

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

ABN AMRO Mortgage Group, Inc.,)
)
 Plaintiff,)
)
 v.) CASE NUMBER:
)
 SAJJ, LLC, doing business as U.S. Capital of,)
 South Carolina and U.S. Capital Funding,)
 Mark Anderson, also known as Mark D. Anderson,)
 doing business as Creative Solutions Group,)
 Mark Stewart, also known as Mark A. Stewart,)
 doing business as Creative Solutions Group,)
 Alex J. Newton,)
 Morris Hardwick Schneider, LLC)
 H. Michael Spivey,)
 Nicholas D. Atria,)
 Vision Enterprises, Inc.,)
 Next Generation, LP,)
 James Byrd,)
 Eric Byrd,)
 Charles Byrd,)
 Dionne Byrd)
 Michael Shane McMorris, also known as Michael)
 McMorris,)
 Myra Elaine McMorris,)
 Isaiah McMorris,)
 Charles L. Grogan,)
 Charles W. Grogan,)
 Eunice F. Grogan,)
 James W. Fayssoux,)
 Anderson, Fayssoux and Chasteen, Attorneys at)
 Law, P.A.,)
 The Trustees and Plan Sponsor of the Anderson)
 and Fayssoux Pension and Profit Sharing Plan,)
 The Epps Company, Inc.)
 Byron B. Epps, and)
 Wilmer Raymond Ammons,)
)
 Defendants.)

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COMPLAINT

The Plaintiff complaining of the Defendants alleges that:

PARTIES

1. The Plaintiff is a corporation that is organized and exists pursuant to the laws of the State of Delaware. The Plaintiff's principal place of business is located at 6300 Inter-First Drive, Ann Arbor, Michigan.

2. The Defendant SAJJ, LLC, ("U.S. Capital") is a corporation organized pursuant to the laws of the State of Texas. U.S. Capital forfeited its existence pursuant to the laws of the State of Texas. At all times relevant to the facts alleged in this Complaint, U.S. Capital did business in the State of South Carolina as U.S. Capital of South Carolina and U.S. Capital Funding.

3. The Defendant Mark Anderson, also known as Mark D. Anderson ("Anderson"), is a resident of Richland County, South Carolina. At all times relevant to the facts alleged in this Complaint, Anderson did business as Creative Solutions Group.

4. The Defendant Mark Stewart, also known as Mark A. Stewart ("Stewart"), is a resident of Spartanburg County, South Carolina. At all times relevant to the facts alleged in this Complaint, Stewart did business as Creative Solutions Group.

5. The Defendant Alex J. Newton ("Newton") is a resident of Greenville County, South Carolina. Newton is an attorney licensed to practice law in the State of South Carolina and acted as the closing attorney for some of the mortgage loans that are the subject of this action.

6. The Defendant Morris Hardwick Schneider, LLC ("Morris") is a limited liability company organized and existing pursuant to the laws of the State of Georgia. On information and belief, the members of Morris are engaged in the practice of law. The

merger of the law firms of Jackson and Hardwick and Morris & Schneider created Morris on March 1, 2005. Attorneys practicing in the law firm of Jackson and Hardwick acted as closing attorneys for some of the mortgage loans that are the subject of this action.

7. The Defendant H. Michael Spivey (“Spivey”) is a resident of Greenville County, South Carolina. Spivey is an attorney licensed to practice law in the State of South Carolina and acted as the closing attorney for some of the mortgage loans that are the subject of this action.

8. The Defendant Nicholas D. Atria (“Atria”) is a resident of Richland County, South Carolina. Atria is an attorney licensed to practice law in the State of South Carolina and acted as the closing attorney for one of the mortgage loans that are the subject of this action.

9. The Defendant Vision Enterprises, Inc. (“Vision Enterprises”) is a corporation that is organized and exists pursuant to the laws of the State of South Carolina and it does business in the State of South Carolina.

10. The Defendant Next Generation, LP (“Next Generation”) is a limited partnership that is organized and exists pursuant to the laws of the State of South Carolina and it does business in the State of South Carolina.

11. The Defendants James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael Shane McMorris, also know as Michael McMorris (“Michael McMorris”), Myra Elaine McMorris (“Myra McMorris”) and Isaiah McMorris are residents of Greenville County, South Carolina. The Defendant Isaiah McMorris sometimes did business as McMorris Renovations.

12. The Defendants Charles L. Grogan, Charles W. Grogan and Eunice F. Grogan are residents of the County of Spartanburg, State of South Carolina.

13. The Defendant James W. Fayssoux ("Fayssoux") is a resident of Greenville County, South Carolina. Fayssoux is an attorney licensed to practice law in the State of South Carolina and practices with the law firm of Anderson, Fayssoux and Chasteen, Attorneys at Law, P.A. Fayssoux was an owner of at least one piece of real property on which the Plaintiff had a mortgage lien.

14. The Defendant Anderson, Fayssoux and Chasteen, Attorneys at Law, P.A., ("Fayssoux Firm") is a professional association that is organized and exists pursuant to the laws of the State of South Carolina and its principal place of business is in the County of Greenville, State of South Carolina. Attorneys practicing in the Fayssoux Firm acted as closing attorneys for some of the mortgage loans that are the subject of this action.

15. The Defendants identified as the Trustees and Plan Sponsor of the Anderson and Fayssoux Pension and Profit Sharing Plan (collectively "Trustees") are Trustees and Plan Sponsor of a pension and profit sharing plan organized and existing pursuant to the provisions of the Internal Revenue Code §401(a) and 29 U.S.C. §1001 et seq. The Plaintiff is informed and believes that the Trustees and Plan Sponsor invested the funds of the Anderson and Fayssoux Pension and Profit Sharing Plan in the mortgage fraud schemes that are the subject of this action.

16. The Defendant Epps Company, Inc. ("Epps Company") is a corporation that is organized and exists pursuant to the laws of the State of South Carolina. The Epps Company is engaged in the business of appraising real estate and its principal place of business is in the County of Greenville, State of South Carolina.

17. The Defendants Byron B. Epps (“Epps”) and Wilmer Raymond Ammons, (“Ammons”) are residents of Greenville County, South Carolina and were at some point material to the facts at issue in this litigation as real estate appraisers licensed to appraise real estate in the State of South Carolina. Epps was an owner of at least one piece of real property on which the Plaintiff had a mortgage lien.

JURISDICTION AND VENUE

18. This Court has jurisdiction over the subject matter of this action pursuant to 18 U.S.C. §1965(a) that provides for jurisdiction on claims filed pursuant to the Racketeer Influenced and Corrupt Organizations Act (“RICO”).

19. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332 because complete diversity exists between the Plaintiff and the Defendants and the amount in controversy exceeds \$75,000.00.

20. This Court has supplemental jurisdiction over the Plaintiff’s state law claims pursuant to 28 U.S.C. §1367(a).

21. The majority of the events giving rise to this action occurred in Richland, Spartanburg, Greenville and Cherokee Counties, South Carolina. The Defendants reside or operate in Richland, Spartanburg, Greenville, and Cherokee Counties, South Carolina. Accordingly, pursuant to 28 U.S.C. §1391, venue is proper in this Court.

**GENERAL ALLEGATIONS MATERIAL TO
ALL CAUSES OF ACTION**

22. The Plaintiff originates loans for its own account on a retail basis through its network of affiliate banks and other lending offices. The Plaintiff also purchases loans from mortgage brokers pursuant to agreement.

23. On September 13, 2000 the Plaintiff and U.S. Capital entered a Wholesale Lending Agreement to which were attached several Addendums (“Agreement”). A copy of the Agreement is attached to this Complaint and is incorporated in this Complaint by reference as Exhibit 1.

24. Pursuant to the terms of the Agreement, U.S. Capital sold loans to the Plaintiff that U.S. Capital assimilated through a loan origination process that included the preparation and submission of the necessary documentation and information for the Plaintiff to consider purchase of the mortgage loan, including the mortgage loan application.

25. In its capacity as the originating broker, U.S. Capital retained appraisers who prepared appraisals of the properties on which the borrowers offered to place a mortgage. The appraisals allowed the Plaintiff to determine if the loan amounts requested by the borrowers were appropriate relative to the appraised values of offered collateral.

26. U.S. Capital submitted loan packages for sale to the Plaintiff, that included the loan appraisals and loan applications, for more than 100 loans to be secured by real estate located in Richland, Spartanburg, Greenville, and Cherokee Counties, South Carolina during the years 2000, 2001, and 2002 (“Subject Loans”). The real estate to be

secured by the Subject Loans, and that ultimately was secured by the Subject Loans, is sometimes hereinafter referred to as "Subject Property" or "Subject Properties".

27. Based on the documentation presented by U.S. Capital, the Plaintiff agreed to purchase and fund the Subject Loans.

28. Following the Plaintiff's decision to purchase and fund the Subject Loans, U.S. Capital arranged for the closing of the loan transaction at the office of an attorney. The closing attorney administered the closing of the Subject Loans and was responsible for assuring, among other things that:

- a. the Plaintiff's closing instructions were followed before funds were disbursed,
- b. the loan documentation was appropriate, proper and accurate,
- c. the necessary disclosures were provided to the borrower,
- d. the borrower completed the necessary documentation,
- e. the proceeds of the loan and the funds collected at closing were disbursed as stated in the settlement statement,
- f. all closing conditions were met, and
- g. the documents to be recorded are properly recorded.

The Defendants Fayssoux, Fayssoux Firm, Morris, Spivey, Atria and Newton served as the closing attorneys for a majority of the Subject Loans.

29. U.S. Capital delegated some of its responsibilities in the described loan closing and originating process to Vision Enterprises and to Stewart and Anderson doing business as Creative Solutions.

30. The Defendants U.S. Capital, Vision Enterprises, Next Generation, James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael McMorris, Myra McMorris, Isaiah McMorris, Ammons, Fayssoux, Fayssoux Firm and Trustees (collectively the "Vision Group") collectively and individually, made misrepresentations or omitted material information throughout the loan process in an effort to defraud the Plaintiff and for their own personal gain, including, on information and belief, but not limited to:

- a. Creating appraisal reports that contained false and grossly inflated values of the Subject Properties;
- b. Directing, making, and receiving disbursements inconsistent with closing statements;
- c. Creating and perpetuating fictitious or improper obligations that were reflected on the settlement statement and paying those fictitious or improper obligations with the proceeds of the mortgage loan or other funds collected at closing;
- d. Originating, participating in, and closing transactions involving the transfer of interests in real estate by way of deeds and mortgages for the purpose of deceiving the Plaintiff as to the value of the property on which mortgage loans were proposed;
- e. Originating, participating in, and closing mortgage loan transactions that were presented to the Plaintiff as refinances of property owned by the proposed mortgagor that were in fact purchases by the proposed mortgagor;

- f. Originating, participating in, and closing mortgage loan transactions without disclosing that the seller's proceeds from the loan transaction would be improperly used to acquire the property that the seller sold to the Plaintiff's mortgagor and on which the Plaintiff was given a mortgage; and
 - g. Creating and acquiescing to loan documentation that contained false or misleading information.
 - h. Inserting sham or otherwise non-bona fide transactions into the chain of title of the Subject Properties with the intention of deceiving the Plaintiff as to the value and ownership of the Subject Properties and the true nature of the Subject Loans.
31. The Vision Group's fraudulent scheme included the following actions and inactions:
- a. U.S. Capital delegated its broker responsibilities to Vision Enterprises and failed to disclose that relationship to the Plaintiff.
 - b. The Defendants James Byrd, Isaiah McMorris, Charles Byrd, and Eric Byrd, were employees of Vision Enterprises and performed tasks on mortgage loans that the Plaintiff believed were performed by U.S. Capital.
 - c. The Defendants James Byrd, Isaiah McMorris, Charles Byrd, and Eric Byrd, as well as others with relationships to Vision Enterprises and its employees, including the Defendants Dionne Byrd, Myra McMorris, and Michael McMorris, were presented to the Plaintiff as potential borrowers

without complete disclosure of their relationship to Vision Enterprises and Vision Enterprises relationship to U.S. Capital.

- d. Vision Enterprises, through its employees, recruited the Defendant Ammons to perform appraisals for loans that U.S. Capital brokered to the Plaintiff. Employees of Vision Enterprises, including, but not limited to James Byrd and Eric Byrd, instructed Ammons and Ammons' associate Michael L. Montgomery ("Montgomery") as to the amount for which The Subject Properties should appraise and Ammons and Montgomery provided appraisals indicating the values requested even though they knew that the values of the Subject Properties were less than the value stated in their appraisals. Vision Enterprises through U.S. Capital presented the fraudulent appraisals to the Plaintiff to support applications for mortgage loans. Fair and accurate appraisals would not have supported the loan amounts requested by the applicants submitted to the Plaintiff by U.S. Capital.
- e. Several Defendants included in the Vision Group, including Fayssoux, fraudulently transferred title to the Subject Properties among themselves at exaggerated and progressively increasing false values in an attempt to deceive the Plaintiff and others as to the true value of the property and to create a record in the offices of the registers of deeds to support the valuations. Many of the transfers into the Plaintiff's mortgagor's grantor that recite grossly and falsely inflated consideration for the transfer occurred on the same date that the Plaintiff's mortgagor acquired title.

- f. The Defendants identified as closing attorneys prepared the documentation necessary to close individual mortgage loans, and often prepared deeds and other instruments in the chain of title to the Plaintiff's mortgagee. These documents, deeds and other instruments contained the exaggerated and progressively increasing false values to which reference has been made. The closing attorney's efforts were knowingly performed to aid the efforts to deceive the Plaintiff and others as to the true value of the property.
- g. Several Defendants included in the Vision Group created entities known as "Land Trusts" to be owners of property, that in some instances had individual Defendants identified as trustees of those trusts, and that were used as a conduit through which title would pass to proposed mortgagors in an effort to deceive the Plaintiff as to the value of the Subject Properties and the identity of the mortgagor's grantor.
- h. The Defendants identified as closing attorneys assisted in the creation of the "Land Trusts" and prepared the instruments transferring title through the trusts, knowing that the trusts were being used as a tool of deception.
- i. In some instances the Defendants identified as the Vision Group secured approval from the Plaintiff for loan refinances by misrepresenting to the Plaintiff that the proposed mortgagors owned the Subject Properties when, in fact, the proposed mortgagor needed, and ultimately used, the funds to purchase the Subject Properties. The Defendants' goal in misrepresenting

a purchase financing as a refinance was to avoid the more costly and arduous task of securing purchase financing.

- j. The Defendants identified as the Vision Group, or some of them, placed mortgages on the Subject Properties, or some of them, immediately prior to the closing of the mortgage loans given to the Plaintiff. These mortgages were paid from the proceeds of the Subject Loans, or some of them. The mortgagees of the mortgages identified in this paragraph included Ideal Mortgage and the Defendant Next Generation, both of which entities were owned or controlled by individually named Defendants. The mortgagees identified in this paragraph included the Trustees, the pension and profit sharing plan sponsored by the Fayssoux Firm, a fact that was not disclosed to the Plaintiff. Some of the mortgages identified in this paragraph were never recorded, and, on information and belief, never existed.
- k. The Defendants identified as the Vision Group, or some of them, created false, fictitious, and improper debts and submitted those debts for payment from the proceeds of the Subject Loans, or some of them.
- l. The Defendants identified as closing attorneys did not collect and disburse funds as represented in the closing statements of the Subject Loans and intentionally failed to disclose this improper conduct to the Plaintiff.

32. The Defendants U.S. Capital, Stewart and Anderson, individually and doing business as Creative Solutions Group, Newton, Morris (when it was known as Jackson and Hardwick), Spivey, Atria, Charles L. Grogan, Charles W. Grogan, Eunice F.

Grogan, the Epps Company and Epps (collectively the "Creative Group") collectively and individually, made misrepresentations or omitted material information throughout the loan process in an effort to defraud the Plaintiff and for their own personal gain, including, on information and belief, but not limited to:

- a. Creating appraisal reports that contained false and grossly inflated values of real estate offered as collateral for mortgage loans;
- b. Directing, making, and receiving disbursements inconsistent with closing statements;
- c. Creating and perpetuating fictitious or improper obligations that were reflected on the settlement statement and paying those fictitious or improper obligations with the proceeds of the mortgage loan or other funds collected at closing;
- d. Originating, participating in, and closing transactions involving the transfer of interests in real estate by way of deeds and mortgages for the purpose of deceiving the Plaintiff as to the value of the property on which mortgage loans were proposed;
- e. Originating, participating in, and closing mortgage loan transactions without disclosing that the seller's proceeds from the loan transaction would be improperly used to acquire the property that the seller sold to the Plaintiff's mortgagor and on which the Plaintiff was given a mortgage; and
- f. Creating and acquiescing to loan documentation that contained false or misleading information.

- g. Inserting sham or otherwise non-bona fide transactions into the chain of title of the Subject Properties with the intention of deceiving the Plaintiff as to the value and ownership of the Subject Properties and the true nature of the Subject Loans.

33. The Creative Group's fraudulent scheme included the following actions and inactions:

- a. U.S. Capital delegated its broker responsibilities to Anderson and Stewart doing business as Creative Solutions Group and failed to disclose that relationship to the Plaintiff.
- b. The Defendants Anderson and Stewart doing business as Creative Solutions Group performed tasks on mortgage loans that the Plaintiff believed were performed by U.S. Capital.
- c. The Defendants Anderson and Stewart, as well as others with relationships to Anderson and Stewart were presented to the Plaintiff as potential borrowers without the disclosure of their relationship with U.S. Capital.
- d. Anderson and Stewart, doing business as Creative Solutions Group, recruited the Defendants Epps and Epps Company to perform appraisals for loans that U.S. Capital brokered to the Plaintiff. Based on information and belief, the Defendants Stewart and Andrews doing business as Creative Solutions Group, and employees of Stewart and Andrews doing business as Creative Solutions Group instructed Epps Company, Epps and Epps' associate Christopher Madden ("Madden") as to the amount for which the Subject Properties should appraise and Epps Company, Epps

and Madden provided appraisals indicating the values requested even though they knew that the values of the Subject Properties were less than the value stated in their appraisals. Stewart and Andrews doing business as Creative Solutions Group through U.S. Capital presented the fraudulent appraisals to the Plaintiff to support applications for mortgage loans. Fair and accurate appraisals would not have supported the loan amounts requested by the applicants submitted to the Plaintiff by U.S. Capital.

- e. Several Defendants included in the Creative Group, including Epps, fraudulently transferred title to the Subject Properties among themselves at exaggerated and progressively increasing false values in an attempt to deceive the Plaintiff and others as to the true value of the property and to create a record in the offices of the registers of deeds to support the valuations. Many of the transfers into the Plaintiff's mortgagor's grantor that recite grossly and falsely inflated consideration for the transfer occurred on the same date that the Plaintiff's mortgagor acquired title. In fact Epps conveyed one of the Subject Properties to the Plaintiff's mortgagor's grantor for a sum that was substantially less than the amount for which he appraised the property, the appraisal having been dated prior to the identified conveyance.
- f. The Defendants identified as closing attorneys prepared the documentation necessary to close individual mortgage loans, and often prepared deeds and other instruments in the chain of title to the Plaintiff's mortgagee. These documents, deeds and other instruments contained the exaggerated

and progressively increasing false values to which reference has been made. The closing attorney's efforts were knowingly performed to aid the efforts to deceive the Plaintiff and others as to the true value of the property.

- g. The Defendants identified as the Creative Group, or some of them, placed mortgages on the Subject Properties, or some of them, immediately prior to the closing of the mortgage loans given to the Plaintiff. These mortgages were paid from the proceeds of the Subject Loans, or some of them. The mortgagees identified in this paragraph included the Defendants Charles L. Grogan, Charles W. Grogan, and Eunice F. Grogan. Some of the mortgages identified in this paragraph were never recorded, and, on information and belief, never existed.
- h. The Defendants identified as the Creative Group, or some of them, created false, fictitious, and improper debts and submitted those debts for payment from the proceeds of the Subject Loans, or some of them.
- i. The Defendants identified as closing attorneys did not collect and disburse funds as represented in the closing statements of the Subject Loans and intentionally failed to disclose this improper conduct to the Plaintiff.

34. In pursuit of their schemes to defraud the Plaintiff, members of the Vision Group and members of the Creative Group sometimes worked together, collaborating on misrepresentations and omissions.

**FOR A FIRST CAUSE OF ACTION
AGAINST ALL DEFENDANTS
UNFAIR TRADE PRACTICES ACT**

35. The allegations contained in paragraphs 1 through 34 are alleged as if repeated verbatim.

36. The described conduct of the Defendants was and is unfair and deceptive and violates the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §39-5-10, *et seq.* (1976).

37. The unfair and deceptive conduct of the Defendants affects the public interest, is capable of repetition by the Defendants, and was repeated by the Defendants.

38. The Defendants knew or should have known that their conduct was a violation of the South Carolina Unfair Trade Practices Act and therefore willfully and knowingly violated that Act.

39. The unfair and deceptive conduct of the Defendants proximately caused the Plaintiff actual damages.

40. The Plaintiff is entitled to an award of this Court for its actual damages trebled, plus the costs and attorneys fees incurred by the Plaintiff in the prosecution of this action.

**FOR A SECOND CAUSE OF ACTION
AGAINST ALL DEFENDANTS
FRAUD**

41. The allegations contained in paragraphs 1 through 40 are alleged as if repeated verbatim.

42. The Defendants individually and collectively made material misrepresentations of existing facts in connection with the Subject Loans and the Subject Properties. The misrepresentations set forth in this Complaint are hereinafter sometimes referred to as "Misrepresentations".

43. The Misrepresentations were false.

44. The Misrepresentations were material in that they were sufficiently important and significant and played a role in the decision of the Plaintiff to make the Mortgage Loans.

45. The Defendants knew that the Misrepresentations were false when they were made or the Defendants made the Misrepresentations with a reckless disregard for the truth.

46. The Plaintiff did not know that the Misrepresentations were false.

47. The Misrepresentations were made by the Defendants with the intent to induce the Plaintiff's reliance on them in its decision to fund the Subject Loans.

48. The Plaintiff relied on the accuracy of the Misrepresentations in its decision to fund the Subject Loans.

49. The Plaintiff had the right to rely on the Misrepresentations and was justified in that reliance.

50. The Plaintiff has been damaged as the direct result of the Defendant's Misrepresentations.

51. The Defendants made the Misrepresentations willfully, recklessly, and in a conscious disregard of the Plaintiff's rights.

52. The Plaintiff is entitled to a judgment against the Defendants for the actual damages suffered as a result of the Misrepresentations and punitive damages.

**FOR A THIRD CAUSE OF ACTION
AGAINST ALL DEFENDANTS
NEGLIGENT MISREPRESENTATION**

53. The allegations contained in paragraphs 1 through 52 are alleged as if repeated verbatim.

54. As described in this Complaint, the Defendants made false statements related to material fact and material misrepresentations of fact to the Plaintiff.

55. Each of the Defendants had a pecuniary interest in making the false statements and material misrepresentations to the Plaintiff.

56. The Defendants owed a duty of care to the Plaintiff to assure that truthful statements and representations were delivered to the Plaintiff.

57. The Defendants breached their duty to the Plaintiff by failing to exercise due care.

58. The Plaintiff had the right to rely on the Misrepresentations and was justified in that reliance.

59. The Plaintiff suffered a pecuniary loss as a direct and proximate result of reliance on the false statements of material fact and material misrepresentations of fact.

60. The Plaintiff is entitled to an order of this Court awarding it actual damages that were directly and proximately caused by the reliance on the false statements of material fact and material misrepresentations of fact and the costs of this action.

**FOR A FOURTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
CIVIL CONSPIRACY**

61. The allegations contained in paragraphs 1 through 60 are alleged as if repeated verbatim.

62. The Defendants wrongfully and illegally combined and conspired to defraud the Plaintiff by generating false and fraudulent documentation and making material misrepresentations of fact to the Plaintiff to induce that Plaintiff to make mortgage loans that it would not have made absent the fraudulent documentation and material misrepresentations of fact made by the Defendants.

63. The Defendants' conspiracy was done in a willful and wanton manner and with a reckless and total disregard for the rights of the Plaintiff.

64. The Defendants' conspiracy has caused the Plaintiff special damages.

65. The Plaintiff is entitled to an order of this Court awarding it special damages, punitive damages and the costs of this action.

**FOR A FIFTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
VIOLATIONS OF THE RACKETEERING INFLUENCED CORRUPT
ORGANIZATIONS ACT §1962(c)**

66. The allegations contained in paragraphs 1 through 65 are alleged as if repeated verbatim.

67. The Defendants combined as an association in fact to profit from the sale of property and the origination of loans on that property through the Plaintiff using

misleading and fraudulent documentation. This association in fact constitutes an "Enterprise" as defined in 18 U.S.C. §1961(4).

68. Upon information and belief, the common or shared purpose of the Enterprise was the Defendants' financial gain by fraudulently inducing lenders and financial institutions, such as the Plaintiff, to fund mortgage loans by means of false pretense and by using fraudulent and misleading documents and information.

69. On information and belief, the Enterprise has a continuity of structure and personality. The overt acts taken by the Defendants in the furtherance of the general conspiracy include:

- a. Solicitation of fraudulent appraisals by Stewart, Anderson and employees and agents of Vision Enterprises and knowingly submitting fraudulent appraisals to the Plaintiff;
- b. Preparation of fraudulent appraisals by Epps Company, Epps and Ammons for submission to the Plaintiff;
- c. Preparation of fraudulent closing statements and other fraudulent and misleading documentation by those Defendants identified as closing attorneys with the intention of deceptively inducing the Plaintiff to fund mortgage loans;
- d. Transfers of title to real estate among Anderson, Stewart, Vision Enterprises, James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael McMorris, Myra McMorris, Isaiah McMorris, Fayssoux, Epps and others in less than bona fide transactions for exaggerated and progressively

increasing false values to deceive the Plaintiff and others as to the true value of the property;

- e. Misrepresentation of the existence of bona fide mortgage loans by the Trustee, Charles L. Grogan, Charles W. Grogan, Eunice F. Grogan, Next Generation, and others and fraudulently demanding and accepting proceeds of loans funded by the Plaintiff for payment of those mortgage loans.
- f. Disbursing and accepting funds other than as stated in the mortgage loans settlement statements by U.S. Capital, Anderson, Stewart, Newton, Morris, Spivey, Vision Enterprises, Next Generation, James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael McMorris, Myra McMorris, Isaiah McMorris, Charles L. Grogan, Charles W. Grogan, Eunice F. Grogan, Fayssoux Firm, Fayssoux, Trustees, and Epps.
- g. Misrepresentation of the existence of bona fide debts by Isaiah McMorris, Anderson, Stewart, Vision Enterprises and others and fraudulently demanding and accepting proceeds of loans funded by the Plaintiff for payment of those mortgage loans.

70. The Defendants materially benefited from the activities of the Enterprise.

71. The activities of the Enterprise affect interstate commerce in that the loans that are funded and purchased by the Plaintiff and other similarly situated lenders are customarily sold in the secondary market for mortgage backed securities, that are sold throughout the United States of America. Certain of the Subject Loans have been sold to the Federal Home Loan Mortgage Corp. for that purpose.

72. The Defendants conducted or participated in the conduct of the affairs of the Enterprise through a pattern of racketeering activity within the meaning and intent of 18 U.S.C. §1962(c) in that one or more of these Defendants, acting on behalf of all of the others, and in furtherance of the activities of the Enterprise, knowingly and intentionally committed wire fraud and mail fraud in violation of 18 U.S.C. §1343 and 18 U.S.C. §1341 and knowingly and intentionally engaged a scheme to defraud financial institutions and to obtain funds from the financial institution by means of false or fraudulent pretenses and representations in violation of 18 U.S.C. §1344.

73. The pattern of racketeering activity extended over a period of three years and poses a threat of repetition given that the predicate acts were committed as a part of the regular manner of originating and closing mortgage loans to be funded by the Plaintiff.

74. The Plaintiff has been injured in its business and property by the foregoing violations of 18 U.S.C. 1962(c).

75. The Plaintiff is entitled to judgment against the Defendants for its actual damages, in an amount to be determined at trial, trebled pursuant to 18 U.S.C. §1964(c), plus attorney's fees, expenses and costs.

**FOR A SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
VIOLATIONS OF THE RACKETEERING INFLUENCED CORRUPT
ORGANIZATIONS ACT §1962(d)**

76. The allegations contained in paragraphs 1 through 75 are alleged as if repeated verbatim.

77. The Defendants conspired to violate the provisions of 18 U.S.C. §1962(c) in violation of 18 U.S.C. §1962(d)

78. Upon information and belief, the Defendants' conspiracy began shortly after or before the Plaintiff and U.S. Capital entered the Agreement and continued through the year 2002.

79. The object of the conspiracy was the financial gain of the Defendants from the proceeds of loans that they fraudulently induced the Plaintiff to fund.

80. The overt acts taken by the Defendants in the furtherance of the general conspiracy include:

- a. Solicitation of fraudulent appraisals by Stewart, Anderson and employees and agents of Vision Enterprises and knowingly submitting fraudulent appraisals to the Plaintiff;
- b. Preparation of fraudulent appraisals by Epps Company, Epps and Ammons for submission to the Plaintiff;
- c. Preparation of fraudulent closing statements and other fraudulent and misleading documentation by the closing attorneys with the intention of deceptively inducing the Plaintiff to fund mortgage loans;
- d. Transfers of title to real estate among Anderson, Stewart, Vision Enterprises, James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael McMorris, Myra McMorris, Isaiah McMorris, Fayssoux, Epps and others in less than bona fide transactions for exaggerated and progressively increasing false values to deceive the Plaintiff and others as to the true value of the property;

- e. Misrepresentation of the existence of bona fide mortgage loans by the Trustee, Charles L. Grogan, Charles W. Grogan, Eunice F. Grogan, Next Generation, and others and fraudulently demanding and accepting proceeds of loans funded by the Plaintiff for payment of those mortgage loans.
- f. Disbursing and accepting funds other than as stated in the mortgage loans settlement statements by U.S. Capital, Anderson, Stewart, Newton, Morris, Spivey, Vision Enterprises, Next Generation, James Byrd, Eric Byrd, Charles Byrd, Dionne Byrd, Michael McMorris, Myra McMorris, Isaiah McMorris, Charles L. Grogan, Charles W. Grogan, Eunice F. Grogan, Fayssoux Firm, Fayssoux, Trustees, and Epps.
- g. Misrepresentation of the existence of bona fide debts by Isaiah McMorris, Anderson, Stewart, Vision Enterprises and others and fraudulently demanding and accepting proceeds of loans funded by the Plaintiff for payment of those mortgage loans.

81. The Defendants intentionally committed the foregoing acts to further the Enterprise and to cause the Plaintiff to fund and purchase fraudulent mortgage loans.

82. Each Defendant knowingly and willfully participated in this scheme.

83. The overt act of the Defendants in furtherance of the scheme and Enterprise included engaging in wire fraud and mail fraud as alleged.

84. The Plaintiff has been injured in its business and property by the foregoing described violations of 18 U.S.C. §1962(d) in that it was fraudulently induced to fund loans in amounts grossly in excess of the value of the collateral offer to secure the debts

and to borrowers for whom it would not have funded loans if it understood the true nature of the transaction.

85. The Plaintiff is entitled to judgment against the Defendants for its actual damages, in an amount to be determined at trial, trebled pursuant to 18 U.S.C. §1964(d), plus attorney's fees, expenses and costs.

**FOR A SEVENTH CAUSE OF ACTION
AGAINST U.S. CAPITAL
BREACH OF CONTRACT**

86. The allegations contained in paragraphs 1 through 85 are alleged as if repeated verbatim.

87. Pursuant to the terms and conditions of the Agreement, U.S. Capital made specific representations and warranties to the Plaintiff that as to each loan funded by the Plaintiff through U.S. Capital, including, but not limited to:

- a. All documents or instruments submitted in connection with the mortgage loan were, in every respect, valid and genuine, being what on their face they purport to be;
- b. All information submitted in connection with mortgage loans was true and accurate; and
- c. It had no knowledge of any circumstances or conditions that could be reasonably expected to cause private institutional investors, FNMA, FHLMC, or GNMA to regard the loan as an unacceptable investment or adversely affect the value or marketability of the mortgage loan.

88. The described conduct of the Defendants, including U.S. Capital is a material breach of the representations and warranties made by U.S. Capital to the Plaintiff in the Agreement.

89. Pursuant to the terms and conditions of the Agreement, U.S. Capital agreed to repurchase any mortgage loan funded by the Plaintiff pursuant to the terms and conditions of the Agreement if any representation or warranty as to that mortgage loan is or was breached.

90. Pursuant to the terms and conditions of the Agreement, U.S. Capital agreed to repurchase any mortgage loan funded by the Plaintiff pursuant to the terms and conditions of the Agreement, if the Plaintiff discovered fraud on the part of U.S. Capital, its agents, employees, borrowers or mortgagors.

91. Pursuant to the terms and conditions of the Agreement, U.S. Capital is required to repurchase the Subject Loans.

92. The Plaintiff has demanded that U.S. Capital repurchase the subject loans and U.S. Capital has refused and that refusal constitutes a breach of the Agreement.

93. As a direct and proximate cause of the breach of the Agreement, the Plaintiff has suffered actual damages.

94. The Plaintiff has performed as required by the Agreement in all respects.

95. The Agreement provides that U.S. Capital shall be responsible to the Plaintiff for the attorney fees and costs incurred in this action.

96. The Plaintiff is entitled to judgment against the Defendants for its actual damages, in an amount to be determined at trial, plus attorney's fees, expenses and costs of this action.

**FOR AN EIGHTH CAUSE OF ACTION
AGAINST THE DEFENDANTS FAYSSOUX AND FAYSSOUX FIRM
PROFESSIONAL NEGLIGENCE**

97. The allegations contained in paragraphs 1 through 96 are alleged as if repeated verbatim.

98. Fayssoux and Fayssoux Firm provided legal services to the Plaintiff on each of the subject loans that Fayssoux and/or Fayssoux Firm closed.

99. Fayssoux and Fayssoux Firm owed to the Plaintiff, as their client, a duty of care commensurate with that duty of care that a South Carolina attorney owes to its clients for whom it closes a residential real estate transaction.

100. Fayssoux and Fayssoux Firm were individually, jointly and in combination negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina attorney would have used in closing a residential real estate transaction.

101. The conduct of Fayssoux and Fayssoux Firm as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans closed by Fayssoux and Fayssoux Firm.

102. By reason of the acts of Fayssoux and Fayssoux Firm as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR A NINTH CAUSE OF ACTION
AGAINST THE DEFENDANT NEWTON
PROFESSIONAL NEGLIGENCE**

103. The allegations contained in paragraphs 1 through 102 are alleged as if repeated verbatim.

104. Newton provided legal services to the Plaintiff on each of the subject loans that Newton closed.

105. Newton owed to the Plaintiff, as their client, a duty of care commensurate with that duty of care that a South Carolina attorney owes to its clients for whom it closes a residential real estate transaction.

106. Newton was negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina attorney would have used in closing a residential real estate transaction.

107. The conduct of Newton as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans closed by Newton.

108. By reason of the acts of Newton as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR A TENTH CAUSE OF ACTION
AGAINST THE DEFENDANT SPIVEY
PROFESSIONAL NEGLIGENCE**

109. The allegations contained in paragraphs 1 through 108 are alleged as if repeated verbatim.

110. Spivey provided legal services to the Plaintiff on each of the subject loans that Spivey closed.

111. Spivey owed to the Plaintiff, as their client, a duty of care commensurate with that duty of care that a South Carolina attorney owes to its clients for whom it closes a residential real estate transaction.

112. Spivey was negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina attorney would have used in closing a residential real estate transaction.

113. The conduct of Spivey as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans closed by Spivey.

114. By reason of the acts of Spivey as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR AN ELEVENTH CAUSE OF ACTION
AGAINST THE DEFENDANT ATRIA
PROFESSIONAL NEGLIGENCE**

115. The allegations contained in paragraphs 1 through 114 are alleged as if repeated verbatim.

116. Atria provided legal services to the Plaintiff on the subject loan that Atria closed.

117. Atria owed to the Plaintiff, as his client, a duty of care commensurate with that duty of care that a South Carolina attorney owes to its clients for whom it closes a residential real estate transaction.

118. Atria was negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina attorney would have used in closing a residential real estate transaction.

119. The conduct of Atria as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loan closed by Atria.

120. By reason of the acts of Atria as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR A TWELFTH CAUSE OF ACTION
AGAINST THE DEFENDANT MORRIS
PROFESSIONAL NEGLIGENCE**

121. The allegations contained in paragraphs 1 through 120 are alleged as if repeated verbatim.

122. Morris provided legal services to the Plaintiff on each of the subject loans that Morris closed.

123. Morris owed to the Plaintiff, as their client, a duty of care commensurate with that duty of care that a South Carolina attorney owes to its clients for whom it closes a residential real estate transaction.

124. Morris was negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina attorney would have used in closing a residential real estate transaction.

125. The conduct of Morris as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans closed by Morris.

126. By reason of the acts of Morris as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR A THIRTEENTH CAUSE OF ACTION
AGAINST THE DEFENDANT AMMONS
PROFESSIONAL NEGLIGENCE**

127. The allegations contained in paragraphs 1 through 126 are alleged as if repeated verbatim.

128. Ammons provided professional appraisal services to the Plaintiff for selected mortgage loan transactions included in the Subject Loans.

129. Ammons owed to the Plaintiff a duty of care commensurate with that duty of care that a South Carolina licensed real estate appraiser owes to lenders for whom he provides appraisals of real estate.

130. Ammons was negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina licensed real estate appraiser would have used in providing lenders appraisals of real estate.

131. The conduct of Ammons as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans for which Ammons provided an appraisal.

132. By reason of the acts of Ammons as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

**FOR A FOURTEENTH CAUSE OF ACTION
AGAINST THE DEFENDANTS EPPS AND EPPS COMPANY
PROFESSIONAL NEGLIGENCE**

133. The allegations contained in paragraphs 1 through 132 are alleged as if repeated verbatim.

134. Epps and Epps Company provided professional appraisal services to the Plaintiff for selected mortgage loan transactions included in the Subject Loans.

135. Epps and Epps Company owed to the Plaintiff a duty of care commensurate with that duty of care that a South Carolina licensed real estate appraiser owes to lenders for whom he provides appraisals of real estate.

136. Epps and Epps Company were individually, jointly and in combination negligent, careless and grossly negligent in failing to use that degree of care and caution that a reasonable and prudent South Carolina licensed real estate appraiser would have used in providing lenders appraisals of real estate.

137. The conduct of Epps and Epps Company as set forth in this Complaint was the direct and proximate cause of the damages and injuries suffered by the Plaintiff on the Subject Loans for which Epps or Epps Company provided an appraisal.

138. By reason of the acts of Epps and Epps Company as set forth above, the Plaintiff is informed and believes that it is entitled to an award of actual damages to be determined at the trial of this matter, together with punitive damages in an appropriate amount, and for the costs of this action.

WHEREFORE, having fully set forth its Complaint against the Defendants, the Plaintiff prays that the Court:

ON THE FIRST CAUSE OF ACTION

a. Award the Plaintiff Judgment against all Defendants for its actual damages trebled, plus the costs and attorneys fees incurred by the Plaintiff in the prosecution of this action.

- b. For such other and further relief that may be just and proper.

ON THE SECOND CAUSE OF ACTION

- c. Award the Plaintiff Judgment against all Defendants for the actual damages suffered as a result of the Misrepresentations and punitive damages
- d. For such other and further relief that may be just and proper.

ON THE THIRD CAUSE OF ACTION

- e. Award the Plaintiff Judgment against all Defendants for all actual damages that were directly and proximately caused by the reliance on the false statements of material fact and material misrepresentations of fact and the costs of this action.
- f. For such other and further relief that may be just and proper

ON THE FOURTH CAUSE OF ACTION

- g. Award the Plaintiff Judgment against all Defendants for actual damages, special damages, punitive damages and the costs of this action.
- h. For such other and further relief that may be just and proper.

ON THE FIFTH CAUSE OF ACTION

- i. Award the Plaintiff Judgment against all Defendants for its actual damages, in an amount to be determined at trial, trebled pursuant to 18 U.S.C. §1964(c), plus attorney's fees, expenses and costs.
- j. For such other and further relief that may be just and proper.

ON THE SIXTH CAUSE OF ACTION

k. Award the Plaintiff Judgment against all Defendants for its actual damages, in an amount to be determined at trial, trebled pursuant to 18 U.S.C. §1964(d), plus attorney's fees, expenses and costs.

l. For such other and further relief that may be just and proper.

ON THE SEVENTH CAUSE OF ACTION

m. Award the Plaintiff Judgment against U.S. Capital for its actual damages, in an amount to be determined at trial, plus attorney's fees, expenses and costs of this action.

n. For such other and further relief that may be just and proper.

ON THE EIGHTH CAUSE OF ACTION

o. Award the Plaintiff Judgment against Fayssoux and Fayssoux Firm for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

p. For such other and further relief that may be necessary and proper.

ON THE NINTH CAUSE OF ACTION

q. Award the Plaintiff Judgment against Newton for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

- r. For such other and further relief that may be necessary and proper.

ON THE TENTH CAUSE OF ACTION

- s. Award the Plaintiff Judgment against Spivey for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

- t. For such other and further relief that may be necessary and proper.

ON THE ELEVENTH CAUSE OF ACTION

- u. Award the Plaintiff Judgment against Atria for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

- v. For such other and further relief that may be necessary and proper.

ON THE TWELFTH CAUSE OF ACTION

- w. Award the Plaintiff Judgment against Morris for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

- x. For such other and further relief that may be necessary and proper.

ON THE THIRTEENTH CAUSE OF ACTION

y. Award the Plaintiff Judgment against Ammons for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

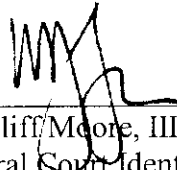
z. For such other and further relief that may be necessary and proper.

ON THE FOURTEENTH CAUSE OF ACTION

aa. Award the Plaintiff Judgment against Epps and Epps Company for its actual damages in an amount to be determined at trial, punitive damages, and the expenses and costs of this action.

bb. For such other and further relief that may be necessary and proper.

Respectfully submitted,



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Federal Court Identification Number 3984
John T. Lay, Jr.
Federal Court Identification Number 5539
David M. Wilkerson
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