

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, Colorado 80202</p> <hr/> <p>STATE OF COLORADO, <i>ex rel.</i> John W. Suthers, Attorney General,</p> <p>Plaintiff,</p> <p>v.</p> <p>AMERICAN MORTGAGE CONSULTANTS-AMC, a sole proprietorship; OLIVER PAUL MALDONADO, an individual; and SANTIAGO FABIAN PINEDA, an individual,</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case No.:</p> <p>Courtroom:</p>
<p>TEMPORARY RESTRAINING ORDER</p>	

The Court, having reviewed the Complaint, Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction, the supporting Investigator affidavit and victim affidavits attached to the Motion, and being fully advised in the premises,

FINDS that a temporary restraining order should be entered against Defendants, including against Defendant Oliver Paul Maldonado and against Defendant Santiago Fabian Pineda, individually and personally, for the following reasons:

1. This Court has jurisdiction in the matter presented herein by virtue of section 6-1-110(1), C.R.S. (2009) and Rule 65, Colorado Rules of Civil Procedure.

2. This Court is expressly authorized to issue a temporary restraining order to enjoin ongoing violations of the Colorado Consumer Protection Act (“CCPA”) by § 6-1-110(1), C.R.S. (2009):

- (1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any

deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

§ 6-1-110(1), C.R.S. (2009).

3. Under Rule 65(b), it clearly appears from specific facts shown by affidavit or by testimony that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.

4. The State of Colorado has shown from specific facts by affidavit or by testimony that Defendants' deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001); *Lloyd A. Fry Roofing Co. v. State Department of Air Pollution*, 191 Colo. 463, 553 P.2d 200 (1976); *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982). Immediate and irreparable injury to additional consumers will occur without a temporary restraining order because Defendants may continue to obtain upfront fees from consumers by deceptive and misleading representations and because Defendants' deceptive conduct may prohibit those consumers from obtaining actual assistance with their mortgage loans and foreclosures. As the affidavits set forth, many consumers have relied on Defendants' representations that Defendants are working on a loan modification when in fact there is no work being done. As a result, consumers are in danger of going into foreclosure or losing their homes. If not enjoined, Defendants will continue to engage in unlicensed mortgage loan origination.

5. Defendants will suffer no undue hardship by the entry of a temporary restraining order or preliminary injunction because Defendants have no right to continue to engage in unlawful and deceptive trade practices in the state of Colorado, or to collect money from consumers as a result of such unlawful and deceptive conduct in violation of the CCPA. Further, Defendants have no right to unjustly benefit from such deceptive trade practices. Without an injunction, Plaintiff will be unable to adequately protect the public from Defendants' ongoing unlawful activities.

6. C.R.C.P. 65(b) allows the entry of a temporary restraining order without written or oral notice to Defendants if it clearly appears from the facts shown by affidavit that immediate

and irreparable injury, loss or damage will result from giving said notice. In view of the continuing and serious harm to consumers as outlined in the accompanying affidavits the entry of a temporary restraining order without notice to Defendants is necessary and appropriate.

7. Pursuant to Rule 65(c) C.R.C.P., Plaintiff is not required to provide a security bond.

IT IS HEREBY ORDERED PURSUANT TO § 6-1-110(1) AS FOLLOWS:

A. Defendants, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's order, are hereby temporarily enjoined from:

(1) Soliciting or accepting payment for services of any kind in connection with American Mortgage Consultants or any other company or person relating to mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, mortgages, real estate, debt or credit relief or counseling, credit repair, lead generation, or any other investments or financial services or products offered or provided to Colorado consumers;

(2) Advertising, selling, marketing, displaying, offering or performing mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, mortgages, real estate, debt or credit relief or counseling, credit repair, lead generation, or any other investments or financial services or products offered or provided to Colorado consumers;

(3) Publishing, distributing or disseminating any information, including written, oral, or video, relating to mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, mortgages, real estate, debt or credit relief or counseling, credit repair, lead generation, or any other investments or financial services or products offered or provided to Colorado consumers; and

(4) Performing, supervising, or otherwise participating in mortgage loan origination or processing mortgage loans.

B. Defendants, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's order, are ordered to:

(a) Deactivate within forty-eight (48) hours of the order all Internet sites, domain names, URL addresses, registrations, and any other forms or materials that advertise, market or solicit any business relating to mortgages, loan modifications, foreclosures, or any other mortgage relief services;

(b) Notify in writing by e-mail sent no later than May 6, 2010 and United States mail, first-class postage prepaid, postmarked no later than May 6, 2010 all American Mortgage Consultants' clients of the order and attaching and enclosing the order and a letter from the Colorado Attorney General's Office to notify each client that no one is working on

their loan modification and to contact the Colorado Foreclosure Hotline at 1-877-601-HOPE (4673) for assistance and www.coloradoforeclosurehotline.org/;

(c) Provide to the Colorado Attorney General's Office within forty-eight (48) hours of the order a complete list by name, address and telephone number of each client from whom American Mortgage Consultants received any upfront fee at any time;

(d) Return by letter postmarked no later than May 6, 2010 to every American Mortgage Consultants' client by United States mail, first-class postage prepaid, all originals and all copies of their respective documents containing personal and financial information in the possession of American Mortgage Consultants; and

(e) Provide a status report and certification to the Court by May 7, 2010 that Defendants have complied with the foregoing (a) through (e).

ENTERED this 28th day of April, 2010, at 2:45 p.m. o'clock.

In accordance with Rule 65(b) of the Colorado Rules of Civil Procedure, this Order expires by its terms within such time after entry not to exceed ten calendar days, as the Court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.

Subject to the foregoing and unless otherwise directed by the Court, this Order shall expire on this 10th day of May, 2010 at 2:45 p.m. o'clock.

BY THE COURT:



District Court Judge