

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ABN AMRO MORTGAGE  
GROUP, INC.  
6300 Interfirst Drive  
Ann Arbor, Michigan 48108

Plaintiff,

v.

NEW PARTNERS MORTGAGE  
COMPANY  
27540 Detroit Road  
Suite 205  
Westlake, Ohio 44145

Also Served

New Partners Mortgage Company  
2606 Rustic Lane  
Westlake, Ohio 44145

JOSEPH MICHAEL CAHLIK A/K/A  
MICHAEL CAHLIK  
5415 Pearl Road  
Parma, Ohio 44129

JOSEPH DANIELE  
19112 Beckett  
Odessa, Florida 33556

NAETAL LAWRENCE A/K/A N.R.  
LAWRENCE  
1940 Richmond Road  
Beachwood, Ohio 44124

EXCEL APPRAISALS  
1940 Richmond Road  
Beachwood, Ohio 44124

CASE NO

**1:05CV1167**

JUDGE

**JUDGE OLIVER**

COMPLAINT

(Jury Demand Endorsed Hereon)

MAG JUDGE OLIVER, MAG

MAILED  
MAY 11 2005  
FBI 1:06

NETCO TITLE A/K/A NATIONAL )  
EQUITY TITLE AGENCY, INC. )  
6054 Broadview Road )  
Parma, OH 44134 )

Agent for Service of Process )  
Patrick Dignam )  
250 E. Wilson Bridge Road )  
Suite 220 )  
Worthington, Ohio 43085 )

TITLE ASSOCIATES, INC. )  
8748 Brecksville Road )  
Suite #140 )  
Brecksville, Ohio 44141 )

Agent for Service of Process )  
Sergio Digeronimo )  
8927 Brecksville Road )  
Brecksville, Ohio 44141 )

CRESCENT TITLE )  
4914 Hills and Dales Road )  
Canton, Ohio 44708 )

ADVANCED/AFFILIATED TITLE )  
AGENCY, INC. N/K/A AFFILIATED )  
TITLE AGENCY, INC. )  
5000 Rockside Road Suite 200, )  
Independence, Ohio 44131 )

Agent for Service of Process )  
Salvatore A. Giglio )  
11000 Chardon Road )  
Chardon, Ohio 44024 )

FIDELITY NATIONAL TITLE )  
INSURANCE COMPANY )  
601 Riverside Avenue )  
Jacksonville, Florida 32204. )

Agent for Service of Process )  
CT Corporation System )  
818 West Seventh Street )  
Los Angeles, California 90017 )

**LAWYERS TITLE INSURANCE** )  
**COMPANY** )  
 Gateway One )  
 101 Gateway Centre Parkway )  
 Richmond, Virginia 23235 )  
 )  
 Defendants. )

Plaintiff ABN Amro Mortgage Group, Inc. (“AAMG”) hereby alleges as follows for its Complaint against Defendants New Partners Mortgage Company; Joseph Michael Cahlik a/k/a Michael Cahlik; Joseph Daniele; Naetal Lawrence a/k/a N.R. Lawrence; Excel Appraisals; NETCO Title a/k/a National Equity Title Agency, Inc.: Title Associates, Inc.: Crescent Title; Advanced/Affiliated Title Agency, Inc. n/k/a Affiliated Title Agency, Inc.: Fidelity National Title Insurance Company; and, Lawyers Title Insurance Company.

**I. INTRODUCTION AND NATURE OF ACTION**

1. This lawsuit seeks redress for a mortgage secured loan scheme perpetrated against AAMG. AAMG was the lender, and victim, on hundreds of loans under that scheme, and now faces millions of dollars in loan loss.

2. One aspect of this scheme involved representing loan transactions to be refinances, when, in reality, they were purchase money loans. These misrepresentations permitted the borrowers to avoid the cash down-payment required in a purchase money transaction; allowed the participants to collect certain fees; relaxed the borrower qualifications and related paperwork; and relaxed the underwriting guidelines for the loan. The scheme induced AAMG to make loans it otherwise would not have made, many of which are now in default or foreclosure.

3. Another aspect of the scheme was at the appraisal phase of the transaction. At that stage, an inflated appraisal was used to increase the loan amount, but ultimately left AAMG under- or un-secured on the mortgage. At times, the fee charged for appraisals was excessive or assessed even though no appraisal, or a fraudulent appraisal, was actually made.

4. Another aspect of the scheme was at the application, or credit assessment, phase of the transaction. False information regarding the borrower's qualifications, or the failure ultimately to include necessary information, resulted in AAMG extending mortgage secured loans to unfit borrowers or in unsound financial situations presented to AAMG as sound.

## II. PARTIES

### A. Plaintiff

5. Plaintiff AAMG is a Delaware corporation with its principal place of business in Ann Arbor, Michigan. AAMG is in the business of, among other things, making residential mortgage secured loans through the use of and in reliance upon mortgage brokers and closing agents.

### B. Principal

6. Upon information and belief, Joseph Daniele ("Daniele") is a resident of Florida. He was the primary architect of the scheme and was primarily responsible for locating and pairing sellers and borrowers. At the time of the conduct alleged in the Complaint, Daniele was a resident of Ohio.

**C. Mortgage Broker And Loan Officer Defendants**

7. New Partners Mortgage Company (“New Partners”) is an Ohio corporation with its principal place of business in Westlake, Ohio. New Partners is a mortgage broker upon whom AAMG relied, and with which it had a Correspondent Agreement and addenda thereto. New Partners was the mortgage broker on all of the loans that are the subject of this Complaint.

8. Joseph Michael Cahlik a/k/a Michael Cahlik (“Cahlik”) is a resident of the State of Ohio. He was a New Partners loan officer, and helped to set up, and participated in, the scheme against AAMG.

**D. Appraiser Defendants**

9. Upon information and belief, Naetal Lawrence a/k/a N.R. Lawrence (“Lawrence”) is a resident of the State of Ohio, and a licensed real estate appraiser in the State of Ohio.

10. Upon information and belief, Excel Appraisals is a corporation incorporated under the laws of the State of Ohio, with its principal place of business in Beachwood, Ohio, which is owned and operated by Lawrence.

11. Lawrence and Excel Appraisals are referred to collectively as the “Appraiser Defendants.”

**E. Closing Agent Defendants**

12. Upon information and belief, NETCO Title a/k/a National Equity Title Agency, Inc. (“NETCO Title”) is a corporation incorporated under the laws of the State of Ohio, with its principal place of business in Worthington, Ohio.

13. Upon information and belief, Title Associates, Inc. (“Title Associates”) is a corporation incorporated under the laws of the State of Ohio, with its principal place of business in Brecksville, Ohio.

14. Upon information and belief, Crescent Title is a corporation incorporated under the laws of the Commonwealth of Virginia, with its principal place of business in Virginia Beach, Virginia, and which maintains a usual place of business in Canton, Ohio.

15. Upon information and belief, Advanced/Affiliated Title Agency, Inc. n/k/a Affiliated Title Agency, Inc. (“Advanced/Affiliated Title”) is a corporation incorporated under the laws of the State of Ohio, with its principal place of business in Chardon, Ohio.

16. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title are referred to collectively as the “Closing Agent Defendants.”

17. The Closing Agent Defendants prepared the title work in mortgage secured loan transactions that are the subject of this lawsuit, and were obligated to act as AAMG’s agents at the closing of mortgage secured loans that are the subject of this lawsuit.

**F. Title Insurer Defendants**

18. Upon information and belief, Fidelity National Title Insurance Company (“Fidelity National”) is a corporation incorporated under the laws of the State of California, with its principal place of business in Jacksonville, Florida.

19. Upon information and belief, Lawyers Title Insurance Company (“Lawyers Title”) is a corporation incorporated under the laws of the Commonwealth of Virginia, with its principal place of business in Richmond, Virginia.

20. Fidelity National and Lawyers Title are referred to collectively as the “Title Insurer Defendants.”

21. As set forth in more detail below, the Title Insurer Defendants issued Closing Protection Letters for the benefit of AAMG against certain misconduct by the Closing Agent Defendants.

### **III. JURISDICTION AND VENUE**

22. Plaintiff AAMG is a citizen of Delaware and Michigan for purposes of determining diversity jurisdiction. No Defendant is a citizen of the state of Delaware or Michigan for purposes of determining diversity jurisdiction. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between AAMG and the Defendants, and, as set forth in more detail below, the amount in controversy exceeds the jurisdictional minimum of \$75,000.00, exclusive of interest and costs.

23. Venue is proper in the United States District Court for the Northern District of Ohio pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to AAMG’s claims occurred in this District.

### **IV. FACTS COMMON TO ALL CLAIMS**

#### **A. AAMG’s Loan Process**

24. AAMG is one of the nation’s largest residential mortgage lenders. AAMG originates loans for its own account on a retail basis through its network of affiliate banks and other lending offices. AAMG also purchases loans on a wholesale basis from mortgage brokers under contract with AAMG.

25. The mortgage broker assists the borrower in obtaining a mortgage secured loan product. In this capacity, the mortgage broker and its individual loan officers typically assist the borrower in preparing and submitting, electronically, by mail, and by phone, the necessary documentation and information to AAMG, including the loan application.

26. The mortgage broker submits the information, which is tested against the underwriting criteria to determine whether the borrower and transaction meet the basic qualifications.

27. New Partners, which served as the mortgage broker in all of the loans at issue in this Complaint, usually took advantage of AAMG's online or fax application procedures.

28. For online applications, New Partners utilized AAMG's internet portal to enter the borrower's and the property's information, and an underwriting program automatically determined whether the information met the underwriting guidelines. If so, the program would issue an "accept" or "reject" notation, together with any conditions for the acceptance. Those conditions would be incorporated into closing instructions sent to the closing agent, and had to be met for the borrower to receive the funds.

29. If New Partners received an "accept" notation, it sent AAMG information on the closing agent, and instructions on where to send the loan proceeds and closing instructions.

30. Under the facsimile method, New Partners submitted a cover sheet with limited borrower and property information. That information was then subjected to the applicable underwriting procedure.

31. If the borrower was approved for the requested loan product and the borrower wished to complete the loan, the loan was arranged by New Partners, typically at the office of a closing or settlement agent. The closing agent then administered the closing and was responsible for ensuring, among other things, that closing instructions from AAMG were followed before funds were disbursed, that the documentation was proper, that the necessary disclosures were provided to the borrower, that the borrower completed the necessary documentation, that payments were delivered to the appropriate party, and that all closing conditions were met.

32. Prior to the scheduled loan closing, AAMG forwarded the funds and closing instructions to the Closing Agent Defendants. The Closing Agent Defendants would also receive a draft of the loan and the closing documents.

33. One requirement on the closing instructions for every loan that is the subject of this Complaint was to verify property ownership in the borrower, who purported to refinance existing debt secured by the property.

**B. Manipulating The Loan Process To Cheat AAMG**

34. New Partners is a mortgage broker in the Cleveland, Ohio area.

35. On or about November 1, 1996, New Partners entered into a Correspondent Agreement governing its relationship with AAMG. New Partners also executed two addenda to the Correspondent Agreement. The Correspondent Agreement and addenda are attached collectively as Exhibit A.

36. Among other things, New Partners agreed, or otherwise represented and warranted for each transaction, that:

- (a) New Partners “materially performed and complied with all covenants, and agreements contained in” the Correspondent Agreement (Correspondent Agreement ¶ 3(d));
- (b) Each mortgage secured loan was “valid” (id. ¶ 3(i));
- (c) “All documents or instruments submitted by [New Partners] in connection with a Mortgage Loan [were]. in every respect, valid and genuine, being what on their face they purport to be, and all information (credit or otherwise) submitted in connection with such Mortgage Loan packages [was] true and accurate.” (id. ¶ 3(o)); and.
- (d) New Partners had “no knowledge of any circumstances or conditions . . . that can be reasonably expected” to make investors consider the mortgage secured loan an “unacceptable investment” or that could “cause the Mortgage Loan to become delinquent or adversely effect the value or marketability of the Mortgage Loan” (id. ¶ 3(y)).

37. New Partners was the mortgage broker on all the mortgage secured loans that are the subject of this Complaint.

38. New Partners proffered the paperwork used to approve, and induce AAMG to fund, each of the mortgage secured loan transactions that are the subject of this Complaint.

39. New Partners’ participation in the scheme was in concert with, and/or under the direction or control of Daniele.

40. An associate of Daniele’s first introduced Cahlik, at the time a New Partners’ loan officer, to Daniele.

41. New Partners initially handled four or five refinance loans for Daniele. As time went on, however, it processed as many as ten loans per week for Daniele. Upon information and belief, Daniele ultimately referred to New Partners, or participated in, hundreds of mortgage secured loans funded by AAMG.

42. As a loan officer, and in concert with New Partners and Daniele, Cahlik collected the information AAMG required in order to fund a mortgage secured loan, and

provided AAMG with information he knew to be false and/or incomplete. Cahlik even set up a shell corporation. Mortgage Services of Ohio, he used to process fees, some of which were paid for services that were not actually performed.

43. New Partners provided AAMG with information it knew to be false and/or incomplete with the intent to induce AAMG to fund the mortgage secured loans it submitted to AAMG.

44. Upon information and belief, Daniele, or one of his associates at his direction and control, provided borrower information to New Partners. Daniele knew this information was false, knew that New Partners would communicate it to AAMG, and intended AAMG to rely upon it in extending loans to borrowers Daniele identified. Upon further information and belief, Daniele attended closings of some mortgage secured loans, but did not reveal that borrower information was false or that the loan proceeds were, in fact, to be used to purchase the property and not to refinance existing debt.

45. Daniele, Cahlik and New Partners made similar representations or omissions relating to many other mortgage secured loan transactions.

**C. AAMG Funded Loans As Refinances That Were, In Fact, Purchase Money Loans**

46. Acting in concert with Daniele, New Partners presented many loans to AAMG as a refinance of an existing debt when the money was actually used to purchase the property. In many instances, the borrower did not actually own the property before the loan was made, or received title to the property the same day as the loan closing.

47. Because the transaction was submitted to AAMG as a refinance, the loan application represented that the borrower owned the property secured by an existing

mortgage secured loan. In fact, the borrowers did not actually own the property and were not obligated on any other mortgage secured loan for that property.

48. The loan would then close as a refinance with the money going directly to purchase the property.

49. The loan was fraudulently submitted as a refinance, instead of a purchase money loan, because different criteria are considered by AAMG for approval of the two types of loan. For example, purchase money loans typically require down payments and the commitment of cash to the transaction by the borrower, which would require proof of funds before closing, often including the existence of sufficient funds on deposit in borrower's bank account over the previous 90 days. The underwriting guidelines require a slightly higher credit score for a purchase because the borrower does not have a history of making loan payments on the property. On a refinance transaction, the loan amount is based on the appraised value, which is a number which, as it was in this fraudulent scheme, can be fraudulently over-stated. Most, if not all, of the loans presented to AAMG as refinance transactions would not have been approved if they had been properly presented as purchase money loans.

50. Daniele knew and intended that the funds received on the alleged refinance transactions, in fact, were used to purchase the property and not to refinance existing debt on the property. Indeed, Daniele or companies in which he held an interest were often the sellers of the property.

51. Upon information and belief, Daniele used a separate corporate entity and/or bank account in which he held an interest to handle the loan proceeds.

52. Attached as Exhibits B, C and D are lists of loan transactions that were represented to AAMG to be refinance transactions but, in reality, they were loans used to purchase the subject property, not to refinance existing debt on the property.

53. Exhibit B lists 20 loan transactions in which title vested in the borrower *after* the closing date. All of these were represented to AAMG as, and were approved as, refinance transactions only. None of these were, in fact, refinance transactions.

54. The Closing Agent Defendants, or a closing agent subject to a Closing Protection Letter issued by one of the Title Insurer Defendants, oversaw the closing of the loans listed on Exhibit B. The closing agents on these transactions knew or should have known that such transactions were not refinances, and/or directly participated in the scheme against AAMG.

55. Nearly all of the mortgage secured loans listed in Exhibit B are in default or foreclosure, and the total estimated loan loss on these transactions is \$928,547.

56. Exhibit C lists 16 loan transactions in which the loan file failed to indicate that title *ever* vested in the borrower. All of these were represented to AAMG as, and were approved as, refinance transactions only. None of these were, in fact, refinance transactions.

57. The Closing Agent Defendants, or a closing agent subject to a Closing Protection Letter issued by one of the Title Insurer Defendants, oversaw the closing of the loans listed on Exhibit C. The closing agents on these transactions knew or should have known that such transactions were not refinances, and/or directly participated in the scheme against AAMG.

58. Nearly all of the mortgage secured loans listed in Exhibit C are in default or foreclosure, and the total estimated loan loss on these transactions is \$730,021.

59. Exhibit D lists 87 loan transactions in which the title vested in the borrower *on the same day the loan closed*. All of these were represented to AAMG as, and were approved as, refinance transactions only. None of these were, in fact, refinance transactions.

60. The Closing Agent Defendants, or a closing agent subject to a Closing Protection Letter issued by one of the Title Insurer Defendants, oversaw the closing of the loans listed on Exhibit D.

61. Nearly all of the mortgage secured loans listed in Exhibit D are in default or foreclosure, and the total estimated loan loss on these transactions is \$5,149,194.

62. In 27 of the loan transactions listed in Exhibit D, the deed and the loan papers were reviewed and/or notarized by the same person employed by the closing agent acting as AAMG's agent at the closing. The closing agents on these transactions knew or should have known that such transactions were not refinances, and/or directly participated in the scheme against AAMG.

63. In 24 of the loan transactions listed in Exhibit D, the deed and the loan papers, or other closing documents, were reviewed and/or notarized by multiple people all of whom represented or worked for the same closing agent acting as AAMG's agent at the closing. The closing agents on these transactions knew or should have known that such transactions were not refinances, and/or directly participated in the scheme against AAMG.

64. In 35 of the loan transactions listed in Exhibit D, the deed was not in the loan papers provided by New Partners, but the closing documents were reviewed and/or notarized by one or more people who represented or worked for the same closing agent acting as AAMG's agent at the closing. The closing agents on these transactions knew or should have known that such transactions were not refinances, and/or directly participated in the scheme against AAMG.

65. In addition to the loans listed in Exhibits B, C and D, AAMG discovered many other loans that purported to close as a refinance, but were in fact purchase money loans.

66. In addition to their duties as an agent of AAMG, each of the Closing Agent Defendants was bound by an agreement to abide by AAMG's closing instructions. A sample copy of those closing instructions is attached as Exhibit E. Due to the number of transactions, the remaining closing instructions are not attached.

**D. AAMG Was Induced To Fund Loans That Were Fraudulently Or Otherwise Improperly Documented**

**1. The appraisal scheme**

67. AAMG has discovered that in many mortgage secured loan transactions originated by New Partners, New Partners failed to conduct an appraisal, often claiming that one had been performed and/or failing to include the appraisal in the loan package for closing.

68. In addition, often the appraised value of the property was materially misrepresented to be in excess of the actual fair market value.

69. One example is AAMG Loan No. 620952198. The Appraiser Defendants allegedly performed the appraisal on this property, for which they charged and were paid

a fee. New Partners did not include the original appraisal in the file, but represented that Lawrence appraised the property at \$62,000 or \$74,000. The closing agent, Advanced Affiliated Title, permitted the loan to close for a principal amount of \$46,000. Upon information and belief, the current value of the property is approximately \$19,000 – 23,000. This represents a disparity between the appraised and actual value ranging from approximately 63% to as much as 74%. Loan No. 620952198 is now in default and foreclosure.

70. New Partners, Cahlik, the Appraiser Defendants, and the Closing Agent Defendants participated in many other transactions resulting in AAMG funding mortgage secured loans that were based upon appraisals that were not performed, of which there is no record, or that were inflated.

71. New Partners, Cahlik, the Appraiser Defendants, and the Closing Agent Defendants also participated in transactions that, because of the faulty appraisals or appraisal claims, generated unearned or improper fees or closings.

**2. The credit and borrower qualification scheme**

72. New Partners submitted, and the Closing Agent Defendants permitted to close, transactions based upon incomplete or misleading information.

73. One example is AAMG Loan No. 620952198, discussed above.

74. AAMG was led to believe that Loan No. 620952198 was a refinance transaction, when in reality it was a purchase mortgage. Furthermore, AAMG was told that the borrower's available monthly income was \$2,883. The loan application also claimed that the borrower's fixed monthly payments would be \$307, and the monthly proposed combined housing expenses would be \$408 – for a total of \$715 per month.

That is a debt-to-income ratio, a factor used to determine fitness of a borrower under the applicable loan and underwriting guidelines, of about 25%. That ratio is materially false and misleading. The loan application discloses another monthly loan payment for property the borrower owned and occupied, but which was not included in his fixed monthly costs. Rather than \$307, the fixed monthly costs should have been \$671. The total monthly expenses would therefore be \$1,079. Therefore, even based only on the debt actually disclosed on the loan application (but not included in the calculation of monthly expenses), the debt to income ratio goes up to more than 37%. Further, upon information and belief, the actual monthly income was only \$1,351, and the total combined monthly housing expenses plus fixed monthly expenses (including two debts not disclosed in the loan application) were about \$4,153. That is a debt to income ratio of 307%. If AAMG had been told the truth, it would not have funded Loan No. 620952198.

75. As a result of the information provided to, or withheld from, AAMG in relation to Loan No. 620952198, AAMG funded the loan for a principal amount of \$46,000.

76. Loan No. 620952198 is now in default and foreclosure.

77. New Partners, Cahlik, and the Closing Agent Defendants participated in many other transactions resulting in AAMG funding mortgage secured loans that were based upon incomplete, false, or materially misleading credit information.

78. New Partners, Cahlik, and the Closing Agent Defendants also participated in transactions that, because of the faulty credit information, generated unearned or improper fees or closings.

E. **Title Insurer Defendants Are Liable Under Their Closing Protection Letters**

79. Certain of the mortgage secured loans at issue in this litigation included Closing Protection Letters issued by the Title Insurer Defendants. Those Closing Protection Letters are attached as Exhibits F and G.

80. The Closing Protection Letters provided that the Title Insurer Defendants will reimburse AAMG for any loss incurred by AAMG in connection with the closing of a real estate secured loan transaction conducted by an agent authorized to issue title insurance for the Title Insurer Defendants when title insurance for the property was underwritten by Title Insurer Defendants and the loss arises out of the agent's fraud or dishonesty, or the failure to follow the closing instructions.

81. AAMG has incurred substantial loss caused by the misconduct, including, but not limited to, fraud and dishonesty, of the Closing Agent Defendants and other closing agents in connection with the closing of loans with title insurance underwritten by the Title Insurer Defendants.

82. AAMG wrote to the Title Insurer Defendants and demanded that the Title Insurer Defendants reimburse AAMG for the loss incurred by the Closing Agent Defendants' and other closing agents' fraud and misconduct in closing the loans at issue.

83. Despite AAMG's demands, the Title Insurer Defendants have not reimbursed AAMG for its loss.

V. **CAUSES OF ACTION**

**COUNT I: FRAUD**  
**(Against Daniele)**

84. The allegations of paragraphs 1 through 83 of the Complaint are adopted here and incorporated by reference.

85. Daniele made affirmative representations, or, despite his duties to AAMG, concealed facts, that were material to the mortgage secured loan transactions that are the subject of this lawsuit, and pursuant to which AAMG released funds.

86. Daniele's fraudulent misrepresentations and omissions included, but were not limited to, representing the nature of the transaction as a purchase money loan and not a refinance loan as he intended and caused AAMG to believe, providing false borrower information, and otherwise using New Partners as an instrumentality to defraud AAMG through false appraisal and credit information.

87. Daniele made fraudulent misrepresentations and omissions with the express intent of causing AAMG to fund the mortgage secured loan transactions that are the subject of this lawsuit.

88. Daniele's fraudulent misrepresentations and/or omissions were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they are true or false that knowledge may be inferred.

89. Daniele acted with actual malice toward AAMG.

90. AAMG justifiably relied upon Daniele's fraudulent misrepresentations and/or omissions.

91. As a result of the fraud of Daniele, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT II: UNJUST ENRICHMENT**  
**(Against Daniele)**

92. The allegations of paragraphs 1 through 91 of the Complaint are adopted here and incorporated by reference.

93. AAMG fully funded the mortgage secured loan transactions that are the subject of this litigation. As a result, Daniele received proceeds or benefits from the proceeds of mortgage secured loans funded by AAMG, including, for example, funds in excess of the amounts that AAMG would otherwise have paid or he would otherwise have received but for the scheme against AAMG.

94. Daniele knowingly accepted benefits from AAMG, and has retained those benefits under unjust circumstances.

95. As a result of the unjust enrichment of Daniele, AAMG has been harmed in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT III: CIVIL CONSPIRACY**  
**(Against Daniele, New Partners, and Cahlik)**

96. The allegations of paragraphs 1 through 95 of the Complaint are adopted here and incorporated by reference.

97. Daniele, New Partners and Cahlik maliciously combined and conspired to harm AAMG.

98. The civil conspiracy of Daniele, New Partners and Cahlik was in furtherance of the various accomplished or completed unlawful acts, independent from the actual conspiracy, set forth in this Complaint, including, but not limited to, fraud.

99. As a result of the civil conspiracy of Daniele, New Partners and Cahlik, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT IV: BREACH OF CONTRACT**  
**(Against New Partners)**

100. The allegations of paragraphs 1 through 99 of the Complaint are adopted here and incorporated by reference.

101. At the time New Partners originated and/or submitted information regarding the loans that are the subject of this lawsuit, there was a valid and enforceable contract between AAMG and New Partners.

102. New Partners materially breached its contract with AAMG by, among other things, providing false or incomplete information to AAMG.

103. AAMG has fully performed under the contract with New Partners.

104. As a result of the breach of contract of New Partners, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT V: FRAUD**  
**(Against New Partners and Cahlik)**

105. The allegations of paragraphs 1 through 104 of the Complaint are adopted here and incorporated by reference.

106. New Partners and Cahlik made affirmative representations, or, despite their duties to AAMG, concealed facts, that were material to the mortgage secured loan transactions that are the subject of this lawsuit, and pursuant to which AAMG released funds.

107. New Partners' and Cahlik's fraudulent misrepresentations and omissions included, but were not limited to, inflated appraised values on properties, representations that services had been performed when they had not, misrepresenting borrower information, and misrepresenting purchase money loan transactions as refinance transactions.

108. New Partners and Cahlik made fraudulent misrepresentations and omissions to AAMG with the express intent of causing AAMG to fund the mortgage secured loan transactions that are the subject of this lawsuit.

109. New Partners' and Cahlik's fraudulent misrepresentations and/or omissions were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they are true or false that knowledge may be inferred.

110. New Partners and Cahlik acted with actual malice toward AAMG.

111. AAMG justifiably relied upon New Partners' and Cahlik's fraudulent misrepresentations and/or omissions.

112. As a result of the fraud of New Partners and Cahlik, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT VI: UNJUST ENRICHMENT**  
**(Against New Partners and Cahlik)**

113. The allegations of paragraphs 1 through 112 of the Complaint are adopted here and incorporated by reference.

114. AAMG fully funded the mortgage secured loan transactions that are the subject of this litigation. As a result, New Partners and Cahlik received fees from AAMG related to mortgage secured loan transactions that were improper, and which AAMG would not have paid but for New Partners' and Cahlik's illegal or otherwise unjust actions.

115. New Partners and Cahlik knowingly accepted benefits from AAMG, and have retained those benefits under unjust circumstances.

116. As a result of the unjust enrichment of New Partners and Cahlik, AAMG has been harmed in an amount to be proved at trial.

**COUNT VII: NEGLIGENT MISREPRESENTATION**  
**(Against New Partners)**

117. The allegations of paragraphs 1 through 116 of the Complaint are adopted here and incorporated by reference.

118. In the course of its business, and in the context of the mortgage secured loan transactions in which it had a pecuniary interest including, but not limited to, its fees, New Partners supplied false information for the guidance of, among others, AAMG in its business transactions.

119. New Partners failed to exercise reasonable care or competence in obtaining or communicating information that it knew, or should have known, would be used by AAMG.

120. AAMG justifiably relied upon the information supplied by New Partners.

121. As a result of the negligent misrepresentation of New Partners, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial. but believed to be in excess of \$75,000.

**COUNT VIII: FRAUD**  
**(Against Appraiser Defendants)**

122. The allegations of paragraphs 1 through 121 of the Complaint are adopted here and incorporated by reference.

123. Lawrence and Excel Appraisals made affirmative representations, or, despite their duties to AAMG, concealed facts, that were material to the mortgage secured loan transactions that are the subject of this lawsuit, and pursuant to which AAMG released funds.

124. Lawrence and Excel Appraisals' fraudulent misrepresentations and omissions included, but were not limited to, inflated appraised values on properties for which AAMG funded mortgage secured loans.

125. Lawrence and Excel Appraisals made fraudulent misrepresentations and omissions to AAMG with the express intent of causing AAMG to fund the mortgage secured loan transactions that are the subject of this lawsuit.

126. Lawrence and Excel Appraisals' fraudulent misrepresentations and/or omissions were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they are true or false that knowledge may be inferred.

127. Lawrence and Excel Appraisals acted with actual malice toward AAMG.

128. AAMG justifiably relied upon Lawrence and Excel Appraisals' fraudulent misrepresentations and/or omissions.

129. As a result of the fraud of Lawrence and Excel Appraisals, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT IX: UNJUST ENRICHMENT**  
**(Against Appraiser Defendants)**

130. The allegations of paragraphs 1 through 129 of the Complaint are adopted here and incorporated by reference.

131. AAMG fully funded the mortgage secured loan transactions that are the subject of this litigation. As a result, Lawrence and Excel Appraisals received fees for performing property appraisals that either were never made or that provided inflated appraisals.

132. Lawrence and Excel Appraisals knowingly accepted benefits from AAMG, and have retained those benefits under unjust circumstances.

133. As a result of the unjust enrichment of Lawrence and Excel Appraisals, AAMG has been harmed in an amount to be proved at trial.

**COUNT X: PROFESSIONAL NEGLIGENCE**  
**(Against Appraiser Defendants)**

134. The allegations of paragraphs 1 through 133 of the Complaint are adopted here and incorporated by reference.

135. Lawrence and Excel Appraisals owed AAMG that duty of care ascribed to professional property appraisers under the law of the State of Ohio, including, but not limited to, the duty to perform an appraisal with that standard of care and under that procedure recognized to apply to professional property appraisers in Ohio.

136. Among other things, Lawrence and Excel Appraisals owed AAMG the duty to actually perform an appraisal when compensated for one, and not to provide an inflated appraisal.

137. Lawrence and Excel Appraisals failed to meet the requisite standard of care.

138. As a result of the professional negligence of Lawrence and Excel Appraisals, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XI: NEGLIGENT MISREPRESENTATION**  
**(Against Appraiser Defendants)**

139. The allegations of paragraphs 1 through 138 of the Complaint are adopted here and incorporated by reference.

140. In the course of their business, and in the context of appraisal transactions in which they had a pecuniary interest including, but not limited to, their appraisal fees, Lawrence and Excel Appraisals supplied false information for the guidance of, among others, AAMG in its business transactions, including in assessing and funding mortgage secured loan transactions.

141. Lawrence and Excel Appraisals failed to exercise reasonable care or competence in obtaining or communicating information that they knew, or should have known, would be used by AAMG.

142. AAMG justifiably relied upon the information supplied by Lawrence and Excel Appraisals.

143. As a result of the negligent misrepresentation of Lawrence and Excel Appraisals, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XII: FRAUD**  
**(Against Closing Agent Defendants)**

144. The allegations of paragraphs 1 through 143 of the Complaint are adopted here and incorporated by reference.

145. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title made affirmative representations, or, despite their duties to AAMG, concealed facts, that were material to the mortgage secured loan transactions that are the subject of this lawsuit, and pursuant to which AAMG released funds.

146. The fraudulent misrepresentations and omissions of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title included, but were not limited to, the actual owner of the property and/or the true nature of the mortgage secured loan as a purchase money loan rather than a refinance.

147. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title made fraudulent misrepresentations and omissions to AAMG with the express intent of causing AAMG to fund the mortgage secured loan transactions that are the subject of this lawsuit.

148. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title's fraudulent misrepresentations and/or omissions were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they are true or false that knowledge may be inferred.

149. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title acted with actual malice toward AAMG.

150. AAMG justifiably relied upon NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title's fraudulent misrepresentations and/or omissions.

151. As a result of the fraud of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XIII: UNJUST ENRICHMENT**  
**(Against Closing Agent Defendants)**

152. The allegations of paragraphs 1 through 151 of the Complaint are adopted here and incorporated by reference.

153. AAMG fully funded the mortgage secured loan transactions that are the subject of this litigation. As a result, NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title received fees for acting as AAMG's agents and/or for preparing the title work necessary for the mortgage secured loans that are the subject of this litigation.

154. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title knowingly accepted benefits from AAMG, and have retained those benefits under unjust circumstances.

155. As a result of the unjust enrichment of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title, AAMG has been harmed in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XIV: NEGLIGENCE AND/OR NEGLIGENT MISREPRESENTATION**  
**(Against Closing Agent Defendants)**

156. The allegations of paragraphs 1 through 155 of the Complaint are adopted here and incorporated by reference.

157. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title owed AAMG at least a duty to use ordinary care to protect AAMG, as well as those duties reposed in an agent generally.

158. Furthermore, in the course of their business, and in the context of closing mortgage secured loans as the agent of AAMG in which they had a pecuniary interest including, but not limited to, their fees, NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title supplied false information and/or failed to apprise AAMG of false information that guided AAMG in its business transactions.

159. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title failed to exercise reasonable care or competence in acting as the agent of AAMG, and in obtaining or communicating information that they knew, or should have known, would be used by AAMG.

160. AAMG justifiably relied upon the information supplied by, or otherwise ratified or communicated by, NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title.

161. As a result of the negligence and/or negligent misrepresentation of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XV: BREACH OF FIDUCIARY DUTY**  
**(Against Closing Agent Defendants)**

162. The allegations of paragraphs 1 through 161 of the Complaint are adopted here and incorporated by reference.

163. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title were the agents of AAMG at the closing of certain mortgage secured loans that are the subject of this litigation.

164. AAMG reposed special confidence and trust in the integrity and fidelity of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title, placing them in a resulting position of superiority or influence, acquired by virtue of this special trust, with regard to the mortgage secured loan closing process.

165. Among other things, AAMG supplied NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title with closing instructions, and relied upon NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title to abide by those closing instructions.

166. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title owed AAMG a fiduciary duty, which included, but was not limited to, the duty to act primarily for the benefit of AAMG in matters connected with closing mortgage secured loans and abiding by the closing instructions.

167. NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title breached their fiduciary duty to AAMG. Their breach included failing to use the care required of a fiduciary or required by the fiduciary relationship by, among other things, their failure to act for the benefit of AAMG or by their affirmative actions that were prohibited by their fiduciary relationship with AAMG.

168. As a result of the breach of fiduciary duty of NETCO Title, Title Associates, Crescent Title, and Advanced/Affiliated Title, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**COUNT XVI: BREACH OF CONTRACT**  
**(Against Title Insurer Defendants)**

169. The allegations of paragraphs 1 through 168 of the Complaint are adopted here and incorporated by reference.

170. There is a valid and enforceable contract between AAMG and each of Fidelity National and Lawyers Title. Copies of the Closing Protection Letters each issued to protect AAMG are attached as Exhibits F and G.

171. Each of Fidelity National and Lawyers Title has materially breached its contract with AAMG by, among other things, failing or refusing to pay for the damage against which they insured.

172. AAMG has fully performed under the contracts with Fidelity National and Lawyers Title.

173. As a result of the breach of contract of Fidelity National and Lawyers Title, AAMG has suffered, and will continue to suffer, damages in an amount to be proved at trial, but believed to be in excess of \$75,000.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff ABN Amro Mortgage Group, Inc. respectfully requests that this Court grant the following relief:

1. Award damages to Plaintiff in an amount to be proven at trial, but known to be in excess of \$75,000.00;
2. Award punitive and/or exemplary damages in an amount in excess of \$75,000;
3. Award Plaintiff its attorneys fees and costs; and
4. Award all other relief, at law or in equity, to which Plaintiff is entitled, including, but not limited to, the lost value of its capital, prejudgment interest, and any incidental and consequential damages.

Respectfully Submitted,

**VORYS, SATER, SEYMOUR AND PEASE LLP**



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**JURY DEMAND**

Plaintiff ABN Amro Mortgage Group, Inc. hereby demands a trial by jury on all issues so triable.

Respectfully Submitted.

**VORYS, SATER, SEYMOUR AND PEASE LLP**



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