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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, **v.** **UNITED FIRST, INC., A NEVADA CORPORATION; MW ROTH, PLC; A CALIFORNIA CORPORATION; PAUL NOE, AN INDIVIDUAL; MITCHELL ROTH, AN INDIVIDUAL; AND DOES 1-100,** Defendants.	CASE NO.: **COMPLAINT FOR RESTITUTION, CIVIL PENALTIES, AND EQUITABLE RELIEF**

COMPLAINT

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

1. This action is brought against Defendants, who regularly violate California law while preying on consumers facing foreclosure and the loss of their homes. In the course of their elaborate foreclosure rescue fraud scheme, Defendants have unlawfully and unconscionably charged thousands of dollars in fees to at least 2,000 California consumers, while falsely

promising to help their victims eliminate mortgages on their homes and improve their credit. Despite taking thousands of dollars in upfront and monthly fees, defendants provided little or no assistance to consumers, often abandoning claims they promised to bring on their behalf.

2. In addition to requiring consumers to pay excessive initial and monthly fees, defendants force homeowners to sign unconscionable contracts that purport to obligate victims of their scheme to add defendants as beneficiaries to their property insurance and pay up to 80% of the value of their home to defendants if their legal claims are successful.

3. Thousands of California consumers have fallen prey to Defendants' unlawful scam, losing thousands of dollars they could have used either to save their homes from foreclosure or to find new housing. In this action, Plaintiff seeks an order permanently enjoining Defendants from engaging in their unlawful business practices, granting restitution for affected consumers, imposing civil penalties, and granting all other relief provided for under California law.

I. DEFENDANTS AND VENUE

4. At all relevant times, defendant United First, Inc. (United First), a Nevada corporation, has transacted and continues to transact business throughout the California, including in Los Angeles County. United First is not a law corporation and is not licensed as a real estate broker or as an entity authorized to make loans or extensions of credit.

5. At all relevant times, defendant MW Roth PLC (Roth Firm), a California corporation, has transacted and continues to transact business throughout the California, including in Los Angeles County.

6. At all relevant times, defendant Paul Noe (Noe) was president of United First. Defendant Noe took part in, directed, authorized, and ratified the conduct of United First described in this Complaint. Defendant Noe is not an attorney, and is not licensed as a real estate broker or person authorized to make loans or extensions of credit.

7. At all relevant times, defendant Mitchell Roth (Roth) was the principal attorney of the Roth Firm. Defendant Roth took part in, directed, authorized, and ratified the conduct of the Roth Firm described in this Complaint.

8. Plaintiff is not aware of the true names and capacities of the defendants sued as Does 1 through 100, inclusive, and therefore sues these defendants by such fictitious names. Each of these fictitiously named defendants is responsible in some manner for the activities alleged in this Complaint. Plaintiff will amend this Complaint to add the true names of the fictitiously named defendants once they are discovered.

9. The defendants identified in paragraphs 4 through 8, above, shall be referred to collectively as "Defendants."

10. Whenever reference is made in this Complaint to any act of any defendant(s), that allegation shall mean that each defendant acted individually and jointly with the other defendants.

11. Any allegation about acts of any corporate or other business defendant means that the corporation or other business did the acts alleged through its officers, directors, employees, agents and/or representatives while they were acting within the actual or ostensible scope of their authority.

12. Each defendant committed the acts, caused or directed others to commit the acts, or permitted others to commit the acts alleged in this Complaint. Additionally, some or all of the defendants acted as the agent of the other defendants, and all of the defendants acted within the scope of their agency if acting as an agent of another.

13. Each defendant knew or realized that the other defendants were engaging in or planned to engage in the violations of law alleged in this Complaint. Knowing or realizing that other defendants were engaging in or planning to engage in unlawful conduct, each defendant nevertheless facilitated the commission of those unlawful acts. Each defendant intended to and did encourage, facilitate, or assist in the commission of the unlawful acts, and thereby aided and abetted the other defendants in the unlawful conduct.

14. Defendants have engaged in a conspiracy, common enterprise, and common course of conduct, the purpose of which is and was to engage in the violations of law alleged in this Complaint. This conspiracy, common enterprise, and common course of conduct continues to the present.

15. The violations of law alleged in this Complaint occurred in Los Angeles County

and elsewhere throughout California and the United States.

II. DEFENDANTS' IMPROPER BUSINESS PRACTICES

16. Defendants advertise that they founded United First "with the mission to provide general information and financial assistance to certain homeowners facing foreclosure."

17. As part of their scheme, United First and its salespersons or representatives have operated at least eight websites that are largely identical and solicit homeowners who are in or facing foreclosure by touting a "unique financial assistance program" offered by United First. United First solicits these homeowners to enter into "joint ventures" for the purpose of retaining a lawyer, typically Roth or the Roth Firm, to file lawsuits that will stop or delay a pending foreclosure. On the United First websites, Defendants claim they assist homeowners in foreclosure by making "it affordable for you to continue to live in your home while we exhaust your legal remedies. With the help of the legal team, the debt can be brought down to a reasonable and manageable level that you can afford." United First's websites specifically offer to assist consumers "pursue a 'quiet title' action to remove all debt from the" consumer's home.

The websites operated by defendants have included www.unitedfirstforeclosurerelief.com; www.stoponforeclosure.com; www.bailoutmyhouse.com; www.trueforeclosurerelief.com; www.ufirstforeclosurerelief.com; www.savingonehomeatatime.com; www.helpfor4close.com; and www.ufci.net.

18. United First also advertises its services through sales representatives and independent contractors. The sales representatives and contractors make representations regarding services offered by Defendants that are consistent with the claims and representations made on the websites.

19. On their websites and through their sales representatives and independent contractors, Defendants offer to assist consumers in retaining legal counsel, typically Roth or the Roth Firm, to file a lawsuit contending that the servicer or trustee of the consumer's loan does not have the right to foreclose, or even collect on the borrower's loan, because it cannot establish either ownership of the loan or authority to foreclose. Defendants further claim that if they are successful in prosecuting this claim, the consumer's mortgage will be canceled with no further

payment due and that "anything related to the foreclosure may be wiped off of [the homeowner's] credit report."

20. In soliciting consumers, Defendants contend that application of this legal theory in other states has led to the dismissal of "dozens of foreclosure cases." Defendants claim that the dismissals demonstrate the viability of their legal theory and the services they offer. However, those dismissals were without prejudice to the lender's or trustee's right to recommence foreclosure proceedings at a later date, and have not resulted in the cancellation of the mortgages at issue in those proceedings.

21. Consumers who agree to contract with Defendants are required to sign a contract, styled a "Joint Venture Agreement," that requires them to pay United First an upfront fee, typically $1,850, before United First provides any services, and a monthly fee of one-third of their annual property taxes (but never less than $1,250 per month). In addition, consumers must agree to pay United First 80% of the value of their home if the claims United First offers to assist consumers in prosecuting are successful, or 50% of the value of any settlement. Consumers are also obligated to add United First to their homeowner's insurance policies. Contracts used by United First have purported to obligate consumers to retain Roth or the Roth Firm to challenge the legality of the foreclosure pending regarding their property.

22. Over 2,000 California homeowners facing foreclosure have entered into contracts with and paid thousands of dollars in upfront and monthly fees to United First and Noe. Many if not all of those consumers also retained Roth or the Roth Firm, and United First and Noe in turn transferred funds to Roth and the Roth Firm on a regular basis, ostensibly to cover legal fees incurred in the course of representing consumers who contracted with United First.

23. Many of the California consumers who sign contracts with United First are in default on their mortgages, and have had notices of default recorded against their homes. On their website, Defendants state that they cannot provide the services they offer until the consumer's lender has recorded a notice of default. Nevertheless, the contract United First requires homeowners to sign purports that United First "is not a Foreclosure Consultant as that term is used in the California Civil Code § 2945-2945.11."

24. Despite Defendants' representation through their websites and other solicitations that they are not foreclosure consultants, Defendants offer to provide services that will help consumers "stop or postpone [a] foreclosure sale;" "avoid or ameliorate the impairment of the [homeowner's] credit resulting from the recording of a notice of default;" and "save the owner's residence from foreclosure." Defendants United First and Noe are therefore "foreclosure consultants" as that term is defined in Civil Code section 2945.1, subdivision (a). None of the exceptions to that definition, as specified in section 2945.1, subdivision (b), apply to either Noe or United First. In addition, Defendant United First is, and defendant Noe operates, a credit services organization as that term is defined in Civil Code section 1789.12, subdivision (a). None of the exceptions to that definition, as specified in section 1789.12, subdivision (b), apply to either Noe or United First.

25. Because Defendants are subject to both the Mortgage Foreclosure Consultant Act, as codified in Civil Code sections 2945 et seq., and the Credit Services Act of 1984, as codified in Civil Code sections 1789.10 et seq., their contracts must comply with the provisions of each act, and they are barred from collecting fees before completing all services they agree to provide to consumers. Defendants violate these obligations.

26. Defendants' failure to comply with the provisions of the Mortgage Foreclosure Consultant Act includes but is not necessarily limited to the following:

A. Defendants do not always include the notice required by Civil Code section 2945.3, subdivision (b) in their foreclosure consultant contracts, which warns consumers that advance fees are prohibited, as is having the consumer sign a lien, deed of trust, or deed.

B. Defendants do not always provide consumers with the Notice of Cancellation form required by Civil Code section 2945.3, subdivisions (e) and (f);

C. Defendants claim, demand, charge, collect and/or receive payment from consumers before providing all services that Defendants contract with consumers to provide, or that they represent to consumers they will

provide, violating Civil Code section 2945.4, subdivision (a); and

D. Defendants induce or attempt to induce consumers to enter into contracts that do not comply in all respects with Civil Code sections 2945.2 and 2945.3, violating Civil Code section 2945.4, subdivision (g).

27. Defendants' failure to comply with the provisions of Credit Services Act includes but is not necessarily limited to the following:

A. Defendants charge or receive money or other valuable consideration before fully and completely performing the services they agree to perform, violating Civil Code section 1789.13, subdivision (a);

B. Defendants advertise or cause their services to be advertised without having registered with the California Department of Justice as a credit services organization, violating Civil Code section 1789.13, subdivision (i);

C. Defendants fail to provide information statements to consumers, violating Civil Code sections 1789.14 and 1789.15;

D. Defendants fail to use contracts providing consumers a five-day right to cancel and fail to provide Notice of Cancellation forms, violating Civil Code section 1789.16; and

E. Defendants do not maintain a surety bond as required by Civil Code section 1789.18.

28. Many of the victims of defendants' scheme are Spanish speaking. While Defendants and their representatives often communicate and negotiate contracts with these consumers in Spanish, the consumers are typically made to sign, and only provided with copies of, contracts printed in English. These consumers do not receive copies of their contracts with United First in Spanish either before or after signing the copies printed in English.

29. United First's websites operate to solicit, directly or indirectly, clients for Roth and the Roth Firm, and Noe, United First, and Does 1 through 75 receive consideration for soliciting these clients. The consideration Noe, United First and Does 1 through 75 receive includes, but is

not necessarily limited to, all or some of the initial and monthly fees paid by consumers who contract with United First. Noe, United First and Does 1 through 75 therefore act "for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm" and are runners or cappers as those terms are defined in Business and Professions Code section 6151, subdivision (a). Their actions in soliciting clients for Roth and the Roth Firm in exchange for consideration constitute unlawful running and capping, violating Business and Professions Code section 6152, subdivision (a)(1), and all contracts between Roth or the Roth Firm and consumers solicited by United First are void under Business and Professions Code section 6154.

30. Defendants Roth and the Roth Firm, and Doe Defendants 76 through 100, inclusive, actively participate in and aid and abet the conduct set forth above. The participation of Roth and the Roth Firm includes the drafting of the purported "joint venture" agreement that United First and Noe require consumers to sign and allowing the use of Roth and the Roth Firm in websites and other materials that promote United First.

31. Roth and the Roth Firm have filed approximately 2000 lawsuits on behalf of California consumers who contracted with United First. However, they abandoned or failed to prosecute hundreds of those cases, including failing to respond to motions to dismiss and other pleadings, prompting the State Bar to seize and shut down the Roth Firm in February 2009.

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500

(UNTRUE OR MISLEADING REPRESENTATIONS)

32. The People reallege and incorporate by reference all paragraphs above, as though fully set forth at this place.

33. From an exact date unknown to Plaintiff and continuing to the present time, Defendants have violated and continue to violate Business and Professions Code section 17500 by making or disseminating untrue or misleading statements, or causing untrue or misleading statements to be made or disseminated, to homeowners, with the intent to induce them to enter

into contracts with United First, Roth, or the Roth Firm. These untrue or misleading statements include, but are not necessarily limited to:

A. Representing that United First is not a foreclosure consultant. These statements are untrue or misleading because United First is a foreclosure consultant under applicable California laws;

B. Representing on United First's Internet websites that United First "is not a partnership with attorneys." These statements are untrue or misleading because it suggests that there is no business relationship between United First and attorneys when in fact there is; and

C. Representing on United First's Internet website, and in other statements, the legal theory Defendants promise to advance on behalf of California homeowners in foreclosure has led to the dismissal of "dozens of foreclosure cases" in other states. These statements are untrue or misleading because those dismissals were without prejudice to the lenders refiling foreclosure proceedings and have not led to the elimination of homeowners' mortgage debt.

34. Defendants knew or by the exercise of reasonable care should have known that the statements set forth above were untrue or misleading at the time the statements were made.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(UNFAIR COMPETITION)

35. The People reallege and incorporate by reference all paragraphs above, as though fully set forth at this place.

36. From an exact date unknown to Plaintiff, and continuing to the present, Defendants have engaged and engage in, aided and abetted and continue to aid and abet, and conspired to and continue to conspire to engage in unfair competition as defined in Business and Professions Code section 17200 by committing acts or practices which include, but are not necessarily limited to, the following:

A. Violating Business and Professions code section 17500 as set forth in the First Cause of Action;

B. Requiring consumers to sign contracts with unconscionable terms, including but not limited to contracts purporting to obligate consumers to pay monthly fees plus an 80% contingency fee if the claims Defendants offer to advance on behalf of consumers are successful, and a 50% contingency fee if the claims are partially successful;

C. Negotiating with consumers in a language other than English, but requiring consumers to sign contracts printed in English;

D. Negotiating foreclosure consultant contracts primarily in Spanish, Chinese, Tagalog, Vietnamese or Korean, but not providing a translation of the contract into that language before requiring the consumer to sign a contract printed in English, violating Civil Code section 1632;

E. With respect to Defendants' violation of laws regulating foreclosure consultants:

i. Defendants fail to include in their contracts the notice required by Civil Code section 2945.3, subdivision (b);

ii. Defendants fail to include in their contracts the notice of right to cancel in the form required by Civil Code section 2945.3, subdivision (c)

iii. Defendants have failed to include in their contracts the address where a consumer may send notice that he or she is canceling a foreclosure consultant contract with Defendants, in violating Civil Code section 2945.3, subdivision (d);

iv. Defendants have failed to provide consumers with the separate notice of right to cancel their foreclosure consultant contract, violating Civil Code section 2945.3, subdivisions (e)-(f); and

v. Defendants have claimed, demanded, charged, collected, and/or

received payment from consumers before providing all services they contracted to or represented they would perform, violating Civil Code section 2945.4, subdivision (a);

F. With respect to Defendants' violation of laws regulating credit services organizations:

i. Defendants charge or receive money or other valuable consideration before fully and completing performing the services they agree to perform, violating Civil Code section 1789.13, subdivision (a);

ii. Defendants advertise or cause their services to be advertised without having registered with the California Department of Justice as a credit services organization, violating Civil Code section 1789.13, subdivision (i);

iii. Defendants fail to provide information statements to consumers, violating Civil Code sections 1789.14 and 1789.15;

iv. Defendants fail to use contracts providing consumers a five-day right to cancel and fail to provide Notice of Cancellation forms, violating Civil Code section 1789.16; and

v. Defendants do not maintain a surety bond as required by Civil Code section 1789.18;

G. Defendants engage in "running and capping," the practice of non-attorneys obtaining business for an attorney, violating Business and Professions Code section 6152, subdivision (a).

H. Defendants abandoned the claims of consumers facing foreclosure, after charging them thousands of dollars in upfront and monthly fees.

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THIRD CAUSE OF ACTION

AGAINST DEFENDANTS MW ROTH PLC; MITCHELL ROTH AND DOES 76-100

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(UNFAIR COMPETITION)

37. Plaintiff incorporates all paragraphs of this Complaint set forth above as though they were set forth fully in this cause of action.

38. Defendants Roth, the Roth Firm, and Does 76-100 (the Attorney Defendants) have engaged in unfair competition as defined in Business and Professions Code section 17200 by engaging in acts and practices which include, but are not necessarily limited to, violating the fiduciary duty and duties of good faith and fair dealing owed to their clients by abandoning or failing to prosecute hundreds of cases, including failing to respond to motions to dismiss and other pleadings.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. Permanently enjoin, under the authority of Business and Professions Code section 17535, all Defendants, their successors, agents, representatives, employees, and all persons who act in concert with them from making any untrue or misleading statements in violation of Business and Professions Code section 17500, including, but not limited to, the untrue or misleading statements alleged in the First Cause of Action;

2. Permanently enjoin, under the authority of Business and Professions Code section 17203, all Defendants, their successors, agents, representatives, employees, and all persons who act in concert with them from committing any acts of unfair competition in violation of Business and Professions Code section 17200, including, but not limited to, the violations alleged in the Second and Third Causes of Action;

3. Assess a civil penalty, under the authority of Business and Professions Code section 17536, of two thousand five hundred dollars ($2,500) against each Defendant for each violation of Business and Professions Code section 17500, as proved at trial, but in an amount of at least $1,000,000;

4. Assess a civil penalty, under the authority of Business and Professions Code section 17206, of two thousand five hundred dollars ($2,500) against each Defendant for each violation of Business and Professions Code section 17200 alleged in the Complaint, as proved at trial, but in an amount of at least $1,000,000;

5. Order Defendants, under the authority of Business and Professions Code sections 17203 and 17535, to give full restitution to all consumers who contracted with Defendants;

6. Assess additional civil penalties, under the authority of Business and Professions Code section 6154, against Roth and the Roth firm in the amount of the fees and other compensation they received under the terms of any agreement to represent consumers who entered into purported joint ventures with United First;

7. For such other and further relief that the Court deems just and proper, including:

A. An order that each Defendant be permanently barred from operating as a foreclosure consultant or credit services organization in California and from having any involvement in or with any individual, business, corporation, or any other entity that operates as a foreclosure consultant or credit services organization;

B. An order that Defendants take down and permanently cease operating any Internet website which markets their services;

C. An order imposing a constructive trust on (i) all money Defendants have received from consumers who responded to Defendants' unlawful solicitations; (ii) all bank, savings, and checking accounts in which any Defendant deposited any of this money; (iii) all profits derived from this money; and (iv) any property purchased or maintained, in whole or in part, by any of this money;

D. An order that Defendants be enjoined from spending, transferring, disbursing, encumbering, or otherwise dissipating any funds held in the constructive trust imposed under the terms of this paragraph, subparagraph (C) above without first obtaining approval from this Court after a hearing

of which Plaintiff is given at least 15 days' written notice; and

E. An order that no defendant is entitled to indemnification or any other insurance coverage for this action, as provided in Insurance Code section 533.5; and

8. An order that the People recover their costs of suit.

Dated: July 6, 2009

Respectfully Submitted,

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