1 ORIGINAL FILED 2 OCT 1 5 2008 3 THOMAS R. FALLQUIST 4 SPOKANE COUNTY 5 6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON 7 IN AND FOR THE COUNTY OF SPOKANE 8 STATE OF WASHINGTON, 04707-0 NO. 9 Plaintiff, CIVIL COMPLAINT 10 11 UNITED HOME SAVERS, a Florida limited liability partnership; 12 STEPHANIE DIETSCHY, an individual, and DARIN DIETSCHY, an 13 individual. 14 Defendants. 15 COMES NOW, plaintiff State of Washington, by and through its attorneys Robert M. 16 McKenna, Attorney General, and Jack G. Zurlini, Jr., Assistant Attorney General, and brings 17 this action against defendants named herein and alleges as follows: 18 19 1. JURISDICTION 20 1.1. This complaint is filed and these proceedings are instituted under the 21 provisions of RCW 19.86, the Unfair Business Practices-Consumer Protection Act (CPA); 22 RCW 19.134, the Credit Services Organization Act (CSOA); and RCW 19.158, the 23 Commercial Telephone Solicitation Act (CTSA). 24 1.2. Jurisdiction of the Attorney General to commence this action is conferred by RCW 19.86.080, 19.86.140, and 19.134.070. Defendants mailed solicitation letters and post 25 cards to homeowners living in Spokane County and elsewhere in Washington State who were 26

1	in danger of losing their homes to foreclosure. Defendants also solicited Washington
2	consumers over the Internet at their website. In addition, numerous Washington homeowners
3	(including those residing in Spokane County) called defendants in response to the
4	solicitations, paid \$1,200 or more to defendants, and entered into contracts to obtain the
5	services defendants promised, namely, to find alternatives to foreclosure and thus rescue
6	consumers' homes from foreclosure.
7	1.3. The violations alleged herein have been and are being committed in whole or
8	in part in Spokane County, State of Washington, and other counties in the State of
9	Washington by defendants named herein.
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11	2. <u>DEFENDANTS</u>
12	2.1. Defendant United Home Savers, LLP (UHS), is a Florida limited liability
13	partnership whose office is located in Clearwater, Florida. UHS does business in Washington
14	in connection with the marketing and sale of the products and services offered by UHS,
15	namely, a purported foreclosure rescue service.
16	2.2. Defendant Stephanie Dietschy is an individual who resides in Belleair Beach,
17	Florida, and is an owner and partner of UHS.
18	2.3. Defendant Darin Dietschy is an individual who resides in Belleair Beach,
19	Florida, and is an owner and partner of UHS.
20	2.3. Defendants Stephanie Dietschy and Darin Dietschy also manage, operate, and
21	control UHS. Defendants Stephanie Dietschy, Darin Dietschy, and UHS are sometimes
22	collectively referred to as "Defendants."
23	2.4. At all times referenced herein, Defendants and each of them acted in concert or
24	participated with each other for their mutual benefit.
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3. NATURE OF TRADE OR COMMERCE

- 3.1. UHS represents to Washington consumers that for an up front fee of \$1,200 or more it will help homeowners rescue their homes from foreclosures. But that representation is false. On the contrary, UHS has victimized numerous Washington consumers by taking money that most consumers could ill afford and then doing little or nothing to help them save their homes.
- **3.2.** UHS is a "credit service organization" as that term is defined by RCW 19.134.010(2)(a), and is also a "commercial telephone solicitor" as that term is defined by RCW 19.158.020(1).
- 3.3. UHS operates by first identifying consumers whose homes are in foreclosure. UHS then sends consumers solicitation letters and postcards. Some of the written solicitations deceptively mimic official government notifications. The written solicitations represent that UHS can help consumers save their homes and direct consumers to call UHS.
- 3.4. Consumers who respond to the written solicitations and call UHS are read a sales pitch script. This script and others that UHS uses to sell its services are unfair and deceptive for numerous reasons. For example, the scripts repeatedly misrepresent that: (1) UHS is successful at stopping foreclosures and saving homes for consumers, and (2) if it's not successful, then UHS will refund consumers.
- 3.5. Once consumers agree to sign a contract and pay the up front fee, UHS then "verifies" the sale by reading a script and recording the conversation with consumers. This script is also unfair and deceptive for a number of reasons. For example, it unfairly requires consumers who use credit or debit cards as payment to agree to contact UHS first and not their banks if consumers dispute the charges. If they go to their bank first, then according to UHS it will void any possible refund of fees. And UHS threatens to challenge any dispute based on the recorded authorization.

- 3.6. Once consumers go through the sales and verification process, UHS then faxes or mails a contract packet to consumers. Among other documents, the packet includes a copy of the contract between UHS and consumers. Among other unfair and deceptive provisions, the contract prohibits consumers from contacting the financial institutions foreclosing on their homes for any reason. The contract also provides that if consumers contact the financial institutions in violation of the contract, then UHS will stop working on behalf of consumers and consumers will forfeit their \$1,200 payment. As a result, consumers are entirely dependent on UHS to fulfill its promise to save their homes and are unable to check with their financial institutions to see if UHS has even contacted them. And when consumers contact UHS to check on the status of the foreclosure rescue efforts, UHS routinely fails to return their phone calls and is otherwise unresponsive, thus aggravating the unfairness of the "no contact" provision.
- 3.7. In addition, contrary to UHS's representations, the majority of consumers receive little to no help from UHS. UHS routinely fails to contact the financial institution entirely or in a meaningful way on behalf of consumers, and then fails or refuses to refund money to consumers.
- **3.8.** Furthermore, UHS's actions violate the CSOA in a number of ways. A violation of the CSOA is also a per se violation of the CPA.
- 3.9. UHS's actions also violate the CTSA in a number of ways. A violation of the CTSA is also a per se violation of the CPA.
- 3.10. UHS is in competition with others in the State of Washington engaged in similar business.

4. CAUSES OF ACTION

FIRST CAUSE OF ACTION -- DECEPTIVE ADVERTISING

4.1. Plaintiff realleges paragraphs 1.1 through 3.10 and incorporates them herein by this reference.

1	4.2. In the context of conducting its business, Defendants used numerous false
2	and/or misleading advertisements. Such conduct constitutes unfair or deceptive acts or
3	practices in trade or commerce, and/or unfair methods of competition in violation of RCW
4	19.86.020.
5	CECOND CALIGE OF A CHICAL ASSOCIATION AND THE PROPERTY OF A CHICAL ASSOCIATION ASSOCIATION AND THE PROPERTY OF A CHICAL ASSOCIATION ASSOCI
6	SECOND CAUSE OF ACTION – MISREPRESENTATIONS
7	4.3. Plaintiff realleges paragraphs 1.1 through 4.2 and incorporates them herein as if
8	set forth in full.
9	4.4. In the context of conducting its business, Defendants made numerous
10	misrepresentations. Such conduct constitutes unfair or deceptive acts or practices in trade or
11	commerce, and/or unfair methods of competition in violation of RCW 19.86.020.
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13	THIRD CAUSE OF ACTION – UNFAIR PRACTICES
14	4.5. Plaintiff realleges paragraphs 1.1 through 4.4 and incorporates them herein as if
15	set forth in full.
16	4.6. In the context of conducting its business, Defendants engaged in numerous
17	unfair acts and practices. Such conduct constitutes unfair or deceptive acts or practices in trade
18	or commerce, and/or unfair methods of competition in violation of RCW 19.86.020.
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20	FOURTH CAUSE OF ACTION—VIOLATIONS OF THE
21	CREDIT SERVICES ORGANIZATION ACT, RCW 19.134
22	4.7. Plaintiff realleges paragraphs 1.1 through 4.6 and incorporates them herein as
23	if set forth in full.
24	4.8. In the context of conducting its business, Defendants violated the Credit
25	Services Organization Act, RCW 19.134. For each Washington consumer that Defendants

1	entered a contract with, Defendants violated the statute in numerous ways by committing,
2	among others, the following acts:
3	(i) requiring consumers to pay a fee before Defendants complete its
4	promised services without first obtaining a surety bond in violation of RCW
5	19.134.020(1);
6	(ii) making untrue and misleading representations in the offer or sale of
7	their services in violation of RCW 19.134.020(4);
8	(iii) failing to maintain "information statement" files in violation of RCW
9	19.134.040;
10	(iv) failing to provide consumers with "information statements" and thus
11	failing to provide the seven separate disclosures to be communicated by the statement
12	in violation of RCW 19.134.050;
13	(v) failing to include in the contract the mandatory notification of the 5-day
14	cancellation period in violation of RCW 19.134.060(1)(a);
15	(vi) attempting to or requiring consumers to waive attorney fees and other
16	damages provided by RCW 19.134.080 in violation of RCW 134.070(1);
17	(vii) failing to provide the mandatory "notice of cancellation" forms to
18	consumers in violation of RCW 134.060(2);
19	(viii) attempting to or requiring consumers to waive the 5-day cancellation
20	period provided by RCW 19.134.060 in violation of RCW 19.134.070(1); and
21	(ix) failing to fully and in detail describe in the contract the services to be
22	provided, guarantees, promises of refunds, estimated date by which the services are to
23	be performed, or estimated length of time for performing the services in violation of
24	RCW 19.134.060(1)(c).
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2	RCW 19.134 alleged against Defendants in this cause of action is also a separate per se
3	violation of the Consumer Protection Act, RCW 19.86.
4	FIFTH CAUSE OF ACTION—VIOLATIONS OF THE COMMERCIAL
5	TELEPHONE SOLICITATION ACT, RCW 19.158
6	4.10. Plaintiff realleges paragraphs 1.1 through 4.9 and incorporates them herein as
7	if set forth in full.
.8	4.11. In the context of conducting its business, Defendants violated the Commercial
9	Telephone Solicitation Act, RCW 19.158. For each Washington consumer that Defendants
10	contacted with their telephonic sales pitch, Defendants violated the statute in numerous ways
11	by committing, among others, the following acts:
12	(i) engaging in unfair or deceptive commercial telephone solicitations in
13	violation of RCW 19.158.040(1),
14	(ii) failing to provide purchasers of its services with written confirmations
15	as required by RCW 19.158.120(1), and
16	(iii) failing to register with Washington State prior to conducting
17	commercial telephone solicitations of Washington consumers in violation of RCW
18	19.158.150.
19	4.12. Pursuant to RCW 19.158.030, each of the several separate violations of RCW
20	19.158 alleged against Defendants in this cause of action is also a separate unfair or deceptive
21	act in trade or commerce for the purpose of applying the Consumer Protection Act, RCW
22	19.86.
23	5. <u>PRAYER FOR RELIEF</u>
24	WHEREFORE, Plaintiff State of Washington prays for relief as follows:
25	5.1. That the Court adjudge and decree that Defendants have engaged in the conduc

Pursuant to RCW 19.134.070(5), each of the several separate violations of

26 complained of herein.

- 5.2. That the Court adjudge and decree that the conduct complained of in paragraphs
 1.1 through 4.12 constitutes unfair or deceptive acts and practices and unfair methods of
 competition in violation of the Consumer Protection Act, Chapter 19.86 RCW.
- **5.3.** That the Court assess civil penalties pursuant to RCW 19.86.140 of up to two thousand dollars (\$2,000.00) per violation against Defendants for each and every violation of RCW 19.86.020 caused by the conduct complained of herein.
- 5.4. That the Court adjudge and decree that the conduct complained of in paragraphs 1.1 through 4.12 constitutes violations of the Credit Services Organization Act, RCW 19.134, and are <u>per se</u> violations of RCW 19.86 pursuant to RCW 19.134.070(5).
- 5.5. That the Court adjudge and decree that the conduct complained of in paragraphs 1.1 through 4.12 constitutes violations of the Commercial Telephone Solicitation Act, RCW 19.158, and are per se violations of RCW 19.86 pursuant to RCW 19.158.030.
- 5.6. That the Court assess civil penalties pursuant to RCW 19.158.140 of up to two thousand dollars (\$2,000.00) per violation against Defendants for each and every violation of RCW 19.158 caused by the conduct complained of herein.
- 5.7. That the Court adjudge and decree that in each instance Defendants violated RCW 19.158 in making a sale of their property, goods or services to a Washington resident, the resulting contract is voidable as provided by RCW 19.158.120(3).
- **5.8.** That the Court adjudge and decree that in each instance Defendants failed to provide Washington resident purchasers of their property, goods or services with written confirmations as required by RCW 19.158.120(1), the resulting sale is not final and subject to cancellation as provided by RCW 19.158.120.
- **5.9.** That the Court adjudge and decree that in each instance Defendants contracted with a Washington resident for its foreclosure rescue services, the contract is void and unenforceable by reason of public policy because of the contract's numerous violations of the Credit Services Organization Act, RCW 19.134.

- That the Court issue a permanent injunction pursuant to RCW 19.86.080, RCW 19.134.070(3), and RCW 19.158.090 enjoining and restraining Defendants, and their members, directors, representatives, successors, assigns, officers, agents, servants, employees, and all other persons acting or claiming to act for, on behalf of, or in active concert or participation with Defendants, from continuing or engaging in the unlawful conduct complained of herein.
- That the Court make such orders pursuant to RCW 19.86.080 as it deems appropriate to provide for restitution to consumers of money or property acquired by Defendants as a result of the conduct complained of herein.
- That the Court make such orders pursuant to RCW 19.86.080 to provide that plaintiff State of Washington have and recover from Defendants the costs of this action, including reasonable attorneys' fees.

DATED this day of October, 2008.

> ROBERT M. MCKENNA Attorney General

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