

**DEPARTMENT OF LAW
STATE OF COLORADO**

ASSURANCE OF DISCONTINUANCE

IN THE MATTER OF:
BASIL JEROME BADWAN d/b/a HAWK FINANCIAL SERVICES
Respondent.

This Assurance of Discontinuance ("Assurance") is entered into between the State of Colorado, *ex rel.* Attorney General John W. Suthers, through the undersigned Assistant Attorney General ("State"), the Administrator of the Colorado Uniform Commercial Credit Code and Basil Jerome Badwan d/b/a Hawk Financial Services ("Respondent").

FACTUAL BACKGROUND

1. The Colorado Foreclosure Protection Act ("the Act"), §§ 6-1-1101 through 6-1-1120, C.R.S. was enacted in 2006 and took effect on May 30, 2006. Its stated purpose is to curtail and prevent deceptive and unconscionable business practices of certain foreclosure consultants and to provide minimum requirements for transactions and contracts between these parties and home owners in financial distress.
2. Basil Badwan was a sole proprietor d/b/a Hawk Financial Services, doing business in the state of Colorado at his residence, 5053 Vermillion Lane, Castle Rock, Colorado. During the time relevant to this Assurance, Respondent Badwan, d/b/a Hawk Financial Services, also maintained a business office at 44 Cook St., Suite 100, Denver, CO 80206.
3. Respondent was in the business of providing Foreclosure Consultant services to Colorado consumers with residential mortgage loans. Between June 1, 2006 and July 21, 2008, Respondent marketed his services as a Foreclosure Consultant to Colorado home owners through

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print advertisements in the Dex Yellow Pages and an online website, www.hawkfinancial.com.

A copy of the Dex ad and the website screen are attached as Exhibit 1.

4. Respondent's business activities are consistent with the statutory definition of a "Foreclosure Consultant" as set forth in §6-1-1103 (4)(a), C.R.S.

5. Between June 1, 2006 and July 21, 2008, Respondent entered into numerous Foreclosure Consultant contracts with Colorado consumers. Thirty-one (31) examples of these contracts are attached as Exhibit 2. None of the contracts comply with the mandatory language, type face, disclosure and cancellation notice requirements set forth in §6-1-1104 of the Act. Respondent's inducement of home owners to enter into these noncompliant contracts violated §6-1-1107 (1)(g), C.R.S.

6. Between June 1, 2006 and July 21, 2008, Respondent also charged, required, collected and received full payment for his services from the home owner prior to performing any service, contrary to the explicit prohibitions set forth in §6-1-1107 (1)(a), C.R.S.

7. The State asserts that Respondent has engaged in acts and practices that are in violation of §§ 6-1-1104, 105, 106, and 107, C.R.S. of the Colorado Foreclosure Protection Act and §6-1-105(1)(xx) of the Colorado Consumer Protection Act ("CCPA").

8. Respondent has asserted under oath that he has not engaged in any conduct or transactions subject to the Uniform Debt Management Services Act ("UDMSA"), §§ 12-14.5-201 to 242, C.R.S. or the Colorado Credit Services Organization Act ("CCSOA"), §§ 12-14.5-101 to 114, C.R.S.

RESPONDENT'S ASSURANCES

9. Respondent enters this Assurance as a compromise and settlement of the State's allegations herein. This agreement is a settlement of claims that could be asserted under the

Colorado Foreclosure Protection Act, § §6-1-1104, 105, 106 and 107, C.R.S. based upon Respondent's prior conduct. This agreement is also a settlement of any claims pursuant to the Uniform Debt Management Services Act and the Colorado Credit Services Organization Act based on the truthfulness of Respondent's assertions as reflected in Paragraph 8 above and the facts presently known. The State is not prohibited from pursuing future enforcement action for any newly discovered violations. This Assurance shall not be considered an admission of violation for any purpose.

10. Respondent is committed to complying with all applicable Colorado laws relating to his business operations and assures the Colorado Attorney General that all of his future business activities will comply with Colorado law.

11. Respondent, Basil Jerome Badwan, is prohibited from engaging in the marketing, operation, administration, or sale of any foreclosure consulting services in Colorado as defined in § 6-1-1103(4)(a), C.R.S. for ten (10) years from the execution date of this Assurance. After that date, Respondent must provide a thirty day advance written notice to the Attorney General before operating, incorporating, forming or obtaining an ownership interest in any foreclosure consulting related business in Colorado. Respondent must also provide a thirty day advance written notice to the Attorney General if he intends to perform services as an employee or independent agent for any company engaged in the provision of foreclosure consulting services in Colorado.

12. Respondent understands and agrees that this Assurance applies to his doing business as Hawk Financial Services and while acting personally or through any other business entity.

13. Respondent shall not represent or imply that any advertisement, procedure or other act or practice hereinafter used or engaged in by Respondent has been required or approved, in whole or in part, by the Attorney General's Office, the Consumer Protection Section, or the State of Colorado.

PAYMENT TO THE STATE

14. Restitution: Respondent agrees to pay to the State the sum of Twenty Six Thousand Five Hundred and Two Dollars (\$26,502.) to be used to compensate the thirty-one consumers identified in Exhibit 2 who paid advance fees to Respondent between Jan. 10, 2007 and July 21, 2008.

15. Civil Penalties: Respondent shall pay Five Thousand Dollars (\$5,000) as a civil penalty pursuant to §6-1-112(1), C.R.S. Such funds shall be remitted to the General Fund of the State of Colorado.

16. Costs and Attorney Fees: Respondent shall also pay Five Thousand Dollars (\$5,000) to the Colorado Department of Law for reimbursement of Colorado's actual costs and attorney fees. Such funds, including interest thereon, shall be held by the Colorado Attorney General in trust to be used, first, for actual costs and attorney fees incurred by the Colorado Attorney General in this matter and, second, for consumer protection education, consumer fraud enforcement, and/or antitrust enforcement efforts.

17. The payments referred to in paragraphs 14, 15 and 16 above shall be paid by cashier's check or certified funds made payable to the Colorado Department of Law with a reference to "Badwan/Hawk Financial" and addressed to the Office of the Attorney General, Consumer Protection Section, 1525 Sherman St., 4th Floor, Denver, Colorado, 80203 and submitted according to the following schedule: **Monthly payments of \$1,000 must be received in the Office**

of Attorney General on the 15th of each month beginning January 15, 2009 and continuing thereafter until the total of \$36,502 is paid in full.

18. Respondent may increase payment amounts at any time to pay off these amounts. If there is a failure to make a payment pursuant to this Assurance, the State may accelerate all payments due hereunder and collect the entire amounts due hereunder. In such event the State shall be entitled to recover its costs and attorney fees in collecting such amounts.

19. If Respondent makes only a partial payment under this Assurance, the State's acceptance of this partial payment does not prevent it from declaring the Assurance breached and collecting the full amount due hereunder pursuant to paragraph 18 and to seek other remedies. If a partial payment is made, the Attorney General may deem the partial payment and all future payments as payment towards restitution until the full \$26,502 restitution amount has been paid. The Attorney General may distribute these funds for consumer restitution before paying civil penalties or attorney fees.

20. Respondent agrees that if he violates any term of this Assurance or causes another to violate any term of this Assurance, as determined by a court with jurisdiction to hear the matter, he is subject to additional penalties as contained in § 6-1-112, C.R.S.

21. Respondent expressly understands and acknowledges, pursuant to § 6-1-110 (2), C.R.S., that any violation of this Assurance shall establish *prima facie* evidence of a deceptive trade practice.

ADDITIONAL TERMS

22. This Assurance shall not be construed to affect the rights of any private party to pursue remedies pursuant to § 6-1-113, C.R.S. of the CCPA or under any other statutes through claims or actions in common law.

23. Pursuant to §6-1-110(2), C.R.S., this Assurance shall be a matter of public record.

24. Respondent acknowledges that he has had a full opportunity to review this Assurance and has consulted with legal counsel regarding the same.

DATED this 30th day of Dec., 2008.

BASIL JEROME BADWAN d/b/a
HAWK FINANCIAL SERVICES

By: Basil Badwan
(Signature)

Basil Badwan
(Please print name and title)

By: [Signature] AS TO FORM ONLY

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DATED this 30th day of December, 2008.

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On behalf of:

Assurance of Discontinuance
B. Badwan/Hawk Financial Services

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