

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, Colorado 80202</p>	
<p>STATE OF COLORADO, <i>ex rel.</i> John W. Suthers, Attorney General,</p> <p>Plaintiff,</p> <p>v.</p> <p>AUHLL AND ASSOCIATES, LLC, d/b/a LOAN MODIFICATION SOLUTIONS, a Colorado limited liability company; NANETTE M. AUHLL, an individual; ROBERT R. AUHLL, an individual; PRINCIPAL FINANCIAL PARTNERS, INC., a Colorado corporation; and THOMAS S. STEFANSZKY, an individual,</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General ANDREW P. McCALLIN, Reg. No. 20909* First Assistant Attorney General ERIK R. NEUSCH, Reg. No. 33146* JENNIFER MINER DETHMERS, Reg. No. 32519* Assistant Attorneys General 1525 Sherman Street Denver, Colorado 80203 Phone: 303-866-5079 *Counsel of Record</p>	<p>Case No.:</p> <p>Courtroom:</p>
<p>COMPLAINT</p>	

Plaintiff, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, by and through the undersigned counsel, states and alleges against Defendants Auhll and Associates, LLC, d/b/a Loan Modification Solutions, Nanette M. Auhll, Robert R. Auhll, Principal Financial Partners, Inc., and Thomas S. Stefanszky, as follows:

INTRODUCTION

1. This matter is a civil law enforcement action by the State of Colorado, *ex rel.* John W. Suthers, under the Colorado Consumer Protection Act, §§ 6-1-101 – 6-1-1121, C.R.S. (2010), to preliminarily and permanently restrain and enjoin Defendants from engaging in

deceptive trade practices, to recover statutory civil penalties, to obtain restitution, to disgorge unjust proceeds, and to recover attorney fees and costs.

PARTIES

2. John W. Suthers is the duly elected Attorney General for the State of Colorado and has express authority under § 6-1-103, C.R.S. (2010) to enforce and prosecute violations of the Colorado Consumer Protection Act.

3. Defendant Auhll and Associates, LLC, d/b/a Loan Modification Solutions, is a limited liability company formed under Colorado law on or about January 19, 2008. On or about December 13, 2008, Nanette Auhll registered Loan Modification Solutions (LMS) as the trade name for Auhll and Associates, LLC. At all relevant times, the principal street address was 8400 East Crescent Parkway, Suite 600, Greenwood Village, Colorado 80111, which is a virtual office. However, the actual business operations have been at the personal residence of Nanette Auhll and Robert Auhll, and at an undisclosed office in Castle Rock. The registered agent is Robert Auhll.

4. Defendant Principal Financial Partners, Inc. is a Colorado corporation formed by, or at the direction of, Robert Auhll or Nanette Auhll on or about September 14, 2010. Its principal office address is the same address used by LMS. It also lists for consumers an office at 7150 East Camelback Road, Suite 444, Scottsdale, Arizona 85251. The registered agent is the law firm of Laff, Campbell, Tucker and Gordon, LLP, 7730 East Belleview Avenue, Suite 204, Greenwood Village, Colorado 80111. On September 14, 2010, Principal Financial Partners, Inc. registered a trade name of Addvent Financial Partners, but withdrew it on November 17, 2010.

5. Defendant Nanette M. Auhll (DOB 03/07/63) is an individual residing at 1412 Pinyon Drive, Castle Rock, Colorado 80104, and served as the president and owner of LMS until in or around June 2010, when she allegedly transferred sole ownership to her husband Robert Auhll. Nanette Auhll continued to work on behalf of LMS after the alleged transfer of ownership, including wrongfully denying refunds.

6. Defendant Robert R. Auhll (DOB 09/21/63) is an individual residing at 1412 Pinyon Drive, Castle Rock, Colorado 80104, and served as the general manager of LMS at all relevant times. He became the sole owner of LMS in or around June 2010, when Nanette Auhll transferred sole ownership to him. He also serves as the president and/or general manager of Principal Financial Partners, Inc.

7. Defendant Thomas S. Stefanszky (DOB 07/23/62) is an individual residing at 5949 West Crest Lane, Glendale, Arizona 85310, and was a sales agent of LMS and is a sales agent of Principal Financial Partners, Inc.

JURISDICTION AND VENUE

8. This Court has jurisdiction to enforce the Colorado Consumer Protection Act under section 6-1-103 and section 6-1-110, C.R.S. (2010), and to enter appropriate orders prior to and following an ultimate determination of liability.

9. Under section 6-1-103 of the Colorado Consumer Protection Act, venue is proper in the City and County of Denver, because at least a portion of the transactions involving deceptive trade practices occurred in the City and County of Denver.

RELEVANT TIMES

10. The conduct giving rise to the claims for relief in this Complaint began in or around January 2009, with the formation and use of LMS to solicit substantial upfront fees from homeowners, and continues through the present date with the use of Principal Financial Partners, Inc. to solicit substantial upfront fees from homeowners. Plaintiff therefore timely files this action pursuant to § 6-1-115, C.R.S. (2010), because Plaintiff commenced the action within three years of the date on which false, misleading, and deceptive acts or practices occurred.

PUBLIC INTEREST

11. Through the deceptive trade practices of their business, vocation, or occupation, LMS, through its owners, officers, members, and agents, including Nanette Auhll, Robert Auhll, and Thomas Stefanszky, deceived and misled hundreds of consumers by inducing them to pay a \$2,995 upfront fee for loan modification services through falsely advertising a 100-percent money back/100-percent satisfaction guarantee, a pre-qualification process, relationships with lenders, skilled and experienced negotiators, and a greater than 90-percent success rate.

12. LMS' advertisements were deceptive and false, and LMS failed to perform the services that they promised and represented to perform for the upfront fee.

13. These unlawful practices have resulted not only in consumers losing \$2,995, but also, in many cases, the opportunity to work out a meaningful loan modification or other arrangement to save their home. As a result of LMS' deceptive conduct, consumers have wasted several months in reliance on LMS' representations that they would competently and expertly negotiate a loan modification when in fact LMS merely faxed homeowners' documents to lenders and periodically called for updates, but performed no actual negotiations—services that a homeowner could perform by herself more effectively and for free.

14. LMS also discouraged consumers from working directly with lenders or nonprofit housing counselors, who in contrast to LMS have experience with, and are knowledgeable about, loan modifications and foreclosure consulting, and charge no fee. LMS also represented to some homeowners not to pay their mortgage. Such reliance on LMS' claims and statements caused

homeowners to become delinquent on their mortgage or fall further behind while believing that LMS was negotiating a modification as advertised.

15. Since January 2009, LMS has obtained more than a million dollars in upfront fees from homeowners in Colorado and other states for purported loan modification services.

16. Beginning in or around September 2010, Defendants began using Principal Financial Partners, Inc. to solicit yet another form of mortgage assistance relief services—principal reductions—for an upfront fee of approximately \$3,500. Thus, Defendants' new company is a continuation of their effort to collect upfront fees from distressed homeowners.

17. If Defendants are not immediately and permanently enjoined from engaging in this, or any related, business, the Attorney General believes that consumers in Colorado and other states will continue to suffer irreparable injury, loss, and damage.

18. Accordingly, these legal proceedings are in the public interest.

ACTS OF AGENTS

19. Whenever reference is made in this Complaint to any act or practice of Defendants, including LMS and Principal Financial Partners, Inc., such allegation shall be deemed to mean that the principals, owners, employees, independent contractors, agents, and representatives of such Defendants performed, or authorized, such act or practice on behalf of said Defendants, while actively engaged in the scope of their duties.

20. Whenever reference is made in this Complaint to any act or practice of any Defendant, such allegation shall be deemed to mean the act of each Defendant acting individually and jointly.

PERSONAL LIABILITY OF NANETTE AUHLL AND ROBERT AUHLL

21. This civil law enforcement action is brought against Defendant Auhll and Associates, LLC, d/b/a LMS, Defendant Principal Financial Partners, Inc., Defendant Nanette Auhll, individually, Defendant Robert Auhll, individually, and Defendant Thomas Stefanszky, individually. Defendants Nanette Auhll and Robert Auhll are personally liable for the conduct of the entity defendants, because of their control, authorization, and participation in the conduct by those entity defendants.

22. Defendant Nanette Auhll has at all relevant times directly controlled, authorized, approved, and cooperated or participated in the unlawful conduct by LMS and its agents alleged in this Complaint, and she is therefore personally liable for all conduct. Even after her alleged transfer of ownership of LMS in or around June 2010 and after LMS ceased operations in or around September 2010, she continued to exercise a significant role with LMS, including wrongfully denying numerous refunds requested by consumers.

23. Defendant Robert Auhll has at all relevant times directly controlled, authorized, approved, and cooperated or participated in the unlawful conduct by LMS and by Principal Financial Partners, Inc., and their agents alleged in this Complaint, and he is therefore personally liable for all conduct by LMS and Principal Financial Partners, Inc. Even after LMS ceased operations in or around September 2010, he continued to exercise a significant role with LMS, including wrongfully denying numerous refunds requested by consumers.

STATUTORY BACKGROUND

A. Mortgage Loan Originator Laws

24. On November 19, 2008, the Colorado Division of Real Estate confirmed that a person offering, attempting, or negotiating a loan modification must be licensed as a mortgage broker and must comply with all other provisions of the law governing mortgage brokers. *See* Position Statement—MB 1.5 Loan Modifications, issued November 19, 2008; *see also* Position Statement—MLO 1.5 Loan Modifications, revised and reissued September 11, 2009.

25. The November 19, 2008 position statement provided: “The purpose of this position statement is to clearly notify loan modifiers (those who engage in the act of directly or indirectly negotiating a loan modification) of the applicability of Colorado mortgage broker law.” *See* Position Statement—MB 1.5 Loan Modifications, issued November 19, 2008.

26. Under C.R.S. § 12-61-911(1)(l), a mortgage broker or mortgage loan originator cannot “[c]ollect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by section 12-61-914 or 12-61-915.”

27. Under C.R.S. § 12-61-915(1), with limited exceptions not applicable here, “a mortgage loan originator [or broker] shall not receive a fee, commission, or compensation of any kind in connection with the preparation or negotiation of a residential mortgage loan unless a borrower actually obtains a loan from a lender on the terms and conditions agreed to by the borrower and mortgage loan originator.”

B. The Colorado Consumer Protection Act

28. The Colorado Consumer Protection Act prohibits certain enumerated deceptive trade practices as set forth in C.R.S. § 6-1-105(1) in the course of such person’s business, vocation, or occupation.

29. As relevant here, a person engages in a deceptive trade practice when, in the course of such person’s business, vocation, or occupation, such person “[k]nowingly makes a false representation as to the affiliation, connection, or association with . . . another.” C.R.S. § 6-1-105(1)(c).

30. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[r]epresents that . . . services . . . are of a particular standard, quality, or grade . . . if he knows or should know that they are of another." C.R.S. § 6-1-105(1)(g).

31. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[k]nowingly makes a false representation as to the characteristics . . . uses . . . [or] benefits . . . of services." C.R.S. § 6-1-105(1)(e).

32. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[a]dvertises . . . services . . . with intent not to sell them as advertised." C.R.S. § 6-1-105(1)(i).

33. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[a]dvertises or otherwise represents that . . . services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor." C.R.S. § 6-1-105(1)(r). Subsection (1)(r) also states, "Guarantees shall not be used which . . . are otherwise of such a nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into believing that the . . . services so guaranteed have a greater degree of . . . performance capability in actual use than is true in fact."

34. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[f]ails to disclose material information concerning . . . services . . . which information was known at the time of advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction." C.R.S. § 6-1-105(1)(u).

35. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[r]efuses or fails to obtain all governmental licenses . . . required to perform the services . . ." C.R.S. § 6-1-105(1)(z).

36. As relevant here, a person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person "[v]iolates any provision of section 12-61-911," which describes prohibited conduct by a mortgage loan originator, such as receiving certain fees in advance. C.R.S. § 6-1-105(1)(bbb).

37. The Colorado Consumer Protection Act authorizes the Attorney General under C.R.S. § 6-1-110(1) to obtain injunctive relief and 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.

38. The Colorado Consumer Protection Act authorizes civil penalties under C.R.S. § 6-1-112 for violations for each consumer or transaction involved, and the court shall award attorney fees and costs under C.R.S. § 6-1-113(4) in all actions where the Attorney General successfully enforces the Colorado Consumer Protection Act.

FACTUAL ALLEGATIONS

Background and Summary

39. In or around December 2008, Castle Rock residents Nanette Auhll and Robert Auhll formed LMS under Colorado law as part of Auhll and Associates, LLC, in order to solicit distressed homeowners in Colorado and other states with offers to provide a form of mortgage assistance relief services—loan modifications—in exchange for an upfront fee of \$2,995.

40. Mortgage assistance relief services generally involve any service or program offered to the consumer that is represented to assist the consumer with stopping or postponing any foreclosure or obtaining a modification of any term of a mortgage loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees. *See generally* 16 CFR Part 322, Mortgage Assistance Relief Services; Final Rule (Dec. 1, 2010).

41. LMS advertised aggressively and deceptively through dissemination of thousands of direct mail items to homeowners and through its Web site, offering to provide expert and legal assistance on behalf of the homeowner to negotiate with the lender a lower mortgage payment.

42. LMS collected more than a million dollars from homeowners in upfront fees based on deceptive advertisements, including a prominent advertisement of a 100-percent money back and 100-percent satisfaction guarantee. LMS also falsely claimed in advertisements to be “experts at reducing mortgage payments,” to provide an “Attorney Assisted Loan Modification Program,” to have a 90-percent or greater success rate for loan modifications, to have “modified thousands of loans with all of the major and minor banks,” to have “relationships within the lending industry,” and to have “skilled” and “professional” negotiators.

43. These intentionally false statements provided consumers with the impression that LMS was much better suited to obtain a loan modification for the homeowner than the homeowner herself would be able to obtain by working directly with the lender, a nonprofit housing counselor, or competitor that followed the law.

44. Robert Auhll and Nanette Auhll personally developed, approved, and controlled the deceptive trade practices of LMS, including the false advertisements, statements, and conduct by their agents.

45. Robert Auhll and Nanette Auhll also personally controlled all decisions regarding whether LMS would honor its 100-percent money back and 100-percent satisfaction guarantee.

46. Robert Auhll and Nanette Auhll specifically directed their agents to handle most of the sales and attempted loan modification services, though both Robert Auhll and Nanette Auhll also directly engaged in sales and attempted loan modification services.

47. LMS employed sales agents in Colorado and other states, including Thomas Stefanzky, to answer telephone inquiries from persons who received LMS direct mail solicitations or viewed the LMS Web site. At the direction of Nanette Auhll and Robert Auhll, the LMS sales agents reinforced the false advertisements, including reading LMS sales scripts that falsely advertised its experience and success with loan modifications.

48. Specifically, at the direction of Nanette Auhll and Robert Auhll, the LMS sales agents, including Thomas Stefanzky, notified prospective consumers of the 100-percent money back and 100-percent satisfaction guarantee and informed prospective consumers of the company's alleged vast experience and high success rate with loan modifications in an effort to assuage any concerns a consumer might have in paying a substantial upfront fee.

49. Moreover, LMS agents informed some consumers to stop paying their mortgage, which the consumers relied upon to their detriment, resulting in late fees, foreclosure notices, and the loss of their home.

50. LMS' "loan modification specialists" included Nanette Auhll's daughter and her daughter's childhood friend, both of whom had no experience with or background in mortgages or loan modifications but engaged in many of the attempted loan modifications.

51. Despite advertisements to the contrary, LMS performed no negotiations with lenders, had no relationships with lenders, had no expertise with loan modifications, and used no attorney to assist clients with loan modifications.

52. Rather, after LMS collected the upfront fee, it simply submitted the homeowner's documents to the lender that the homeowner could have submitted himself, and LMS followed up with the lender sporadically for the status of the loan modification, while LMS reassured inquiring homeowners that the process was working properly and negotiations were proceeding.

53. The LMS sales agents had no background or training in loan modifications, and they lacked any meaningful knowledge of governmental programs and lender guidelines for loan modifications. Nevertheless, they discussed with consumers eligibility for and terms of a loan modification, which often repeated claims by LMS in the direct mail solicitations and online.

54. LMS created and advertised a "pre-qualification" process, which gave the false impression to consumers that they paid the upfront fee because they were qualified for a loan modification. LMS did not inform consumers that only the lender determines the qualifications

for a loan modification or that the qualifications for a governmental modification program were available through nonprofit housing counselors, the lender, and online.

55. After LMS clients became “pre-qualified” and paid the upfront fee to LMS, the clients waited several months or longer for a decision on the loan modification request that they paid LMS to expertly and skillfully negotiate with the lender. During this lengthy time period, however, the only service LMS actually provided was to follow up occasionally with the lender on the status of the loan modification by contacting the same general telephone number available to the public. Many of these clients became frustrated with the delay and inaction, and received a response from the lender only after contacting the lender directly.

56. Moreover, many LMS clients waited several months or longer only to learn that they did not qualify for a loan modification, despite the LMS “pre-qualification process” and payment of a substantial upfront fee.

57. While some LMS clients eventually obtained an offer from their lender for a loan modification, such offer was generally despite, not because of, LMS and substantially different than what LMS represented was possible if they paid LMS the \$2,995 upfront fee.

58. Many LMS clients who were denied a loan modification sought a refund under the 100-percent money back and 100-percent satisfaction guarantee, but LMS largely rejected or ignored those requests. While LMS issued some refunds, most clients received only a partial refund, had their refund request ignored, or were given a specious excuse denying their eligibility for a refund. In several cases, LMS merely resubmitted the denied loan modification request to the lender in order to avoid having to issue a refund.

Unlicensed Activity

59. Neither Nanette Auhll nor Robert Auhll had a mortgage broker or mortgage loan originator license when they formed LMS and began personally and through agents attempting loan modifications for Colorado homeowners, despite the requirement by the Colorado Division of Real Estate in its position statement, dated November 19, 2008, stating that such individuals attempting loan modifications must be licensed mortgage brokers or mortgage loan originators.

60. After attempting loan modifications for nearly nine months without a license, Robert Auhll eventually obtained a mortgage loan originator license in Colorado. Even after he obtained his license, however, most of the attempted loan modifications at LMS were still being performed by unlicensed individuals, including by Nanette Auhll.

61. Accordingly, Robert Auhll’s license was a transparent attempt to provide a false veneer of compliance with the law, because he knew that most of the attempted modifications would be performed by unlicensed individuals at LMS.

LMS Web Site

62. The LMS Web site's home page prominently displayed a notification of 100-percent money back and 100-percent satisfaction guarantee. *See* Web site, attached as Exhibit 1.

63. When visiting the Web site, a pop-up video starts: "If you're checking out this Web site, chances are you're struggling with your mortgage payment Our professional negotiators combined with our legal staff have years of experience negotiating with mortgage companies and they are ready to go to work for you today. . . ."

64. LMS claimed on its Web site to be "experts at reducing mortgage payments and resolving home foreclosure claims . . . and offer a 100% money back guarantee if we cannot help you." Exhibit 1.

65. The Web site claimed that LMS has a "98% rate of success." Exhibit 1.

66. LMS stated on its Web site that its "skilled negotiators will contact your lender on your behalf to renegotiate the terms of your loan" and "[o]ur processors have modified thousands of loans with all of the major and minor banks. Our history with the bank will quickly stabilize your situation and shepherd your family through the paperwork intensive process." Exhibit 1.

67. The Web site further claims, "Call us and speak to one of our experts. Our experience working with lenders means we know who [sic] to talk to and what to say in order to cut through red tape and get results that are unlikely for an individual to achieve." Exhibit 1.

68. The Web site stated: "Unfortunately, many homeowners that try to work directly with lenders have a high failure rate. Our experience within the loss mitigation departments of major mortgage companies & lenders, combined with our expert knowledge of Federal and Consumer Homeowner Protection Laws, will give you the advantage needed to secure a financial plan that you can live with. Our experience working with lenders means we know who [sic] to talk to and what to say in order to cut through red tape and get results that aren't possible for an individual to achieve." Exhibit 1.

69. It also stated: "Our extensive experience and solid working relationships with mortgage lenders allows us to help you avoid the common pitfalls that many homeowners encounter while trying to work things out directly with their lender." Exhibit 1.

70. The Web site proclaimed, "We are here to help stop foreclosure on your home. We will work with your lender to get you a loan modification." Exhibit 1.

71. LMS also claimed: "We are confident we can help you achieve an affordable alternative to your current loan situation. So confident in fact, that if we can't, we will refund 100% of the cost of the loan modification! So what are you waiting for? Call us now and let us

handle the stress. Sit back, relax and let us deliver your new affordable payment.” Exhibit 1.

72. Such advertisements and statements were knowingly and demonstrably false. LMS had no professional negotiators and no legal staff. It had no experts at reducing mortgage payments. It did not have a 98-percent success rate. It did not have extensive experience and solid working relationships with lenders. It did not modify thousands of loans. And it did not obtain results that were impossible for individuals to achieve.

73. Rather, LMS used “loan modification specialists” with no experience in the mortgage industry, banking, law or any other field relevant to mortgage loan modifications.

LMS Sales Call Script

74. LMS’ sales call script prepared by Robert Auhll and Nanette Auhll makes the following false representations to prospective consumers:

- Our processing and legal staff has [sic] successfully completed over 600 modifications to date.
- Typical interest rates we see on a modification are around 4.5% on a 30-year fixed and 2.5% on a 5 year arm [sic] or short term workout.
- If you are behind on your mortgage we will negotiate on your behalf to bring you current without any penalties or fees.
- Your payments will be reduced.
- We currently carry a 90% success rate on modifications in our program.

See LMS Call Script, attached as Exhibit 2.

75. Likewise, these statements were knowingly and demonstrably false. LMS had no legal staff, did not successfully complete more than 600 modifications, did not obtain typical modifications at an interest rate of 4.5%, did not perform any negotiation, and did not have a 90% success rate. Moreover, LMS had no basis for stating that “payments will be reduced.”

LMS Direct Mail

76. LMS delivered a significant number of direct mail solicitations to homeowners in Colorado and other states, which purport to be from the “Re-Negotiation Department,” do not always reference LMS or a loan modification entity, and advertise reductions in monthly mortgage payments “by up to 20% - 50%” and modification interest rates “as low as 1% to 5%.” One direct mail item entitled “2009-A Special Relief Advisory” advertised a loan adjustment notification referencing the recipient’s loan amount, lender, and origination date of the loan. It

stated:

Are you in need of lower house payments and a better interest rate? The Federal Government has called on lenders, servicers, and banks to assist homeowners. This is a benefit for homeowners who are unable to refinance due to current market conditions or simply got stuck in an unfavorable loan. This restructuring is designed to keep homeowners in their homes by customizing a loan payment to fit their budget with their existing lender.

You have been PRE-SELECTED. Your loan situation has met our criteria.

77. This direct mail, like others, is misleading because it provided the consumer with the false impression that they met some specific criteria for a loan modification and were eligible for a loan modification by working with LMS.

LMS Agreement

78. LMS' agreement with consumers provided the following guarantee:

Due to our pre-qualification process and our relationships within the lending industry, the majority of our clients can expect to get the real estate solution they are seeking. When you become our client, you can rest assured that we are going to do everything we possibly can to get the job done for you. However, unusual circumstances do arise. In these rare instances, we provide a 100% money back guarantee in the unlikely event we cannot fulfill our duties to the client.

See LMS Guarantee, attached as Exhibit 3.

79. LMS' pre-qualification process was meaningless and misleading, and LMS had no relationships within the lending industry. In reality, LMS had the same contacts available to any homeowner with a telephone.

80. LMS failed to honor its 100-percent money back guarantee in most cases.

81. In or around September 2010, Defendants stopped soliciting new clients for LMS and focused not on honoring its commitment to LMS' existing clients who collectively paid LMS more than one million dollars, but rather on starting a new business and finding even more clients who will pay Defendants upfront fees for questionable results.

Formation of Principal Financial Partners, Inc.

82. Beginning in or around September 2010, Defendants, after ignoring or denying numerous client refund requests, started a new form of mortgage assistance relief services—principal reductions—under a new company name, Principal Financial Partners, Inc.

83. Principal Financial Partners began using LMS' same virtual office, telephone number, and facsimile number, and even used testimonials from LMS clients to display on the Principal Financial Partners' Web site.

84. Principal Financial Partners was formed at the direction of Robert Auhll and/or Nanette Auhll and employs Thomas Stefanszky as its salesperson.

85. Like they did with LMS, Principal Financial Partners has already distributed thousands of direct mail solicitations to desperate homeowners needing mortgage assistance.

86. Like they did with LMS, Principal Financial Partners purports to offer a refund to consumers who pay an upfront fee for its mortgage assistance relief services.

87. Specifically, Principal Financial Partners claims to offer a program for an upfront fee of \$3,495 for homeowners who have negative equity in their home and who could reduce the principal balance of their mortgage loan to match the actual value of the home. They advertised a reduction of a homeowner's monthly mortgage payment by up to 50 percent.

88. Using the same advertising company and similar template as LMS, a Principal Financial Partners' direct mail advertisement approved by Robert Auhll proclaimed to the homeowner that she has been pre-selected for a mortgage principal reduction and purports to be from the Principal Reduction Department. The advertisement states:

How Does This Benefit You?

A principal reduction will lower the amount owed on your mortgage down to the current market value of your home. It can lower your monthly principal and interest payment by up to 50% of your current payment. Would this type of reduction help your current financial situation?

89. The Principal Financial Partners' Web site describes the program as follows:

Principal Financial Partners Inc, an affiliate of Addvent Funding LLC, is the direct link for consumers in this tough housing marketplace. We work directly with private investment groups,

real estate investment trusts and private hedge funds that buy and sell mortgages on what is called the secondary market. These funds work with all of the major and regional banks in tandem with the Federal programs made available to the public. They will negotiate directly with your bank to purchase the note and then reissue your original loan back to you based off of the current actual value of your home. There are no credit requirements. No asset requirements. No property type requirements only a minimum income percentage requirement. This program is essentially a transfer of the servicing and ownership rights of your loan from your bank to one of our private investment funds.

...

The Principal Reduction Program ("PRP") works to take your current "upside down" mortgage and turn it right side up. We work with borrowers who have mortgages with negativity equity; hence, you currently owe more than your house is worth. Through the Principal Reduction Program, we work with investors, sanctioned by the federal government, who purchase your current mortgage at a discounted rate in order to replace it with a new better mortgage. Your new mortgage will be 100% LTV (loan-to-value) at the current market value of your house!

90. After collecting more than a million dollars in upfront fees from distressed homeowners through deceptive advertisements and claims by LMS, Defendants are continuing the scheme with a new company and new form of mortgage assistance relief services.

91. Upon information and belief, none of the homeowners working with Defendants has been successful in obtaining a principal reduction through such program.

CONCLUSION

92. LMS projected through false and deceptive statements an illusion of expertise regarding loan modifications to induce consumers not to work directly with their lenders or nonprofit housing counselors for free but to pay a \$2,995 upfront fee to LMS. Defendants eased consumers' concerns about such a large fee by promising a 100-percent money back and 100-percent satisfaction guarantee, on which LMS rarely delivered.

93. Defendants then walked away from LMS' obligations to those homeowners and instead began offering a new form of mortgage assistance relief services with Principal Financial Partners that will likely result in similar harm to consumers if not enjoined.

94. These practices violate the following provisions of the Colorado Consumer

Protection Act: section 6-1-105(1)(c), section 6-1-105(1)(e), section 6-1-105(1)(g), section 6-1-105(1)(i), section 6-1-105(1)(r), section 6-1-105(1)(u), section 6-1-105(1)(z), and section 6-1-105(1)(bbb).

FIRST CLAIM FOR RELIEF

(Knowingly makes a false representation as to affiliation, connection, or association with or certification by another in violation of C.R.S. § 6-1-105(1)(c))
(Defendants Auhll and Associates, LLC, Robert Auhll and Nanette Auhll)

95. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 94 of this Complaint.

96. Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll have knowingly made false representations to consumers by claiming an affiliation, connection, or association with an attorney by advertising an “Attorney Assisted Loan Modification Program,” using a sales script stating that LMS’ “legal staff has successfully completed over 600 modifications to date,” and claiming on the LMS Web site that “[o]ur professional negotiators combined with our legal staff have years of experience negotiating with mortgage companies.”

97. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll violated C.R.S. § 6-1-105(1)(c) by knowingly making false representations as to the affiliation, connection, or association with or certification by another, and as a result deceived and misled consumers.

SECOND CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, uses, or benefits of services in violation of C.R.S. § 6-1-105(1)(e))
(Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Thomas Stefanszky)

98. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 97 of this Complaint.

99. Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Thomas Stefanszky knowingly made false representations regarding the characteristics, uses, or benefits of their services by falsely claiming, among other things, the following:

- “relationships within the lending industry”
- “[o]ur processing and legal staff has [sic] successfully completed over 600 modifications to date”
- “Our processors have modified thousands of loans with all of the major and minor banks.”

- “We currently carry a 90% success rate on modifications in our program”
- “Our professional negotiators combined with our legal staff have years of experience negotiating with mortgage companies and they are ready to go to work for you today....”
- “We are experts at reducing mortgage payments and resolving home foreclosure claims . . . and offer a 100% money back guarantee if we cannot help you.”
- “skilled” and “professional” negotiators
- “Our experience within the loss mitigation departments of major mortgage companies & lenders, combined with our expert knowledge of Federal and Consumer Homeowner Protection Laws, will give you the advantage needed to secure a financial plan that you can live with.”
- “100-percent satisfaction guaranteed”

100. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Thomas Stefanszky violated C.R.S. § 6-1-105(1)(e) by knowingly making false representations as to the characteristics, uses, or benefits of services, and as a result deceived and misled consumers.

THIRD CLAIM FOR RELIEF

(Represents that services are of a particular standard, quality, or grade if he knows or should know that they are of another in violation of C.R.S. § 6-1-105(1)(g))
(All Defendants)

101. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 100 of this Complaint.

102. Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Thomas Stefanszky represented that LMS’ services are of a particular standard, quality, or grade but knew or should have known that they are of another by claiming, among other things, that LMS had “experts at reducing mortgage payments,” an “Attorney Assisted Loan Modification Program,” “90-percent or greater success rate for loan modifications,” “modified thousands of loans with all of the major and minor banks,” “relationships within the lending industry,” and “skilled” and “professional” negotiators.

103. Defendant Principal Financial Partners, through its agents, including Robert Auhll and Thomas Stefanszky, represented that its services are of a particular standard, quality, or grade but knew or should have known that they are of another by claiming, among other things,

that Principal Financial Partners offers a principal reduction program that could lower the amount owed on a homeowner's mortgage down to the current market value and lower the monthly principal and interest payment by up to fifty percent through Principal Financial Partners' investors who are "sanctioned by the federal government," without any evidence, knowledge, or experience that such a program has worked, can work, or that such investors exist.

104. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, Thomas Stefanszky, and Principal Financial Partners violated C.R.S. § 6-1-105(1)(g) by representing that services are of a particular standard, quality, or grade but knew or should have known that they are of another, and as a result deceived and misled consumers.

FOURTH CLAIM FOR RELIEF

(Advertises goods and services with intent not to sell them as advertised in violation of C.R.S. § 6-1-105(1)(i))
(Defendants Auhll and Associates, LLC, Robert Auhll and Nanette Auhll)

105. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 104 of this Complaint.

106. Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll advertised services with intent not to sell them as advertised by claiming, among other things, that LMS had a 100-percent satisfaction and a 100-percent money back guarantee, had skilled and professional negotiators, had a greater than 90-percent success rate, and used lawyers to negotiate loan modifications.

107. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll violated C.R.S. § 6-1-105(1)(i) by advertising services with intent not to sell them as advertised, and as a result deceived and misled consumers.

FIFTH CLAIM FOR RELIEF

("Advertises or otherwise represents that . . . services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor" in violation of C.R.S. § 6-1-105(1)(r))
(Defendants Auhll and Associates, LLC, Robert Auhll and Nanette Auhll)

108. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 107 of this Complaint.

109. Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll prominently displayed and advertised a 100-percent satisfaction and a 100-percent money back

guarantee without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor. These guarantees also were of such a nature as to have the capacity and tendency of misleading prospective consumers into believing that LMS' services had a greater degree of performance capability in actual use than is true in fact.

110. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll violated C.R.S. § 6-1-105(1)(r) by advertising or otherwise representing that . . . services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor, and by making guarantees of such a nature as to have the capacity and tendency of misleading prospective consumers into believing that the services had a greater degree of performance capability in actual use than is true in fact. As a result, these defendants deceived and misled consumers.

SIXTH CLAIM FOR RELIEF

(Fails to disclose material information concerning goods and services which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction in violation of C.R.S. § 6-1-105(1)(u))

(Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Principal Financial Partners, Inc.)

111. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 110 of this Complaint.

112. With respect to the LMS venture, Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll failed to disclose the following material information concerning the services known at the time of advertisement or sale to induce the consumers to enter into a transaction: (1) there was no 100-percent satisfaction guarantee; (2) the 100-percent money back guarantee would not be honored in most cases; (3) LMS did not have a 90-percent or greater success rate; (4) LMS did not have professional or skilled negotiators; (5) LMS did not use any attorney to assist with loan modifications; (6) LMS had no expertise at reducing mortgage loan payments; (7) LMS lacked relationships within the lending industry that would benefit the client; and (8) LMS has not modified hundreds of loans.

113. Principal Financial Partners, through its owners, officers, and agents, violates the Colorado Consumer Protection Act by failing to disclose to consumers material information, including, but not limited to, that collecting an upfront fee from any homeowner in any state is now prohibited by federal law. *See* 16 CFR Part 322, Mortgage Assistance Relief Services; Final Rule (Dec. 1, 2010).

114. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, Nanette Auhll, and Principal Financial Partners violated C.R.S. § 6-1-105(1)(u) by failing to disclose material information concerning services which information was known at the time of an advertisement or sale and the failure to disclose such information was intended to induce the consumer to enter into a transaction, and as a result deceived and misled consumers.

SEVENTH CLAIM FOR RELIEF

(Refuses or fails to obtain all governmental licenses or permits required to perform the services or to sell the services as agreed to or contracted for with a consumer in violation of C.R.S. § 6-1-105(1)(z))
(Defendants Robert Auhll and Nanette Auhll)

115. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 114 of this Complaint.

116. Defendants Robert Auhll and Nanette Auhll engaged in unlicensed mortgage loan origination activity while offering loan modifications for Colorado homeowners for approximately nine months before Robert Auhll obtained his mortgage loan originator license. Even after he obtained this license, however, LMS engaged in unlicensed activity because others at LMS, including Nanette Auhll, engaged in loan modification services on behalf of Colorado clients without a mortgage loan originator license.

117. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Robert Auhll and Nanette Auhll violated C.R.S. § 6-1-105(1)(z) by refusing or failing to obtain all governmental licenses required to perform the services or to sell the services as agreed to or contracted for with a consumer, and as a result deceived and misled Colorado consumers.

EIGHTH CLAIM FOR RELIEF

(Violates any provision of C.R.S. § 12-61-911 in violation of C.R.S. § 6-1-105(1)(bbb))
(Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll)

118. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 117 of this Complaint.

119. Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll violated C.R.S. § 12-61-911 by collecting an upfront fee prohibited by C.R.S. § 12-61-915.

120. Through the conduct set forth in the Complaint and in the course of their business, vocation, or occupation, Defendants Auhll and Associates, LLC, Robert Auhll, and Nanette Auhll violated C.R.S. § 6-1-105(1) by violating section 12-61-911, and as a result deceived and misled consumers.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that the Defendants be preliminarily and permanently enjoined from doing any of the wrongful acts referenced in this Complaint or any other act in violation of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101 – 6-1-1121, relating to soliciting, offering, performing, marketing, or otherwise participating in any mortgage assistance relief services, including loan modifications, foreclosure consulting, and principal reductions.

In addition, Plaintiff prays for judgment against the Defendants, personally, jointly and severally, for the following relief:

- A. An order that Defendants' conduct violates the Colorado Consumer Protection Act, including section 6-1-105(1)(c); section 6-1-105(1)(e); section 6-1-105(1)(g); section 6-1-105(1)(i); section 6-1-105(1)(r), section 6-1-105(1)(u); section 6-1-105(1)(z); and section 6-1-105(1)(bbb);
- B. An order pursuant to C.R.S. § 6-1-110(1) for an injunction or other orders or judgments;
- C. An order pursuant to C.R.S. § 6-1-110(1) requiring Defendants to disgorge all unjust proceeds to prevent unjust enrichment;
- D. An order pursuant to C.R.S. § 6-1-110(1) against Defendants to completely compensate or restore to the original position of any person injured by means of Defendants' deceptive practices;
- E. An order pursuant to C.R.S. § 6-1-112(1)(a) for civil penalties payable to the general fund of this state of not more than two thousand dollars for each such violation of any provision of the Colorado Consumer Protection Act with respect to each consumer or transaction involved not to exceed five hundred thousand dollars for any related series of violations;
- F. An order pursuant to C.R.S. § 6-1-112(1)(c) for civil penalties payable to the general fund of this state of not more than ten thousand dollars for each violation of any provision of the Colorado Consumer Protection Act with respect to each elderly person;
- G. An order pursuant to C.R.S. § 6-1-113(4) requiring Defendants to pay the costs and attorney fees incurred by the Attorney General; and
- H. Any such further relief as this Court may deem just and proper to effectuate the purposes of the Colorado Consumer Protection Act.

Respectfully submitted this 25th day of March 2011,

JOHN W. SUTHERS
Attorney General

/s/

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First Assistant Attorney General
ERIK R. NEUSCH*
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Plaintiff's Address:
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Denver, Colorado 80203

Pursuant to C.R.C.P. 121, § 1-26(7), the original of this document with original signatures is maintained at the offices of the Colorado Attorney General, 1525 Sherman Street, Denver, Colorado 80203, and will be made available for inspection upon request.