

ASSURANCE OF VOLUNTARY COMPLIANCE and DISCONTINUANCE
IN RE: The Law Office of Eugene S. Alkana d/b/a
Legal Home Solutions

STATE OF COLORADO ATTORNEY GENERAL'S OFFICE CONSUMER PROTECTION SECTION	
Respondent: The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions	
JOHN W. SUTHERS, Attorney General ANDREW P. McCALLIN, First Assistant Attorney General 1525 Sherman Street, 7 th Floor Denver, CO 80203 Phone: (303) 866-5134 Fax: (303) 866-4916 Email: Andrew.McCallin@state.co.us	
ASSURANCE OF VOLUNTARY COMPLIANCE AND DISCONTINUANCE WITH THE LAW OFFICE OF EUGENE S. ALKANA D/B/A LEGAL HOME SOLUTIONS	

This Assurance of Voluntary Compliance and Discontinuance ("Assurance") is entered into between the State of Colorado, ex rel. John W. Suthers, Attorney General and Respondent The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions. This Assurance is entered into pursuant to the Attorney General's powers under § 6-1-110(2), C.R.S. (2008), and is being agreed to by the parties in lieu of the Attorney General filing a complaint against Respondent for the conduct described below.

I. PARTIES

1. John W. Suthers is the duly elected Attorney General for the State of Colorado ("Attorney General") and has express jurisdiction to investigate and prosecute violations of the Colorado Consumer Protection Act ("CCPA"), §§ 6-1-101, *et seq.*, C.R.S. (2008).

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2. Respondent The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions has his principal place of business at 131 N. El Molino Ave. Ste. 310 Pasadena, California, 91101. Legal Home Solutions is also not registered with the California Secretary of State with at Alkana's address of business of 131 N El Molino Ave., Pasadena, California. Legal Home Solutions is not registered with the Colorado Secretary of State as a foreign entity, authorized to do business in the State of Colorado. Respondent, including but not limited to employees, independent contractors, brokers, salespersons and/or agents of The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions have offered to negotiate or originate loan modifications for Colorado consumers.

II. FACTUAL BACKGROUND

3. Pursuant to the CCPA, Colorado Attorney General John W. Suthers has conducted an investigation into the advertising practices of Respondent.

4. The Attorney General contends that Respondent sent misleading and deceptive direct mail solicitations to Colorado consumers.

A. The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions Direct Mail Solicitation Appears To Come From Someone Other Than Respondent.

5. The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions direct mail solicitation, a copy of which is attached hereto as Exhibit A, purports to be an official "Eligibility Notice." The top of the direct mail solicitation contains the words "FORM 1020 ELIGIBILITY NOTICE" near the name of the consumer's lender. The solicitation assigns a disbursement code and the recipient's eligibility area. (See Ex. A.)

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6. The name of the consumer's lender appears in large font in all capital letters in the upper left hand corner of and at various other places throughout the solicitation. While the name of the consumer's lender appears in all capital letters four (4) times in the solicitation, the only indication that this "Eligibility Notice" is not coming from the consumer's lender appears in a footnote in small font at the bottom of the solicitation. (*Id.*) Respondent does not indicate The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions' company name or address anywhere on the direct mail solicitation.

7. Respondent does not have the permission of the consumers' lenders to use the lenders' names in its advertising.

8. The Attorney General contends that The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions direct mail solicitation sent by Respondent to Colorado consumers in the form of Exhibit A is misleading and deceptive in that it appears to be an official notice from the consumer's lender.

B. The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions Direct Mail Solicitation Improperly Offers to Modify the Recipient's Loan.

9. Respondent offers to modify the recipient's loan when they state: "We are proposing to help re-negotiate your existing loan. We have reviewed your property information and have determined that you are eligible to modify the current terms of your mortgage, which could allow you to reduce your monthly payments by 30% - 60%."

10. The direct mail solicitation contains a footnote in very small print with the following statements:

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Information obtained from public record sources and not by Countrywide Hm Lns Inc. We are not sponsored by or affiliated with Countrywide Hm Lns Inc. Example only, each case is independent and not all will qualify.

(*Id.*)

11. The Attorney General contends that The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions direct mail solicitation sent by Respondent to Colorado consumers in the form of Exhibit A is misleading and deceptive in that Respondent offers to modify the recipient's mortgage loan in the text of the solicitation, but then attempt to disclaim that offer in a footnote. Persons cannot represent one thing in the text of an advertisement and then directly contradict that representation in a footnote in small print.

C. Respondent's Agents Acted as Mortgage Brokers Without Proper Licenses.

12. The Director of the Division of Real Estate has determined that "persons who directly or indirectly negotiate, originate *or offer or attempt to* negotiate or originate loan modifications for a borrower and for a commission or other thing of value are required to be licensed as mortgage brokers." (Ex. B, Division of Real Estate, Position Statement MB 1.5 – Loan Modifications, Nov. 19, 2008.) (Emphasis added.) Additionally, "persons who directly supervise individuals who negotiate, originate, *or offer or attempt to* negotiate or originate loan modifications for a commission or other thing of value are required to be licensed as mortgage brokers." (*Id.*) (Emphasis added.)

13. Through these direct mail solicitations, Respondent or his agents offered to negotiate or originate loan modifications for Colorado borrowers.

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14. Respondent, however, does not have employees or independent contractors who are licensed as mortgage brokers by the Colorado Division of Real Estate.

15. As such, the Attorney General contends that Respondent and his agents offered to negotiate or originate loan modifications without mortgage broker licenses in violation of §§ 6-1-105(1)(z) and 12-61-903(1)(a), C.R.S. (2008).

D. Summary

16. The Attorney General contends that the above misrepresentations and omissions of material facts are misleading and deceptive, may have caused significant financial harm to Colorado consumers, and have the potential to continue.

17. The Attorney General contends that these advertising and sales practices violate the CCPA, including but not limited to §§ 6-1-105(1) (b), (c), (e), (u), (z), (uu), & (bbb) C.R.S. (2008).

III. CONSIDERATION

18. Respondents enter this Assurance as a compromise and settlement of the Attorney General's allegations herein. This Assurance shall not be considered an admission of violation for any purpose. Respondents expressly deny liability under the CCPA and are entering into this Assurance to avoid further costs and litigation.

19. The Attorney General intends that this Assurance will finally and fully resolve all of the disputes between the Attorney General and Respondent arising out of the conduct alleged in Section II, Factual Background, of this Assurance.

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IV. ASSURANCES

20. Respondent will not target advertisements directly to Colorado consumers.

21. The term "advertisements" includes all advertisements, marketing or promotional materials issued by Respondent, including but not limited to, newspaper and magazine advertisements, direct mail solicitations, flyers, brochures, emails, faxes, telemarketing, billboards, envelopes, and banner or pop-up advertising that is disseminated electronically.

22. Respondent shall comply with the CCPA as now constituted or as may be amended in conducting business in the State of Colorado; the federal Truth in Lending Act, 15 U.S.C. §§ 1601, *et seq.* ("TILA"); the Uniform Consumer Credit Code, §§ 5-1-101 through 5-13-105, C.R.S. (2008) ("UCCC"); and the Colorado Mortgage Broker Licensing Act, §§ 12-61-101, *et seq.*

23. Respondent shall comply with all applicable rules and regulations implementing the laws set forth in the preceding paragraph.

24. Within ten (10) business days of executing this Assurance, Respondent will provide the Colorado Attorney General with the names, company names, addresses, telephone numbers, and email addresses of all persons who assisted it in creating and/or disseminating the The Law Office of Eugene S. Alkana d/b/a Legal Home Solutions direct mail solicitation attached as Exhibit A.

V. ENFORCEMENT

25. The obligations set forth in this Assurance are continuing under this Assurance.

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26. A violation of any of the terms of this Assurance shall constitute a prima facie violation of the CCPA in accordance with § 6-1-110(2), C.R.S. (2008). Upon a violation of any of the terms of this Assurance by Respondent, the Attorney General shall be entitled to file a civil action under the CCPA in any court of competent jurisdiction and to seek an injunction or other appropriate order from such court to enforce the provisions of this Assurance.

27. In addition to any remedies provided under the CCPA, the Attorney General shall be entitled to apply for and seek from a court of competent jurisdiction an order converting this Assurance into a permanent injunction against Respondent as if the parties had fully litigated all issues contained herein, upon a showing by the Attorney General of a violation by a Respondent of this Assurance. In such event, Respondent agrees to waive any and all defenses and counterclaims they may have had to such an action, except as to claims or defenses related to the alleged violation of this Assurance or as to the need for injunctive relief.

28. 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. (2008), or under any other statutes through claims or actions in common law.

29. Nothing in this Assurance shall be construed to release claims held by any other governmental authority.

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30. Pursuant to § 6-1-110(2), C.R.S. (2008), this Assurance shall be a matter of public record.

31. This Assurance may be executed in one or more counterparts, each of which shall be deemed to be an original, but which together shall constitute the Assurance.

32. The person who signs this Assurance in a representative capacity for Respondent warrants that he or she is duly authorized to do so. Respondent acknowledges that they have had a full opportunity to review this Assurance and consult with legal counsel regarding same. Respondent agrees and represent that they have read and understand this Assurance, that they accept the legal consequences involved in signing it, and that there are no other representations, agreements or understandings between Respondent and the Attorney General that are not stated in writing herein.

33. Respondent and their principals, officers, directors, agents, employees, representatives, successors, affiliates, subsidiaries, assigns, contractors, and any person acting on behalf of any Respondent agree to cooperate with all investigations and other proceedings that the Attorney General may bring to enforce the terms of this Assurance or to enforce the CCPA against any other entity. Included within this cooperation agreement are the obligations to:

- a) Appear for hearings, depositions or provide testimony in any form, including affidavits. All such testimony shall be truthful;

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- b) Produce documents, records, electronic records, or any other tangible things in response to a subpoena or other written request issued by the Attorney General; and
- c) Accept a subpoena from the Attorney General without the need for service of process.

34. Any notices, complaints or other documents required by this Assurance (including any request or subpoena) shall be sent to the following individuals at the address, email or fax set forth below:

To Respondent The Law Office of Eugene S. Alkana d/b/a
Legal Home Solutions

131 N. EL MOLINO Ave #310
PASADENA, CALIF 91109

Email: EugeneAlkana@yahoo.com
Phone: 626 796 8170
Fax: 626 795-6138

To The Attorney General at:

Andrew McCallin
First Assistant Attorney General
Antitrust, Tobacco, and Consumer Protection Unit
Consumer Protection Section
1525 Sherman Street - 7th Floor
Denver, CO 80203
Email: Andrew.McCallin@state.co.us
Phone: (303) 866-5134
Fax: (303) 866-4916

Dated: 6 / 12 / 09

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RESPONDENT THE LAW OFFICE OF EUGENE S. ALKANA D/B/A LEGAL HOME
SOLUTIONS

By: _____

Eugene Alkana

Eugene Alkana, owner

Print Name and Title

Dated: _____

JOHN W. SUTHERS

Attorney General

Andrew M. Callin

ANDREW MCCALLIN

First Assistant Attorney General

Consumer Protection Section