

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DEBORAH MARTELL and DENNIS MARTELL

Plaintiffs,

-vs-

Case No. 2:07-cv-14068  
Assigned to: Edmunds, Nancy G.  
Referral Judge: Morgan, Virginia M.

ROBERT TURCHECK, NICOLE TURCHECK, JS REALTY LLC, RONNIE DUKE, SPECIALTY HOLDINGS, INC., DANIELLE NAPPER, ALFREDO SANTILLI, METRO-WEST TITLE AGENCY, INC., LAWYERS TITLE INSURANCE CORPORATION, KASSEM AHMAD ZREIK, ZREIK INVESTMENTS, LLC d/b/a DESKTOP APPRAISAL SERVICES, LLC, BRANDON GUBACZ, PREMIER MORTGAGE FUNDING, INC., COUNTRYWIDE BANK, N.A, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AMANDA BIRCH, AURORA LOAN SERVICES, LLC, CARTERET MORTGAGE CORPORATION, NATIONS TITLE OF OHIO AGENCY, LLC, WILINEVAH J. RICHARDSON, SABER ZREIK, JENNIFER ZREIK, and HOMECOMINGS FINANCIAL, LLC.

**SECOND AMENDED COMPLAINT**

jointly and severally,

Defendants.

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**SECOND AMENDED COMPLAINT**

Plaintiffs state as follows:

**INTRODUCTION**

Defendants are participants or are vicariously liable for their employee's participation in a giant fraud scheme which has resulted in hundreds of faulty mortgages in the Detroit area, including the three at issue in this Complaint. Participants in the fraud scheme obtained the

personal information of dozens of individuals, including Plaintiffs, under the guise of becoming members of a certain “investment group.” In this case, the sellers, appraisal company, and employees of the title company, mortgage company, and brokerage firms conspired together to provide false information and falsify documents in order to inflate the value of a \$1.2 million dollar home and obtain two other “air” mortgage loans where the lender has no collateral. In this manner, the investment group is able to create and skim the equity off the properties. Meanwhile, these actions end with Deborah unwittingly becoming the sole obligor and owner of a \$1.2 million property, and Plaintiffs having two other loans in their names.

### **COMMON ALLEGATIONS**

1. Plaintiffs Deborah Martell (“Deborah”) and Dennis Martell (“Dennis”) are individuals residing at 33486 Rayburn, Livonia, MI 48156.

2. The residence located at 28560 Swan Island Drive, Grosse Ile, Michigan is the real estate that is one of the properties that is the subject of this action (the “**Swan Island property**”).

3. Upon information and belief, Defendants Robert Turcheck and Nicole Turcheck are individuals residing at 20604 E. River Road, Grosse Ile, MI 48138.

4. The Turchecks ostensibly sold the Swan Island property to Deborah.

5. Defendant JS Realty LLC, is a Michigan limited liability company, whose registered address is 28860 Swan Island Drive, Grosse Ile, MI 48138. Nicole Turcheck is the operating member and resident agent of JS Realty LLC.

6. The Turchecks operate their fraudulent scheme in part through JS Realty.

7. Upon information and belief, Defendant Ronnie Duke is an individual residing at 110 Trealout Drive, Fenton, MI 48430.

8. Duke is the head of the fraudulent “investment group” and is the President, Director, Secretary, and Treasurer of Specialty Holdings, Inc.

9. Duke is also a licensed Mortgage Broker who has been prohibited from practicing under his broker license from the State of Michigan.

10. Defendant Specialty Holdings, Inc., is a Michigan corporation, whose resident agent is John E. Melton and whose registered address is 1263 W. Square Lake Road, Suite 102, Bloomfield Hills, MI 48320.

11. Duke used Specialty Holdings to run the investment group.

12. Defendant, Danielle Napper, is an individual residing at 15785 Goddard Road, #101, Southgate, MI 48195.

13. Napper assists and coordinates “investors” on behalf of the Turchecks, Duke, and Specialty Holdings. Napper is an employee or loan officer of Cateret Mortgage.

14. Defendant, Alfredo Santilli, is an individual whose business address is 16030 Michigan Avenue, Dearborn, MI 48126. Santilli is the representative of the title agency who closed the loan on the Swan Island property.

15. Defendant, Metro-West Title Agency, Inc. (“Metro-West Title”) is a Michigan corporation whose resident agent is Sarah Fawaz and whose registered address is 16030 Michigan Avenue, Dearborn, MI 48126. Metro-West Title is the title company who conducted the closing on the Swan Island property.

16. Defendant Lawyers Title Insurance Corporation. (“Lawyers Title”), is a Virginia corporation, conducting business in Michigan and issuing policies for real estate located in Wayne County. Lawyers Title is the underwriter for the title on the Swan Island property.

17. Defendant, Kassem Ahmad Zreik (“Zreik”), whose business address is 26736 Cherry Hill Road, Dearborn Heights, MI 48127.

18. Zreik is a licensed appraiser who provided an inflated appraisal of the Swan Island property.

19. Defendant Zreik Investments, LLC, d/b/a Desktop Appraisal Services, LLC (“Desktop Appraisal”) is a Michigan limited liability company, whose registered address is 26736 Cherry Hill Road, Dearborn Heights, MI 48127.

20. Desktop Appraisal provided an inflated appraisal of the Swan Island property and Triangle Drive property.

21. Defendant, Brandon Gubacz, is an individual whose address is 36616 Angeline Circle, Livonia, MI 48150.

22. Gubacz is an employee of Premier Mortgage Funding, Inc. and Countrywide Bank, N.A., who prepared the falsified loan application.

23. Defendant, Premier Mortgage Funding, Inc. (“Premier”), is a Florida corporation whose address is 29555 West Six Mile Road, Suite 100B, Livonia, MI 48152. Premier is the broker for the mortgage on the Swan Island property.

24. Defendant Countrywide Bank, N.A., (“Countrywide”), is a national banking association conducting business in Michigan and issuing and closing loans in Wayne County. Countrywide is the lender of the first and second mortgages on the Swan Island property.

25. Defendant Mortgage Electronic Registration Systems, Inc. (“MERS”), is a Delaware corporation and nominee for Countrywide on certain loans that Countrywide issues in Michigan.

26. MERS is a necessary party as the recorded mortgagee and Countrywide’s nominee in regards to the Countrywide loans on the Swan Island Property.

27. Upon information and belief, Defendant Amanda Birch is an individual residing in Southeast Michigan. Birch signed the purchase agreement as a witness to Deborah’s signature.

28. There are two other properties that are the subject of this action which include 7225 Middlepointe Street, Dearborn, Michigan 48126 (“the **Middlepointe property**”) and 30768 Triangle Drive, Gibraltar, Michigan 48173 (the “**Triangle Drive property**”).

29. Upon information and belief, Aurora Loan Services, LLC, (“Aurora”) is a lending institution doing business at 10350 Park Meadows Drive, Littleton, Colorado 80124. Aurora is the lender on the Middlepointe property.

30. Upon information and belief, Carteret Mortgage Corporation, a Virginia corporation, is a broker doing business at 2555 Crooks Road, Suite 100, Troy, Michigan 48088.

31. Carteret Mortgage Corporation was the broker on the ostensible sale of the Middlepointe property.

32. Nations Title Of Ohio Agency, LLC (“Nations Title”), is a Michigan limited liability company, with a registered office at 601 Abbott Road, East Lansing, MI 48823.

33. Wilinevah J. Richardson is an individual doing business at 510 N. Main Street, Suite 9, Belleville, Michigan 48111 (“Richardson”).

34. Saber Zreik and Jennifer Zreik are individuals who formerly or presently reside at 7225 Middlepointe Street, Dearborn, Michigan 48126.

35. Homecomings Financial, LLC (“Homecomings”) is a limited liability company doing business at 27725 Stansbury Boulevard, Suite 375, Farmington Hills, Michigan 48334. Homecomings is the lender on the Triangle Drive property.

36. Deborah originally filed in Wayne County Circuit Court which has jurisdiction because the amount in controversy exceeded \$25,000 which Countrywide removed to federal court based on federal court jurisdiction.

**The “Investment Group”**

37. In 2006, Napper convinced Deborah to become a member of an “investment group.”

38. Napper represented to Deborah that the investment group was a group of investors who would purchase foreclosed properties as investments.

39. Napper requested Deborah’s personal information. Napper explained that her credit would be used on behalf of the investment group to acquire investment properties, in exchange for an investor fee.

40. Napper indicated that Deborah would make certain payments on behalf of the investment group for approximately six months.

41. Napper made similar representations to other investors.

42. All of Napper’s representations to Deborah and other investors were on behalf of the fraudulent scheme headed by Specialty Holdings, Duke, and the Turchecks. See Investor Group Flyers, attached herein as **EXHIBIT A**.

43. Deborah provided Napper with her and her husband’s personal information.

**The Middlepointe Property and Triangle Drive Property**

44. Deborah and Dennis received two investments in the mail, one for the Middlepointe property and one for the Triangle Drive property, with coupons, payment money, and directions to make payments.

45. Deborah was led to believe that another investor had attended a closing on behalf of the group, and that it was simply Deborah’s responsibility to make payments.

46. Deborah made payments as directed.

47. Deborah's family member was also an investor and had received two similar investments in the mail.

48. In fact, the investment group had arranged for primary mortgage loans to be taken out in Plaintiffs' names personally without their authorization or knowledge. See partial loan documentation regarding the Middlepointe and Triangle Drive properties, **EXHIBIT B**, and further Common Allegations below.

49. Deborah has further learned that there were several bogus sales concerning these same properties or "straw" loans, and the lenders in these transactions have no security.

### **The Swan Island Property**

50. After making a few payments on the Middlepointe property, Napper told Deborah that another investment was forthcoming.

51. Similar to the other investments, Deborah understood that an investment package would arrive in the mail.

52. However, on October 30, 2006, Napper telephoned Deborah and requested that Deborah attend the closing on behalf of the investment group the next day because she was the closest person to the location of the closing.

53. Napper indicated to Deborah that she had planned on attending the closing herself, but she could not make it due to a conflict with her schedule.

### **The Swan Island Closing—October 31, 2006**

54. The next day, Deborah attended a closing at Metro-West Title with Santilli as the closing agent.

55. At Napper's request, Deborah arrived at 4:30 pm. Santilli indicated the closing needed to proceed quickly because he needed to leave by 5:00 pm.

56. Deborah informed Santilli that she was attending the closing strictly on behalf of the investment group that this was an investment property, and that this was not her primary residence.

57. Santilli assured Deborah that this was an investment transaction and told Deborah that he closes on properties for this group in a similar manner all the time.

58. Santilli rushed Deborah through closing because of the late time and, as a result, Deborah did not read any of the documents that she was signing.

59. Santilli gave Deborah an incomplete and unsigned package to take with her from the closing.

60. Deborah and Santilli did not discuss possession or the transfer of possession from the Turchecks to Deborah.

61. Deborah did not receive keys to the property and had no idea of the property's location or characteristics. Deborah did not do an inspection or a walk-through.

62. Metro-West Title issued title insurance for the transaction and Lawyers Title acted as the underwriter.

63. After the closing and when Deborah had a chance to review what paperwork she had been given, she noticed that the documents did not indicate that this loan was an investment loan.

64. Deborah immediately contacted Napper to ask that the documents be changed to reflect that this was an investment and not a personal asset.

65. Napper assured Deborah that the investment was legitimate and that she would make the requested notation on the documents.

**The Swan Island Fraudulent Transaction—Preparation of Loan Documents**

66. The Swan Island property appears to be based on an undated Purchase Agreement, attached as **EXHIBIT C**, bearing the signatures of the Turchecks as sellers, Deborah as buyer, and Amanda Birch as witness to the sellers' and buyer's signatures.

67. Deborah did not sign the Purchase Agreement and the signature is not Deborah's signature.

68. Based on this fraudulently executed Purchase Agreement, on behalf of Premier as broker and Countrywide as lender, Gubacz began the loan process by inputting falsified personal information regarding Deborah into a loan application, **EXHIBIT D**, and attesting that he spoke with Deborah by telephone on October 26, 2006.

69. Deborah has never spoke with Gubacz or anyone else from Premier or Countrywide in preparation for this loan.

70. The loan application severely inflates Deborah's financial net worth, including her salary and job title.

71. Many of the other loan documents are dated October 25, 2006; however, Deborah did not sign any documents nor speak with anyone on October 25, 2006 regarding this loan or sale of the property.

72. Many of the loan documents are dated October 31, 2006; however, Deborah did not date the documents that she signed on October 31, 2006.

73. A few of the documents signed on October 31, 2006 do not appear to be Deborah's signature.

74. Deborah never authorized any person to sign her name.

75. These documents were prepared by Gubacz, on behalf of Premier and Countrywide or by another representative of Premier and Countrywide.

**The Swan Island Fraudulent Transaction—the Settlement Statements**

76. Premier and Countrywide supported this loan by obtaining an appraisal from Desktop Appraisal and Zreik as the licensed appraiser. See **EXHIBIT E**, Settlement Statements.

77. The Turchecks purchased the Swan Island property on May 22, 2006, for \$1,000,000.

78. Only five months later, despite a declining and troubled Michigan real estate market, the Turchecks ostensibly sold the Swan Island property to Deborah for \$1,200,000.

79. The appraisal supported this price and severely inflated the fair market value in order to process the loan.

80. The inflated purchase price allowed the following parties to walk away from closing with the following money:

- |                         |              |
|-------------------------|--------------|
| a) The Turchecks        | \$379,904.99 |
| b) Premier (broker fee) | \$ 12,000.00 |
| c) Desktop Appraisal    | \$ 750.00    |

See Settlement Statements, EXHIBIT E.

**Possession of the Swan Island Property and Mitigation of Damages**

81. Deborah continued to receive communications and requests for further personal information through early 2007 from the head of the investment group, Specialty Holdings. See EXHIBIT A.

82. Deborah eventually learned that Duke was associated with the investment group and for the first time understood that these transactions were part of a larger mortgage fraud scheme.

83. Deborah immediately contacted the lenders of the Swan Island, Middlepointe, and Triangle Drive properties to inform them of the underlying fraud.

84. After further investigation, Deborah learned that she owned fee title to the Swan Island property as an individual purchaser, and not part of the investment group.

85. Deborah immediately contacted Countrywide to inform them of the fraud.

86. Deborah asked Countrywide for instructions about how to proceed.

87. When Countrywide did not provide direction to Deborah and in order to mitigate damages, Deborah visited the Swan Island property for the first time and took possession.

88. Upon information and belief, Duke and/or the Turchecks had been residing in and maintaining the Swan Island property after October 31, 2006, when fee interest was ostensibly transferred to Deborah. See utility bill addressed to Ronnie Duke, **EXHIBIT F**, dated March 15, 2007.

89. Deborah has engaged in ongoing communications with Countrywide regarding settlement of the two loans that are in her name, which total approximately \$1,077,000 as of July 2007, but so far has been unable to reach a settlement on the matter.

90. Deborah is currently marketing the Swan Island property for sale

91. As of the date of this Complaint, Deborah has received several inquiries on the property but has not received an offer.

92. Regarding the Swan Island property, Deborah has been damaged in the amount of approximately \$1,077,000 as of July 2007, which is the amount of the two outstanding loan and mortgages in her name, plus interest, costs, and attorney fees.

**The Middlepointe Property Fraudulent Transaction—Loan Documents**

93. The investment group used Dennis' personal information, without his knowledge or permission, to obtain a loan for the purported purchase of the Middlepointe property.

94. There is a purchase agreement dated August 16, 2006, wherein Saber Zreik purports to sell the Middlepointe property to Dennis for \$345,000. Dennis did not sign this agreement and Dennis never agreed otherwise to purchase the Middlepointe property.

95. There is a Note for \$276,000 bearing a signature for "Dennis Martell" and a Mortgage for the Middlepointe property bearing signatures for "Dennis Martell" and "Deborah Martell" dated August 17, 2006.

96. Richardson signed as notary and witness of the signatures for Plaintiffs on the Mortgage.

97. Plaintiffs did not sign any of the closing documents including the Note and Mortgage, and have never met Richardson.

98. The signatures that appear on the loan documents are not Plaintiffs' signatures.

99. Nations Title served as the title company and proposed to insure clear title in Dennis Martell.

100. On a Loan Application, Napper, on behalf of Cateret Mortgage, attests that she had a face to face interview with Dennis in support of the loan.

101. The Loan Application bears a signature that is not Dennis' and has no financial or employment information in support of the loan.

102. The Settlement Statement and other closing documents indicate that the following sums were paid to the following parties:

- a) \$10,000 to Carteret Mortgage
- b) \$217,010 to Saber and Jennifer Zreik, who signed the Settlement Statement.

103. The Settlement Statement further provides that Dennis as the "Borrower" paid \$85,293 at closing, which Dennis never paid.

104. The loan was closed on behalf of USB Home Mortgage who, upon information and belief, subsequently assigned the loan to Aurora who is the current lender.

105. Saber and Jennifer Zreik never delivered a deed for the Middlepointe property to Dennis, and the Mortgage was never recorded.

106. Dennis does not own the property and the loan is not secured.

107. On November 22, 2006, Saber and Jennifer Zreik subsequently sold the Middlepointe property to Jeana Turcheck for \$345,000.

108. The SEV indicates that the fair market value of the property is \$232,000.

109. Plaintiffs had no knowledge of this property or the loan until they received a package in the mail from the investment group instructing Plaintiffs to make payments.

110. After learning about the fraud, Plaintiffs contacted Aurora to inform them of what she had learned.

111. Plaintiffs informed Aurora that she did not sign any of the loan documents and that a title search revealed that no Mortgage had been recorded to secure its loan.

112. Plaintiffs asked Aurora to release Dennis from liability on the loan based on the foregoing; however, Aurora informed Plaintiffs that it was unwilling or unable to do so.

113. Aurora has ceased collection calls, but has indicated that it would re-sell the loan and would continue to report the loan as delinquent to the credit reporting agencies.

114. As a result of the Aurora loan, Plaintiffs' credit has been damaged, plus costs and attorney fees.

**The Triangle Drive Property Fraudulent Transaction—Loan Documents**

115. The investment group used Deborah's personal information, without her knowledge or permission, to obtain a loan for the purported purchase of the Triangle Drive property.

116. The closing documents indicate that the Turchecks sold the Triangle Drive property to Deborah for \$650,000 on November 20, 2006, which is almost double what the Turchecks paid for the property 18 months earlier.

117. The SEV on the Triangle Drive property indicates that the fair market value is approximately \$435,000.

118. Upon information and belief, Desktop Appraisal supported this price with an appraisal that severely inflated the fair market value in order to process the loan.

119. There is a Note for \$475,000 bearing a signature for "Deborah Martell" and a Mortgage for the Middlepointe property bearing a signature for "Deborah Martell" dated November 20, 2006.

120. Richardson signed as notary and witness of Deborah's signature on the Mortgage.

121. Deborah did not sign any of the closing documents including the Note and Mortgage, and has never met Richardson.

122. Nations Title served as the title company and proposed to insure clear title in Deborah Martell.

123. The Settlement Statement and other closing documents indicate that the following sums were paid to the following parties:

- a) \$10,749 to Premier Mortgage
- b) \$282,693 to the Turchecks, who signed the Settlement Statement
- c) \$750 to Desktop Appraisal

124. The Settlement Statement further provides that Deborah as the “Borrower” paid \$201,308 at closing, which Deborah never paid.

125. The loan was closed on behalf of Homecomings as the lender.

126. The Turchecks never delivered a deed for the Triangle Drive property to Deborah, and the Mortgage was never recorded.

127. Deborah does not own the property and the loan is not secured.

128. Upon information and belief, the investment group has conducted several other ostensible sales of and originated unsecured loans for the Triangle Drive or Middlepointe properties.

129. Deborah had no knowledge of this property or the loan until she received a package in the mail from the investment group instructing Deborah to make payments.

130. After learning about the fraud, Deborah contacted Homecomings to inform them.

131. Deborah asked Homecomings to release her from liability on the loan based on the foregoing; however, Homecomings informed Deborah that it was unwilling or unable to give her a release.

132. Homecomings has continued to attempt to collect the loan and has flooded Deborah’s residence and/or work with collection calls and letters.

133. Deborah continually informs Homecomings that she is represented by an attorney, that Homecomings should speak to her attorney, that she did not sign the loan documents, and that she is not liable for, nor does she have means with which to pay, the loan.

134. Homecomings has indicated that it will re-sell the loan and continue to report the loan as delinquent to the credit reporting agencies.

135. As a result of the Homecomings loan, Deborah has been continuously harassed at home and at work, her credit has been damaged, and she has had to pay costs and attorney fees.

### **CAUSES OF ACTION**

136. Regarding every count against every defendant, Deborah incorporates the allegations contained in the preceding and succeeding paragraphs as if fully restated therein.

#### **A. ROBERT TURCHECK, NICOLE TURCHECK, and JS REALTY**

##### **COUNT I – Fraud and Rescission**

137. The Turchecks caused Napper to continue to make false representations to Deborah in order to continue Deborah's involvement in their mortgage fraud scheme and cause Deborah to purchase their Swan Island property.

138. The Turchecks made sure that Deborah believed she was attending the Swan Island closing as a representative of the investment group and not as an individual purchaser of the property.

139. The Turchecks made material representations to Deborah and Countrywide that were false when they submitted a falsified and forged purchase agreement as the basis for Deborah's purchase of their Swan Island property for \$1.2 million.

140. The Turchecks made other representations that were false in connection with the Swan Island sale when they caused an inflated appraisal to be submitted to support the loan and sale.

141. In the Warranty Deed and other closing documents on the Swan Island property, the Turchecks represented to Deborah that she was receiving fee title and full control of the real estate, but the Turchecks and Duke continued to reside and control the real estate even after ostensibly conveying fee title to Deborah.

142. The Turchecks signed a Settlement Statement for a closing and sale of the Triangle Drive property so that they could retain the proceeds of the loan.

143. Although the Turchecks indicated that they were selling the Triangle Drive property to Deborah, the Turchecks never relinquished possession, control, or title to the Triangle Drive property.

144. The Turchecks knew the representations were false when made.

145. Even if the Turchecks did not know the representations were false when made, they at least made them recklessly without knowledge of the truth.

146. The representations were made with the intention that Deborah and the lenders rely on them.

147. Deborah and the lenders reasonably relied on the representations and suffered injury as a result.

148. Upon discovering the fraud, Deborah immediately stopped payment on the loans.

149. Because of the fraud, the purchase of the Swan Island property is invalid, any loans taken out in her name are invalid, and all contracts should be rescinded. Deborah is also entitled to damages for losses sustained.

#### **COUNT II- Negligent Misrepresentation**

150. The Turchecks owed Deborah a duty of care.

151. The Turchecks made the representations set forth in this Complaint without reasonable care.

152. Deborah detrimentally relied on those representations.

153. Deborah's reliance caused her damage.

**COUNT III– Civil Conspiracy/Concert in Action**

154. The Turchecks, JS Realty, Duke, Specialty Holdings, Napper, Santilli, Zreik, Desktop Appraisal, Gubacz, and Birch, as well as Richardson, Saber Zreik and Jennifer Zreik (the “conspirators”) were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

155. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property, without lender security), and keep the cash from the sale.

156. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Plaintiffs obtain loan proceeds for properties that they don't actually own, including the Triangle Drive property which was owned by and continues to be owned by the Turchecks.

157. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

158. The conspiracy has caused Plaintiffs the damages set forth herein.

**COUNT IV – Michigan Consumer Protection Act (MCPA) Violations**

159. The Turchecks and JS Realty are engaged in trade or commerce.

160. Deborah is a consumer.

161. By virtue of their involvement with the ostensible sale of the Swan Island property and the Triangle Drive property to Deborah and their ongoing involvement in the greater fraud scheme, the Turchecks and JS Realty have done the following:

- a) Caused a probability of confusion or misunderstanding as to the source or approval of goods or services;
- b) Represented that goods or services have approval, characteristics, benefits, or quantities that they do not have;
- c) Represented goods or services with the intent not to dispose of those goods or services as represented;
- d) Caused a probability of confusion or misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction;
- e) Failed to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not be known by the consumer;
- f) Arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true;
- g) Creating gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits;
- h) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is; and
- i) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

162. The Turchecks and JS Realty have violated MCPA 445.903(1)(a), (c), (g), (n), (s), (v), (y), (bb), and (cc), causing Deborah damage.

**B. RONNIE DUKE and SPECIALTY HOLDINGS, INC.**

**COUNT I – Fraud**

163. Duke and Specialty Holdings made material representations to Deborah that were false when he sent “investor” notices and requests to Deborah. See EXHIBIT A.

164. Duke and Specialty Holdings falsely represented to Deborah that her participation was on behalf of a large investment group that was investing in foreclosed properties.

165. Duke and Specialty Holdings made false representations by arranging the ostensible sale of the Swan Island property to Deborah when Duke continued to be in possession or control of the property.

166. Duke and the remainder of the conspirators intended to take out multiple fraudulent loans in Plaintiffs’ names to obtain more cash including the loans from Aurora and Homecomings.

167. Duke and Specialty Holdings knew the representations were false when made; or, even if they did not know the representations were false, they made them recklessly without knowledge of their truth.

168. The representations were made with the intention that Deborah rely on them by providing her personal information to Duke and the conspirators.

169. Deborah reasonably relied on the representations and suffered injury as a result.

**COUNT II – Negligent Misrepresentation**

170. Duke and Specialty Holdings owed Deborah a duty of care.

171. Duke and Specialty Holdings made certain representations without reasonable care.

172. Deborah detrimentally relied on those representations.

173. Deborah's reliance caused her damage.

**COUNT III – Civil Conspiracy/Concert in Action**

174. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

175. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

176. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price.

177. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

**COUNT IV- Breach of Occupational Code**

178. On January 4, 2006, a Consent Order of Prohibition was entered by the Michigan Department of Labor and Economic Growth which prohibited Duke from being employed by, an agent of, or control person of a licensee or registration under the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA) or a licensee or registrant under a financial licensing act.

179. Upon information and belief, Duke is employed by, an agent of, or a control person for a mortgage broker or lender licensed under MBLSLA.

180. Duke has breached the Occupational Code, causing Deborah's damage.

**COUNT V – Michigan Consumer Protection Act (MCPA) Violations**

181. Duke and Specialty Holdings are engaged in trade or commerce.

182. Deborah is a consumer.

183. By virtue of their involvement with the ostensible sale of the Swan Island property to Deborah and their ongoing involvement in the greater fraud scheme, Duke and Specialty Holdings have done the following:

- a) Caused a probability of confusion or misunderstanding as to the source or approval of goods or services;
- b) Represented that goods or services have approval, characteristics, benefits, or quantities that they do not have;
- c) Represented goods or services with the intent not to dispose of those goods or services as represented;
- d) Caused a probability of confusion or misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction;
- e) Failed to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not be known by the consumer;

- f) Arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true;
- g) Creating gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits;
- h) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is; and
- i) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

184. Duke and Specialty Holdings have violated MCPA 445.903(1)(a), (c), (g), (n), (s), (v), (y), (bb), and (cc), causing Deborah damage.

**C. DANIELLE NAPPER**

**COUNT I – Fraud**

185. Between summer 2006 and early 2007, Napper made many material representations to Plaintiffs that were false.

186. Napper assured Deborah on multiple occasions that Deborah was one of several investment group members that would be investing in a particular property, and that Deborah would not have control over the property and could not relinquish the group's rights in any property nor take possession of any property.

187. Napper told Deborah that the transactions were legal.

188. Napper requested personal and financial information from Deborah in order to alter the information and make misrepresentations that would support the \$1.2 million dollar Swan Island loan as well as the Aurora and Homecomings Loans.

189. Napper convinced Deborah to attend the closing on the Swan Island property by explaining that Napper herself could not make it due to a scheduling conflict.

190. Napper told Deborah that Deborah would attend the closing on behalf of the investment group.

191. Napper told Deborah that she would correct the closing documents on the Swan Island property to show that it was an investment property and not Deborah's residence.

192. On behalf of Cateret Mortgage, Napper affirmatively represented that she spoke with Dennis face to face regarding the application information necessary to support the Middlepointe property loan.

193. Napper knew the representations were false when made or made them recklessly or negligently without knowledge of its truth.

194. The representations were made with the intention that Plaintiffs rely on them.

195. Plaintiffs reasonably relied on the representations and suffered injury as a result.

#### **COUNT II – Negligent Misrepresentation**

196. Napper owed Plaintiffs a duty of care.

197. Napper made certain representations without reasonable care.

198. Plaintiffs detrimentally relied on those representations.

199. Plaintiffs reliance caused her damage.

#### **COUNT III – Civil Conspiracy/Concert in Action**

200. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

201. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

202. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Deborah and Dennis obtain loan proceeds for properties that they don't actually own, including the Middlepointe and Triangle Drive properties.

203. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

**D. ALFREDO SANTILLI**

**COUNT I – Fraud**

204. Santilli made material representations to Deborah that were false when he did the following:

- a) Assured Deborah that this was an investment transaction, involving an investment mortgage, and that these transactions occur regularly and in a similar manner;
- b) Represented to Deborah that he closes investment properties for this group (the conspirators) on a regular basis;
- c) Told Deborah that closing needed to happen quickly so that Deborah would not have time to read the documents;
- d) Forged Deborah's signature on the purchase agreement or closing documents;
- e) Altered documents by adding certain dates next to Deborah's signature; and
- f) Accepted a down payment from someone other than Deborah and applied it to Deborah's closing.

205. Santilli knew the representations were false when made or made them recklessly without knowledge of its truth.

206. The representations were made with the intention that Deborah rely on them.

207. Deborah reasonably relied on Santilli's representations to proceed with closing and suffered injury as a result.

**COUNT II – Negligent Misrepresentation**

208. Deborah detrimentally relied on information that Santilli provided without reasonable care.

209. As closing agent, Santilli owed a duty of care to Deborah.

210. Santilli breached this duty.

211. Deborah's reliance caused her damage.

**COUNT III– Silent Misrepresentation**

212. As closing agent, Santilli had an affirmative duty to tell Deborah that:

- a) the mortgage was not an investment mortgage, but would be her personal liability, and that this transaction was part of the greater fraudulent scheme by the conspirators;
- b) Deborah should receive possession, keys to the house, or an agreement should be made with the Turchecks to compensate Deborah for not receiving possession after ostensibly gaining fee title; and
- c) The value of the Swan Island property had been severely inflated in order to provide a large sum of cash to the Turchecks at closing.

213. Santilli failed to disclose these material facts to Deborah in order to induce Deborah's reliance.

214. Santilli made certain affirmative representations as set forth above which, coupled with the non-disclosures, misled Deborah.

215. Santilli knew that this failure to disclose would leave Deborah with a false impression and it did mislead Deborah.

216. Deborah's false impression has caused her injury.

**COUNT IV – Civil Conspiracy/Concert in Action**

217. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

218. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

219. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Plaintiffs obtain loan proceeds for properties that they don't actually own.

220. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

**COUNT V – Breach of Fiduciary Duty**

221. As closing agent, Santilli had fiduciary duties to communicate knowledge of material facts to Deborah and to operate in good faith.

222. Santilli knew Deborah was relying on his good faith, knowledge of the material facts, and communications to Deborah when she signed the closing documents.

223. Santilli failed to communicate material facts to Deborah and acted in bad faith.

224. Santilli's failure to communicate and bad faith caused Deborah damage.

**COUNT VI – Violation of Insurance Code**

225. Santilli violated the Insurance Code when he engaged in an unfair or deceptive act or practice in the business of insurance and when he received compensation from another conspirator in exchange for the insurance policy.

226. This violation and deceptive act has caused Deborah damage.

**E. METRO-WEST TITLE AGENCY, INC.**

**COUNT I – Vicarious Liability**

227. Santillo was acting within the scope of his employment and authority when he made material misrepresentations, breached his fiduciary duty, and violated the insurance code.

228. As Santillo's employer, Metro-West Title is liable for Santillo's wrongful acts.

**COUNT II – Negligence**

229. Metro-West Title owed a duty to Deborah to handle the closing in a professional and honest manner.

230. Metro-West Title knew or should have known that Santillo was engaged in the fraud scheme with the conspirators, which was not reasonable.

231. Metro-West Title breached its duty to Deborah, causing Deborah damage.

**COUNT III – Breach of Fiduciary Duty**

232. As the title company in charge of closing, Metro-West Title had the fiduciary duties to communicate knowledge of material facts to Deborah and to operate in good faith.

233. Metro-West Title breached these duties to Deborah, causing Deborah damage.

**F. LAWYERS TITLE**

**COUNT I – Vicarious Liability**

234. Santillo was acting within the scope of his employment and authority with Lawyers Title's agent, Metro-West Title, when he made material misrepresentations, breached his fiduciary duty, and violated the insurance code.

235. In the agency agreement between Lawyers Title and Metro-West Title ("Agency Agreement"), Lawyers Title is entitled to audit and examine all financial and business records relating to Metro-West Title's escrow business.

236. Lawyers Title specifically states in the Agency Agreement that it is legitimately concerned about liability created by Metro-West Title's closing services.

237. Lawyers Title further obligates Metro-West Title to follow prudent practice, requirements that Lawyers Title establishes, and applicable statutes, rules, and regulations when closing transactions in which Lawyers Title is the underwriter.

238. As the underwriter for the title company in charge of closing, Lawyers Title is liable for Santillo's wrongful acts.

**G. KASSEM AHMAD ZREIK and ZREIK INVESTMENTS, LLC,  
D/B/A DESKTOP APPRAISAL SERVICES, LLC**

**COUNT I – Breach of Contract**

239. Desktop Appraisal was paid a fee to provide a truthful value of the property for the Swan Island and Triangle Drive properties, and Desktop Appraisal accepted these fees in agreement to provide such appraisals.

240. Desktop Appraisal provided appraisals with inflated values to support the underlying fraud scheme.

241. Desktop Appraisal breached its contracts, causing Plaintiffs damage.

**COUNT II – Fraud**

242. Zreik and Desktop Appraisal made material representations to Plaintiffs that were false when it did appraisals of the Swan Island and Middlepointe properties that severely inflated those properties' values.

243. Zreik and Desktop Appraisal knew the representations were false when made or made them recklessly without knowledge of their truth.

244. The representations were made with the intention that Plaintiffs and the lenders rely on them.

245. Plaintiffs and the lenders reasonably relied on the representations and suffered injury as a result.

**COUNT III – Negligence**

246. Zreik and Desktop Appraisal had a duty to Plaintiffs to appraise the properties with reasonable care.

247. Zreik and Desktop Appraisal breached that duty by providing an appraisal that significantly inflates the value of the Swan Island property and Triangle Drive property.

248. This breach has caused Plaintiffs' damage.

**COUNT IV– Civil Conspiracy/Concert in Action**

249. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

250. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

251. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Plaintiffs obtain loan proceeds for properties that they don't actually own.

252. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

#### **COUNT IV – Breach of Occupational Code**

253. Zreik violated the appraiser license requirements when he failed to do the following:

- a) provide an independent and impartially prepared appraisal;
- b) conform to the uniform standards of professional appraisal practice; and
- c) support the appraisal with relevant market information. MCL 339.2609.

254. Desktop Appraisal is liable for the actions of Zreik because he was acting within the scope of his employment when he violated these provisions.

255. Zreik's violations caused Plaintiffs damage.

#### **H. BRANDON GUBACZ**

##### **COUNT I – Fraud**

256. Gubacz made material representations to Deborah that were false when he grossly inflated her financial net worth, including employment and salary, and indicated he spoke with Deborah by phone regarding the Swan Island property.

257. Deborah never spoke with Gubacz and never provided her information to him.

258. Gubacz knew the representations were false when made or made them recklessly without knowledge of its truth.

259. The representations were made with the intention that Deborah rely on them.

260. Deborah reasonably relied on the representations and suffered injury as a result.

**COUNT II – Negligent Misrepresentation**

261. Deborah detrimentally relied on information Gubacz provided to Countrywide and Premier without reasonable care.

262. Gubacz knew or should have known that the financial information that he provided on the Loan Application were not true.

263. His failure to verify the information received or the identity of the person providing it was not reasonable.

264. His failure to wait the typical amount of time for processing a loan was not reasonable.

265. Gubacz breached his duty of care to Deborah.

266. Deborah's reliance caused her damage.

**COUNT III– Civil Conspiracy/Concert in Action**

267. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

268. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

269. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price.

270. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

**I. PREMIER MORTGAGE FUNDING, INC.**

**COUNT I – Real Estate Settlement Procedures Act (RESPA) Violations**

271. Deborah never applied for a loan with Countrywide or Premier.

272. Premier violated RESPA when it:

- a) Failed to provide HUD booklets within three days of an application, and then closed on a loan to Deborah. 24 CFR 3500.6(a)(1).
- b) Gave or received a fee, kickback, or other thing of value pursuant to an agreement or understanding for referral of business. 12 USC 2607(a); 24 CFR 3500.14(b).

273. Premier's violations have caused Deborah damage.

274. Deborah is entitled to her actual damages, plus costs and attorney fees, and an additional \$1,000 payment because there is a pattern of noncompliance. 12 USC 2605(f).

275. Deborah is further entitled to joint and several liability among the guilty parties for three times the amount of any charge paid for the settlement service, plus costs and attorney fees. 12 USC 2607(d)(2),(5).

**COUNT II – Violation of Mortgage Brokers, Lenders, and Services Licensing Act (MBLSLA), MCL 445.1672(b)**

276. Premier violated the MBLSLA when its employee Gubacz engaged in fraud, deceit, or material misrepresentations in connection with a transaction that is governed by the act. MCL 445.1672(b).

277. Premier's violation has caused Deborah damage.

**COUNT III – Vicarious Liability**

278. Gubacz was acting within the scope of his employment and authority when he made material and negligent misrepresentations.

279. As Gubacz's employer, Premier is liable for Gubacz's wrongful acts.

**J. COUNTRYWIDE BANK, N.A., and MERS**

**COUNT I – Declaratory Judgment**

280. The loan agreements, including the Notes and Mortgages from Deborah to Countrywide as lender and MERS as mortgagee, are a direct result of the fraud precipitated by the conspirators.

281. Because they are a product of fraud, the loan agreements should be rescinded, discharged, and declared void.

282. Deborah's credit should be repaired to reflect no liability on the Countrywide loans.

**COUNT II –RESPA Violations**

283. Deborah never applied for a loan with Countrywide or Premier, and yet the loan was closed on October 31, 2006.

284. Countrywide violated RESPA when it did the following:

- a) Gave or received a fee, kickback, or other thing of value pursuant to an agreement or understanding for referral of business. 12 USC 2607(a); 24 CFR 3500.14(b).
- b) Failed to provide disclosures at the time of a loan application, 12 USC 2602(3); 24 CFR 3500.2, because Deborah never submitted a loan application.
- c) Dated materials October 25, 2006, to make it look like it had complied with the requirement that disclosures were made at the time of the loan application and at time of the closing. 12 USC 2602(3); 24 CFR 3500.2.

- d) Failed to provide a Good Faith Estimate within three days of “application” and verify that it was delivered. 24 CFR 3500.7(a); 24 CFR 3500.7(f).
- e) Failed to disclose at the time of application that the mortgage may be assigned, sold, or transferred. 12 USC 2605(a).

285. Countrywide’s violations have caused Deborah damage, which Deborah is entitled to recoup, plus costs and attorney fees. 12 USC 2605(f).

286. Deborah is further entitled to joint and several liability among the guilty parties for three times the amount of any charge paid for the settlement service, plus costs and attorney fees. 12 USC 2607(d)(2), (5).

**COUNT III – Violation of Mortgage Brokers, Lenders, and Services Licensing Act (MBLSLA), MCL 445.1672(b)**

287. Countrywide violated the MBLSLA when its employee Gubacz engaged in fraud, deceit, or material misrepresentations in connection with a transaction that is governed by the act. MCL 445.1672(b).

288. Countrywide’s violation has caused Deborah damage.

**COUNT IV – Vicarious Liability**

289. Gubacz was acting within the scope of his employment and authority when he made material and negligent misrepresentations.

290. As Gubacz's employer, Countrywide is liable for Gubacz's wrongful acts.

**K. AMANDA BIRCH**

**COUNT I – Fraud**

291. Birch made material representations that she witnessed Deborah's signature on the purchase agreement.

292. Birch knew the representations were false when made or made them recklessly without knowledge of their truth.

293. The representations were made with the intention that they be relied upon and the loan closed.

294. The representations were reasonably relied upon and Deborah has suffered injury as a result.

**COUNT II – Civil Conspiracy/Concert in Action**

295. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

296. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

297. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price.

298. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

#### **L. HOMECOMINGS**

##### **COUNT I – Declaratory Judgment**

299. The loan agreements, including the Notes and Mortgages to Homecomings, are a direct result of the fraud precipitated by the conspirators.

300. Deborah did not sign these loan documents and did not give anyone permission to sign her name to these loan documents.

301. Because they are a product of fraud, the loan agreements should be rescinded, discharged, and declared void.

302. Deborah's credit should be repaired to reflect no liability on the Homecomings loan.

##### **COUNT II –RESPA Violations**

303. Deborah never applied for a loan with Homecomings or Premier, and yet the loan was apparently closed in November 2006.

304. Homecomings violated RESPA, including but not limited to when it did the following:

- a) Failed to provide HUD booklets within three days of an application, and then closed on a loan to Deborah. 24 CFR 3500.6(a)(1).

- b) Failed to provide disclosures at the time of a loan application, 12 USC 2602(3); 24 CFR 3500.2, because Deborah never submitted a loan application.
- c) Failed to provide a Good Faith Estimate within three days of “application” and verify that it was delivered. 24 CFR 3500.7(a); 24 CFR 3500.7(f).
- d) Failed to disclose at the time of application that the mortgage may be assigned, sold, or transferred. 12 USC 2605(a).
- e) Failed to disclose mortgage loan settlement charges.

305. Homecomings’ violations have caused Deborah damage, which Deborah is entitled to recoup, plus costs and attorney fees. 12 USC 2605(f).

306. Deborah is further entitled to joint and several liability among the guilty parties for three times the amount of any charge paid for the settlement service, plus costs and attorney fees. 12 USC 2607(d)(2), (5).

**COUNT III – Violation of Mortgage Brokers, Lenders, and Services Licensing Act (MBLSLA), MCL 445.1672(b)**

307. Homecomings violated the MBLSLA when its agent or employee engaged in fraud, deceit, or material misrepresentations in connection with a transaction that is governed by the act. MCL 445.1672(b).

308. Homecomings’ violation has caused Deborah damage.

**COUNT IV – Violation of the Truth-in-Lending Act (TILA)**

309. Homecomings violated the TILA when it failed to provide Deborah with the required disclosures in regards to its loan.

310. Deborah has been damaged as a result.

311. Deborah is entitled to actual damages, attorney fees, costs, and rescission of the loan.

**M. AURORA**

**COUNT I – Declaratory Judgment**

312. The loan agreements, including the Notes and Mortgages to USB Home Mortgage, as assigned to Aurora, are a direct result of the fraud precipitated by the conspirators.

313. Plaintiffs did not sign these loan documents and did not give anyone permission to sign their name to these loan documents.

314. Because they are a product of fraud, the loan agreements should be rescinded, discharged, and declared void.

315. Plaintiffs' credit should be repaired to reflect no liability on the Aurora loan.

**COUNT II –RESPA Violations**

316. Deborah never applied for a loan with USB Home Mortgage or Premier, and yet the loan was apparently closed in August 2006.

317. USB Home Mortgage, as applicable to Aurora by virtue of the assignment, violated RESPA, including but not limited to when it did the following:

- a) Failed to provide HUD booklets within three days of an application, and then closed on a loan to Dennis. 24 CFR 3500.6(a)(1).
- b) Failed to provide disclosures at the time of a loan application, 12 USC 2602(3); 24 CFR 3500.2, because Deborah never submitted a loan application.
- c) Failed to provide a Good Faith Estimate within three days of “application” and verify that it was delivered. 24 CFR 3500.7(a); 24 CFR 3500.7(f).
- d) Failed to disclose at the time of application that the mortgage may be assigned, sold, or transferred. 12 USC 2605(a).

e) Failed to disclose mortgage loan settlement charges.

318. These violations have caused Plaintiffs' damage, which Plaintiffs are entitled to recoup, plus costs and attorney fees. 12 USC 2605(f).

319. Plaintiffs are further entitled to joint and several liability among the guilty parties for three times the amount of any charge paid for the settlement service, plus costs and attorney fees. 12 USC 2607(d)(2), (5).

**COUNT III – Violation of Mortgage Brokers, Lenders, and Services Licensing Act (MBLSLA), MCL 445.1672(b)**

320. USB Home Mortgage, and as applicable to Aurora by virtue of the assignment, violated the MBLSLA when its agent or employee engaged in fraud, deceit, or material misrepresentations in connection with a transaction that is governed by the act. MCL 445.1672(b).

321. The violation has caused Plaintiffs damage.

**COUNT IV – Violation of the Truth-in-Lending Act (TILA)**

322. USB Home Mortgage, as applicable to Aurora by virtue of the assignment, violated the TILA when it failed to provide Deborah with the required disclosures in regards to its loan.

323. Deborah has been damaged as a result.

324. Deborah is entitled to actual damages, attorney fees, costs, and rescission of the loan.

**N. CARTERET MORTGAGE**

**COUNT I – Real Estate Settlement Procedures Act (RESPA) Violations**

325. Dennis never applied for a loan with USB Home Mortgage or Carteret Mortgage.

326. Carteret Mortgage violated RESPA including but not limited to when it gave or received a fee, kickback, or other thing of value pursuant to an agreement or understanding for referral of business. 12 USC 2607(a); 24 CFR 3500.14(b).

327. Carteret's violations have caused Plaintiffs damage.

328. Plaintiffs are entitled to their actual damages, plus costs and attorney fees, and an additional \$1,000 payment because there is a pattern of noncompliance. 12 USC 2605(f).

329. Plaintiffs are further entitled to joint and several liability among the guilty parties for three times the amount of any charge paid for the settlement service, plus costs and attorney fees. 12 USC 2607(d)(2),(5).

**COUNT II – Violation of Mortgage Brokers, Lenders, and Services Licensing Act (MBLSLA), MCL 445.1672(b)**

330. Carteret violated the MBLSLA when its employee Napper engaged in fraud, deceit, or material misrepresentations in connection with a transaction that is governed by the act. MCL 445.1672(b).

331. Carteret Mortgage's violation has caused Plaintiffs damage.

**COUNT III – Vicarious Liability**

332. Napper was acting within the scope of her employment and authority when she made material and negligent misrepresentations.

333. As Napper's employer, Carteret is liable for Napper's wrongful acts.

**O. RICHARDSON**

**COUNT I – Fraud**

334. Richardson made material representations that were false when he did the following:

- a) Forged Plaintiffs' signatures on the purchase agreement and closing documents for the Middlepointe and Triangle Drive properties;
- b) Signed as a witness and notary to Plaintiffs' presence and signatures when Plaintiffs were not present and did not sign in front of Richardson; and
- c) Accepted a down payment from someone other than Plaintiffs and applied it to Plaintiffs' closing.

335. Richardson knew the representations were false when made or made them recklessly without knowledge of its truth.

336. The representations were made with the intention that all parties to the loans, including Plaintiffs and the lenders, rely on them.

337. Plaintiffs reasonably relied on Richardson's representations and suffered injury as a result.

### **COUNT II – Negligent Misrepresentation**

338. Plaintiffs detrimentally relied on information that Richardson provided without reasonable care.

339. As the closing agent and notary for the Middlepointe and Triangle Drive loans, Richardson owed a duty of care to Plaintiffs.

340. Richardson breached this duty.

341. Plaintiffs' reliance caused them damage.

**COUNT III – Civil Conspiracy/Concert in Action**

342. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

343. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their personal and financial information, borrow money in their names (sometimes multiple times on one property), and keep the cash from the sale.

344. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Plaintiffs obtain loan proceeds for properties that they don't actually own.

345. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

**COUNT IV – Breach of Fiduciary Duty**

346. As closing agent, Richardson had fiduciary duties to communicate knowledge of material facts to Plaintiffs and to operate in good faith.

347. Richardson knew that all parties to the loan were relying on his good faith, knowledge of the material facts, and communications when issuing the closing documents.

348. Richardson failed to communicate material facts to Plaintiffs and Richardson acted in bad faith.

349. Richardson's failure to communicate and bad faith caused Plaintiffs damage.

**COUNT V – Violation of Insurance Code**

350. Richardson violated the Insurance Code when he engaged in an unfair or deceptive act or practice in the business of insurance and when he received compensation from another conspirator in exchange for the insurance policy.

351. This violation and deceptive act has caused Plaintiffs damage.

**COUNT VII—Violation of Michigan Notary Public Act**

352. Richardson improperly, falsely, and fraudulently acted as a notary by signing that he witnessed Plaintiffs' signatures when Plaintiffs never appeared before Richardson and never signed the loan documents.

353. Richardson's misconduct is a violation of the Michigan Notary Public Act, MCL 55.261 et seq.

354. Plaintiffs have suffered monetary and other losses as a result of Richardson's misconduct in the performance of a notarial act, for which Plaintiffs are entitled to damages. MCL 55.273.

**P. NATIONS TITLE.**

**COUNT I – Vicarious Liability**

355. Richardson was acting within the scope of his employment and authority when he made material misrepresentations, breached his fiduciary duty, violated the insurance code, and violated the notary public act.

356. As Richardson's employer, Nation's Title is liable for Richardson's wrongful acts.

**COUNT II – Negligence**

357. Nation's Title owed a duty to Plaintiffs to handle the closing in a professional and honest manner.

358. Nation's Title knew or should have known that Richardson was engaged in the fraud scheme with the conspirators, which was not reasonable.

359. Nation's Title breached its duty to Plaintiffs, causing Plaintiffs damage.

**COUNT III – Breach of Fiduciary Duty**

360. As the title company in charge of closing, Nation's Title had the fiduciary duties to communicate knowledge of material facts to Plaintiffs, require and confirm Plaintiffs presence and knowledge, and to operate in good faith.

361. Nation's Title breached these duties to Plaintiffs, causing Plaintiffs damage.

**Q. SABER ZREIK and JENNIFER ZREIK**

**COUNT I – Fraud**

362. Saber Zreik and Jennifer Zreik ("the Zreiks") made material representations to Dennis and the lender that were false when they submitted a falsified and forged purchase agreement as the basis for Dennis' purported purchase of their Middlepointe property.

363. The Zreiks made other representations that were false in connection with the Middlepointe loan because they never intended to, nor did they, sell the property to Plaintiffs.

364. The Zreiks signed a Settlement Statement for a closing and sale of the Middlepointe property so that they could retain the proceeds of the loan.

365. Although the Zreiks indicated that they were selling the Middlepointe property to Dennis, the Zreiks never relinquished possession, control, or title to the Middlepointe property.

366. The Zreiks knew the representations were false when made.

367. Even if the Zreiks did not know the representations were false when made, they at least made them recklessly without knowledge of the truth.

368. The representations were made with the intention that Plaintiffs and the lender rely on them.

369. Plaintiffs and the lenders reasonably relied on the representations and suffered injury as a result.

370. Upon discovering the fraud, Plaintiffs immediately stopped payment on the loan.

371. Because of the fraud, any loans taken out in Plaintiffs' names are invalid and all contracts should be rescinded. Plaintiffs are also entitled to damages for losses sustained.

### **COUNT II- Negligent Misrepresentation**

372. The Zreiks owed Dennis a duty of care.

373. The Zreiks made the representations set forth in this Complaint without reasonable care.

374. Dennis detrimentally relied on those representations.

375. Dennis' reliance caused him damage.

### **COUNT III- Civil Conspiracy/Concert in Action**

376. The conspirators were engaged in a concerted action to accomplish a criminal or unlawful purpose and/or a lawful purpose by criminal or unlawful means.

377. The conspirators had an agreement or preconceived plan to lure individuals into an investment group with false representations of investing in foreclosed property, obtain their

personal and financial information, borrow money in their names (sometimes multiple times on one property, without lender security), and keep the cash from the sale.

378. Part of the agreement or preconceived plan was to have Deborah ostensibly purchase the Swan Island property from the Turchecks at an inflated price, and to have Plaintiffs obtain loan proceeds for properties that they don't actually own, including the Middlepointe Drive property which was owned by the Zreiks. The Zreiks subsequently sold the property to Jeana Turcheck.

379. Even if they did not have an agreement or preconceived plan, the conspirators acted pursuant to a common design.

380. The conspiracy has caused Plaintiffs the damages set forth herein.

#### **COUNT IV – Michigan Consumer Protection Act (MCPA) Violations**

381. The Zreiks are engaged in trade or commerce.

382. Dennis is a consumer.

383. By virtue of their involvement with the ostensible sale of the Middlepointe property to Dennis and their ongoing involvement in the greater fraud scheme, the Zreiks have done the following:

- a) Caused a probability of confusion or misunderstanding as to the source or approval of goods or services;
- b) Represented that goods or services have approval, characteristics, benefits, or quantities that they do not have;
- c) Represented goods or services with the intent not to dispose of those goods or services as represented;

- d) Caused a probability of confusion or misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction;
- e) Failed to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not be known by the consumer;
- f) Arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true;
- g) Creating gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits;
- h) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is; and
- i) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

384. The Zreiks have violated MCPA 445.903(1)(a), (c), (g), (n), (s), (v), (y), (bb), and (cc), causing Dennis damage.

WHEREFORE, in consideration of all of the counts contained in this Second Amended Complaint, Deborah having settled this matter with Countrywide, MERS, and Lawyers Title, Plaintiffs request that this Court:

- A. Declare the loan agreements Aurora and Homecomings invalid and thereby release Plaintiffs from all liability;

- B. Rescind the loan agreements with Aurora and Homecomings;
- C. Order that Plaintiffs' credit be cleared with all three credit reporting agencies to reflect no liability for the Aurora, Homecomings, and Countrywide loans;
- D. Award monetary damages;
- E. Award other consequential damages;
- F. Award costs and attorney fees pursuant to MCPA and 12 USC 2605(f), or otherwise; and
- G. Award all such other relief as this Court deems appropriate.

Respectfully submitted,

COOPER & RIESTERER, PLC

Dated: February 4, 2008

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