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COMMONWEALTH OF MASSACHUSETTS

Suffolk County

Superior Court
No. 2284CV02823-BLS2

Commonwealth of Massachusetts,

Plaintiff,

v.

MV Realty PBC, LLC, MV of
Massachusetts, LLC, MV Brokerage of
Massachusetts, LLC, MV Realty Holdings,
LLC, MV Realty Receivables 1, LLC, MV
Receivables II, LLC, MV Receivables III,
LLC, Antony Mitchell, and David
Manchester,

Defendants.

AMENDED COMPLAINT

INTRODUCTION

1. The Commonwealth of Massachusetts, by and through its Attorney General, Andrea Joy Campbell, brings this First Amended Complaint against defendants MV Realty PBC, LLC, MV of Massachusetts, LLC, MV Brokerage of Massachusetts, LLC, MV Realty Holdings, (collectively “MV”) MV Receivables I, LLC, MV Receivables II, LLC, MV Receivables III, LLC, (collectively “Receivables Entities”) as well as individual Defendants Antony Mitchell and David Manchester, for engaging in unfair or deceptive acts and practices in conjunction with consumer finance and residential real estate, for unlicensed practice of law, and for systemic violations of Massachusetts laws related to mortgages and consumer loans. The Commonwealth is seeking preliminary and permanent injunctive relief, restitution, penalties, costs, attorneys’ fees, and other appropriate relief pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, §§ 2 and 4.

2. While MV presents itself as a real estate brokerage, its primary business is marketing and selling to Massachusetts homeowners a product it deceptively calls a “Homeowner Benefit Agreement” (“HBA”). MV targets and aggressively markets the HBA to vulnerable consumers as a “loan alternative.” In substance, the HBA provides that MV will pay homeowners a cash advance, in a median amount of around \$1,150, in exchange for the homeowners’ agreement to use MV exclusively as their real estate broker if they sell their home. The HBA has a 40-year term. As presented to consumers, it entitles MV to a “commission” payment of at least ten times the advance when the homes are sold.

3. In reality, this tenfold repayment, dubbed an “early termination fee,” occurs on virtually any transfer during the 40-year term, whether or not MV provided any such real estate services. This includes transfers by operation of law such as by divorce or foreclosure. MV’s brokerage services come at a premium price, despite their serving as a “transaction facilitator,” who has fewer obligations than a traditional seller’s *agent*. The HBA is secured by a power of sale mortgage on the homeowner’s property, which permits non-judicial foreclosure in the event of a breach. Based on the terms of the HBA and MV’s business model, MV is a financial institution pedaling a usurious financial instrument while masquerading as a real estate brokerage firm.

4. In marketing and selling the HBA, MV takes extraordinary steps to conceal the true terms of the transaction from homeowners. This includes false and misleading advertising, false statements and misleading half-truths made by telemarketers, and a system for closing these transactions so efficient at concealing material terms of the HBA that most homeowners did not understand that MV recorded a mortgage encumbering their home.

JURISDICTION AND VENUE

5. The Attorney General is authorized to bring this action pursuant to G.L. c. 12, § 10 and G.L. c. 93A, § 4.

6. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 12, § 10 and G.L. c. 93A, § 4 and personal jurisdiction over Defendants pursuant to G.L. c. 223A, §§ 2 and 3.

7. Venue is proper to Suffolk County pursuant to G.L. c. 93A, § 4.

PARTIES

8. The Plaintiff is the Commonwealth of Massachusetts, represented by Attorney General Andrea Joy Campbell, who brings this action in the public interest.

9. Defendant MV of Massachusetts, LLC is a Massachusetts Limited Liability Company.

10. Defendant MV Realty PBC, LLC is a Florida limited liability company based in Boca Raton, Florida. Upon information and belief, MV of Massachusetts, LLC operates under the control and through the direct involvement of MV Realty PBC, LLC.

11. Defendant MV Realty Holdings, LLC is a Florida limited liability company with a principal place of business in Boca Raton, Florida. Upon information and belief, MV Realty PBC, LLC is a wholly-owned subsidiary of MV Realty Holdings, LLC.

12. Defendant MV Brokerage of Massachusetts, LLC is a Massachusetts Limited Liability Company. MV Brokerage of Massachusetts, LLC is a wholly-owned subsidiary of MV Brokerage, LLC, a Florida limited liability company that is also a wholly-owned subsidiary of MV Realty Holdings, LLC.

13. Defendant MV Realty Receivables 1, LLC is a Florida limited liability company with a principal place of business in Boca Raton, Florida, and is a wholly-owned subsidiary of MV Realty PBC, LLC.

14. Defendant MV Receivables II, LLC is Florida limited liability company with a principal place of business in Boca Raton, Florida, and is a wholly-owned subsidiary of MV Realty PBC, LLC.

15. Defendant MV Receivables III, LLC is a Florida limited liability company with a principal place of business in Boca Raton, Florida, and is a wholly-owned subsidiary of MV Realty Holdings, LLC.

16. Upon information and belief, the only MV entity that has any employees is MV Realty PBC, LLC. Defendants MV of Massachusetts, LLC, MV Brokerage of Massachusetts, LLC, MV Realty Holdings, LLC, MV Realty Receivables 1, MV Receivables II, LLC, and MV Receivables III, LLC have no unique employees and exist as separate entities primarily to effectuate certain financing structures used by MV.

17. Defendant Antony Mitchell is the CEO of MV Realty PBC and an officer of MV of Massachusetts, MV Realty PBC, MV Brokerage of Massachusetts, LLC, MV Realty Holdings, MV Realty Receivables 1, MV Receivables II, MV Receivables III. Mr. Mitchell also has an equity stake in MV and the Receivables Entities. Mr. Mitchell resides in Delray Beach, Florida.

18. Defendant David Manchester is the Chief Operating Officer of MV Realty PBC and an officer of MV of Massachusetts, MV Realty PBC, and MV Brokerage of Massachusetts, LLC. Mr. Manchester resides in Delray Beach, Florida.

FACTS

MV's Product

19. MV presents itself to consumers as “an innovative real estate firm” that offers borrowers a monetary “incentive” to utilize their services in the future through its “loyalty program.”

20. In reality, MV's primary business is marketing a product to Massachusetts homeowners that it calls a "Homeowner Benefit Agreement" ("HBA").

21. MV purports that the HBA is a contract whereby MV pays homeowners upfront and will act as homeowner's real estate brokerage should they decide to sell.

22. It is actually a financial instrument designed to virtually guarantee MV a tenfold return on its advance—and secured by a mortgage.

23. This product is marketed through keyword-based internet advertising and purchased telemarketing leads to consumers seeking, among other searches, small loans, pay day loans, and home equity loans.

24. MV hires licensed real estate salespeople to act as telemarketers and markets itself as a real estate brokerage even though it has sold very few homes in Massachusetts through these transactions.

25. Under the HBA, the homeowner must make a payment to MV not only upon a sale, but also upon other transfer of title to the property or certain other triggering events.

26. Regardless, the minimum payment amount is ten times (1000%) the initial amount of the cash paid to the homeowner.

27. The primary document homeowners are required to execute is the HBA Contract. A true and correct copy of a sample HBA MV uses is attached as **Exhibit A**.

28. While MV has slightly altered the language and formatting of the HBA over time, these changes are minimal and not material to the complaint.

29. The term of the HBA is forty (40) years.

30. The HBA is secured by a power of sale mortgage, which MV records in the Registries of Deeds.

31. Examples of these mortgages, which permit non-judicial foreclosure for any breach, are included in **Exhibit A**. These mortgages identify MV as the “lender” and the homeowner as the “borrower.”

32. These mortgages have limited and will continue to limit homeowners’ options to refinance loans, obtain home equity lines of credit, obtain a reverse mortgage, or engage in other common transactions secured by their homes.

33. A listing agreement that will govern the future listing of the home is incorporated by reference to a URL in the HBA Contract. A copy of this listing agreement is attached to this complaint as **Exhibit B**.

34. As consideration for this agreement, homeowners are paid upfront 0.3% of the current value of the home as calculated by an automated valuation model used by MV. These payments have a median value of around \$1,150. No homeowner has received more than \$3,200.

35. With narrow exceptions¹, upon transfer of title during the 40-year term of the HBA Contract, the homeowner must eventually pay MV 1,000% of the amount advanced.

36. This ten-fold repayment is styled as broker commission if the homeowner lists and sells their property with MV Realty. This “commission” is unusually high for at least three reasons:

- a. The 6% total commission is 1-2% higher than currently prevailing rates in Massachusetts;
- b. MV’s listing agreement includes a hidden \$500 “administrative fee,” which is not typically used in Massachusetts; and
- c. MV’s listing agreement includes a “floor” commission, which ensures MV its minimum 1,000% repayment even if the market declines.

¹ The narrow exceptions include certain estate-planning transfers or transfer on death if the transferee immediately assumes the agreement. Additionally, if MV fails to sell the property for six months, the homeowner has a short window in which to attempt to find a buyer on terms that are so onerous they are unlikely to ever occur. The specifics are described in Exhibit A.

37. For other transfers of the property or other triggers, the ten-fold repayment is styled as an “early-termination fee.”

38. Although MV falsely markets that it will act as an agent for the homeowner should they decide to sell, the HBA Contract specifies that MV or its assignee will only act as a “non-agent facilitator.”

39. A non-agent facilitator is a type of transaction broker that owes no duty of loyalty to the seller, has no obligation to seek the highest price the market will bear, and owes no duty of confidentiality to the seller.

40. In Massachusetts it is extremely rare for home sellers represented by a brokerage to use non-agent facilitators instead of seller’s agents because a seller’s agent is obligated to seek the best value possible for the seller.

41. The HBA Contracts include a forced arbitration clause that limits homeowners’ ability to seek the injunction of a foreclosure by MV, prohibits class or collective relief, and includes a “loser-pays” rule that creates a potentially ruinous financial burden for borrowers seeking to enforce the contract.

42. This arbitration clause, as written, effectively prohibits consumers from seeking injunctive relief from the Court to stop a non-judicial foreclosure prior to the complete resolution of a dispute. To the extent that such an injunction could be obtained from an arbiter, the timeline in the clause does not permit an arbiter to be agreed on prior to the minimum, pre-sale advertising process.

43. MV has executed over 500 HBA Contracts with Massachusetts homeowners.

44. Because MV may freely assign its rights under the HBA Contract over the course of the forty-year term, the entity or broker providing these high-cost, bare-bones transaction facilitator services may or may not be MV or the salesperson who initiated the transaction.

45. MV or its principals are assigning and collateralizing HBA Contracts and, upon information and belief, have or will create a secondary market for HBA Contracts or obligations securitized by HBA Contracts.

46. These contracts have been or will be transferred to commonly owned affiliates, MV Realty Receivables 1, LLC and MV Receivables II, LLC, and MV Receivables III, LLC as securitized investment vehicles for third-party companies.

MV's Aggressive and Deceptive Marketing

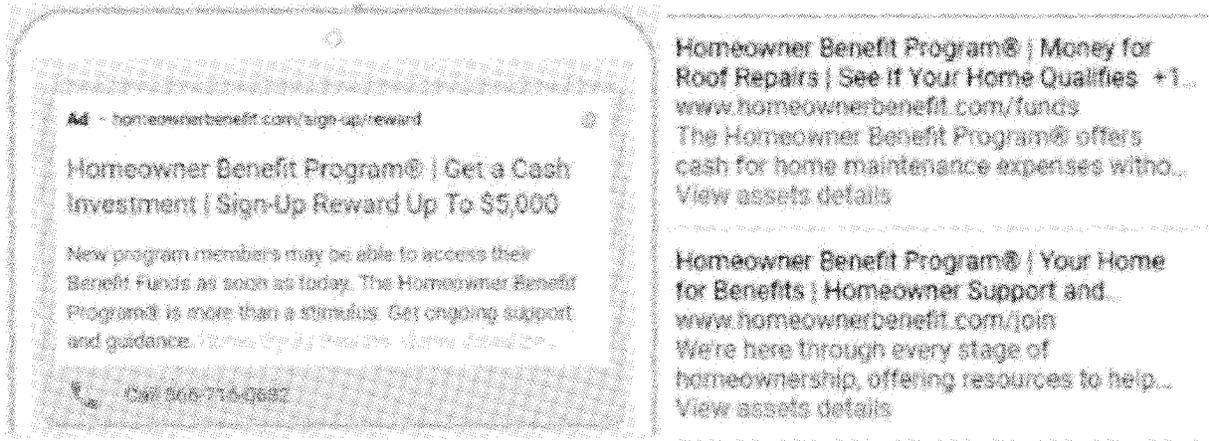
47. Given the extreme lopsidedness of the transaction described above, MV's business model relies on aggressively and deceptively marketing its HBAs to ensure that consumers are unable to meaningfully understand what they are signing. This deception begins at the initial point of interest and runs through at least the end of the post-signing rescission period.

48. MV disproportionately targets elderly and low-income homeowners.

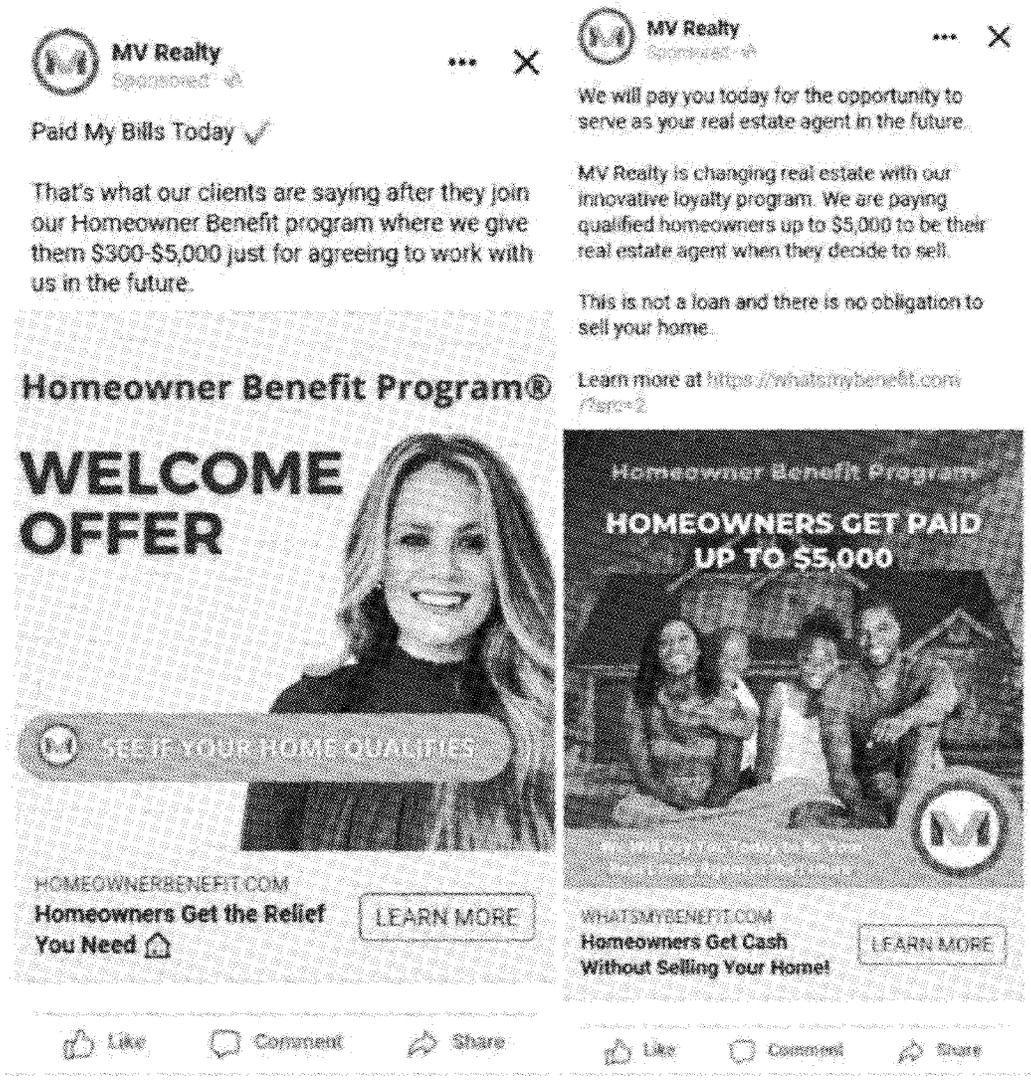
49. MV markets through paid search terms whereby borrowers conducting internet searches for certain items are presented with MV's advertising. These search terms include phrases targeting individuals searching for information on small loans or public benefits. Such search terms include:

- a. "Mortgage stimulus program,"
- b. "Wells Fargo air conditioning financing,"
- c. "Loan to fix up house," and
- d. "Roofing grants for seniors."

50. Homeowners searching for these and other terms are provided with targeted advertisements, which frequently imply that the HBA is a public program or merely a promotion offered to build name recognition and good will. For example:

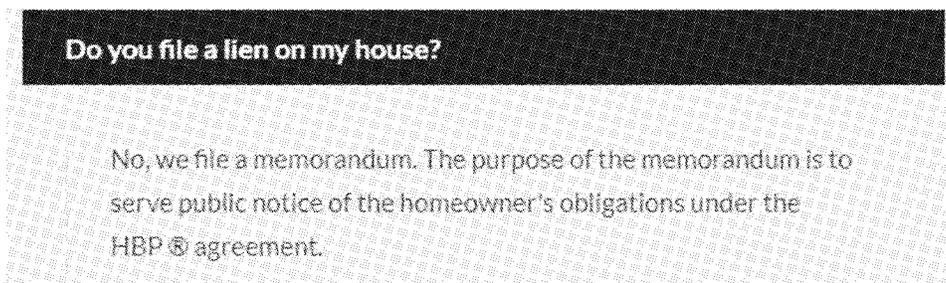


51. MV also markets on social media, including Facebook and Instagram. Examples suggest the HBA is merely a “loyalty program:”



52. These advertisements lead to websites maintained by MV which fail to disclose material terms of the HBA, reinforce consumer confusion about the nature of the program, and request homeowners provide contact information to “find out how much you qualify for today.”

53. Through at least August 1, 2022, these websites made no reference to a lien or mortgage. At the time this action was filed, MV's website explicitly and falsely stated that MV does not file liens on properties:



54. In addition to generating leads through its own advertising, MV purchases leads from other sources, including leads on homeowners who were looking for small loans or home equity loans.

55. Once MV obtains a lead, it aggressively markets its HBAs by barraging borrowers with phone calls, text messages and emails. Some examples include:

- a. MV uses a model that requires its salespeople to call borrowers a total of ten times to follow a lead;
- b. MV advises its salespeople that "60% of customers say 'no' FOUR (4) times before saying 'yes';" and
- c. While MV maintains an internal do not call list, customers must affirmatively request to be put on it. Upon information and belief, MV still calls consumers on its do not call list and does not honor other such lists.

56. In these conversations, MV pushes homeowners to agree to an in person signing with a contract notary who will meet the homeowner at their house or another off-site location.

57. MV or its agents take numerous steps at closing to ensure borrowers do not have a reasonable opportunity to read or understand the HBA Contracts. Examples of this conduct include:

- a. MV does not generally provide documents in advance to provide consumers time to read them,
- b. At closing, physical documents are printed in size 8-point type,
- c. MV's mobile notaries are uninformed about the details of the HBA,
- d. MV's mobile notaries frequently rush borrowers, and
- e. MV and its agents generally do not leave homeowners with copies of the documents they executed or otherwise provide copies until after the expiration of the three-day rescission period until after the expiration of that period.

58. Through this marketing process, MV fails to disclose, conceals, or misrepresents numerous material items related to the HBAs and its business practices in Massachusetts.

59. MV fails to disclose, conceals, or misrepresents the consideration the borrower must provide for the HBA. Examples of this conduct include, but are not limited to:

- a. MV's agents describe the money advanced under an HBA as "a promotion" or "free money."
- b. MV's agents are trained to tell borrowers that advancing money under an HBA is financially possible because "rather than investing our marketing funds towards radio ads, tv commercials and billboards, we've learned that it's best to invest in you—our future client!"
- c. MV asserts that there is "no repayment" obligation, and
- d. MV's advertisements and agents have created borrower confusion that MV's program is a public stimulus, benefit, or other program to provide relief to homeowners during the pandemic.

60. Through misstatements and misleading half-truths, MV conceals the duration of the HBA Contracts.

61. Through misstatements and misleading half-truths, MV conceals that the HBA is secured by a power of sale mortgage. Some examples of this conduct include:

- a. MV uses call scripts targeting homeowners who have sought mortgage refinancing that state, "We're not a mortgage company."

- b. To compound this deception or half-truth, MV omits any mention of a mortgage or security instrument on their website, in their call scripts, or in promotional materials;
- c. MV, as a policy, does not provide documents in advance of the closing unless borrowers are insistent,
- d. As a policy, MV requires its salespeople to be on the phone at the closing to “explain” the documents and or respond to borrower objections,
- e. These explanations include deceptions and half-truths to conceal the true nature of the transaction. If borrowers identify the mortgage, MV reads a script that states the Mortgage is merely a “public notice” and that “For some reason, Massachusetts requires us to call this a Mortgage,” and
- f. MV does not provide copies of these documents to consumers at the closing, even upon borrower request.

62. Through misstatements and misleading half-truths, MV conceals that the HBA will ensure that the homeowner can only use a non-agent facilitator to sell the property rather than a seller’s agent. Examples include but are not limited to:

- a. Repeated representations that homeowners will act as an “agent” and be “on their side,”
- b. Providing a blank copy of the mandatory real estate licensee-consumer relationship (agents, facilitators, etc.) disclosure to homeowners, with the type of relationship (facilitator v. agent) unchecked, and
- c. Stating the half-truth that MV will act as a “realtor” while omitting that MV’s services will not include the confidentiality or loyalty that is the industry standard in Massachusetts.

63. Through misstatements and misleading half-truths, MV conceals the HBA’s repayment terms. Some examples, among many, include:

- a. Internet ads state: “Homeowners can get \$500-\$5k CASH TODAY with MV Realty’s Homeowner Benefit Program. You don’t have to sell your home or pay us back. Submit your information and receive a call from a licensed real estate agent today. NO credit check required.”

- b. MV's promotional emails state, "The funds are yours regardless of your decision to sell or not in the future. Remember, because it's not a loan, there is NO repayment," and
- c. Other email promotions state, "you NEVER repay these funds."

64. Through misstatements and misleading half-truths, MV conceals that the "commission" and "early termination fee" in the HBA Contract are calculated on the higher of MV's estimation of the home price at either a) the time the contract is executed or b) the time of sale or termination.

65. When combined with MV's role as non-agent facilitator, this provision ensures that MV has no incentive to seek the highest price the market will bear in the event of a declining market.

66. Through misstatements and misleading half-truths, MV conceals the existence and the amount of the "early termination fee." Examples of this conduct include:

- a. MV's website and marketing materials generally omit this fee entirely, while asserting that the HBA advance does not need to be repaid,
- b. MV omits the fee from marketing materials or refers to the fee as a "3% penalty" without disclosing that this is 3% of the value of the home rather than 3% of the money MV advanced to the borrowers, and
- c. MV's agents have made assertions such as, "we're not going to come after you for anything."

67. Through misstatements and misleading half-truths, MV conceals which actions or events constitute "early termination events" that trigger immediate, ten-fold repayment of the HBA advance. Some examples of this include:

- a. Salespeople making false representations to the effect of "the contract dies with you."
- b. MV's sales script falsely informs borrowers that if MV is "unable to successfully sell the home within 6 months" the homeowner may

“sell their home on their own, or with another brokerage” while under the HBA Contract, retaining another brokerage triggers an early termination event, and

- c. While MV markets its materials to homeowners in financial distress, it does not disclose that losing the home to foreclosure is often an early termination event.

68. Through misstatements and misleading half-truths, MV conceals that its rights under the HBA Contracts are freely assignable. Some examples of misleading statements include:

- a. MV’s marketers make assertions to the effect of “I will work with you in the future,”
- b. Marketing videos state that MV wants to build “relationships, not transactions,” and
- c. Call scripts say “All you need to do is to use me as your Realtor next time you decide you need one.”

69. The misstatements and omissions described above are material, have a tendency to deceive homeowners, and are relied upon by homeowners who have executed HBAs.

70. Through this marketing approach, MV fails to disclose, conceals, or misrepresents that its brokers and salespeople have sold few properties in Massachusetts through its HBA Contracts. MV’s robust requirements related to outbound calls leave insufficient time remaining for salespeople to also sell properties.

71. MV’s salespeople receive only cursory and often inaccurate training related to the true terms of the HBAs.

72. MV actively incentivizes its salespeople to persuade borrowers to sign HBA Contracts and Mortgages and includes few if any safeguards to ensure salespeople provide accurate information. Illustrative examples include but are not limited to:

- a. Salespeople are compensated primarily or exclusively through commissions on HBA Contracts,

- b. Potentially lucrative weekend work is reserved for salespeople who make 30-60 daily outbound calls, schedule at least 2 closings a week, and maintain a signing ratio of 60% or higher, and
- c. To the extent that MV has consumer protection policies, they do not include training salespeople on consumer protection law or monitoring salespeople to avoid consumer protection violations.

MV's Improper Mortgages

73. MV's mortgages are not prepared by an attorney licensed to practice in Massachusetts. This has led to repeated and preventable errors, including misidentifying the mortgagee in 170 mortgages as "MV Realty of Massachusetts, LLC," a non-existent company.

74. MV's unconventional mortgage practices create clouds and uncertainty in the title system, including but not limited to, recording mortgages that do not state an amount or maturity date, recording mortgages without legal descriptions of the property, and recording mortgage discharges that are not executed by one of the officers listed in G.L. c. 183, § 54B.

75. MV's mortgage closings happen without substantive involvement by an attorney. This has led to actual harm to borrowers including but not limited to:

- a. Misrepresentations being made to homeowners at closings,
- b. Borrowers executing mortgages without knowing that they have executed mortgages, and
- c. Avoidable failures to ensure that funds are disbursed prior to the recording of a mortgage.

76. These mortgages have prevented homeowners from refinancing mortgages, obtaining home equity lines of credit, or obtaining reverse mortgages. These barriers occur both through the existence of a superior lien rendering homeowners ineligible for such products and because confusion related to the lien delays or otherwise interferes with conventional mortgage closings.

77. MV or its agents record mortgages and attempt to enforce HBA Contracts even where borrowers never received the promised money from the HBA.

MV's Real Estate Capabilities

78. Where borrowers reach out to the brokers who facilitated the transaction for assistance to sell their home, MV routinely fails to provide meaningful assistance in selling the homes. Examples include:

- a. Failing to return calls,
- b. Declining to hold open houses, and
- c. Declining to even place "for sale" signs in the yard.

79. While MV trains its brokers and salespeople in marketing HBAs, it provides little if any assistance or supervision to brokers or salespeople seeking to actually sell houses.

80. Through these deceptive practices, failures to provide mandatory notices, and securing a mortgage on a prospective client's property, MV violates ethical requirements of the real estate profession.

MV's Business Model

81. MV intends to rapidly expand and encumber as high a percentage of Massachusetts real property as possible before other brokerages, regulators, or courts have an opportunity to meaningfully respond.

82. The terms of the HBA are unconscionable and abusive, leading homeowners to put their homes at risk and encumber their most valuable asset in exchange for payments averaging a mere \$1,150.

83. Although the HBAs contractually require repayment in virtually all circumstances, are marketed to consumers seeking loans, and are secured by mortgages on consumer's homes in

which MV identifies itself as a “lender,” MV typically maintains that its product is “not a loan.” MV does not comply with the Commonwealth’s lending laws, including its criminal usury statute.

84. MV describes the circumstances where a consumer is obligated to either pay an early termination fee or a “commission” as the “harvest” of an HBA.

85. Prior to the filing of this case, MV had harvested fifteen HBAs in Massachusetts—eleven through the payment of an early termination fee and four through payment of a commission.

86. All of the homes sold for less than the estimated price listed in the HBA, entitling MV to a commission in excess of 3%.

87. Despite its assertions to the contrary, MV is a lender masquerading as a brokerage firm.

MV’S FUNDING AND ORGANIZATION

88. Upon information and belief, MV Realty PBC, LLC is the only corporate entity of all of the MV or Receivables Entities with any employees. The entities collectively use the trade name “MV Realty” in communications with both the public and potential lenders or investors. While the entities act as a single company, there are numerous LLCs, for reasons that include MV’s funding structure.

89. MV Realty Receivables 1, LLC and MV Realty PBC, LLC are parties to a February 11, 2020, credit agreement with Goodwood Inc., a mutual fund trust organized under the laws of the Province of Ontario, Canada. Pursuant to this agreement, Goodwood Inc., or entities closely related to it, would advance up to \$10 million to MV Realty Receivables 1, LLC to purchase HBAs from MV Realty PBC, LLC. Goodwood Inc. then took a security interest in MV Realty Receivables 1, LLC as collateral for this advance.

90. MV Receivables II, LLC, MV Realty PBC, LLC, MV Realty Holdings, LLC, and MV of Massachusetts, LLC are parties to a July 28, 2021, credit agreement with entities related to

Monroe Capital, LLC, a private equity firm headquartered in Chicago. Pursuant to this agreement, Monroe Capital, LLC, or entities closely related to it, would advance up to \$40 million to MV Receivables II, LLC to purchase HBAs from MV Realty PBC, LLC. The Monroe Entities took a security interest in MV Receivables II, MV of Massachusetts, LLC, and MV Realty PBC, LLC as part of the collateral for this draw.

91. In anticipation of a third major round of funding, MV set up MV Receivables III, LLC and parallel subsidiaries in the states in which it operates, including MV Brokerage of Massachusetts, LLC. These entities ultimately became owned by MV Realty Holdings, LLC. In this plan, MV Brokerage of Massachusetts, LLC would fill the same role as MV of Massachusetts, LLC for HBAs originated under or pledged to this new facility.

92. After negotiations with a third funder fell through, MV Receivables III, LLC entered into a smaller credit agreement with Goodwood on November 4, 2022, through which, upon information and belief, Goodwood would fund MV Receivables III, LLC to purchase HBAs from MV Realty Holdings or one of its subsidiaries.

93. Each of these credit agreements includes requirements for the HBAs eligible for that credit facility. Upon information and belief, certain HBAs that do not comply with these requirements or were not pledged to a facility are owned by MV Realty PBC, LLC, MV Realty Holdings, LLC, or one of its subsidiaries.

94. In sum, it is a primary business of MV Realty PBC, LLC, MV Realty Holdings, LLC, MV of Massachusetts, LLC, and MV Brokerage of Massachusetts, LLC to market HBAs to consumers. Because these entities are thoroughly intertwined, do not have separate employees, and all use the name "MV Realty," the actions or omissions in Massachusetts of one entity related to the promotion, origination, servicing, or enforcement of HBAs are the acts or omissions of all.

95. The Receivables Entities' sole purpose is to purchase, hold, and harvest HBAs pursuant to their respective credit agreements. Because they are thoroughly intertwined with the other MV entities and do not have separate employees, the actions of MV related to purchasing an HBA, holding an HBA, and servicing or enforcing an HBA are also the actions of the Receivable entity to which that HBA is pledged. Even if the actions were distinguishable, these actions are taken by MV servicing the HBA on behalf of, at the direction of, and for the benefit of the Receivable entity.

**INDIVIDUAL DEFENDANT ANTONY MITCHELL'S
INVOLVEMENT IN MV REALTY'S MISCONDUCT**

96. In or around 2017, and prior to Defendant Mitchell's involvement with MV, Mitchell and others began designing the business model that eventually became MV's HBA program.

97. Defendant Mitchell was directly involved in every aspect from conception of the business model through bringing the product to market.

98. While Defendant MV Realty PBC, LLC, was founded in 2014, it operated as a traditional real estate brokerage until Defendant Mitchell joined the organization as CEO in 2018. At that point it rapidly shifted to primarily marketing HBAs.

99. Defendant Mitchell was involved in the creation of the policies and procedures of MV Realty PBC, LLC.

100. The HBAs were drafted under the direction of Defendant Mitchell.

101. MV's marketing efforts were approved by Defendant Mitchell.

102. Defendant Mitchell was also directly involved in the creation and implementation of numerous deceptive characterizations by MV about the HBA program.

103. Some of these deceptive characterizations, including the characterization of the mortgage as merely a public notice, was specifically used to train Massachusetts agents on how to describe the product to Massachusetts consumers.

104. Defendant Mitchell personally signed off on advertising campaigns conducted by MV.

105. Defendant Mitchell had the final sign-off on training materials used by MV following Mr. Mitchell's consultations with Defendant Manchester. These materials were used to train Massachusetts-based salespeople to make deceptive statements to Massachusetts consumers about the HBAs.

106. Defendant Mitchell has asserted that he personally reviewed every consumer complaint that MV received, including complaints received from Massachusetts consumers. Defendant Mitchell was directly involved in coordinating MV's response to these complaints. In reviewing these complaints, Defendant Mitchell had actual and specific knowledge about the allegations of unfair or deceptive conduct by MV, including such conduct in Massachusetts, and failed to take appropriate action to stop it.

**INDIVIDUAL DEFENDANT DAVID MANCHESTER'S
INVOLVEMENT IN MV REALTY'S MISCONDUCT**

107. Defendant Manchester was at all relevant times responsible for MV's marketing, underwriting and compliance, and recruiting and training efforts.

108. Defendant Manchester was also extensively involved in MV's advertising, including internet-based keyword and social media advertising and lead purchases. Defendant Manchester was aware of and had control over MV's advertising, subject to Defendant Mitchell's approval.

109. Defendant Manchester purchased or directly supervised the purchase of leads from third parties of Massachusetts homeowners for the purpose of allowing MV salespeople to directly call them and market HBAs to them.

110. Defendant Manchester was instrumental in employee training, including the training of individuals who were hired specifically to sell HBAs in Massachusetts and were trained to make deceptive statements to consumers in Massachusetts.

111. Defendant Manchester drafted or assisted in the drafting of deceptive and misleading scripts for use by MV employees in speaking to consumers, including Massachusetts consumers.

112. Defendant Manchester was also charged with reviewing consumer complaints and had actual knowledge of unfair or deceptive conduct occurring in Massachusetts. Defendant Manchester failed to take necessary action to stop this conduct.

113. Defendant Manchester was involved in the collection of early termination fees, including by signing false and deceptive mortgage documents that were recorded in Massachusetts' registries of deeds.

COUNT I

VIOLATIONS OF G.L. c. 93A: MISREPRESENTATIONS, HALF-TRUTHS, AND UNFAIR OMISSIONS IN MARKETING AND ORIGINATION OF HBAS (ALL DEFENDANTS)

114. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

115. The misleading half-truths and misrepresentations related to the Defendants' HBA constitute deceptive acts and trade practices in violation of G.L. c. 93A, § 2 and 940 CMR 3.16(2), which states that it is a violation of G.L. c. 93A, § 2 for "[a]ny person or other legal entity subject

to this act [to] fail[] to disclose to a buyer or prospective buyer any fact, the disclosure of which may have influenced the buyer or prospective buyer not to enter into the transaction.”

116. The Defendants’ practices in marketing and obtaining so-called Homeowner Benefits, including concealment, high-pressure tactics, and targeting vulnerable homeowners constitute unfair acts and trade practices in violation of G.L. c. 93A, § 2 and 940 CMR 3.16(2).

117. The Defendants’ advertising violates 940 CMR 3.05, which states:

No claim or representation shall be made by any means concerning a product which directly, or by implication, or by failure to adequately disclose additional relevant information, has the capacity or tendency or effect of deceiving buyers or prospective buyers in any material respect.

118. The foregoing practices occurred in the course of trade or business.

119. The foregoing practices, both individually and when considered in aggregate, constitute violations of G.L. c. 93A, § 2.

120. Each instance of deceptive marketing and promotion constitutes a separate violation subject to a separate civil penalty.

121. Antony Mitchell and David Manchester directly participated in this conduct.

122. These actions were directly taken by MV and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

123. In the alternative, these actions were taken by the MV entities on behalf of, under the control of and for the benefit of the Receivables entities.

COUNT II

VIOLATIONS OF G.L. C. 93A: UNCONSCIONABILITY (ALL DEFENDANTS)

124. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

125. The HBA, as implemented and marketed by Defendants, is substantively and procedurally unconscionable in violation of G.L. c. 93A, § 2 and 940 CMR 3.16(1).

126. Aspects of the HBA that, considered collectively, cause this unconscionability include but are not limited to:

- a. The HBA includes numerous “early termination events” beyond the homeowner’s control such as transfers due to death, divorce, tax-taking, or foreclosure;
- b. The HBA includes an “early termination fee” with a floor of ten times the amount advanced. This “early termination fee” is an illegal penalty rather than a permissible liquidated damages clause because it allows MV to collect the full measure it would have collected as a commission by sitting back and doing nothing rather than spending resources or expertise in attempting to sell a home;
- c. The HBA charges a high-cost commission for non-agent services;
- d. The HBA has a commission floor but no commission ceiling;
- e. The HBA has a 40-year term; and
- f. The HBA is secured by a mortgage, which permits non-judicial foreclosure.

127. The HBA is unfair and unconscionable in a consumer context, regardless of the manner in which it is marketed.

128. Each HBA constitutes a separate violation subject to a separate civil penalty.

129. Antony Mitchell and David Manchester directly participated in this conduct.

130. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

131. In the alternative, these actions were taken by the MV entities on behalf of, under the control of and for the benefit of the Receivables entities.

COUNT III

**VIOLATIONS OF G.L. c. 93A: MISREPRESENTATION THAT HBA IS “NOT A LOAN”
(ALL DEFENDANTS)**

132. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

133. The HBA transaction consists of an advance made to a homeowner in exchange for the HBA proceeds when the property is transferred. The transactions are secured by mortgages. The mortgages at issue identify MV of Massachusetts, LLC as a “lender” and the homeowner as a “borrower.”

134. This is a loan.

135. Ten-fold repayment of the HBA advance occurs when MV receives either its commission or its “Early Termination Fee.”

136. While the HBA has a variety of terms, features, and exceptions, these characteristics are not broad or substantial enough to alter the fundamental nature of the HBA transaction as a loan.

137. In promoting its loan product as “not a loan,” as a mere promotion for future business, or otherwise as something other than it truly is, Defendants have committed unfair and deceptive acts or trade practices in violation of G.L. c. 93A, § 2.

138. Defendants’ advertising through phrases like “no credit check” violates G.L. c. 3.07, which regards advertising or offers to sell on an “easy credit” basis where, among other factors, the true cost of the loan exceeds the average cost charged by other sellers in the same market.

139. Each such loan violates numerous state lending laws intended to protect consumers and the public, including but not limited to G.L. c. 271, § 49, G.L. c. 140, § 96, and G.L. c. 183, § 67.

140. Each HBA constitutes a separate violation subject to a separate civil penalty.

141. Antony Mitchell and David Manchester directly participated in this conduct.

142. These actions were directly taken by the MV entities, whose identities are sufficiently intertwined that the act of one cannot meaningfully be separated from the act of another.

143. Antony Mitchell and David Manchester directly participated in this conduct.

144. These actions were directly taken by the MV entities and the Receivables entities, whose identities are sufficiently intertwined that the act of one cannot meaningfully be separated from the act of another.

145. In the alternative, these actions were taken by the MV entities on behalf of, under the control of and for the benefit of the Receivables entities.

COUNT IV

VIOLATIONS OF G.L. C. 93A: UNLICENSED PRACTICE OF LAW (MV AND RECEIVABLES ENTITIES)

146. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

147. In preparing mortgage documents to be recorded on behalf of itself or other entities, MV is engaged in the practice of law.

148. In conducting or arranging the closings of mortgages on consumer residential property, MV is engaged in the practice of law.

149. MV or its employees or contractors conducting these actions are not licensed to practice law in Massachusetts.

150. By systemically engaging in the unlicensed practice of law, MV has engaged in unfair or deceptive acts or trade practices in violation of G.L. c. 93A, § 2.

151. The drafting and closing of each mortgage constitutes a separate violation subject to a separate civil penalty.

152. Pursuant to G.L. c. 231, § 1, this Court may enter a declaratory judgment that MV is engaged in the unlicensed practice of law and enjoin the Plaintiff from preparing and closing consumer mortgages without the substantive involvement of an attorney licensed to practice in Massachusetts.

153. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

154. In the alternative, these actions were taken by the MV entities on behalf of, under the control of and for the benefit of the Receivables entities.

COUNT V

**VIOLATIONS OF G.L. c. 93, § 48
(ALL DEFENDANTS)**

155. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

156. The HBA is an agreement providing for the sale or lease of goods, or the rendering of services, or both, primarily for personal, family or household purposes in excess of twenty-five dollars in value.

157. The HBAs are consummated at a place other than the address of the seller or lessor.

158. The HBAs omit language required by G.L. c. 93, § 48 for such transactions.

159. The HBAs do not comply with the type-size requirements of G.L. c. 93, § 48.

160. MV did not provide a compliant Notice of Cancellation with the HBAs.

161. The three-calendar-day rescission period in the HBAs is shorter than the three-business-day requirement of G.L. c. 93, § 48.

162. The HBAs and MV's marketing of them otherwise do not comply with G.L. c. 93, § 48.

163. These violations of G.L. c. 93, § 48 are also violations of G.L. c. 93A, § 2.

164. Antony Mitchell and David Manchester directly participated in this conduct.

165. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

166. In the alternative, these actions were taken by the MV entities on behalf of, under the control of and for the benefit of the Receivables entities.

COUNT VI

DECLARATORY AND INJUNCTIVE RELIEF: USURIOUS TRANSACTIONS VOIDABLE AND UNENFORCEABLE UNDER G.L. C. 271, § 49 (MV, RECEIVABLES ENTITIES)

167. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

168. In entering HBA transactions, MV knowingly contracts for, charges, takes, or receives interest and expenses the aggregate of which exceeds an amount greater than twenty per centum per annum upon the sum loaned. The transactions are secured by mortgages. The mortgages at issue identify MV as a "lender" and the homeowner as a "borrower."

169. Upon information and belief, in all but the rarest circumstances, the effective and anticipated interest rate of the loan remains in excess of 20% per annum even were MV to deduct any costs directly connected with the sale of a home, including sale-related compensation to a contracting salesperson.

170. The contingencies in the HBA whereby repayment of the HBA Advance would not be guaranteed are remote and unlikely to happen.

171. Furthermore, the HBA is designed to secure a profit in excess of the usury cap.

172. MV has not notified the Attorney General of its intent to engage in a transaction or transactions that would be proscribed under the Commonwealth's criminal usury statute.

173. Pursuant to G.L. c. 231, § 1, this Court may declare each and every such loan usurious and in violation of G.L. c. 271, § 49(a) and enjoin the Defendant from seeking to collect or enforce such loans.

174. Pursuant to G.L. c. 271, § 49(c) and G.L. c. 93A, § 4 this Court may declare each and every such loan void or voidable in equity.

175. Antony Mitchell and David Manchester directly participated in this conduct.

176. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

177. In the alternative, these actions were taken by the MV entities on behalf of, under the control of, for the benefit of, and as a servicing agent for the Receivables entities, and a declaratory judgment may enter against the Receivables entities as an assignee.

COUNT VII

**DECLARATORY AND INJUNCTIVE RELIEF: VIOLATIONS OF SMALL LOAN LAW
(MV, RECEIVABLES ENTITIES)**

178. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

179. MV's "Homeowner Benefits" are loans of six thousand dollars or less.

180. The transactions are secured by mortgages. The mortgages at issue identify MV as a "lender" and the homeowner as a "borrower."

181. MV is engaged directly or indirectly in the business of making such loans.

182. The effective interest rate on these loans at the time of repayment is in excess of 12% per annum upon the sum loaned.

183. MV is not licensed as a small loan business under G.L. c. 140, § 96.

184. Pursuant to G.L. c. 231, § 1, this Court may enter a declaratory judgment that MV is operating an unlicensed small loan business and may enjoin further operation until such time as MV demonstrates to the Court that it has obtained the necessary licensure and is prepared to comply with applicable Massachusetts lending laws.

185. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

186. In the alternative, these actions were taken by the MV entities on behalf of, under the control of, for the benefit of, and as a servicing agent for the Receivables entities, and a declaratory judgment may enter against the Receivables entities as an assignee.

COUNT VIII

**DECLARATORY AND INJUNCTIVE RELIEF: VIOLATIONS OF
MASSACHUSETTS GOOD FUNDS STATUTE, G.L. C. 183, § 63B AND 940 CMR 3.16(3)
(MV, RECEIVABLES ENTITIES)**

187. The Commonwealth incorporates the allegations set forth in the preceding paragraphs by reference.

188. On one or more occasions, MV recorded mortgages on consumers property prior to ensuring the proceeds of the mortgage had been paid to the consumer in the manner proscribed by G.L. c. 183, § 63B.

189. This includes recording and maintaining mortgages in which MV's internal records acknowledged that the transaction had been rescinded.

190. The Court has the equitable power to order the rescission or discharge of any such mortgages.

191. These actions were directly taken by the MV entities and the Receivables entities, whose identities are so intertwined that the act of one cannot meaningfully be separated from the act of another.

192. In the alternative, these actions were taken by the MV entities on behalf of, under the control of, for the benefit of, and as a servicing agent for the Receivables entities, and a declaratory judgment may enter against the Receivables entities as an assignee.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth requests the Court grant the following relief after trial on the merits and pursuant to G.L. c. 93A, § 4:

- a. Issue a Permanent Injunction extending and incorporating the relevant terms of the requested preliminary injunction;

- b. Enter such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of unfair or deceptive acts or trade practices;
- c. Order Defendants to pay the Commonwealth a civil penalty of five thousand dollars for each violation of G.L. c. 93A, § 2 as well as the reasonable costs of investigation and litigation of such violation, including reasonable attorneys' fees;
- d. Order Defendants to pay consumers in the amount of their actual costs and damages; and
- e. Grant any and all other relief deemed equitable and just by the Court.

Dated: May 13, 2024

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

By: /s/ Daniel Bahls

Eric P. Carnevale (BBO #677210)

Alda Chan (BBO #705204)

Yael Shavit (BBO #695333)

Assistant Attorneys General

Consumer Protection Division

One Ashburton Place

Boston, MA 02108

Tel: 617-963-2937

Email: eric.carnevale@mass.gov

alda.chan@mass.gov

yael.shavit@mass.gov

Daniel Bahls (BBO #601060)

Assistant Attorney General

Consumer Protection Division

1411 Main Street, Suite 1200

Springfield, MA 01103

Tel: 413-523-7787

Email: daniel.bahls@mass.gov