010 hearing, because they would appear or otherwise represent her interest.
121. On Defendants' advice, Ms. Ciesla did not appear at the August 4, 2010 hearing.
122. Defendants did not appear or otherwise represent Ms. Ciesla's interest at the August 4, 2010 hearing.
123. On or around August 4, 2010, the court entered a default judgment against Ms. Ciesla.

124. On or around August 25, 2010, Ms. Ciesla's bank closed her loan modification file because Defendants failed to send all the necessary documents.

125. Defendants are attempting to collect the remaining \$500 balance on Ms. Ciesla's account even though she never received a loan modification or any other service from Defendants.

### APPLICABLE STATUTES

126. Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, provides:

**§ 2: Unlawful practices; construction with Federal Trade Commission Act**

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

127. Section 5 of the Mortgage Rescue Fraud Act, 765 ILCS § 940/5, provides:

**§ 5. Definitions. As used in this Act**

"Distressed property" means residential real property consisting of one to 6 family dwelling units that is in foreclosure or at risk of loss due to nonpayment of taxes, or whose owner is more than 30 days delinquent on any loan that is secured by the property.

"Distressed property consultant" means any person who, directly or indirectly, for compensation from the owner, makes any solicitation, representation, or offer to perform or who, for compensation from the owner, performs any service that the person represents will in any manner do any of the following:

- (1) Stop or postpone the foreclosure sale or stop or postpone the loss of the home due to nonpayment of taxes;
- (2) Obtain any forbearance from any beneficiary or mortgagee, or relief with respect to a tax sale of the property;
- (3) Assist the owner to exercise any right of reinstatement or right of redemption;
- (4) Obtain any extension of the period within which the owner may reinstate the owner's rights with respect to the property;
- (5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed property or contained in the mortgage;
- (6) Assist the owner in foreclosure, loan default, or post-tax sale redemption period to obtain a loan or advance of funds;
- (7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale or tax sale; or
- (8) Save the owner's residence from foreclosure or save the owner from loss of home due to nonpayment of taxes.

A "distressed property consultant" does not include any of the following:

- (1) A person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development;
- (2) A person who holds or is owed an obligation secured by a lien on any distressed property, or a person acting under the express authorization or written approval of such person, when the person performs services in connection with the obligation or lien, if the obligation or lien did not arise as the result of or as part of a proposed distressed property conveyance;
- (3) Banks, savings banks, savings and loan associations, credit unions, and insurance companies organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state or under the laws of the United States;
- (4) Attorneys licensed in Illinois engaged in the practice of law;

- (5) A Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities, while engaged in the business of these persons or entities;
- (6) A 501(c)(3) nonprofit agency or organization, doing business for no less than 5 years, that offers counseling or advice to an owner of a distressed property, if they do not contract for services with for-profit lenders or distressed property purchasers, or any person who structures or plans such a transaction;
- (7) (Blank);
- (8) Licensees of the Consumer Installment Loan Act who are authorized to make loans secured by real property; or
- (9) Licensees of the Real Estate License Act of 2000 when providing licensed activities.

128. Section 10 of the Mortgage Rescue Fraud Act, 765 ILCS § 940/10, provides:

**§ 10. Distressed property consultant contract terms**

- (a) A distressed property consultant contract must be in writing and must fully disclose the exact nature of the distressed property consultant's services and the total amount and terms of compensation.
- (b) The following notice, printed in at least 12-point boldface type and completed with the name of the distressed property consultant, must be printed immediately above the statement required by subsection (c) of this Section:  
  
 .....(Name) or anyone working for him or her CANNOT:
  - (1) Take any money from you or ask you for money until .....(Name) has completely finished doing everything he or she said he or she would do; or
  - (2) Ask you to sign or have you sign any lien, mortgage, or deed.”
- (c) A distressed property consultant contract must be written in the same language as principally used by the distressed property consultant to describe his or her services or to negotiate the contract, must be dated and signed by the owner, and must contain

in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 12-point boldface type, as follows:

“You, the owner, may cancel this transaction at any time until after the distressed property consultant has fully performed each and every service the distressed property consultant contracted to perform or represented he or she would perform. See the attached notice of cancellation form for an explanation of this right.”

- (d) A distressed property contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:
  - (1) The name and address of the distressed property consultant to which the notice of cancellation is to be mailed; and
  - (2) The date the owner signed the contract.
- (e) A distressed property consultant contract must be accompanied by a completed form in duplicate, captioned “NOTICE OF CANCELLATION,” which must be attached to the contract, must be easily detachable, and must contain, in at least 12-point boldface type, the following statement written in the same language as used in the contract:

“NOTICE OF CANCELLATION”

.....(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, at any time until after the distressed property consultant has fully performed each and every service the distressed property consultant contracted to perform or represented he or she would perform.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to:

.....(Name of distressed property consultant) at

.....(Address of distressed property consultant's place of business)

I hereby cancel this transaction on .....(Date)

- .....(Owner's signature)".
- (f) The distressed property consultant shall provide the owner with a copy of a distressed property consultant contract and the attached notice of cancellation immediately upon execution of the contract.

129. Section 50 of the Mortgage Rescue Fraud Act, 765 ILCS § 940/50, provides:

**§ 50. Violations**

- (a) It is a violation for a distressed property consultant to:
- (1) Claim, demand, charge, collect, or receive any compensation until after the distressed property consultant has fully performed each service the distressed property consultant contracted to perform or represented he or she would perform.

**VIOLATIONS**

**COUNT I: MORTGAGE RESCUE FRAUD ACT**

130. The People re-allege and incorporate by reference the allegations in Paragraphs 1 to 125.

131. Defendants are distressed property consultants according to Section 5 of the Mortgage Rescue Fraud Act, 765 ILCS 940/5.

132. The consumer property at issue in Paragraphs 106 to 125 is a distressed property according to Section 5 of the Mortgage Rescue Fraud Act, 765 ILCS 940/5.

133. Defendants engaged in unlawful practices in violation of Section 50(a)(1) of the Mortgage Rescue Fraud Act, 765 ILCS 940/50(a)(1), and thereby violated the Consumer Fraud Act, in that Defendants collected compensation before fully performing the promised services.

**REMEDIES**

134. Section 55(a) of the Mortgage Rescue Fraud Act, 765 ILCS 940/55(a), provides:

A violation of any of the provisions of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General or state's Attorney by the Consumer Fraud and Deceptive Business Practices Act shall be available to him or her for the enforcement of this Act.

135. Section 7 of the Consumer Fraud Act, 815 ILCS 505/7, provides:

- (a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by the Act to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction, revocation, forfeiture or suspension of any license, charter, franchise, certificate or other evidence of authority of any person to do business in this State; appointment of a receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.
- (b) In addition to the remedies provided herein, the Attorney General may request and this Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.
- (c) In addition to any other civil penalty provided in this Section, if a person is found by the court to have engaged in any method, act, or practice declared unlawful under this Act, and the violation was committed against a person 65 years of age or older, the court may impose an additional civil penalty not to exceed \$10,000 for each violation.

136. Section 10 of the Consumer Fraud Act, 815 ILCS 505/10, provides that “[i]n any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.”

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this Honorable Court enter an Order:

- A. Finding that Defendants are “distressed property consultants” as defined by Section 5 of the Mortgage Rescue Fraud Act, 765 ILCS 940/5;
- B. Finding that Defendants have violated Section 50(a) of the Mortgage Rescue Fraud Act, 765 ILCS 940/50(a), by, but not limited to, the unlawful acts and practices alleged herein;
- C. Finding that in violating the Mortgage Rescue Fraud Act, Defendants have violated the Consumer Fraud Act;
- D. Permanently enjoining Defendants from engaging in the acts and practices that violate the Mortgage Rescue Fraud Act as alleged herein;
- E. Declaring that all contracts entered into between Defendants and Illinois consumers by the use of methods and practices are unlawful and rescinded and requiring that full restitution be made to said consumers;
- F. Assessing a civil penalty of \$50,000 if the Court finds Defendants have engaged in methods, acts or practices declared unlawful by the Act without the intent to defraud, if the Court finds Defendants have engaged in methods, acts or practices declared unlawful by the Act with the intent to defraud, then assessing a statutory civil penalty of \$50,000, all as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7;
- G. Assessing an additional civil penalty in the amount of \$10,000 per violation of the Consumer Fraud Act found by the Court to have been committed by Defendants against a person 65 years of age and older as provided in Section 7(c) of the Consumer Fraud Act, 815 ILCS 505/7(c);
- H. Requiring Defendants to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and
- I. Providing such other and further equitable relief as justice and equity may require.

## **COUNT II: CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

137. The People re-allege and incorporate by reference the allegations in Paragraphs 1 to 125.

138. While engaged in trade or commerce, Defendants committed unfair and/or deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by:

- a. Accepting payments for loan modification services and subsequently failing to provide the promised services to consumers, or any services at all;
- b. Representing they would complete a loan modification within a stated period of time when they did not;
- c. Representing consumers were eligible for loan modifications when consumers were not eligible for loan modifications;
- d. Representing consumers were eligible for loan modifications with specific terms when consumers were not eligible for loan modifications with specific terms;
- e. Representing they would reduce consumers' mortgage payments, when in fact they did not reduce consumer's mortgage payments;
- f. Telling consumers to stop paying their mortgage in order to qualify for a loan modification without explaining the ramifications to consumers; and
- g. Promising to refund consumers' money if they were unable to modify consumers' loans, then failing to do so.

### **REMEDIES**

139. Section 7 of the Consumer Fraud Act, 815 ILCS 505/7, provides:

- (a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by the Act to be unlawful, and that proceedings would be in the public interest, he

may bring an action in the name of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction, revocation, forfeiture or suspension of any license, charter, franchise, certificate or other evidence of authority of any person to do business in this State; appointment of a receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.

- (b) In addition to the remedies provided herein, the Attorney General may request and this Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.
- (c) In addition to any other civil penalty provided in this Section, if a person is found by the court to have engaged in any method, act, or practice declared unlawful under this Act, and the violation was committed against a person 65 years of age or older, the court may impose an additional civil penalty not to exceed \$10,000 for each violation.

140. Section 10 of the Consumer Fraud Act, 815 ILCS 505/10, provides that “[i]n any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.”

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that this Honorable Court enter an Order:

- A. Finding that Defendants violated Section 2 of the Consumer Fraud Act, 815 ILCS 505/1, by, but not limited to, engaging in the unlawful acts and practices alleged herein;
- B. Permanently enjoining Defendants from engaging in the deceptive and unfair acts and practices alleged herein;

C. Declaring that all contracts entered into between Defendants and consumers by the use of methods and practices are unlawful and rescinded and requiring that full restitution be made to said consumers;

D. Assessing a civil penalty of \$50,000 if the Court finds Defendants engaged in methods, acts, or practices declared unlawful by the Act without the intent to defraud, if the Court finds Defendants engaged in methods, acts or practices declared unlawful by the Act with the intent to defraud, then assessing a statutory civil penalty of \$50,000, all as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7;

E. Assessing an additional civil penalty in the amount of \$10,000 per violation of the Consumer Fraud Act found by the Court to have been committed by Defendants against a person 65 years of age and older as provided in Section 7(c) of the Consumer Fraud Act, 815 ILCS 505/7(c);

F. Requiring Defendants to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and

G. Providing such other and further equitable relief as justice and equity may require.

**COUNT III: DANIEL SCOTT'S FAILURE TO COMPLY WITH A SUBPOENA**

141. The People re-allege and incorporate by reference the allegations in Paragraphs 1 to 125.

142. Section 4 of the Consumer Fraud Act, 815 ILCS 505/4, provides, "To accomplish the objectives and to carry out the duties prescribed by this Act, the Attorney General, in addition to other powers conferred upon him by this Act, may issue subpoenas to any person ..."

143. On or around May 26, 2010, the Office of the Attorney General issued a Subpoena to SCOTT as part of its investigation into ZETRUST's activities. See, Exhibit 3, Subpoena, attached herein.

144. On or around June 9, 2010, SCOTT sent a letter to the Office of the Attorney General refusing to comply with its subpoena.

145. Defendant Daniel Scott's failure to obey the subpoena issued by the Illinois Attorney General on or around May 26, 2010 constitutes a violation of Section 6 of the Consumer Fraud Act.

### **REMEDIES**

146. Section 6 of the Consumer Fraud Act provides:

If any person fails or refuses to file any statement or report, or obey any subpoena issued by the Attorney General or a State's Attorney, the Attorney General or the State's Attorney may file a complaint in the circuit court for the:

- (a) Granting of injunctive relief, restraining the sale or advertisement of any merchandise by such persons, or the conduct of any trade or commerce that is involved;
- (b) Vacating, annulling, or suspending of the corporate charter of a corporation created by or under the laws of this State or the revoking or suspending of the certificate of authority to do business in the State of a foreign corporation or the revoking or suspending of any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and
- (c) Granting of such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

815 ILCS 505/6

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that this Honorable Court enter an order:

A. Finding that Defendant, DANIEL SCOTT, has violated Section 6 of the Consumer Fraud Act;

B. Compelling Defendant, DANIEL SCOTT, to comply with the administrative subpoena served by the Illinois Attorney General on around May 26, 2010;

147. Enjoining Defendant, DANIEL SCOTT, from advertising, soliciting, offering, and selling loan modification services to Illinois consumers from or within the State of Illinois until Defendant, DANIEL SCOTT, fully complies with the administrative subpoena issued by the Illinois Attorney General;

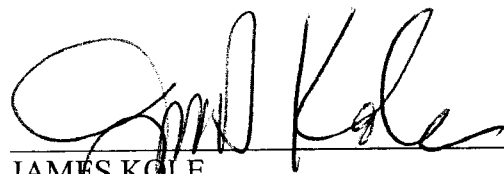
C. Suspending any licenses, permits or certificates issued to Defendant, DANIEL SCOTT, to conduct business until Defendant, DANIEL SCOTT, fully complies with the administrative subpoena issued by the Illinois Attorney General;


D. Requiring Defendant, DANIEL SCOTT, to pay all costs for the prosecution and investigation of this action; and

E. Providing such other and further relief as justice and equity may require.

Respectfully submitted,

THE PEOPLE OF THE STATE OF ILLINOIS,  
By LISA MADIGAN,  
ATTORNEY GENERAL OF ILLINOIS

  
\_\_\_\_\_  
JAMES KOLE  
Consumer Fraud Bureau, Chief

  
\_\_\_\_\_  
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