

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Defendants are engaged in a widespread foreclosure rescue scam by which they acquire
4 grant deeds to homes in foreclosure based on untrue or misleading statements that their “land
5 grant program” will prevent homeowners from losing possession of their homes through
6 foreclosure.

7 Defendants tell homeowners that having a “land grant”^{1/} gives them title to their property
8 that is superior to any claim their lender may assert against it. Defendants further state that even
9 if a homeowner is evicted as a result of foreclosure he or she still retains legal possession of the
10 property, and therefore, after the statute of limitations period for collection of their mortgage
11 expires, the homeowner can take possession of his property free and clear of any debt.
12 Defendants charge homeowners a fee ranging from \$1,000 to \$10,000 for placing their property
13 in a so-called “land grant.” They also require homeowners to sign a grant deed transferring title
14 to their property to Defendants purportedly for the purpose of facilitating the land grant process.
15 Defendants target non-English speaking Hispanic homeowners who are particularly vulnerable
16 their sales pitch.

17 There is nothing legitimate about these transactions. There is no legally cognizable
18 mechanism in the United States for private individuals to transfer property to a land grant. In
19 other words, the purported land grants offered by Defendants *do not exist*. Homeowners are paid
20 no consideration for transferring their grant deed to Defendants and are given no documentation,
21 such as a purchase option, to protect their right to claim an interest in their property after it has
22 been conveyed to Defendants. Money paid by the homeowners to participate in this fraudulent
23 program forces the homeowner into a worse financial position because they no longer have use
24 of these funds for a legitimate purpose that might help them.

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27 1. The terms “land grant” and “land patent” are used interchangeably by Defendants to refer
28 to the process and documentation they use for allegedly conveying a piece of property “back to the
federal government.”

1 Defendants have violated, and are continuing to violate, Business and Professions Code
2 section 17200 (prohibiting unfair business practices) and 17500 (prohibiting false advertising) as
3 well as Civil Code section 2945 et seq. (the mortgage foreclosure consultant laws) and 1695 et
4 seq. (the equity purchaser laws). Accordingly, the People request that this Court immediately
5 enjoin Defendants from continuing to engage in these unlawful activities.

6 **II. STATEMENT OF FACTS**

7 **A. Summary of Defendants' Scheme**

8 Defendants have used two methods for inducing owners of residences in foreclosure to
9 participate in their land grant program. One method requires that homeowners pay a one time
10 fee of up to \$10,000 to put their property in a land grant. The second method is a lease back
11 scheme in which homeowners transfer their grant deeds to Defendants for no consideration and
12 then make monthly payments to Defendants purportedly for rent. In both scenarios,
13 notwithstanding the claims made by Defendants, the homeowner is typically evicted from their
14 property at the completion of foreclosure proceedings and retain no legally recognized title to
15 their property.

16 Defendants have perpetrated their scam on numerous victims throughout the State. The
17 following are detailed examples of how Defendants' scheme operates.

18 **1. One Time Fee Scheme**

19 **a. Anthony Gordon (Homeowner)**

20 In early 2007, Anthony Gordon (Gordon) experienced financial difficulties, stopped
21 paying the mortgage on his home in Moreno Valley, California and listed it for sale. (Gordon
22 Dec., ¶ 3; See, Declaration of Anthony Gordon attached hereto and incorporated herein as
23 though set forth in full.) On March 27, 2007, a Notice of Default was filed on Gordon's home.
24 (Gordon Dec., ¶ 7.) A friend told Gordon that Bill [William] Hutchings (Hutchings) offered a
25 federal land grant program that he claimed stops foreclosure. (Gordon Dec., ¶ 4.) Gordon met
26 with Hutchings who explained that his company, Federal Land Grant Company (FLG), could put
27 Gordon's property in a land grant that would prevent Gordon's lender from being able to seize his
28 property. Hutchings said that Gordon would be the trustee of his property and could not be

1 forced to leave it for any reason. Hutchings assured Gordon that land patents were part of the
2 Constitution and would stand up forever. He also told Gordon there was no reason to make
3 mortgage payments once he had a land patent. Hutchings said his program cost \$10,000 and
4 required that Gordon sign a contract. (Gordon Dec., ¶ 5.) Gordon took his home off the market,
5 signed a contract with FLG, and paid Hutchings \$10,000. (Gordon Dec., ¶ 6.)

6 On May 10, 2007, Shawna Landis (Landis), one of Hutchings employees, recorded a
7 grant deed on Gordon's property that included a copy of a land survey dated March 15, 1875, and
8 conveyed title from Gordon back to Gordon. (Gordon Dec., ¶ 8.) On July 2, 2007, a Notice of
9 Trustee's Sale was recorded on Gordon's property. Hutchings assured Gordon this was normal
10 and not to worry. (Gordon Dec., ¶ 9.) On July 19, 2007, a trustee's sale was held. No bids were
11 received, and title was conveyed to Gordon's lender. (Gordon Dec., ¶ 10.)

12 Gordon asked Hutchings to explain why his land grant did not prevent his home from
13 being repossessed by his lender. Hutchings replied that he had encountered a similar problem
14 with some of his other land grants. He told Gordon that conveying the grant deed on his
15 property to a friend would correct the problem. (Gordon Dec., ¶ 11.) Based on Hutchings
16 instructions, Gordon signed a grant deed transferring title from himself to Art Willemse
17 (Willemse). On August 14, 2007, Landis recorded the grant deed. A few weeks later, Gordon
18 received an eviction notice. (Gordon Dec., ¶ 13.)

19 In December 2007, Gordon and his wife appeared for the eviction hearing. Hutchings and
20 Willemse also attended the hearing. Gordon's wife explained that a land grant had been filed on
21 their property. The judge ruled in favor of the bank and ordered Gordon to vacate his home.
22 After the hearing, Hutchings told Gordon this was the way the hearing was supposed to go.
23 Hutchings promised Gordon that he would appeal the eviction, but never did.

24 **b. Glen Tramel (Homeowner)**

25 In July 2006, Glen Tramel (Tramel) experienced financial difficulties and stopped
26 making monthly mortgage payments on his home in Murrietta, California. (Tramel, Dec., ¶ 4;
27 See, Declaration of Glen Tramel attached hereto and incorporated herein as though set forth in
28 full.) Tramel had previously retained Hutchings for tax preparation work and Hutchings told

1 him about a program that would keep his property out of foreclosure. (Tramel, Dec., ¶ 3, 4.)
2 Hutchings told Tramel the program cost \$10,000 and would transfer his property into a “federal
3 land grant patent” and put it under the “umbrella” of the federal government. Hutchings told
4 Tramel this would protect his property from foreclosure, judgments, and liens because no-one
5 could enter Tramel's property without his permission. Hutchings also said that after seven years,
6 all liens against Tramel's property would be clear, and Tramel would have full title to his
7 property free of debt. (Tramel, Dec., ¶ 5.)

8 Hutchings told Tramel it would take two months or less for everything to go through the
9 Bureau of Land Management. Hutchings said a federal official would sign the land patent, and
10 assured Tramel that he would receive documentation verifying the land grant. Hutchings
11 guaranteed the program worked and promised to refund Tramel's money if his property was sold
12 in foreclosure. (Tramel, Dec., ¶ 5.)

13 On September 27, 2006, Tramel paid Hutchings \$10,000 for the land grant program and
14 signed a contract with Trilogy Partners.^{2/} (Tramel, Dec., ¶ 6.) On October 19, 2006, Hutchings
15 recorded a grant transferring Tramel's property to “Tramel Land Grant.” The grant deed
16 included a copy of a land survey dated December 4, 1872. (Tramel, Dec., ¶ 7.)

17 On November 8, 2006, a Notice of Default was recorded against Tramel's Property.
18 (Tramel, Dec., ¶ 8.) He was notified by Landis that there had been an error on the October grant
19 deed and that she was going to file a corrected grant deed. (Tramel, Dec., ¶ 9.) On December 6,
20 2006, Landis recorded a grant deed again transferring title to Tramel Land Grant. The grant
21 deed contained a statement of “assignment of interests under United States Land Patent Grant
22 BLM Serial No. CACAA 081281” and contained the same land survey documents that were
23 attached to the October 2006, grant deed. (Tramel, Dec., ¶ 10.)

24 On March 20, 2007, the Trustee’s Sale was held at public auction. No bids were
25 received, and Tramel's property was conveyed to the lender. On April 16, 2007, a Trustee's
26 Deed Upon Sale was recorded against his Property. (Tramel, Dec., ¶ 12.) Tramel asked

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28 2. Trilogy Partners is a California Limited Liability Corporation owned by Hutchings for
his tax preparation and consulting business.

1 Hutchings for his money back. Hutchings responded that the land grant would still work and,
2 again, promised he would refund the \$10,000 if it did not. (Tramel, Dec., ¶ 13.)

3 In May 2007, Kevin Otto, who had been renting Tramel's property, decided to buy it
4 from the bank. Otto told Tramel the title company would not issue a title insurance policy
5 because the land patent created a “cloud” on title. Otto asked Tramel to sign papers to clear the
6 Tramel Land Grant grant deed. Tramel refused and did not take any action to remove the grant
7 deed. On July 13, 2007, a grant deed was recorded transferring title on Tramel's property to
8 Kevin Otto. (Tramel, Dec., ¶ 14.)

9 **2. Lease Back Scheme**

10 In this variation, Defendants' agents contact homeowners after a Notice of Default has
11 been recorded against their property. Homeowners are invited to attend a presentation about
12 Defendants' land grant program. Homeowners who agree to attend the presentation are typically
13 told to bring a copy of their Notice of Default and be prepared to sign-up for the program by
14 signing grant deed documents and making a payment, usually equivalent to one month's rent as
15 determined by Defendants. The presentation lasts about an hour and is usually given by
16 Hutchings. He explains the history of land grants and claims his program takes advantage of
17 protections not usually provided to average homeowners. In brief, he tells homeowners that the
18 land grant gives them superior title to ownership of their property; that the land grant protects
19 their property against loss through foreclosure; that after some period of time (usually 4 or 7
20 years), the homeowner will own their property free and clear of any debt because the statute of
21 limitations will have run and the bank can no longer collect on their mortgage debt; that, in the
22 meantime, the homeowner will pay monthly rent to Defendants; that Defendants will hold the
23 grant deed to the homeowner's property and own a 50% share of its value; and that when the
24 statute of limitations period has run, the homeowner can take back their property by buying
25 Defendants' 50% share or selling the property and splitting the sales proceeds 50/50 with them.
26 Homeowners who sign up for the program, however, are typically evicted as a result of
27 foreclosure.

28 **a. John Woodall (Real Estate Agent)**

1 John Woodall (Woodall) is a licensed real estate broker in the State of California and
2 specializes in short sales for homeowners trying to avoid foreclosure. (Woodall, Dec. ¶ 1; See,
3 Declaration of John Woodall attached hereto and incorporated herein as though set forth in full.)
4 In March 2008, Woodall heard about FLG from a Hispanic client who showed him a grant deed
5 transferring his property to FLG. The client had received a notice of default on the property and
6 signed up with the FLG program to try to save his credit rating. (Woodall, Dec. ¶ 2.)

7 Woodall obtained contact information for FLG and Hutchings and contacted him to ask
8 about making referrals to FLG. (Woodall, Dec. ¶ 4-5.) On March 28, 2008, Woodall met
9 Hutchings who explained the history of land grants and how the FLG land grant program
10 worked. Hutchings told Woodall that after the land grant has been recorded, homeowners may
11 still receive a notice of eviction due to foreclosure. But, Hutchings added, after four years the
12 lender can no longer collect on mortgage debt, so the homeowner owns their property free and
13 clear. (Woodall, Dec. ¶ 6.)

14 Hutchings described different marketing approaches FLG uses to get homeowners
15 interested in the land grant program. He said the sales presentation can only be given to
16 homeowners who have received a notice of default because federal law prohibits anyone from
17 telling a homeowner not to make their mortgage payments. (Woodall, Dec. ¶ 6.) Hutchings
18 claimed that the land grant program is only available for single-family-owner-occupied homes
19 and does not work for condominiums. (Woodall, Dec. ¶ 7.)

20 Regarding fees paid for referring homeowners who sign-up for the land grant program,
21 Hutchings described two ways referral fees are paid. One way is to collect the fees from the
22 LLC that contracts with the homeowner. (Woodall, Dec. ¶ 8.) The other way is to form an LLC
23 to collect rent and pay Hutchings his share of the money from monthly rent proceeds. (Woodall,
24 Dec. ¶ 9.)

25 Woodall contacted the Attorney General's Office and offered to take a representative with
26 him to the meeting. Department of Justice Investigator Sandy Birch (Birch) was assigned to go
27 to the meeting. Woodall and Birch agreed that Birch would attend the meeting and pose as one
28 of Woodall's clients who was in foreclosure. (Woodall, Dec. ¶ 10.)

1 On April 2, 2008, Woodall and Birch attended a presentation given by Hutchings at a
2 real estate office in Carlsbad, California. After Hutchings' presentation, Woodall asked
3 Hutchings about the grant deed his Hispanic client had shown him. He told Hutchings the
4 property was not owner-occupied and asked Hutchings to deed the property back to his client.
5 Hutchings refused, and Woodall told him he believed Hutchings program was illegal. (Woodall,
6 Dec. ¶ 15.)

7 **b. Sandy Birch (DOJ Investigator)**

8 On April 2, 2008, Birch and Woodall attended a presentation by Hutchings regarding
9 Defendants' land grant program. Birch posed as one of Woodall's clients who had received a
10 Notice of Default. (Birch, Dec. ¶ 4-5; See, Declaration of Sandy Birch attached hereto and
11 incorporated herein as though set forth in full.) The presentation was held at the offices of
12 Dream Homes and Loans Inc., located in Carlsbad, California. The presentation was scheduled
13 to start at 6:00 p.m., but Birch arrived early to meet with Woodall. A Hispanic female asked
14 Birch to sign-in, and she did so using her assumed name. Birch found Woodall seated at a table
15 with approximately a dozen other people. Woodall told Birch that some of the people, including
16 Edgar Martinez (Martinez) were already associates of Hutchings and others were there to
17 become franchisees. Martinez was telling the group that he had filed over 100 grant deeds
18 transferring property to Land Grant Services LLC (LGS). Woodall told Birch that Martinez
19 projected enough people would sign-up for the land grant program at the seminar to reach 200
20 grant deeds for Land Grant Services. Martinez explained that Hutchings limited each of his
21 affiliated LLCs to no more than 200 deeds each. A new LLC would have to be set-up to
22 accommodate additional grant deeds. (Birch, Dec. ¶ 5.)

23 Approximately 50 people, mostly Hispanic, attended the presentation. Hutchings gave
24 the entire presentation in English, but it was translated into Spanish by a interpreter. Hutchings
25 claimed his presentation was an educational seminar to explain the land grant program. He gave
26 a brief history of land grants in the United State and stated that the federal government issued a
27 land grant to the State of California when it entered the Union, but the federal government still
28 owns all the land in California. Based on the land grant, California could convey land to private

1 citizens for the purpose of collecting property taxes. (Birch, Dec. ¶ 6.)

2 Hutchings said his program transfers the grant deed to his company which then records a
3 land grant on the property. Hutchings said the land grant is then filed with the Bureau of Land
4 Management which gives the land back to the Federal Government. He claimed this prevents
5 the bank from taking the property to pay-off the mortgage; that without any property to sell to
6 pay-off the mortgage, the bank cannot collect on the mortgage debt; and that after four years, the
7 bank must release the mortgage debt, and the homeowner can get their property back free and
8 clear of any debt. (Birch, Dec. ¶ 9.)

9 Hutchings continued by claiming that once the statute of limitations has passed, a licensed
10 appraiser will survey the homeowner's property and determine its fair market value. Under the
11 land grant program contract, the homeowner and company split the value of the home 50-50.
12 The homeowner has the first right to purchase the property and can buy off LGS by paying it
13 50% of the value of the property. The homeowner can also agree to sell the property and get
14 50% of the sales proceeds. (Birch, Dec. ¶ 10.)

15 Hutchings also said that homeowners must also sign a lease agreement so they can rent
16 their property from LGS. He said the lease is necessary to show the bank that the homeowner
17 no longer owns the property and is only living there as a rental tenant. Hutchings guaranteed
18 monthly rent amounts paid to LGS will be less than homeowners' current mortgage payments.
19 (Birch, Dec. ¶ 11.) Hutchings advised homeowners to forward copies of all documents regarding
20 foreclosure to LGS so it could timely respond to them. He assured the group that his company
21 does the research necessary for the land grants and provides attorneys and staff to work with
22 lenders regarding Defendants' land grant program. He promised his company has the experience
23 to handle the entire transaction, including communication with the banks and even a court trial if
24 necessary. (Birch, Dec. ¶ 13.)

25 Hutchings ended the presentation by stating that the last time this program was used was
26 in 1983 when banks were walking away from homes and investors were buying them for 10-15%
27 of the original purchase price. He said back then the fee for the same service he is offering now
28 was \$25,000. In comparison, the cost of his program is only the fair monthly rent which will be

1 less than the mortgage payment. Hutchings concluded this is a “lifetime opportunity - a get even
2 time” and added “rich people have been using land grants to avoid taxes and now the common
3 man can advantage of them.” (Birch, Dec. ¶ 15.)

4 The Spanish language interpreter then invited those who wanted to join the program to
5 stay and sign up. Almost everyone in the room stayed and people were directed to a series of
6 offices and tables to complete the sign-up process. LGS representatives seated in offices
7 prepared grant deeds transferring property to LGS. A notary seated at a table notarized the grant
8 deeds. At another table, a Hispanic male used the Internet to determine monthly rental amounts.
9 One table had several signs stating “Make checks payable to Land Grant Services.” People were
10 standing in line at this table with their check books out waiting for their turn. Birch asked
11 someone near the table why people were writing checks. He said they were paying their first
12 month's rent and explained that payment was needed so the company could begin processing the
13 lease, grant deeds, and contract. (Birch, Dec. ¶ 16.)

14 **c. Rosa Galeas (Homeowner)**

15 In February or March 2007, Rosa Idalia Galeas (Galeas) experienced financial difficulties
16 and stopped making the monthly mortgage payments on her property in Temecula, California.
17 (Galeas, Dec. ¶ 2-3; See, Declaration of Rosa Idalia Galeas attached hereto and incorporated
18 herein as though set forth in full.) On August 10, 2007, a Notice of Default was recorded against
19 her property. (Galeas, Dec. ¶ 4.) In October or November 2007, she heard about FLG from
20 friends who told her the program helped people in foreclosure save their homes. Carla Corde
21 (Corde) invited her to a meeting about the program at the home of Jared Krause (Krause), an
22 assistance pastor for her church. (Galeas, Dec. ¶ 5.)

23 At the meeting, Corde said she was a counselor for FLG and explained that the FLG
24 program takes advantage of a government land grant program established in the 1800's when the
25 United States government was trying to keep banks from taking land from farmers who could not
26 pay their mortgage due to bad crops. Corde stated that FLG takes advantage of these same
27 protections by putting property in a federal land grant. (Galeas, Dec. ¶ 5.)

28 Corde and Krause also explained how that homeowners who signed up for the program

1 have to transfer their property to FLG for the land grant to work; that homeowner could live in
2 their home and pay rent to FLG; that after seven years, the bank could no longer collect on the
3 mortgage debt and the property would be free and clear of any debt; that the homeowner would
4 then own 50% of their property, and FLG would own the other 50%; and that the homeowner
5 could either purchase their house back by paying-off FLG or sell it and split the sales proceeds
6 50/50 with FLG. (Galeas, Dec. ¶ 6.)

7 After the meeting, Galeas told Corde she was interested in signing up for the program.
8 Corde told Galeas someone from FLG would contact her, and a few days later she received grant
9 deed documents from Shawna with FLG (See “Shawna Landis” page 2). The grant deed
10 transferred Galeas's property to FLG. Based on the presentation by Corde and Krause, Galeas
11 understood she had to transfer title to put her property in a federal land grant and stop
12 foreclosure. So, she signed and returned the grant deed. (Galeas, Dec. ¶ 7.) A grant deed
13 transferring title to FLG was recorded on November 9, 2007. (Galeas, Dec. ¶ 8.)

14 In December 2007, Corde sent Galeas additional documents to sign, including a rental
15 application. Galeas had already moved out of her home because she thought it was going to be
16 sold through foreclosure. Corde told Galeas to move back into her home and pay rent to FLG.
17 Galeas agreed to pay rent so she could keep her home but did not move back in. (Galeas, Dec. ¶
18 9.)

19 On January 4, 2008, Corde sent Galeas a rental agreement that listed KBS Resources,
20 LLC as the owner of my property. Corde instructed Galeas to sign and return the agreement and
21 send a rent check made payable to KBS Resources, LLC in the amount of \$1,099 to R&I
22 Property Group, LLC, located in Murrieta, California^{3/}. (Galeas, Dec. ¶ 10.) Later, Corde
23 instructed Galeas to send her next rent check to FFA c/o Carla Corde, 41538 Eastman Drive in
24 Murrieta, California. (Galeas, Dec. ¶ 12.)

25 In January 2008, Galeas went to her home and found a Notice of Trustee Sale taped to
26 the door. (Galeas, Dec. ¶ 11.) At the end of January, 2007, Galeas decided to cancel her
27

28 3. R&I Property Group is a California Limited Liability Corporation owned by Hutchings.

1 contract and rental agreement. Galeas called Corde and told her that she did not want to pay rent
2 for a property that no longer belonged to her or FLG. She also reminded Corde that she had
3 asked for proof of court cases regarding land grants that Corde claimed FLG had won. Corde
4 said she was still waiting to get them from Hutchings. (Galeas, Dec. ¶ 13.)

5 On February 6, 2008, Galeas's property was sold at public auction. On February 26,
6 2008, a Trustee's Deed Upon Sale conveying title to Sunwest Mortgage was recorded. (Galeas,
7 Dec. ¶ 15.) At the end of February, Galeas's mother saw someone was living in Galeas's home.
8 (Galeas, Dec. ¶ 16.)

9 **d. Micheal and Marilyn Williams (Homeowners)**

10 In 2007, Michael and Marilyn Williams (Williams) began to experience financial
11 difficulties and were not able to make their monthly mortgage payments on their property in
12 Vista, California. (Williams, Dec. ¶ 2; See, Declaration of Michael Williams attached hereto and
13 incorporated herein as though set forth in full.) On January 16, 2008, a Notice of Default was
14 recorded on their property. (Williams, Dec. ¶ 2.) The Williams were introduced to Hutchings by
15 a friend and attended a presentation about the land grant program in Mira Mesa, California.
16 (Williams, Dec. ¶ 4-5.) The presentation was conducted by Hutchings who was introduced as
17 the President of KBS Resources, LLC. Hutchings claimed that the land patent program transfers
18 property into a land grant which gives it back to the government. He told the group that they
19 would still owe their mortgage loan, but the mortgage company could not take or sell their
20 homes because they would be on federal land. Hutchings stated that KBS would do the research,
21 file paperwork necessary to put their property in a land grant, and advise the bank of the changes
22 in the property ownership; that after four years, the bank could no longer collect on the
23 unsecured mortgage debt and would send the homeowner an IRS Form 1099C indicating their
24 loan had been written off; that their property would then be moved out of the land grant; that the
25 homeowner would own their property 50/50 with KBS under an equity sharing agreement; and
26 that the homeowner could buy out KBS by paying one-half of the current property value or sell it
27 and split the proceeds with KBS. In addition, Hutchings stated, that homeowners would have to
28 pay any property taxes incurred prior to their property being put into a land grant, but that once

1 the property was transferred to a land grant, no more property taxes would be assessed.
2 (Williams, Dec. ¶ 5.)

3 The Williams signed an equity share agreement with KBS and a grant deed transferring
4 their property to KBS. They also signed a rental agreement with KBS. (Williams, Dec. ¶ 6.) In
5 February 2008, the Williams began making monthly rent payments to KBS and are currently
6 living in their home. (Williams, Dec. ¶ 7.)

7 On February 11, 2008, a grant deed was recorded on the Williams property transferring it
8 to KBS. (Williams, Dec. ¶ 8.) On April 15, 2008, KBS reconveyed the grant deed back to itself
9 and included a certified copy of a land grant given to J.V.Johnson, his heirs and assigns dated
10 July 9, 1889. The grant deed was signed by Hutchings. The transcription of the land grant
11 documents was certified as true and correct by Shawna Landis. (Williams, Dec. ¶ 8, Ex. 3.)

12 **B. Defendants**

13 California Secretary of State records show that William J. Hutchings is the managing
14 member and Chief Executive Office of FLG, Company, LLC. California Secretary of State
15 records show William Hutchings as the agent for service and Xioake Li as the organizer of Land
16 Grant Services, LLC. There is no statement of officers filed for this company. Since December
17 2007, the managing members were changed to William Hutchings and Xioake Li. According to
18 San Diego County recorder records, Hutchings and Li were married on October 20, 2007.

19 Shawna Landis is Hutchings's former spouse.^{4/} Landis is the Chief Executive Officer and
20 President of Landis Business Services, Inc. a suspended California Corporation located in San
21 Diego, California, and she uses this business name for her activities associated with Defendants'
22 land grant program. Landis is primarily responsible for the preparation and recording of title
23 documents for Defendants. (Galeas, Dec. ¶ 7; Gordon, Dec. ¶ 10; Tramel, Dec.¶ 9-10; Williams,
24 Dec. ¶ 8, Ex.2.) On January 22, 2007, Landis received a Notice of Default on a property she
25 owns in Temecula, California, and she transferred it to a purported "land grant" pursuant to
26 Defendants' scheme. (Geoghegan, Dec. ¶ 7.) On July 16, 2007, a Notice of Trustee's Sale was
27

28 4. Dissolution August 24, 2007, Riverside Family Law Court Case no. SWD0115557.

1 recorded on the property. On August 13, 2007, Landis assumed a new trust deed on her property
2 that apparently brought her current on her mortgage and stopped foreclosure. (Geoghegan, Dec.
3 ¶ 7.) Thus, as of at least July 16, 2007, Landis had knowledge that Defendant's purported land
4 grant program was not sufficient to stop foreclosure, and she took the necessary steps to stop
5 foreclosure through a financial work-out that satisfied the lender.

6 Yet even after August 13, 2007, when Landis obtained financing to save her home from
7 foreclosure, Landis recorded numerous grants deeds that included the same type of land survey
8 documentation and land grant attached to her own grant deed with knowledge that this recording
9 was not sufficient to establish a land that stopped foreclosure. In particular, almost immediately
10 after her own new deed of trust was recorded, she recorded grant deeds for Willemse and Gordon
11 transferring their properties to each other for no consideration without disclosing that she had
12 done the same and knew it did not stop her foreclosure. (Geoghegan, Dec. ¶ 7-9; Gordon, Dec. ¶
13 11.)

14 **C. County Recorder Records**

15 Lisa Geoghegan, Department of Justice, Senior Legal Analyst, conducted an extensive
16 review and analysis of recorded instruments associated with properties that have been conveyed
17 by grant deed from homeowners to Defendants. In her declaration, Geoghegan explains that she
18 accessed recorded document information from multiple sources including the County Recorders
19 Office for several counties. As a result of her search, Geoghegan identified 337 properties that
20 were conveyed by grant deed to Defendants. (Geoghegan, Dec. ¶ 6.) A majority of the
21 transactions involved homeowners with Hispanic surnames. (Geoghegan, Dec. ¶ 3-5.)

22 **1. FLG Company, LLC.**

23 Geoghegan reviewed 183 grant deeds that conveyed property from a homeowner to FLG
24 during the period September 2007 to March 2008. 183 of these properties had a Notice of
25 Default filed against them prior to the grant deed conveyance to FLG. A Trustee's Deed Upon
26 Sale was recorded on 85 of these properties transferring title either to the lender or a bona fide
27 purchaser at the foreclosure sale auction. Grant deed conveyances to FLG occurred in five
28 counties as follows: Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

1 (Geoghegan, Dec. ¶ 3; See, Declaration of Lisa Geoghegan attached hereto and incorporated
2 herein as though set forth in full.)

3 **2. KBS, Resources, LLC.**

4 Geoghegan reviewed 55 grant deeds and 3 quitclaim deeds that conveyed property from
5 a homeowner to KBS during the period January to April 2008. 53 of these properties had a
6 Notice of Default filed against them prior to the grant deed conveyance to KBS. A Trustees Deed
7 Upon Sale was recorded on 12 of these properties transferring title either to the lender or a bona
8 fide purchaser at the public foreclosure sale auction. For most of the remaining properties, the
9 ninety day period between the recording of the Notice of Default and trustees' sale has not yet
10 expired. Grant deed conveyances to KBS occurred in six counties as follows: Kern, Los Angeles,
11 Orange, Riverside, San Bernardino, and San Diego. (Geoghegan, Dec. ¶ 5.)

12 **3. Land Grant Services, LLC.**

13 Geoghegan reviewed 97 grant deeds that conveyed property from a homeowner to LGS
14 during the period March to April 2008. 91 of these properties had a Notice of Default filed
15 against them prior to the grant deed conveyance to LGS. A Trustees' Deed Upon Sale was
16 recorded on 9 of these properties transferring title either to the lender or a bona fide purchaser at
17 the public foreclosure sale auction. For most of the remaining properties, the ninety day period
18 between the recording of the Notice of Default and trustees' sale has not yet expired. Grant deed
19 conveyances to LGS occurred in five counties as follows: Los Angeles, Orange, Riverside, San
20 Bernardino, and San Diego. (Geoghegan, Dec. ¶ 5.)

21 **III. A TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE:
22 PRELIMINARY INJUNCTION SHOULD ISSUE**

23 **A. This Court Has the Authority to Issue an Injunction under Business and
24 Professions Code section 17203 and 17535.**

25 Business and Professions Code sections 17203 and 17535, in almost identical language,
26 expressly empower the Court to issue injunctions and other orders "as may be necessary to
27 prevent the use or employment by any person of any practice which constitutes unfair
28 competition." "An action filed by the People seeking injunctive relief . . . is fundamentally a

1 law enforcement action designed to protect the public” (*People v. Pacific Land Research*
2 *Co.* (1977) 20 Cal.3d 10, 17.) Once the trial court invokes its equitable jurisdiction, it is within
3 the court’s broad discretion to determine the scope or type of relief that should be granted.
4 (*People ex rel. Mosk v. Nat’l Research Co. of Cal.* (1962) 201 Cal.App.2d 765, 775, 779.) Such
5 relief may be as “varied and diversified as the means that have been employed by the Defendant
6 to produce the grievance complained of.” (*Wickersham v. Crittenden* (1892) 93 Cal. 17, 32;
7 *Roman v. Ries* (1968) 259 Cal.App.2d 65, 70.)

8 **B. The People Likely Will Succeed on the Merits at Trial and the Interim Harm**
9 **the People Will Suffer If an Injunction Is Not Issued Is Presumed.**

10 Generally, a court determining whether to issue a preliminary injunction applies a two-
11 pronged test. (*IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70.) First, the court
12 considers the likelihood that the plaintiff will prevail on the merits at trial. (*Id.* at p. 69.)
13 Second, the court balances the interim harm that the plaintiff is likely to sustain if an injunction
14 is denied with the harm that the defendant may suffer if an injunction is issued. (*Id.* at pp. 69-
15 70.)

16 In a public action brought pursuant to a law in which the State may obtain injunctive
17 relief, harm to the public is presumed. (*IT Corp., supra*, 35 Cal.3d at p. 70.) In such a case, if
18 the governmental entity establishes a reasonable probability that it will prevail on the merits at
19 trial, there arises a rebuttable presumption that the potential harm to the public outweighs the
20 potential harm to the defendant. (*Id.* at p. 72.) The burden is on the defendants to show that they
21 would suffer irreparable harm if an injunction were issued. (*Ibid.*)

22 By authorizing injunctive relief to remedy violations of Business and Professions Code
23 Sections 17200 and 17500 et seq., the Legislature has already determined that such violations
24 harm the public interest and that an injunction is the proper way to protect against that harm.
25 Thus, if the People demonstrate a reasonable probability of prevailing on the merits at trial, harm
26 to the public is presumed. To defeat the People’s request, however, Defendants must
27 demonstrate that they *will* be harmed by issuance of the injunction.

28 More than a reasonable probability exists that the People will establish violations of

1 Business and Professions Code sections 17200 and 17500. There is overwhelming evidence that
2 Defendants have violated, and continue to violate, Sections 17200 and 17500. Based on this
3 evidence, Defendants could not demonstrate that their interest in continuing to operate their
4 illegal enterprise outweighs the interest of the general public in being protected from such
5 unlawful practices. If Defendants are permitted to continue their unlawful scheme, the harm to
6 the public will be devastating and irreparable. Consumers targeted by Defendants will lose a
7 substantial amount of money and title to their homes even before they are sold at a foreclosure
8 sale. Further, Defendants give homeowners false hope that they will get their homes back after
9 foreclosure and dissuade them from seeking assistance that might legitimately help them to save
10 their home. If Defendants are not enjoined from this conduct, these consumers will be
11 irreparably harmed.

12 **1. The People Are Reasonably Likely to Prevail on the Merits at Trial.**

13 As detailed in the above statement of facts, Defendants engage in at least the following
14 unfair and unlawful practices: (1) they unlawfully acquire title to property by falsely
15 representing the conveyance is necessary to put property into a “land grant” which will stop
16 foreclosure; (2) they unlawfully demand and collect fees and rents by falsely representing that
17 the land grant entitles Defendants to charge and collect rent from homeowners who remain in
18 their property after a land grant has been established; (3) they make untrue or misleading
19 statements regarding the existence of a mechanism to transfer property from private ownership to
20 a federal land grant when there is none; (4) they make untrue or misleading statements that
21 consumers' private property has been transferred to a federal land grant, when this is a legal
22 impossibility; (5) they make untrue or misleading statements that transferring title to Defendants'
23 will prevent homeowners from having to pay their mortgage when the transfer of their grant deed
24 merely strips homeowners of the collateral for their mortgage but does not relieve the debt itself.
25 (See *Infra.*, at pp. 18-20.)

26 **a. Defendants have made untrue or misleading statements in**
27 **violation of Business and Professions Code section 17500.**

28 Business and Professions Code section 17500 makes it unlawful for any person to make

1 any statement that such person knows or by the exercise of reasonable care should know to be
2 untrue or misleading in order to sell goods or services. Under Section 17500, a statement is
3 impermissibly untrue or misleading if the statement is likely to mislead members of the public.
4 (*Chern v. Bank of America* (1976) 15 Cal.3d 866, 876.)

5 To prove a violation of section 17500, Plaintiff does not have to prove fraud, reliance, or
6 an intent to deceive. (See *People v. Superior Court (Olson)* (1979) 96 Cal.App.3d 181, 190, cert.
7 denied, 446 U.S. 935.) In addition, Plaintiff does not have to show that consumers were actually
8 deceived to establish a statutory violation. (*Id.* at p. 198) Thus, California courts have
9 repeatedly held that a violation occurs at the time that a consumer is solicited, regardless of
10 whether the consumer purchases the goods or services offered. (See, e.g., *People v. Toomey*
11 (1985) 157 Cal.App.3d 1, 22-23; *People v. Superior Court (Jayhill)* (1973) 9 Cal.3d 283, 289.)

12 A failure to disclose may also constitute an untrue or misleading “statement” for
13 purposes of a section 17500 violation. The omission of material information can be as
14 misleading as a direct misstatement of fact. (*Ford Dealers Ass'n v. Dept. of Motor Vehicles*
15 (1982) 32 Cal. 3d 347, 364; accord *Leoni v. State Bar* (1985) 39 Cal. 3d 609, 618-19, 627.)
16 Moreover, words and sentences that may be literally or technically true can also tend to mislead
17 or deceive the public. (*Federal Trade Comm'n v. Sterling Drug, Inc.* (2d Cir. 1963) 317 F.2d
18 669, 674-675.) A representation susceptible to both a misleading and a non-misleading
19 interpretation will be construed against the person making it. (*Resort Car Rental System, Inc. v.*
20 *Federal Trade Comm'n* (9th Cir. 1975) 518 F.2d 962, 964.)

21 Defendants have made untrue or misleading statements regarding the transfer of private
22 property to a land grant. In his attached declaration, real estate and mortgage fraud expert Gary
23 Hintz (Hintz) states that the transfer of title by grant deed to any individual or entity for the
24 purpose of establishing a land grant is a meaningless conveyance. (Hintz, Dec. ¶ 2; See,
25 Declaration of Gary Hintz attached hereto and incorporated herein as though set forth in full.)
26 He explains there is no legally recognized mechanism for transferring private property to a land
27 grant. (Hintz, Dec. ¶ 8.) Further any such attempted conveyance cannot, (1) convey any
28 interest in the property, (2) stop foreclosure from going forward, or (3) defeat the sale of

1 foreclosed property to a bona fide purchaser. (Hintz, Dec. ¶ 3, 8.)

2 As background, Hintz explains that all privately owned land in the United States is
3 allodial land, as distinguished from feudal land, and is held in absolute independence without
4 being subject to any rent, service, or acknowledgment to a superior. On conclusion of the
5 Mexican-American war, the Treaty of Guadalupe Hidalgo of 1848 ceded all of California's land
6 to the United States. Under the terms of the treaty, the United States agreed to protect the
7 ownership interests of Mexican citizens who had previously received a Spanish or Mexican land
8 grant and set up a commission to examine these land grants and either confirm or deny them.
9 The commission confirmed about two thirds of the Spanish and Mexican land grants. Land
10 grants that were confirmed remained in private ownership and were made subject to the real
11 estate laws and regulations of California. No new land grants were issued under the
12 confirmation process because the federal government was merely confirming pre-existing private
13 ownership. (Hintz, Dec. ¶ 5.)

14 Title to the remaining unclaimed land was transferred to the federal government. The
15 mechanism used by the federal government to distribute this land and convey title to other public
16 or private entities was the land patent. The federal agency charged with responsibility for
17 issuing and maintaining land patents is the U.S. Department of the Interior, Bureau of Land
18 Management (BLM). Once a land patent has been issued, the BLM no longer has an interest in
19 the property and state laws, regulations, and property taxation apply. (Hintz, Dec. ¶ 5.)

20 In his statement to Hintz, Tom Gey (Gey), a Realty Specialist in the San Marino Valley
21 office of the BLM, stated there is no legally recognized mechanism whereby a private individual
22 or entity can convey title, via land grant or otherwise, to the federal government under any
23 circumstances. (Hintz, Dec. ¶ 6.) (See also *Knight v United States Land Assoc.* (1891) 142 US
24 161, 171 [12 S.Ct. 258, 35 L.Ed 974] [A land patent is void if the government does not own the
25 property.]; Accord *Davis v Wiebold* (1891) 139 US 507, 529-530 [11 S.Ct. 628, 35 L.Ed
26 238]; *Glasgow v Baker* (1888) 128 US 560, 578 [9 S.Ct. 154, 32 L.Ed 513].)

27 Gey added that the BLM periodically receives inquiries about groups or individuals
28 attempting to establish a land grant on certain property. In response to such inquiries, the BLM

1 developed an advisory letter which it provides to the public. (Hintz, Dec. ¶ 3.) This letter, a
2 copy of which is attached to Hintz's declaration as Exhibit 2, and is incorporated herein as
3 though set forth in full, details the particular practice and states that attempts to establish a land
4 grant are “totally without merit and has no legal force or effect.” (Hintz, Dec. ¶ 3, Ex. 2.) (See
5 also *Polk v. Leese* (1820) 18 U.S. 293, 309 [5 L.Ed. 92, 5 Wheat. 293] [“a grantee can convey
6 no more than he possesses; hence those, who come in under a void grant, can acquire nothing, a
7 void grant conveys nothing.”]; Accord *Sampeyreac v United States* (1833) 32 US 222, 234 [8
8 L.Ed 665].)

9 In support of its position that these so-called land grants have no merit, the BLM cites
10 several federal cases. (Hintz, Dec. ¶ 3, Ex. 2.) [Citing to *Hilgeford v. The Peoples Bank*, 607
11 Fed. Supp. 536 (D. Ind.), *aff'd* 776 F.2d 176 (7th Cir. 1985); *State of Wisconsin v. Glick*, 782 F.
12 2d 67CJ (7th Cir. 1986); *Federal Land Bank of Saint Paul v. Gefroh*, 390 N.W..2d 46 (N.D.
13 1986); *Britt v. Federal Land Bank Association of St. Louis* 153 III App.. 3d 6. (1987) [litigants
14 who rely solely on meritless land grant documents may be required by a court to pay monetary
15 penalties for filing frivolous documents]; Accord, *Nixon v. Individual Head of St. Joseph*
16 *Mortgage Co.*, 612 F. Supp.253 (D. Ind. 1985).]

17 Further, in his statement to Hintz, Jack Garasky, Managing Underwriter, Western States,
18 Old Republic Title Company explained that the attempt to transfer property to a land grant by
19 conveying title from a property owner either back to himself or to another entity is an invalid
20 attempt to establish superior title to what the owner actually has. Such an attempt would have no
21 effect in changing the status of the property owner's interest. In other words, Garasky states, a
22 property owner cannot “go backwards” and claim greater title than was originally conveyed to
23 him. (Hintz, Dec. ¶ 7.)

24 Mr. Garasky’s opinion is well taken. The court in *Hilgeford v. The Peoples Bank*, *supra*,
25 607 Fed. Supp. at p. 538, agrees and aptly stated, “The court cannot conceive of a potentially
26 more disruptive force in the world of property law than the ability of a person to get “superior”
27 title to land by simply filling out a document granting himself a “land patent” and then filing it
28 with the recorder of deeds. Such self-serving, gratuitous activity *does not, cannot and will not* be

1 sufficient by itself to create good title.” [Emphasis in original.]

2 In the present matter, at least two Riverside County Superior Court judges when faced
3 with foreclosure sales involving the Defendants land grants reached the same conclusion. In
4 both cases, the trial court did not give any consideration to Arthur Willemse's and Anthony
5 Gordon's so called land grant deeds and issued evictions orders sought by the lender against
6 them. (Gordon, Dec. ¶ 13,19, Ex.9 [Riverside County Superior Court case no. HEC 027545,
7 Countrywide Home Loans v. Anthony Gordon]; See also Riverside County Superior Court case
8 no. TEC 081209, Indymac Bank FSB, as Trustee v. Arthur Willemse, et al.]

9 Therefore, it is at least reasonably likely that the People will prevail at trial on the
10 allegation that untrue or misleading statements are being made by Defendants in violation of
11 Section 17500, Thus, it must be presumed the public will be harmed by Defendants further
12 misconduct.

13 **b. Defendants have engaged in unfair business practices in**
14 **violation of Business and Professions Code section 17200.**

15 Unfair competition includes “any unlawful, unfair or fraudulent business act or practice.”
16 (Bus. and Prof. Code, § 17200.) In drafting the Unfair Competition Law, the Legislature
17 intentionally used “sweeping language,” and empowered the court to issue injunctions to curb
18 any such business practice “in whatever context such activity might occur.” (*Barquis v.*
19 *Merchants Collection Assn.* (1972) 7 Cal.3d 94, 111.) Also, the statute is written in the
20 disjunctive, thus establishing “three varieties of unfair competition -- acts or practices which are
21 unlawful *or* unfair *or* fraudulent. In other words, a practice is prohibited as ‘unfair’ or
22 ‘deceptive’ even if not ‘unlawful’ or vice versa.” (*Podolsky v. First Healthcare Corp.* (1996) 50
23 Cal.App.4th 632, 647.)

24 Section 17200 “borrows” violations of other laws and makes them actionable as
25 unlawful business practices. (*State Farm Fire & Casualty Co. v. Superior Court* (1996) 45
26 Cal.App.4th 1093, 1103.) An unlawful business act or practice, then, includes any activity that
27 is forbidden by law, “be it civil or criminal, federal, state or municipal, statutory or regulatory, or
28 court-made [law].” (*Saunders v. Super. Ct.* (1994) 27 Cal. App. 4th 832, 838-839.)

1 **i. Defendants Unlawfully Acquired Title and Collect Rent**

2 Defendants have unlawfully acquired title to property by falsely representing that
3 a grant deed conveyance to Defendants is required to put the property into a land grant that will
4 protect it from foreclosure and loss, when it does not.

5 Both the legal authority and expert opinions of Gary Hintz, Thomas Gey, and Jack
6 Garasky discussed above make it clear there is no basis for Defendants to claim that there is any
7 means for homeowners to transfer their property to a land grant or convey title on the property
8 that is superior to their own. (*Supra*, at pp. 18-20.) Further there is no basis for Defendants to
9 claim that their method of obtaining title to and recording the grant deed on the homeowner's
10 property either transfers the property to a land grant or protects the homeowner from losing their
11 property. Such claims are complete fabrications.

12 As such, any transfer of a grant deed from a homeowner to Defendants in reliance on
13 Defendants' fabricated claims about the nature and effect of the conveyance constitutes an
14 common law conversion of property, if not theft by false pretenses. Likewise, any rent money
15 paid by a homeowner to Defendants in reliance on Defendants' fabricated claims about the nature
16 and effect of purported land grants also constitutes common law conversion of property, if not
17 theft by false pretenses. As such, these claims also violate Business and Professions Code
18 section 17200.

19 **ii. Defendants Violated Civil Code Section 2945 et seq.**
20 **Governing Mortgage Foreclosure Consultants**

21 Defendants act as mortgage foreclosure consultants as defined in Civil Code section
22 1945.1. In violation of Civil Code section 2945.4, subdivision (a), Defendants collect payment
23 from homeowners prior to performing all mortgage foreclosure consultant services. As indicated
24 in the attached declarations, no services were performed by Defendants prior to receipt of
25 payment for their services. For homeowners who participate in the lease-back program, an
26 amount Defendants refer to as the first month's rent is typically collected at Hutchings's
27 presentations and in all cases before any services are performed. For homeowners who choose
28 to purchase a so-called "land grant license" from Defendants, an up-front fee of \$10,000 must be

1 paid before any services are performed.

2 In violation of Civil Code section 2945.4, subdivision (e), Defendants acquire an interest
3 in a residence in foreclosure from a homeowner who is in foreclosure whom they have
4 contracted. (Geoghagen, Dec. ¶ 3-6.)

5 In violation of Civil Code section 2945.2, Defendants do not provide homeowners with
6 notice of their right to cancel their contract. (Galeas, Dec. ¶ 9, Ex.3.)

7 In violation of Civil Code section 2945.3, Defendants' written contracts do not: (i)
8 disclose the total amount and terms of compensation; (ii) provide, in 14-point type, notice that
9 Defendants may not ask for or take any money before fully performing services promised or ask
10 or have the owner sign any document that affects title to a residence in foreclosure; (iii)
11 conspicuously provide notice in 10-point type near the owner's signature of the owner's 3-day
12 right to cancel; (iv) contain on the first page in font not smaller than used in the body of the
13 contract the name and address of the foreclosure consultant to whom cancellation should be
14 mailed; (v) include a completed form in duplicate called Notice of Cancellation with wording in
15 10-point type. (Galeas, Dec. ¶ 9, Ex.3.)

16 Moreover, in violation of Civil Code section 2945.3, Defendants contracts are not always
17 written in the same language principally used by Defendants to describe their services or
18 negotiate their contracts. The majority of homeowners who have deeded their property to
19 Defendants are Hispanic. (Geoghagen, Dec. ¶ 3-5.) Even though Hutchings's presentations
20 about his land grant program is translated into Spanish, the contracts and grant deed documents
21 homeowners sign are written in English. (Birch, Dec. ¶ 6; Woodall, Dec. ¶ 14.)

22 **iii. Defendants Violated Civil Code Section 1695 et seq**
23 **Governing Equity Purchasers**

24 In some of their transactions, Defendants act as equity purchasers as defined in Civil
25 Code section 1695.1. In violation of Civil Code section 1695.5, subdivision (a), Defendants do
26 not give owners of a residence in foreclosure with whom they contract notice of the owner's 5-
27 day right to cancel their contract.

28 In violation of Civil Code section 1695.6, subdivision (b)(1), Defendants engage in the

1 following prohibited activities during the 5-day cancellation period: (i) they induce owners of
2 residences in foreclosure to convey an interest in their residences (**Birch, Dec ¶ *; Williams, Dec**
3 **¶ ***); (ii) they accept conveyance of owners interests in their residences (**Birch, Dec ¶ *;**
4 **Williams, Dec ¶ ***); (iii) they transfer interests in the owners residences; and record title
5 documents signed by owners of residences in foreclosure (**Birch, Dec ¶ *; Williams, Dec ¶ ***)..

6 In violation of Civil Code section 1695.6, subdivision (d), Defendants make untrue or
7 misleading statements regarding the nature of the grant deeds homeowners sign and the nature of
8 the transfer of their grant deeds to Defendants by claiming the conveyance is necessary to
9 establish a land grant and stop foreclosure.

10 In violation of Civil Code section 1695.2, Defendants' written contracts are not printed in
11 10-point, bold type, and are not always written in the language principally used by the parties to
12 negotiate the contract. (Geoghagen, Dec. ¶ 3-5; Birch, Dec. ¶ 6; Woodall, Dec. ¶ 14.)

13 In violation of Civil Code section 1695.3, Defendants' written contracts do not always
14 include: (i) Defendants' name, business address and/or telephone number; the address of the
15 residence in foreclosure; (ii) a standardized Notice of Cancellation; (iii) and notice in 14-point,
16 boldface type that Defendants may not ask the owner of a residence on foreclosure to sign a deed
17 or any other document until the 5-day right to cancel has expired. (Galeas, Dec. ¶ 9, Ex.3.)

18 **iv. Defendants Engage in Unlicensed Real Estate Sales Activity**

19 In violation of Civil Code sections 1695.17 and 2945.11, Defendants representatives do
20 not always hold a valid and current valid California Real Estate Sales license. Only Xioake Li
21 has a California Real Estate Sales license.^{5/} Defendants Landis, Corde, and Hutchings, who do
22 not have a California Real Estate Sales license, however, appear to be the persons who have
23 contact with the public and, thus, would need to be licensed.

24 **2. California consumers will be irreparably harmed from denial of an** 25 **injunction; Defendants will not suffer irreparable injury from its** 26 **issuance.**

26 As discussed above, the People have established a rebuttable presumption that the
27

28 5. California Real Estate Salesperson license no.01449453 issued 8/28/04, expires 8/27/08.

1 potential harm to the public outweighs the potential harm to Defendants. (*Supra* at Section
2 III(B).) Defendants cannot rebut this presumption.

3 Defendants’ ongoing violations of the law and unfair acts and practices pose a continuing
4 threat to consumers, both those already targeted by Defendants, at least 337 of whom have
5 conveyed title to Defendants, and those untold number who Defendants are currently targeting to
6 convey title to them. Homeowners face the emotional devastation of losing their homes as a
7 result of fraudulent practices in connection with what they are led to believe will save their home
8 and be financially beneficial to them. While consumers can attempt to be financially
9 compensated, the loss of a home and associated trauma involved a loss that cannot be measured.
10 Further, Defendants' scheme is a completely fraudulent scam and, as such, not only harms the
11 victimized homeowners but also the marketplace and those who do follow the law. Unless this
12 court enjoins such conduct, therefore, the public will continue to be harmed.

13 In contrast, Defendants cannot plausibly argue that their interest in continuing to operate
14 a unlawful scheme outweighs the interest of the public in being protected from such unlawful
15 and fraudulent business practices. The temporary restraining order and preliminary injunction
16 only prevent various forms of unlawful and deceptive conduct to continue. Moreover, even if
17 Defendants could offer evidence demonstrating that they would suffer grave or irreparable harm
18 from a temporary restraining order or preliminary injunction precluding dishonest conduct, and
19 assuming that Defendants could prevail in the balancing of the harms, the Court may nonetheless
20 issue a preliminary injunction. So long as “it appears *fairly clear* that the plaintiff will prevail on
21 the merits, a trial court might legitimately decide that an injunction should issue even though the
22 plaintiff is unable to prevail in a balancing of the probable harms.” (*IT Corp., supra*, 35 Cal.3d
23 at pp.72-73 [emphasis added].)

24 It is, at the very least, “fairly clear” that the People will prevail on the merits at trial.
25 Despite any alleged harm Defendants might suffer, a temporary restraining order and order to
26 show cause re: preliminary injunction should issue to stop their illegal practices.

27 **IV. THE COURT MAY FREEZE DEFENDANTS’ ASSETS**

28 Additionally, the Government Code recognizes the power of the Court to prevent the

1 dissipation of money or property that was collected through unlawful business practices and thus
2 will be returned as restitution to victims in cases such as this. (Govt. Code section 12527(g).)

3 The People have met those conditions here.

4 **A. The People have a reasonable probability of prevailing on the merits at trial.**

5 As set forth in detail above and in the accompanying declarations and exhibits, the
6 People are likely to prevail on their causes of action against Defendants. Therefore, there is a
7 reasonable probability that the People will prove at trial that Defendants “obtained real or
8 personal property by . . . unlawful means.” (Gov. Code, § 12527, subd. (b)(1).)

9 **B. Issuance of an Asset Freeze will prevent Defendants from continuing to**
10 **engage in unlawful practices, and will facilitate the preservation and**
11 **recovery of that property to pay restitution to consumer victims.**

11 At this early stage, the People have not yet discovered the full extent to which
12 Defendants have profited from their fraudulent foreclosure rescue scams. Accordingly the
13 People are seeking an order compelling Defendants to disclose:

- 14 1. The total amount of money Defendants have received from California
15 consumers as payment for equity purchaser services as defined by Civil
16 Code section 1695.1, for the period January 2006 to present;
- 17 2. The total amount of money Defendants have received from California
18 consumers as payment for foreclosure consultant services as defined by
19 Civil Code section 2945.1, for the period January 2006 to present;
- 20 3. The total amount of money Defendants have received from California
21 consumers not disclosed above in Paragraphs IV.B.1-2 for any services
22 performed in connection with the transfer of title on a residence, for the
23 period January 2006 to present;
- 24 4. All bank, savings, and checking accounts, past or present, by account
25 number and bank location, in which any Defendant deposited any of the
26 funds described above in Paragraphs IV.B.1-3;
- 27 5. Present values of Defendants' assets held in the accounts described above
28 in Paragraph IV.B.4 as of the date of the issuance of this order.

1 **C. The People have made the showing required by Code of Civil Procedure**
2 **section 527 for an ex parte TRO without Notice**

3 The People are requesting an order freezing certain of Defendants’ assets, without notice,
4 for the reasons specified in this motion. The order sought will safeguard the assets. These assets
5 include, but are not limited to, the real estate of various Defendants who are all directly involved
6 in the real estate industry and will likely be drained of equity or sold if the Court does not
7 intervene. The freeze order will also protect the assets that the People have not yet located.

8 The People submit that the asset freeze order cannot wait until a hearing on a noticed
9 motion. If Defendants are not prohibited from transferring or encumbering their real properties,
10 vehicles and liquid assets, they will resume their wrongful conduct, the assets will be dissipated
11 and consumer victims will be deprived of restitution without recourse. The issuance of an asset
12 freeze is the only means to ensure that the subject properties are protected during the pendency
13 of this case and that the assets are preserved to make restitution that the Court may impose after
14 trial.

15 **D. The People have made Sufficient Showing to Justify the Imposition of an**
16 **Asset Freeze.**

17 The People submit that an asset freeze is necessary for two independent reasons. First, as
18 set forth in the declarations of victims filed concurrently with this motion, it is clear that
19 Defendants’ conduct is causing irreparable injury to consumers. Based on Defendants’ past
20 actions, it is likely that they will continue to violate the law until they are removed from a
21 position that allows them to do so. Imposition of an Asset Freeze and Temporary Restraining
22 Order will greatly diminish Defendants’ ability to continue to prey on consumers and place them
23 in even greater jeopardy of losing their homes.

24 Second, it is likely that Defendants will attempt to dissipate their assets once they learn of
25 this action. While this cannot be known with certainty until it is too late (i.e., once they have
26 already done so), the fact that this scheme is entirely unlawful and involves no legitimate
27 business activity, suggests Defendants are aware that they will be ordered to pay a large amount
28 in restitution, fines, and penalties and can best avoid that debt by making themselves “judgment

1 proof” by dissipating their illegally obtained assets. Further, to the extent Defendants' conduct
2 could also subject them to criminal prosecution for crimes such as theft by false pretenses,
3 conspiracy and money laundering, Defendants, again, have every motivation to dissipate their
4 illegally gotten gains to avoid collection of any criminal restitution order that may be imposed.

5 **V. CONCLUSION**

6 For the foregoing reasons, the People respectfully request that the Court grant the
7 requested relief.

8 This application is based on this application and memorandum of points and authorities,
9 the complaint on file herein, the declarations filed in support of this application and exhibits
10 thereto, any other documents that may be filed, and such evidence and argument that may be
11 presented at or before the hearing, or of which the Court may take judicial notice.

12 DATED: May ____, 2008

EDMUND G. BROWN JR.
Attorney General
ANGELA K. ROSENAU
Deputy Attorney General

13
14
15 By _____
ANGELA K. ROSENAU

16
17 Attorneys for Plaintiff
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