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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

REAL ESTATE INVESTMENT
NETWORK, LLC, an Oregon limited
liability company; KERRY
HEMMINGSEN, individually and on
behalf of his marital community; DANIEL
STACK, individually and on behalf of his
marital community; and WILLIAM
GASTINEAU, individually and on behalf
of his marital community;

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER
THE CONSUMER PROTECTION
ACT, RCW 19.86

The Plaintiff, State of Washington, by and through its attorneys Robert W. Ferguson, Attorney General, and Heidi Anderson and Mina Shahin, Assistant Attorneys General, brings this action against Defendants Real Estate Investment Network LLC, Kerry Hemmingsen, Daniel Stack, and William Gastineau (collectively "Defendants") for violations of the Consumer Protection Act, RCW 19.86. The claims for relief alleged herein arise from the unfair and deceptive acts and practices used by Defendants to convince consumers with recently foreclosed property to enter into unconscionable agreements that convey the consumer's ownership interest in said property, including rights to surplus funds, to Real Estate Investment

1 Network, LLC (“REIN”) in exchange for a small fraction of the amounts they are entitled to
2 under law. The State alleges the following:

3 **I. INTRODUCTION**

4 1.1 As detailed herein, Defendants approach consumers in the State of Washington
5 (the “State” or “Washington”) with an offer for REIN to—purportedly—assist the consumer in
6 recovering surplus funds resulting from the sale of the consumer’s real property following either
7 a non-judicial or judicial foreclosure (hereinafter “Surplus Funds”). The “fee” for this purported
8 assistance equates to a significant portion of the surplus, in several instances exceeding 60
9 percent of the total recovery. REIN then presents these consumers with documents conveying
10 the consumers’ interest in and to the Surplus Funds to REIN. Consumers think they are engaging
11 REIN for a service, but in reality are assigning rights to the equity in their home.

12 1.2 The process for recovering Surplus Funds is fairly straightforward, quick and
13 inexpensive; it can be done by a consumer either alone or with limited assistance from an
14 attorney. However, utilizing aggressive sales tactics, misrepresentations and omissions of
15 material fact, Defendants mislead consumers into believing that the process requires extensive
16 work, expertise, and could take up to a year without REIN’s assistance. Preying on consumers’
17 unfamiliarity with the foreclosure process and immediate financial need, Defendants convey a
18 false sense of urgency to consumers, suggesting that failure to act quickly to recover Surplus
19 Funds might negate the consumer’s ability to recover anything at all. On the basis of Defendants’
20 misrepresentations and material omissions, consumers have retained REIN to recover Surplus
21 Funds in exchange for amounts grossly exceeding what would be considered reasonable fees and
22 costs. Consequently, Defendants have engaged in unfair and deceptive business practices in
23 violation of the CPA.

24 **II. PARTIES**

25 2.1 The Plaintiff is the State of Washington, Office of the Attorney General.
26

1 2.2 Authority of the Attorney General to commence this action is conferred by
2 RCW 19.86.080 and RCW 19.86.140. The Attorney General may seek restitution, injunctive
3 relief and civil penalties, and its costs and reasonable attorney's fees in an action brought under
4 RCW 19.86.080 and RCW 19.86.140.

5 2.3 On information and belief, Defendant REIN is an Oregon limited liability
6 company with its principal place of business located at 1455 NW Irving #200, Portland, Oregon
7 97209 and maintains business addresses in Washington. REIN is not registered to do business in
8 the State of Washington.

9 2.4 At all material times to this lawsuit, REIN regularly conducted business through
10 its agents, employees, and/or representatives in counties throughout Western Washington,
11 including in King County.

12 2.5 On information and belief, Defendant Kerry Hemmingsen ("Hemmingsen") is a
13 resident of Bellevue, King County, Washington. Before his involvement with REIN, Defendant
14 Hemmingsen was the subject of two prior enforcement actions by the Washington Attorney
15 General: (1) *State of Washington v. A.G. Rothchild and Associates, Inc., et al.*, King County Case
16 No. 88-2-15963-7¹ (the "Rothchild Enforcement Action"); and (2) *State of Washington v.*
17 *Micro Data Computers, Inc., et al.*, King County Case No. 93-2-11504-1² (the "Micro Data
18 Enforcement Action"). Pursuant to the Consent Decree entered in the Rothchild Enforcement
19 Action, Defendant Hemmingsen is "enjoined and permanently restrained in the State of
20 Washington from making any misrepresentations in the context of any sale, performance of any
21 contract, or performance of a contract." In or around 2010, Defendant Hemmingsen marketed
22 himself on YouTube as "America's Foremost Foreclosure Profit Expert" and sold an audio
23

24 ¹ The Rothchild Enforcement Act involved operation of a telephone boiler room that purported to sell rare
25 coins and investment opportunities in oil drilling and recovery ventures. *See Stipulated Findings of Fact,*
26 *Conclusions of Law, and Agreed Judgment as to Defendant Kerry Hemmingsen, dated April 3, 1989.*

²The Micro Data Enforcement Action involved marketing and sale of computer equipment that
Hemmingsen's company failed to deliver. *See Stipulated Findings of Fact, Conclusions of Law, Judgment and*
Decree as to Defendants Micro Data Computers, Inc. and Kerry Hemmingsen, dated August 11, 1995.

1 program entitled “Fast Track to Foreclosure Fortunes”—which purported to help people make
2 money through the purchase of properties in foreclosure—for \$199.³ Defendant Hemmingsen
3 also filed a voluntary Chapter 11 bankruptcy petition on August 27, 2010, which was converted
4 to a case under Chapter 7 on May 5, 2011.⁴ At the request of the United States Trustee, Defendant
5 Hemmingsen was denied discharge pursuant to 11 U.S.C. §727(a)(2) (transfer and/or
6 concealment of assets with intent to hinder, delay or defraud a creditor), 11 U.S.C. §727(a)(3)
7 (failure to maintain or preserve financial records) and 11 U.S.C. §727(a)(4) (false oaths or
8 accounts and withholding of financial information with fraudulent intent).⁵

9 2.6 At all material times to this Complaint, Hemmingsen was an agent, employee,
10 and/or representative of REIN. Defendant Hemmingsen engaged in direct communication with
11 Washington consumers to procure agreements and related documents providing for the
12 assignment of Surplus Funds resulting from those consumer’s residential real property
13 foreclosure to Defendant REIN, in furtherance of the violations of Washington law set forth
14 herein. At all times material to this Complaint, acting alone or in concert with others, he has
15 formulated, directed, controlled, personally participated in, and/or with knowledge approved of
16 the acts or practices set forth in this Complaint.

17 2.7 On information and belief, at all material times to this lawsuit, Defendant Daniel
18 Stack (“Stack”) is a resident of Bothell, Washington. At all material times to this Complaint,
19 Stack was Vice President of Sales and Operations for REIN. Defendant Stack engaged in direct
20 communication with Washington consumers to procure agreements and related documents
21 providing for the assignment of Surplus Funds resulting from those consumer’s residential real
22 property foreclosure to Defendant REIN, in furtherance of the violations of Washington law set
23 forth herein. At all times material to this Complaint, acting alone or in concert with others, he
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25 ³ See, e.g., <https://www.youtube.com/watch?v=Iv8OiHMsnak>.

26 ⁴ U.S. Bankruptcy Court, Western District of Washington Case No. 10-20136-MLB (the “Bankruptcy Case”).

⁵ See Bankruptcy Case, Dkt. #93, 98.

1 has formulated, directed, controlled, personally participated in, and/or with knowledge approved
2 of the acts or practices set forth in this Complaint.

3 2.8 On information and belief, Defendant William Gastineau (“Gastineau”) is a
4 resident of Kirkland, King County, Washington. At all material times to this Complaint
5 Gastineau was a District Sales Manager for REIN. Defendant Gastineau engaged in direct
6 communication with Washington consumers to procure agreements and related documents
7 providing for the assignment of Surplus Funds resulting from those consumers’ residential real
8 property foreclosure to Defendant REIN, in furtherance of the violations of Washington law set
9 forth herein. At all times material to this Complaint, acting alone or in concert with others, he
10 has formulated, directed, controlled, personally participated in, and/or with knowledge approved
11 of the acts or practices set forth in this Complaint.

12 2.9 Defendants directed, controlled, formulated, and/or carried out the acts, practices,
13 and activities that are the subject of this complaint. Defendants are liable for all acts, practices,
14 and activities carried out by each Defendant that is the subject of this complaint. Because
15 Defendants have operated as a common enterprise, each of them is jointly and severally liable
16 for the deceptive and/or unfair acts and practices described herein.

17 2.10 Defendants, at all times relevant to this action, have been engaged in trade or
18 commerce within the meaning of RCW 19.86.020.

19 III. JURISDICTION AND VENUE

20 3.1 This Court has subject matter jurisdiction over this Complaint under the provisions
21 of the Consumer Protection Act, RCW 19.86.

22 3.2 This Court has personal jurisdiction over Defendants because each has engaged in
23 the conduct set forth in this Complaint in King County and elsewhere in the State of Washington.

24 3.3 Venue is proper in King County pursuant to RCW 4.12.025 because one or more of
25 the Defendants reside in King County and/or transacts business in King County.
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IV. FACTS

A. Surplus Funds Resulting from Judicial and Non-Judicial Foreclosures

4.1 The United States experienced a foreclosure crisis following the 2008 financial collapse, triggered by the burst of the housing bubble in the early-2000s. Given the significant decline in residential real property values and the rise in unemployment during that period, mortgage delinquencies and foreclosures soared.⁶

4.2 During the foreclosure crisis and its immediate aftermath, foreclosures of residential real property mortgages rarely resulted in surplus funds because the amount owed on the home was higher than the home's value. Accordingly, in a large percentage of foreclosures during the mortgage crisis, real property sold in trustee's and sheriff's sales during the mortgage crisis was bought by the lender as the result of a credit bid. During this period, distressed homeowners facing foreclosure were subject to the predations of foreclosure rescue scams and, for those homeowners who were not underwater, pre-foreclosure equity-skimming scams. Accordingly, the Attorney General's Office took enforcement actions, and the Legislature enacted statutes to protect homeowners.

4.3 However, the supply of underwater foreclosed properties in Western Washington has evaporated as skyrocketing housing demands have dramatically changed the residential real estate market.⁷ ⁸ Now, with foreclosures on a downward trend, foreclosure rescue and pre-foreclosure equity-skimming scams have become less prevalent. So, instead of skimming equity *before* the sale occurs, REIN seeks to acquire the consumer's equity *after* consummation of the foreclosure sale.

4.4 Under Washington law, the proceeds from a trustee's sale of real property—commonly known as a nonjudicial foreclosure sale—are first applied to cover the costs of sale,

⁶ https://www.federalreservehistory.org/essays/subprime_mortgage_crisis

⁷ <https://www.forbes.com/sites/samanthasharf/2018/01/03/housing-outlook-2018-six-predictions-from-the-experts/#381bd1f14066>

⁸ <https://www.attomdata.com/news/foreclosure-trends/2017-year-end-u-s-foreclosure-market-report/>

1 and then to pay off the obligation secured by the deed of trust (the mortgage loan being
2 foreclosed upon). If any amount remains, these Surplus Funds less a clerk's filing fee, "shall be
3 deposited, together with written notice of the amount of the surplus, a copy of the notice of
4 trustee's sale, and an affidavit of mailing as provided in this subsection, with the clerk of the
5 superior court of the county in which the sale took place." RCW 61.24.080; *see also*
6 RCW 61.12.150 (providing for the treatment of Surplus Funds resulting from a judicial
7 foreclosure).

8 4.5 For at least one Washington trustee firm, Surplus Funds are routinely deposited
9 with the Court, and notice of the deposit filed and mailed to all identified parties requiring notice
10 pursuant to RCW 61.24.040(1), within 60 days of the Trustee's Sale, if not sooner.

11 4.6 Once the Surplus Funds are deposited with the superior court, parties with an
12 interest in those funds may claim them in a specified order. "Interests in, or liens or claims of
13 liens against the property" at issue attach to the Surplus Funds "in the order of priority that it had
14 attached to the property". RCW 61.24.080(3). Where Surplus Funds remain after payment of all
15 junior lien holders, the owner of record at the time of the trustee's sale may assert a claim in such
16 Surplus Funds. *See also* RCW 61.12.150 (providing for disbursement of Surplus Funds
17 following a judicial foreclosure). This allows now-former homeowners to capture the "equity"
18 in their homes, even when those homes are sold at a foreclosure auction. Because the hierarchy
19 of interests is applied mechanically, determining the amounts owed to each interested party is a
20 relatively straightforward matter in most cases. With rising real estate values and the costs
21 associated with moving after the loss of their home, these funds can be significant.

22 4.7 A request for disbursement of Surplus Funds may be made at any time after the
23 trustee's sale, upon 20 days' notice, by a written motion and a hearing in the superior court for
24 the county in which the Surplus Funds were deposited. *See* RCW 61.24.080(3); RCW 61.12.150.

25 4.8 An attorney is not required for a consumer to claim his or her share of the Surplus
26 Funds. Instead, the consumer may make a *pro se* application to the court for the release of

1 Surplus Funds. The costs typically associated with a *pro se* application for release of Surplus
2 Funds are as follows: (a) a filing fee that ranges between \$20 and \$35, depending on the county;
3 and (b) the cost of mailing the motion pleadings to each party for service (between \$7.16 and
4 \$9.40 per party). If the movant requires documents from the court related to the motion or
5 trustee's sale, there may be additional costs associated with such copies. At current postage rates,
6 and assuming between 5-20 notice parties, the total costs associated with a *pro se* application for
7 the release of Surplus Funds are estimated at \$75 to \$225.

8 4.9 In the event a consumer wants or needs to retain counsel to seek the Surplus
9 Funds, reasonable hourly fees and costs for disbursement of Surplus Funds in a consumer
10 foreclosure would rarely exceed a few hours of work and the costs outlined herein. Moreover,
11 income-eligible consumers may qualify for free or "low-bono" assistance in obtaining Surplus
12 Funds through legal aid organizations, such as Northwest Justice Project.

13 4.10 Homes are not merely financial assets. They are the place where families grow
14 and make memories, a source of pride, an offer of safety and security, and a place to find
15 community. The loss of a home to foreclosure is a devastating event, occurring via an
16 unemotional legal process. Given the psychological trauma associated with foreclosure,
17 consumers who have recently lost their home to foreclosure are a vulnerable population, and are
18 easy prey for operators seeking to capture the consumers' home equity. Moreover, consumer
19 homeowners are often unfamiliar with and intimidated by the foreclosure and Surplus Funds
20 process, such that enterprising people and companies can take advantage of them.

21 4.11 The State of Washington has therefore taken a strong position on protecting
22 financially distressed homeowners' interest in equity built up in their homes. In response to a
23 rise in equity skimming and foreclosure scams, the Washington Legislature passed House Bill
24 2791 in 2008, providing safeguards for people trying to save their home from foreclosure and
25 requiring new disclosures and responsibilities for those claiming to help homeowners facing
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1 foreclosure.⁹ In 2010, the Washington legislature made it unlawful to receive or contract with a
2 former homeowner to locate surplus funds held by a county after a foreclosure for delinquent
3 property taxes, in excess of five percent of the value returned to the owner of such funds.¹⁰ The
4 public policy animating each of these statutes – that unscrupulous companies and individuals
5 should not be permitted to capture the home equity of financially distressed homeowners –
6 applies with equal force where companies seek to capture equity following a nonjudicial
7 foreclosure sale.

8 **B. REIN'S Solicitation of Consumers and Applications for Surplus Funds**

9 4.12 REIN, through its agents and/or representatives, solicits consumers in
10 Washington, including without limitation senior citizens, who recently lost their homes to
11 foreclosure to induce them to enter into an agreement for the purpose of recovering Surplus
12 Funds.

13 4.13 On information and belief, Defendants target consumers who may not have a full
14 understanding of the foreclosure process, including their right to sell the home during the
15 foreclosure process.

16 4.14 Several consumers targeted by Defendants may have been able to sell their home
17 on the real estate market, pay off their mortgage with the proceeds and receive the full benefit of
18 the equity in their homes, but either lacked the understanding that this was an option or the
19 financial means to do so.

20 4.15 On information and belief, Defendants perform research prior to approaching
21 foreclosed consumers and are in possession of information regarding the foreclosure sale and
22 anticipated Surplus Funds resulting from such sales at the time of the solicitation.

23 4.16 Defendants approach consumers within days, and in some cases hours, of the
24 foreclosure of their property and before the consumer(s) receive any statutory or legal notice that
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26 ⁹ RCW 61.24.020

¹⁰ RCW 63.29.350(1).

1 Surplus Funds are available and have been deposited with the appropriate court clerk. These
2 consumers are unlikely to be familiar with the procedure to recover Surplus Funds.

3 4.17 Consumers targeted by Defendants are under severe financial and emotional
4 distress, having not only lost their home to a foreclosure, but in many cases required to vacate
5 their home within 20 days of the foreclosure sale. This leaves them vulnerable to the high-
6 pressure tactics employed by Defendants.

7 4.18 On information and belief, Defendants also target consumers who, due to their
8 level of education, stress and/or trauma associated with the foreclosure, lack adequate financial
9 or legal knowledge, skills, and expertise to evaluate or appreciate the nature and consequences
10 of the agreement being offered to them by Defendants.

11 4.19 Defendants utilize a variety of aggressive tactics to solicit consumers, including,
12 but not limited to, initiating contact with consumer via an unsolicited phone call and/or by
13 appearing at a consumer's residence without invitation or notice, and continuing to make
14 unsolicited phone calls and/or appearances at consumer's residence, even when a consumer
15 declines Defendants' services.

16 4.20 In at least one instance, Defendant Stack approached a consumer's 9-year-old
17 daughter as she got off the school bus, told her that he might be able to help her father get some
18 money, and handed her a note to deliver to her father. The same consumer was later maneuvered
19 into a meeting with Defendant Stack and three other individuals who presented themselves as
20 representatives of REIN. Defendants then used the consumer's concern about the well-being of
21 his children to agree to give REIN rights to obtain all Surplus Funds in exchange for a smaller
22 upfront payment from REIN.

23 4.21 In another situation, Defendant Stack appeared at a consumer's residence
24 uninvited on multiple occasions, several of which occurred after the consumer declined their
25 offer and asked him to leave. During at least one visit, Defendant Stack and another
26 representative of REIN pressured the consumer to sign an agreement with REIN, threatening

1 that she would run out of time to recover her Surplus Funds and ultimately be “left in the street
2 and not have anywhere to live.”

3 4.22 Defendants have also targeted elderly consumers, including visiting a retirement
4 home to persuade a consumer to convey all rights to Surplus Funds in exchange for a paltry
5 upfront payment from REIN, without providing any information regarding the amount of Surplus
6 Funds available for disbursement.

7 4.23 Defendant Stack represented to consumers that he has been through the
8 foreclosure process and is uniquely situated to assist them in such a difficult time.

9 4.24 Between these consumers’ lack of understanding regarding the foreclosure and
10 Surplus Funds processes and vulnerable emotional and financial position, Defendants’ sales
11 tactics pressure consumers to enter into a transaction involving tens of thousands of dollars in
12 the matter of hours or, at most, days.

13 4.25 Defendants also engage in conduct intended to pressure consumers to enter into
14 an agreement with REIN on the spot and without any real consideration or review of the
15 paperwork presented to them. Such conduct includes, but is not limited to, presenting a check
16 for \$15,000 at an initial meeting in exchange for immediately signing an agreement with REIN,
17 bringing a notary public to a meeting before the consumer has discussed the terms of a possible
18 engagement with REIN, and creating a false impression that the consumer’s ability to recover
19 Surplus Funds may be in peril absent prompt and immediate action.

20 4.26 In at least one instance, Defendant Gastineau falsely represented to consumers
21 that if they did not enter into an agreement with REIN and execute a Bargain and Sale Deed
22 immediately after the judicial foreclosure sale of their deceased father’s real property, they may
23 lose the ability to claim Surplus Funds resulting from that sale because the government might
24 keep them.

25 4.27 In the course of their solicitation of consumers, Defendants make a number of
26 misrepresentations to consumers, including without limitation the following:

- 1 a. If the consumer does not act right away, the Surplus Funds could end up
2 being paid to another party or escheating to the State;
- 3 b. A consumer cannot apply for Surplus Funds without an attorney, or that it
4 would be nearly impossible for a consumer to do so;
- 5 c. The process for obtaining Surplus Funds is very time-consuming and
6 complicated;
- 7 d. It will take up to a year before the consumer will actually receive the Surplus
8 Funds;
- 9 e. The consumer may never have learned about the availability of Surplus
10 Funds without REIN's assistance; and
- 11 f. The consumer should accept a small lump sum payment from REIN since
12 they may never be able to obtain surplus funds at all.

13 4.28 Defendants use these and other misrepresentations to convince shell-shocked
14 former home-owning consumers to agree to a one-sided deal that provides consumers a short-
15 term interest in exchange for a disastrous long-term result.

16 4.29 Defendants consummate the deal by presenting consumers with written
17 documents that assign all of the consumer's right, title, and interest in the real property to REIN,
18 including without limitation the right to recover any excess proceeds resulting from the sale of
19 the real property at issue. Where a consumer agrees to retain REIN to recover Surplus Funds,
20 Defendants require the consumer to execute any or all of the following documents (collectively
21 or individually referred to as "Agreement Documents"): a Real Estate Investment Network, LLC
22 ("REIN") Contract ("REIN Agreement"), a Memorandum of Assignment ("Memorandum"),
23 and/or a Bargain and Sale Deed ("B&S Deed"). Attached hereto as **Exhibit A** and incorporated
24 by reference are samples of a REIN Agreement, Memorandum and B&S Deed.

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1 4.30 Among other things, the REIN Agreement typically states “Owner wishes to sell
2 Owner’s rights to the property to REIN, including the right to seek the recovery of surplus
3 funds.”

4 4.31 In the case of a B&S Deed, the consumer typically agrees to “bargain, sells and
5 convey to [REIN] the below described real estate, including but not limited to Grantor(s) rights
6 and interests under RCW 61.12.150.” In at least one instance, Defendant Gastineau
7 misrepresented to a consumer that by signing the B&S Deed containing this language, the
8 consumer was merely allowing REIN to contact the court to obtain information regarding the
9 amount of Surplus Funds available after all liens were paid.

10 4.32 The Memorandum references an underlying agreement to assign “all of Owner’s
11 right, title and interest in and to the Surplus Funds, if any ...” and authorizes REIN to record the
12 Memorandum “to impart constructive notice of the Owner’s assignment of the Owner’s rights
13 to Surplus Funds to REIN.”

14 4.33 In at least one instance, REIN recorded a Memorandum containing the above
15 language before obtaining that consumer’s agreement to assign any interest in Surplus Funds.
16 *See* Exhibit A (“Memorandum”). In that instance, the consumer was told by Defendant Stack
17 that the Memorandum was solely for the purpose of allowing REIN to contact the trustee to
18 obtain additional information regarding the amount of Surplus Funds available. However, the
19 recorded Memorandum contains no such language. *Id.*

20 4.34 At the time a consumer executes one or more of the Agreement Documents, the
21 foreclosure sale of the real property at issue has already occurred and, as a result, the consumer
22 no longer has any rights to the real property; at most, the consumer maintains a right to proceeds
23 from the sale of the real property at issue in the form of Surplus Funds.

24 4.35 In return for executing one or more of the Agreement Documents, the consumer
25 receives one, or a combination, of the following:
26

1 a. A lump sum payment from REIN, either by hand-delivery at the time of
2 signing or by a check delivered by an email from one of the Defendants shortly thereafter; or

3 b. A contingency fee percentage of the Surplus Funds collected by REIN.

4 4.36 In some instances, consumers may be provided with an up-front partial payment
5 via a check, to be followed by a portion of the Surplus Funds up to a certain percentage.

6 4.37 The REIN Agreement typically contains a clause permitting REIN to terminate
7 the terms of the agreement. However, it contains no corresponding language permitting the
8 consumer to terminate or rescind the REIN Agreement.

9 4.38 Where the consumer executes a Memorandum or a B&S Deed, REIN
10 immediately provides a notary public to notarize the consumer's signature. Thereafter, REIN
11 typically takes steps to record such document. Such recording has the effect, in part, of ensuring
12 REIN receives the statutorily required notice of any Surplus Funds deposited with the court.

13 4.39 On information and belief, Defendants often prevent consumers from viewing or
14 having all pages of documents executed by the consumer in connection with their assignment of
15 any right, title and interest in and to Surplus Funds to REIN.

16 4.40 In at least one instance, Defendants REIN, Stack, and Hemmingsen refused to
17 provide a consumer with a copy of the agreements she had purportedly executed, indicating that
18 they were "under review."

19 4.41 As noted above, Defendants provide a notary, either by bringing the notary to the
20 consumer's residence or meeting location, researching a nearby location or arranging for a
21 mobile notary to be on-call. This practice prevents consumers from having time to reconsider
22 entering into the REIN Agreement after indicating their willingness to do so. In each instance,
23 Defendants remit payment for such notary services.

24 4.42 In at least one instance, Defendant Stack drove a consumer to a UPS Store in his
25 car to obtain her notarized signature on a Memorandum, and then did not leave a copy of the
26 executed and notarized document with the consumer.

1 4.43 Defendants alleged “services” consist of nothing more than filing routine court
2 forms, providing notice to parties identified by the trustee and receiving a check from the Clerk
3 of the Court. On information and belief, REIN’s counsel utilizes form pleadings to obtain
4 disbursement of Surplus Funds. Such papers include the following (collectively, “REIN
5 Pleadings”): (a) Notice of Motion; (b) Motion for Order Disbursing Surplus Funds; (c)
6 Declaration in Support of the Motion for Order Disbursing Surplus Funds, (d) proposed Order
7 Disbursing Surplus Funds, and (e) Declaration of Mailing.

8 4.44 Declarations in support of REIN’s motion, signed by a Member of Defendant
9 REIN, Gregory Tousseing, characterize REIN as “successor in interest” to the consumer and
10 therefore “entitled to an order disbursing all surplus funds held ...” Attached hereto as **Exhibits**
11 **B** and **C** and incorporated by reference are copies of sample REIN Pleadings seeking
12 disbursement of Surplus Funds.

13 4.45 Defendants tell consumers that they will provide certain services to assist them
14 with obtaining Surplus Funds. However, the Agreement Documents, in effect, assign to REIN
15 all of the consumer’s right, title, and interest to such Surplus Funds in exchange for a lump sum
16 payment or future receipt of a percentage of the Surplus Funds. Accordingly, consumers believe
17 they are engaging REIN to perform a service for a fee, while in reality the consumers are
18 assigning all of their right, title and interest in Surplus Funds to REIN in exchange for a small
19 percentage of those funds.

20 4.46 Moreover, REIN’s “fee” for purported services are not standardized. Defendants
21 have charged consumers amounts which range from five percent (5%) to sixty-seven percent
22 (67%) of the Surplus Funds. As a result, REIN’s share of consumers’ Surplus Funds has ranged
23 from \$7,200 to \$90,061.23. This range represents only those consumers that the State has
24 identified as of the date below.

25 4.47 The following are examples of the amounts REIN would recover under existing
26 agreements with consumers, including the percentage of the consumer’s home equity captured:

- a. \$90,061.23 (67.18%) to REIN & \$44,000.00 to consumer;
- b. \$33,636.81 (63.90%) to REIN & \$19,000.00 to consumer;
- c. \$88,015.79 (62.42%) to REIN & \$53,000.00 to consumer;
- d. \$43,609.93 (61.33%) to REIN & \$27,500.00 to consumer;
- e. \$18,544.80 (40.00%) to REIN & \$27,817.20 to consumer.

4.48 As noted above, and contrary to Defendants' representations, Surplus Funds can be obtained without legal counsel and time is not of the essence. The process for obtaining surplus funds is also relatively uncomplicated and may be accomplished without hiring an attorney and only paying minimal filing, postage and fees.

**V. VIOLATION OF THE CONSUMER PROTECTION ACT, RCW 19.86.020
(UNCONSCIONABLE, UNFAIR AND DECEPTIVE ACTS)**

5.1 Plaintiff re-alleges Paragraphs 1.1 through 4.48 and incorporates them as if set fully herein.

5.2 Pursuant to RCW 19.86.020, "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

5.3 The Consumer Protection Act defines "trade" and "commerce" as including "the sale of assets or services, and any commerce directly or indirectly affecting the people of the state of Washington. RCW 19.86.010(2). The definition of "Assets" includes "any property, tangible or intangible, real or personal, or mixed ..." RCW 19.86.010(3).

5.4 In connection with their solicitation of consumers to obtain Surplus Funds, Defendants have engaged in the use of unconscionable, unfair and deceptive commercial practices, false promises, misrepresentations, and/or concealment, suppression or omission of material facts.

5.5 Defendants have engaged in unfair and deceptive commercial practices, including, but not limited to, the following:

- 1 a. Targeting financially distressed and emotionally vulnerable consumers with
2 offers of immediate funds in exchange for entering into agreements that are contrary to the
3 consumer's best interest;
- 4 b. Engaging in aggressive sales tactics, such as making frequent unsolicited
5 calls to consumers, appearing at consumers' homes without invitation or notice, and continuing to
6 do both even after a consumer declines Defendants' services and asks them to leave;
- 7 c. Approaching consumers' elderly or underage family members, including a
8 consumer's nine-year-old daughter, to persuade consumers to engage REIN's services;
- 9 d. Misrepresenting that the process to recover Surplus Funds is complicated
10 and lengthy;
- 11 e. Misrepresenting and/or misleading consumers to believe that the process to
12 recover surplus funds requires legal counsel;
- 13 f. Misrepresenting the cost of hiring a lawyer to assist with recovering Surplus
14 Funds;
- 15 g. Misrepresenting the actual value of REIN's services when the process for
16 recovering surplus funds is not complicated or lengthy, nor requires legal counsel;
- 17 h. Failing to disclose the actual charges incurred in connection with the filing
18 of REIN Pleadings on behalf of consumers, including the filing fees and hourly rate of the
19 attorney(s) retained by Defendants to submit such filings;
- 20 i. Failing to tell consumers that they had the option to file a *pro se* application
21 to recover Surplus Funds;
- 22 j. Misrepresenting and/or misleading consumers to believe that the window of
23 opportunity to recover Surplus Funds is very short and that Surplus Funds may no longer be
24 available if not recovered quickly;
- 25 k. Misrepresenting and/or misleading consumers to believe that they are
26 receiving funds faster by utilizing Defendants' services;

1 l. Misrepresenting to consumers who agree to an upfront payment that there
2 is no guarantee additional Surplus Funds are available or would otherwise be recovered;

3 m. Misrepresenting, or failing to disclose, the amount of Surplus Funds
4 available for disbursement;

5 n. Misrepresenting the contents and/or purpose of the documents they are
6 asking consumers to sign;

7 o. Intimidating consumers into signing the agreement with REIN by claiming
8 that consumers could become destitute if they do not sign the agreement;

9 p. Pressuring consumers to execute documents quickly and without providing
10 an opportunity to review their content;

11 q. Failing to provide consumers with copies of executed documents;

12 r. Failing to respond to consumer inquiries about their agreements;

13 s. Seeking or receiving more than five percent (5%) of the value of Surplus
14 Funds to be returned to consumer homeowners; and

15 t. Charging consumers vastly different "fees" (e.g., 8 percent, 15 percent, 20
16 percent, 50 percent, 60 percent, 70 percent) to file an application for release of Surplus Funds when
17 the same application process applies to all consumers.

18 5.6 Defendants prepared and entered into contracts with consumers that are both
19 procedurally and substantively unconscionable, including without limitation as follows:

20 a. Pressuring consumers to enter into agreements that do not convey adequate
21 consideration for the assignment of the Surplus Funds;

22 b. Recovering exorbitant amounts ranging from \$7,200.00 to \$90,061.23 as a
23 result of doing nothing more than making a straightforward application for release of Surplus Funds;
24 and

25 c. Providing services that are not commensurate to the benefit consumers who
26 enter into the REIN Agreement receive.

1 5.7 The acts or practices described herein occurred in trade or commerce, specifically
2 the sale of services to and transfer of property from Washington residents.

3 5.8 These practices affected the public interest because they impacted numerous
4 Washington consumers. These practices constituted a pattern of conduct that Defendants committed
5 in the course of business and for which there is a real and substantial potential for repetition.

6 5.9 Pursuant to RCW 63.29.350(1), it is unlawful for any person or entity “to seek or
7 receive ... any fee or compensation for locating or purporting to locate ... funds held by a county
8 that are proceeds from a foreclosure for delinquent property taxes, assessments, or other liens ... in
9 excess of five percent of the value thereof returned to such owner.” RCW 63.29.350(1).

10 5.10 Any violation of RCW 63.29.350 constitutes “an unfair and deceptive act in trade
11 or commerce, and an unfair method of competition”—a *per se* violation of RCW 19.86.020.

12 5.11 The conduct described in paragraph 5.5 and 5.6 constitutes unfair and deceptive acts
13 or practices in trade or commerce in violation of RCW 19.86.020 and is contrary to the public
14 interest.

15 5.12 Each violation of RCW 19.86.020 by Defendants constitutes a separate violation
16 under RCW 19.86.140.

17 VI. PRAYER FOR RELIEF

18 Wherefore, the State prays for the following relief:

19 6.1 That the Court adjudge and decree that Defendants have engaged in the conduct
20 complained herein.

21 6.2 That the Court adjudge and decree that the conduct complained of in this Complaint
22 constitutes unfair or deceptive acts or practices in violation of the Consumer Protection Act,
23 RCW 19.86.

24 6.3 That the Court issue a permanent injunction enjoining and restraining Defendants
25 and their representatives, successors, assigns, offices, agents, servants, employees, and all other
26

1 persons acting or claiming to act for, on behalf of, or in active concert or participation with
2 Defendants from continuing or engaging in the unlawful conduct complained of herein.

3 6.4 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to \$2,000
4 per violation against Defendants for each and every violation of RCW 19.86.020 alleged herein.

5 6.5 That the Plaintiff, State of Washington, recover from Defendants the costs of this
6 action, including reasonable attorney's fees, pursuant to RCW 19.86.080.

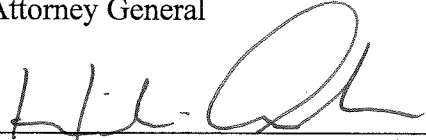
7 6.6 That the Court make such orders pursuant to RCW 19.86.080, as it deems
8 appropriate to provide for restitution to consumers of money or property acquired by Defendants as
9 a result of the conduct complained of herein.

10 6.7 That the Court order such other relief as it may deem just and proper to fully and
11 effectively dissipate the effects of the conduct complained of herein, or which may otherwise seem
12 proper to the Court.

13 DATED this 17th day of May, 2018.

14 Presented by:

15 ROBERT W. FERGUSON
16 Attorney General

17 
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