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Attorneys for Plaintiff

10
11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF PIMA**

13 STATE OF ARIZONA, Attorney General,

14 Plaintiff

15 vs.

16 Hodgin & Co, LLC, a/k/a Hodgin 300, an
Arizona Limited Liability Company; Sonia
17 Hodgin, individually; Sonia Hodgin and John
Doe Hodgin, as a marital community,

18 Defendants.
19

No. C _____

**COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF**

Unclassified Civil

20 Plaintiff, the State of Arizona *ex rel.* Mark Brnovich, the Attorney General, alleges the
21 following:
22

23 **JURISDICTION AND VENUE**

24 1. The State of Arizona brings this action pursuant to the Arizona Consumer Fraud
25 Act, A.R.S. §§ 44-1521 through 44-1534, to obtain restitution, declaratory and injunctive
26 relief, civil penalties, disgorgement, attorneys' fees and costs, investigative expenses and other
27 relief to prevent the unlawful acts and practices alleged in this Complaint and to remedy the
28 consequences of such unlawful practices.

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2. Venue is proper in Pima County, Arizona.

3. The Superior Court has jurisdiction to enter appropriate orders, both prior to and following a determination of liability, pursuant to A.R.S. § 44-1528.

PARTIES

Plaintiff

4. Plaintiff is the State of Arizona, *ex rel.* Mark Brnovich, who is authorized to bring this action under the Arizona Consumer Fraud Act, A.R.S. §§ 44-1521 through 44-1534.

Individual Defendants

5. Defendant Sonia Hodgin is a resident of Pima County, Arizona.

6. Defendant Sonia Hodgin (“Defendant Hodgin”) is the owner and sole member and manager of Hodgin & Co, LLC, and controls, participates in, or possesses the authority to control Hodgin & Co, LLC’s acts and practices.

7. Defendant John Doe Hodgin is named in the event that Defendant Sonia Hodgin is married and community property exists against which the State can obtain monetary relief in this matter. If the State learns the true identity of John Doe Hodgin, it will move to amend its Complaint accordingly.

Business Defendant

8. Defendant Hodgin & Co, LLC is an Arizona limited liability company with its principal place of business located at 6437 North Foothills Drive, Tucson, Arizona, in the county of Pima.

9. Defendant Hodgin & Co, LLC operates from the State of Arizona and does business in Arizona.

10. Hodgin 300 is a fictitious name used by Defendants Hodgin and Hodgin & Co, LLC.

11. Whenever in this Complaint reference is made to an act of a Defendant, such reference shall be deemed to mean the personal acts of each Defendant or the acts of the Defendant’s owners, officers, shareholders, directors, employees, agents, independent

1 contractors, or other representatives, acting under the discretion and/or supervision of
2 Defendants Hodgin and/or Hodgin & Co, LLC.

3 **ALLEGATIONS**

4 12. Defendants Hodgin and Hodgin & Co, LLC advertise and/or represent to
5 consumers that Defendants' services will avoid foreclosure proceedings on the consumer's
6 property.

7 13. On at least one occasion, when Defendants Hodgin and Hodgin & Co, LLC
8 advertised and/or represented to consumers that Defendants' services would avoid foreclosure
9 proceedings on the consumer's property, Defendants' services failed to avoid foreclosure
10 proceedings on the consumer's property.

11 14. Defendants Hodgin and Hodgin & Co, LLC advertise and/or represent to
12 consumers that Defendants' services will not cost consumers a fee.

13 15. Defendants Hodgin and Hodgin & Co, LLC fail to disclose fees until after
14 Defendants enter into a contract with the consumer to bring the consumer's mortgage loan
15 current and assume the mortgage loan.

16 16. Defendants Hodgin and Hodgin & Co, LLC advertise to consumers that
17 Defendants will save the credit score of a consumer who is facing foreclosure.

18 17. On at least one occasion, Defendants Hodgin and Hodgin & Co, LLC
19 represented to a consumer that Defendants would assume the mortgage loan on the consumer's
20 property in exchange for a deed to the consumer's property.

21 18. On at least one occasion, when Defendants Hodgin and Hodgin & Co, LLC
22 represented to a consumer that Defendants would assume the mortgage loan on the consumer's
23 property, Defendants failed or refused to assume the mortgage loan on the consumer's
24 property.

25 19. Defendants Hodgin and Hodgin & Co, LLC directly and/or indirectly convey to
26 consumers that engaging Defendants' services and following Defendants' advice will result in
27 consumers being absolved of their duty to pay their mortgage loan obligation.

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1 20. On at least one occasion, when Defendants Hodgin and Hodgin & Co, LLC
2 directly and/or indirectly conveyed to consumers that engaging Defendants' services and
3 following Defendants' advice would result in the consumers being absolved of their duty to pay
4 their mortgage loan obligation, such engagement of Defendants services did not result in the
5 consumers' absolution of their duty to pay their mortgage loan obligation.

6 21. On at least one occasion, Defendants Hodgin and Hodgin & Co, LLC
7 represented to a consumer that Defendants would pay the consumer the monthly mortgage
8 payment amount for the consumer to apply to the consumer's mortgage loan in exchange for a
9 deed to the consumer's property.

10 22. On at least one occasion, when Defendants Hodgin and Hodgin & Co, LLC
11 represented to a consumer that Defendants would pay the consumer the monthly mortgage
12 payment amount for the consumer to apply to their mortgage loan, Defendants failed or refused
13 to pay the consumer the monthly mortgage payment amount.

14 23. On at least one occasion, Defendants Hodgin and Hodgin & Co, LLC
15 represented to a consumer that Defendants would pay off the consumer's existing mortgage
16 loan obligation in full in exchange for a deed to the property.

17 24. On at least one occasion, when Defendants Hodgin and Hodgin & Co, LLC
18 represented to a consumer that Defendants would pay off the consumer's existing mortgage
19 loan obligation in full, Defendants failed or refused to pay off the existing mortgage loan
20 obligation in full.

21 25. Defendants Hodgin and Hodgin & Co, LLC agree to sell a consumer's property
22 to new owners and charge the new owners monthly payments, a portion of which Defendants
23 will keep.

24 26. Defendants agree to pay the remainder to the original owner's existing mortgage
25 loan (hereinafter, "Underlying Loan") on the property.

26 27. Defendants Hodgin and Hodgin & Co, LLC fail to apply any portion of the new
27 owners' monthly payments to the Underlying Loan.

1 28. Upon information and belief, Defendants Hodgin and Hodgin & Co, LLC
2 continue to accept monthly payments from the new owners after the original owner's mortgage
3 loan servicer and/or lender initiates foreclosure proceedings on the Underlying Loan.

4 29. The events alleged herein regarding Defendants Hodgin and Hodgin & Co, LLC
5 occurred, and have continued to occur, since on or about November 12, 2014, at the latest, to
6 the present time.

7 MARITAL COMMUNITY

8 30. If Defendant Hodgin was married at the time the alleged actions occurred, her
9 actions benefited her marital community, were intended to benefit her marital community,
10 and/or each spouse consented to or ratified the other spouse's conduct.

11 **VIOLATIONS OF THE CONSUMER FRAUD ACT**

12 **A. FIRST CLAIM FOR RELIEF**

13 31. The State re-alleges all preceding paragraphs as though fully set forth herein.

14 32. Defendants, in connection with the sale or advertisement of merchandise, used
15 or employed deception, deceptive or unfair acts or practices, fraud, false pretenses, false
16 promises, misrepresentations or concealment, suppression or omission of material fact with the
17 intent that others rely on such concealment and/or suppression or omission, in violation of
18 A.R.S. § 44-1522(A).¹

19 33. These acts include, but are not limited to:

- 20 a. Defendants misrepresented to consumers that engaging Defendants' services
21 would avoid a foreclosure of the consumers' mortgage loan obligation on the
22 consumers' property when consumers' engagement of Defendants did not result
23 in avoidance of a foreclosure on their mortgage loan obligation;

24 _____
25 ¹A violation of the Arizona Consumer Fraud Act means "[t]he act, use or employment by any person of
26 any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation,
27 or concealment, suppression or omission of any material fact with intent that others rely on such
28 concealment, suppression or omission, in connection with the sale or advertisement of any merchandise
whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an
unlawful practice." A.R.S. § 44-1522(A). Pursuant to the Arizona Consumer Fraud Act, "merchandise"
means any objects, wares, goods, commodities, intangibles, real estate or services. . . ." A.R.S. § 44-
1521(5).

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- b. Defendants misrepresented the fact, and nature, of the fees Defendants charged consumers when Defendants advertised there was not a fee for Defendants' services;
- c. Defendants misrepresented the fact and nature of the fees Defendants charged to at least one consumer when Defendants failed to disclose fees associated with their services until after Defendants entered into a contract with the consumer – after which time Defendants demanded that the consumer pay a fee;
- d. Defendants misrepresented that they would assume consumers' mortgage loan obligations on consumers' property when Defendants did not assume the mortgage loan obligation on the consumers' property;
- e. Defendants misrepresented that engaging Defendants' services and following Defendants' advice would result in consumers being absolved of their duty to pay their mortgage loan obligation, when Defendants' services, and consumers' compliance with Defendants' advice, did not absolve consumers of their mortgage loan obligation;
- f. Defendants misrepresented that they would directly pay consumers funds with which the consumers could pay their mortgage loan obligation when Defendants did not deliver consumers such funds to pay the mortgage loan obligation;
- g. Defendants misrepresented that they would pay consumers' mortgage loan obligation in full when they failed to pay the consumers' mortgage loan obligations in full; and
- h. Defendants misrepresented that they would accept funds from purchasers and apply it toward the mortgage loan obligation and purchase of a property when, in fact, they took payments from the purchasers that were not applied toward the mortgage loan obligation or purchase of the property.

34. Defendants have engaged in a pattern and practice of misrepresentations and deceptive conduct in the advertisement and sale of merchandise to consumers.

35. Each instance in which Defendants engaged in deceptive or unfair acts and

1 practices as described herein is a separate and distinct violation of the Arizona Consumer Fraud
2 Act.

3 **B. SECOND CLAIM FOR RELIEF**

4 36. The State re-alleges all preceding paragraphs as though fully set forth herein.

5 37. With regard to the foregoing violations, Defendants knew or should have known
6 that the above acts and practices violated A.R.S. § 44-1522 and those violations were,
7 therefore, willful within the meaning of A.R.S. § 44-1531(A).²

8 **PRAYER FOR RELIEF**

9 WHEREFORE, the State respectfully requests that the Court:

10 A. Prohibit Defendants from violating A.R.S. § 44-1522, as it is currently written or
11 may be amended in the future.

12 B. Permanently enjoin and restrain Defendants from engaging in the course of
13 conduct alleged herein as a violation of A.R.S. § 44-1522. Such conduct includes, but is not
14 limited to, misrepresenting to consumers that engaging Defendants' services would avoid a
15 foreclosure of the consumers' mortgage loan obligation on the consumers' property,
16 misrepresenting the fact and the nature of the fees Defendants charged consumers for such
17 services, and misrepresenting that Defendants would accept funds from purchasers and apply
18 such funds toward the mortgage loan obligation and purchase of a property on behalf of the
19 purchasers.

20 C. Order Defendants to restore to all persons any money or property, real or
21 personal, that was acquired by means of any practice alleged herein to be a violation of A.R.S.
22 §§ 44-1521 through 44-1534, and such additional amounts as may be deemed proper by the
23 Court pursuant to A.R.S. § 44-1528(A)(2) and/or A.R.S. § 44-1531.02.

24 D. Order Defendants to pay to the State of Arizona a civil penalty of up to ten
25 thousand dollars (\$10,000.00) for each violation of the Consumer Fraud Act, pursuant to
26 A.R.S. § 44-1531.

27 _____
28 ² “[A] willful violation occurs when the party committing the violation knew or should have known that his conduct was of the nature prohibited by § 44-1522.” A.R.S. § 44-1531(B).


1 E. Order Defendants to reimburse the Attorney General for the costs of
2 investigation and reasonable attorneys' fees, pursuant to A.R.S. § 44-1534.

3 F. Order Defendants to pay to the State of Arizona any profits, gain, gross receipts
4 or other benefit obtained by means of an unlawful practice, pursuant to A.R.S. § 44-
5 1528(A)(3).

6 G. Order such other and further relief as the Court deems proper.

7 DATED this 23rd day of February, 2016.

8
9 Mark Brnovich, Attorney General

10
11 
12 Shanelle C. Schmitz
13 Assistant Attorney General
Attorneys for Plaintiff

14 Original of the foregoing filed
15 on February 23, 2016 with:

16 Pima County Superior Court
17 110 W. Congress St.
Tucson, AZ 85701-1348

18 Copy of the foregoing mailed on
19 February 23, 2016 to:

20 Hodgin & Co, LLC
21 c/o: Statutory Agent – Sonia Hodgin
6437 N. Foothills Drive
22 Tucson, Arizona 85718
Defendant

23 Sonia Hodgin
24 6437 N. Foothills Drive
Tucson, Arizona 85718
Defendant