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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ORANGE

12 **PEOPLE OF THE STATE OF**  
13 **CALIFORNIA,**

14 Plaintiff,

**DECLARATION IN SUPPORT OF**  
**ARREST WARRANTS**

15 v.

16 **MARIANNE CURTIS, MARY ALICE**  
17 **YRACEBURU,**

18 Defendants.  
19

20 **INTRODUCTION**

21 **A. Experience and Training**

22 **1. Affiant's Training and Experience**

23 I, Christopher Wagner, the affiant, am a sworn peace officer. Since September 2001, I have  
24 been employed as a Special Agent for the California Department of Justice, Bureau of  
25 Investigation and Intelligence, Office of the Attorney General. Before my current assignment, I  
26 was assigned to the Bureau of Medi-Cal Fraud and Elder Abuse for five years followed by  
27 assignment to the Criminal Intelligence Bureau, Joint Terrorism Task Force for a year and a half.  
28 Prior to my appointment as a Special Agent with the California Department of Justice, I was

1 employed as a Peace Officer with the Morgan Hill Police Department for over sixteen years  
2 including five years as detective. During that time, I conducted numerous investigations of  
3 violations of Penal Code statues pertaining to burglary, forgery, fraud, robbery, assault, and  
4 murder. Throughout my law enforcement career, I have attended numerous schools and received  
5 training that has enhanced my investigative skills. I completed the California Highway Patrol  
6 Academy on August 16, 1984. I hold a Bachelor of Science degree in Criminal Justice and Basic,  
7 Intermediate, and Advanced Peace Officer certificates awarded by the California Commission on  
8 Peace Officer Standards and Training (P.O.S.T.). I have also completed several P.O.S.T.  
9 approved courses on law enforcement topics, including the investigation of Medi-Cal fraud,  
10 financial crimes, homicide, assaults, evidence collection and preservation, and preparation and  
11 execution of search warrants. I have also received information and training related to criminal  
12 investigations from other experienced investigators and prosecuting attorneys. I have prepared  
13 and/or participated in the execution of more than 50 search warrants for gathering evidence  
14 during a criminal investigation. I have located and recovered property, evidence, drugs and other  
15 indicia of criminal activity from various locations, including businesses, residences, vehicles,  
16 personal computers, and bank accounts.

17 **The undersigned hereby declares, upon information and belief:**

18 That a 49 count felony complaint charging MARIANNE CURTIS (CURTIS) and MARY  
19 ALICE YRACEBURU (YRACEBURU) with grand theft (Pen. Code, § 487., subd. (a),  
20 foreclosure consultant violations (Civ. Code, § 2945.4), both felonies, and a special allegation for  
21 taking in excess of \$65,000 within the meaning of Penal Code 12022.6(a)(1), has been issued and  
22 is filed here with the Clerk of the Court.

23 That facts set forth herein were provided through an investigation conducted by Investigator  
24 Sandy Birch and reports of the investigation prepared pursuant to her duties with the California  
25 Attorney General's Office, which contents I believe to be true. Birch also obtained and provided  
26 me with reports of an investigation conducted by Investigator Dwayne A. Johnson with the Tulare  
27 County District Attorney. I have reviewed those investigative reports.

28 **2. Investigator Sandy Birch**

1 Investigator Sandy Birch is employed as an investigator with the California Attorney  
2 General's Office. She was employed as a Special Agent with the California Department of  
3 Justice for twenty years before retiring in January 2004. While employed as a Special Agent she  
4 was assigned to the Bureau of Medi-Cal Fraud and Elder Abuse, the Major Fraud Unit, and the  
5 Bureau of Narcotic Enforcement. She has attended the P.O.S.T. Academy and possessed an  
6 Advanced Specialized Investigators Certificate. She has completed numerous law enforcement  
7 academies that have covered substantive law and investigative techniques. She has also received  
8 training from other special agents, supervisors, and prosecuting attorneys. She has conducted  
9 hundreds of investigations involving grand theft, identity theft, securities fraud, money laundering,  
10 and other financial crimes. Birch has been working as a contract investigator with the California  
11 Attorney General's Office for the past 5 years and has spent the last year investigating foreclosure  
12 fraud scams. She is familiar with the ways in which financial crimes are committed.

### 13 **3. Dwayne A. Johnson**

14 District Attorney Investigator Dwayne A. Johnson has been employed as a sworn peace  
15 officer with the Tulare County District Attorney's Office since March 2006. Prior to working for  
16 the District Attorney, he had over thirty years of law enforcement experience. Johnson worked  
17 for twenty years as a police officer with the Fresno Police Department and retired with the rank of  
18 Lieutenant. He worked for two years as a correctional officer with the United States Army, and  
19 nearly one year as a police officer with the St. Cloud Minnesota Police Department. He was a  
20 Special Agent with the Federal Bureau of Investigation for six years and worked for nearly one  
21 year as a deputy sheriff with the Tulare County Sheriff's Office. Johnson is familiar with the  
22 ways in which financial and real estate fraud crimes are committed.

### 23 **B. Summary of the Case**

24 On January 17, 2008, Tulare County District Attorney Investigator Dwayne Johnson  
25 contacted the California Attorney General's Office regarding a complaint from a resident of  
26 Visalia, California who had been contacted by Foreclosure Freedom. Subsequent investigation  
27 by Johnson and the California Attorney General's Office determined that CURTIS and  
28 YRACEBURU, doing business as Foreclosure Freedom, were engaged in a loan modification

1 scheme. The suspects obtained lists of Notices of Default filings for a small monthly fee and sent  
2 flyers to addresses on the lists. The flyers they sent out were entitled “FINAL NOTICE -  
3 Respond only to this notice immediately” and gave a business name of “Foreclosure Solutions  
4 Department - Reinstatement Office of Special Programs.” When homeowners called the number  
5 on the flyer, they were told that their mortgage could be renegotiated to a lower monthly payment  
6 and that their delinquency could be added to the back end of the loan.

7 The suspects told homeowners, both in the flyer and in subsequent telephone contacts, that  
8 they were “specialists” experienced in negotiating mortgage loans. But neither YRACEBURU  
9 nor CURTIS had any prior experience working with mortgage lenders and both have felony  
10 criminal histories. Homeowners who sought their services were required to pay an up-front fee  
11 and were told not to contact their lenders. The suspects provided no loan modification services  
12 with the inconsequential exception of mailing forms signed by homeowners permitting  
13 Foreclosure Freedom to contact their lenders. No loan modifications were found in client files  
14 seized from the suspects’ residences nor did any victim contacted during the course of this receive  
15 a loan modification through Foreclosure Freedom. Rather most of the victims were either forced  
16 into bankruptcy or lost their homes to foreclosure.

17 **C. Applicable Criminal Statutes**

18 **1. Penal Code section 487, subdivision (a): Grand Theft** - states any person who  
19 fraudulently appropriates property which has been entrusted to him or her, or who knowingly and  
20 designedly by any false or fraudulent representation or pretense, defrauds another person of  
21 money, labor or property of a value exceeding four hundred dollars (\$400) is guilty of grand theft,  
22 a felony.

23 **2. Penal Code section, subdivision 12022.6 (a), subsection (1) - Excessive Taking**  
24 **Allegation** - When a person takes property in the commission or attempted commission of a  
25 felony, with the intent to cause that taking, the court shall impose an additional consecutive term  
26 of one year if the loss exceeds sixty-five thousand dollars (\$65,000).

27 **3. Civil Code section 2945.4: Foreclosure Consultant (Prohibited Acts)** - It shall be a  
28 violation to: a) Claim, demand, charge, collect, or receive any compensation until after the

1 foreclosure consultant has fully performed each and every service the foreclosure consultant was  
2 contracted to perform or represented he would perform.

3 **4. Civil Code section 2945.7: Foreclosure Consultant (Violations/Punishment) -**

4 Any person who commits any violation described in Section 2945.4 shall be punished by . . .  
5 imprisonment in the county jail for not more than one year, or in the state prison . . . for each  
6 violation.

7 **D. Definitions**

8 **1. Civil Code section 2945.1, subdivision (a): Foreclosure consultant defined –** Any

9 person who makes any solicitation, representation, or offer to any owner to perform any services  
10 which the person in any manner represents to do the following: (1) Stop or postpone foreclosure,  
11 (2) obtain any forbearance from any beneficiary or mortgagee, . . . (6) Assist the owner to obtain  
12 a loan . . . (8) save the owner’s home from foreclosure.

13 **2. Civil Code section 2945.1, subdivision (g): Owner defined –** The record title owner

14 of the residential real property in foreclosure at the time the notice of default was recorded. (Civ.  
15 Code, § 1695.1, subd. (f).)

16 **PROBABLE CAUSE FOR OFFENSE**

17 Based on my training and experience, and the training and experience of Investigators Birch  
18 and Johnson, and the facts set forth in this affidavit, I conclude that there is probable cause to  
19 believe that from March 2007 to February 2008, MARIANNE CURTIS (“CURTIS”) and MARY  
20 ALICE YRACEBURU (“YRACEBURU”) engaged in a scheme to defraud homeowners and  
21 steal their money, in violation of Penal Code 487, subdivision (a) (grand theft) and that the loss  
22 was in excess of \$65,000. As an integral part of the scheme, CURTIS and YRACEBURU  
23 operated as unlicensed foreclosure consultants and collected up-front fees from homeowners in  
24 violation of California Civil Code 2945.4, a felony.

25 **A. Scheme to Defraud**

26 Foreclosure Freedom initially came to the attention of Investigators Birch and Johnson  
27 when a Tulare County victim provided a copy of a flyer he received in the mail offering loan  
28 modification assistance. Johnson and Birch recognized the flyer by its distinct goldenrod color

1 and the wording on the flyer. Both Birch and Johnson had conducted criminal investigations in  
2 which Rosa Conrado and others, doing business as First Gov, Foreclosure Prevention and  
3 Reinstatement Department (hereinafter collectively referred to as “First Gov”), used almost  
4 identical flyers to attract victims in a scheme to steal money from homeowners seeking to avoid  
5 foreclosure. The investigation led to the arrest of Conrado and others in Tulare, Merced, and San  
6 Bernardino Counties for grand theft, money laundering, and conspiracy. To date, Conrado and  
7 two others have pleaded guilty to grand theft charges.

8 Using the telephone numbers listed on the flyer, Johnson conducted two undercover  
9 operations and determined that CURTIS and YRACEBURU were operating Foreclosure Freedom  
10 using a business address of a private mailbox in Costa Mesa, California. Subsequent search  
11 warrants and interviews determined that YRACEBURU previously worked for Conrado and First  
12 Gov and used flyers and procedures similar to theirs. When interviewed, YRACEBURU told  
13 Johnson that she met CONRADO while both were serving federal prison terms. YRACEBURU  
14 then recruited CURTIS, whom she also met while in prison.

15 Investigator Birch told me that the investigation of CURTIS and YRACEBURU revealed  
16 that they engaged in a scheme to defraud homeowners in foreclosure by falsely representing that  
17 they were experienced loan modification specialists and offering to save homeowners from  
18 foreclosure for an up-front fee. In particular, the suspects falsely claimed they had “private  
19 lenders and specialists exclusive to their company . . . [who are] very experienced in the various  
20 options and methods utilized by the mortgage companies and how to negotiation and save your  
21 home.” CURTIS and YRACEBURU did not disclose that they had no real estate licenses, legal  
22 training, or experience of any kind in the home mortgage market, and had not successfully  
23 negotiated any loan modifications. They also failed to disclose that they were both convicted  
24 felons and that their so-called business was being run out of their respective homes. As an  
25 integral part of the scheme, CURTIS and YRACEBURU told homeowners, both in written and  
26 oral communications, to cease any communications with their lenders claiming that it would  
27 interfere with their efforts and reassuring them that “we know how to present your package to the  
28

1 lenders to get your best and lowest cost solution.” In compliance with these instructions,  
2 homeowners sent money to Foreclosure Freedom rather than their lenders.

3 Victim losses resulting from this fraudulent scheme were determined by interviews with  
4 victims and a review of the bank accounts held by Foreclosure Freedom. Investigator Birch  
5 determined that the bank accounts, maintained in the name of Foreclosure Freedom at  
6 Washington Mutual Bank and Bank of America were used for collecting and then transferring  
7 victim funds, typically by check, to CURTIS and YRACEBURU. Total deposits into the  
8 accounts exceed \$158,000 for the period April 2007 through January 31, 2008 and appear to be  
9 entirely attributable to the fraudulent loan modification scheme.

10 **B. Suspects**

11 **1. MARY ALICE YRACEBURU**

12 **a. Search of residence**

13 On February 6, 2008, law enforcement officers executed a search warrant at the residence  
14 of YRACEBURU. Documents seized included a fictitious business permit, bank records, and  
15 business cards for Foreclosure Freedom as well as handwritten notes about conversations with  
16 homeowners. Also seized were business cards for Rosa Conrado and contracts from Foreclosure  
17 Prevention (a.k.a First Gov).

18 **b. Interview with YRACEBURU**

19 During execution of the search warrant on February 6, 2008, Tulare County District  
20 Attorney Investigator Dwayne Johnson interviewed YRACEBURU. Birch listened to a taped  
21 recording of the interview and advised that YRACEBURU admitted starting Foreclosure  
22 Freedom and owning the business; opening business bank accounts for Foreclosure Freedom at  
23 Washington Mutual Bank and Bank of America; working with CURTIS who maintains  
24 homeowner files at her residence in Costa Mesa; and charging homeowners pay a fee, typically  
25 \$1,800, for services provided to renegotiate their home loans. During the interview,  
26 YRACEBURU also said she is currently on probation for a federal offense and has advised her  
27 probation officer about her business. YRACEBURU denied knowing that she needed to be  
28 licensed to work as a foreclosure consultant. She admitted to collecting a fee from homeowners

1 for loan modification services before contacting their lender but denied knowing that the practice  
2 is illegal. YRACEBURU also told Johnson that she knew Rosa Conrado and that she had  
3 previously worked for her in a similar foreclosure consultant business.

4 **c. Criminal history of YRACEBURU**

5 On September 25, 2000, YRACEBURU was convicted in United States District Court of  
6 conspiracy and mail fraud charges related to distribution of methamphetamine and sentenced to a  
7 six-year prison term. YRACEBURU started federal probation on January 31, 2006 under the  
8 Federal Supervised Release program and is currently on probation.

9 **2. MARIANNE CURTIS**

10 **a. Search of residence**

11 On February 6, 2008, law enforcement officers executed a search warrant at the residence  
12 of CURTIS. Documents seized included Foreclosure Freedom client records located in file  
13 folders or held together with a paper clip, notes reflecting contacts or attempted contacts with  
14 homeowners, client contracts, financial data, and copies of payments made by the clients to  
15 Foreclosure Freedom. Some of the files were in drawers but many were also found on the floor  
16 or on top of furniture. Many of the client files contained documentation showing that an  
17 “authorization to negotiate with Foreclosure Freedom” had been faxed to the homeowner’s  
18 lenders but contained no other record of contact with the lender. Client files did not always  
19 include documentation of payments received from the homeowners. Handwritten notes found  
20 among the records seized often did not reference a client name or file reference. Other documents  
21 seized include typewritten phone scripts, flyers ready for mailing, and a handwritten notation  
22 referring to “Calif civil code 2945-2945.11 Calif. Foreclosure.”  
23

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25 **b. Interview with CURTIS**

26 During execution of the search warrant on February 6, 2008, Investigator Birch interviewed  
27 CURTIS. Birch prepared a written report of the interview that I have read. CURTIS said she met  
28



1 YRACEBURU when she was serving time in federal custody. Later, YRACEBURU told her  
2 about Foreclosure Freedom and that she has set up the business to help people save their homes  
3 from foreclosure.

4 CURTIS explained that she and YRACEBURU obtained the names and addresses of people  
5 who are delinquent on their loans from a web site "foreclosures.com." The cost of this service is  
6 \$50 per month and is billed to a credit card held by CURTIS. The service provides information  
7 contained on the Notice of Default, including the amount of the delinquency. CURTIS and  
8 YRACEBURU merge this data onto printed flyers that are mailed to the listed addresses.  
9 CURTIS agreed to pay for this service with her credit card because YRACEBURU does not have  
10 a credit card.

11 CURTIS said that the phone number on the flyer is for YRACEBURU who responds to  
12 callers and explains the services provided by Foreclosure Freedom. YRACEBURU contacts  
13 CURTIS and gives her the name, address, and telephone number of the people interested in a loan  
14 modification and CURTIS sends them a packet of documents to complete and return.  
15 YRACEBURU also determines the amount of the fee charged to homeowners. CURTIS said  
16 YRACEBURU previously charged \$1,800 but recently raised the fee to \$2,000. They do accept  
17 payment terms if the homeowner is unable to come up with the full amount. CURTIS said she  
18 makes all the contacts with the lenders for Foreclosure Freedom and admitted the service fee must  
19 be paid in full before she will begin negotiating with the lender. She said she does not always  
20 make notations about her contacts with the lenders in client files.

21 CURTIS said she has hired employees, including Sheila Ward, to contact homeowners  
22 about sending in their documents and paying their service fees. CURTIS said she spends hours  
23 every day talking to mortgage loan companies and claims to have helped 90% of her clients save  
24 their home from foreclosure. Once the foreclosure sale is cancelled, she communicates with the  
25 lender and client until the mortgage loan is modified.

26 CURTIS said she has worked in the financial field her entire life and believes she has the  
27 experience to help clients with their mortgage loans. She said she worked for Burroughs  
28

1 Corporation as an accountant about fifteen years ago and as a company controller about ten years  
2 ago.

3 **c. Criminal history of CURTIS**

4 On May 18, 1993, CURTIS was convicted of grand theft and welfare fraud, both felonies  
5 and sentenced to probation in Orange County case number 93CF0643. On September 6, 1995,  
6 the conviction was set aside pursuant to Penal Code section 1203.4. On May 19, 1993, CURTIS  
7 was convicted of grand theft, a felony and sentenced to probation in Orange County case number  
8 C-99316. On May 24, 1994, the charge was reduced to a misdemeanor. On October 25, 2001,  
9 CURTIS was convicted of conspiracy to commit wire fraud in United States District Court and  
10 sentenced to a 33-month prison term.

11 **C. TULARE COUNTY DISTRICT ATTORNEY INVESTIGATION**

12 Tulare County District Attorney Investigator Dwayne Johnson recorded telephone calls  
13 between the Tulare County victim, M. Compton, and “Mary” and “Marianne” of Foreclosure  
14 Freedom. In the telephone calls, both women demanded payment of fees before they would  
15 renegotiate M. Compton’s mortgage loan, in violation of California Civil Code Section 2945.4.  
16 Between January 28, 2008 and February 5, 2008, Johnson made several undercover calls to  
17 Foreclosure Freedom posing as a homeowner in default on his mortgage. Johnson initially spoke  
18 with “Mary” who told him that Foreclosure Freedom worked with mortgage companies on loan  
19 modifications that banks do not disclose to customers. She explained that in a loan modification,  
20 they would add the default amount and three monthly payments to the back of the loan. She also  
21 told him that the loan could be restructured in different ways and that she would be able to get his  
22 interest rate down. Johnson was instructed to send \$1,800 to 2973 Harbor Boulevard, #267 in  
23 Costa Mesa, California. The address is a private mailbox.

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26  
27 **D. Witness Interview**

28 **1. Foreclosure Freedom employee Sheila Ward**

1 Birch interviewed Sheila Ward on February 6, 2008, during the service of the search  
2 warrant on CURTIS's residence. Ward said she owns a catering business and works for  
3 Foreclosure Freedom part time. She said she was paid "under the table" with cash or groceries.  
4 Ward said she contacts homeowners to advise them to send documents and pay monies owed to  
5 Foreclosure Freedom. Ward said she does not speak with lenders and that CURTIS does all of  
6 those contacts. Ward said Foreclosure Freedom charges a fee for their services. Ward does not  
7 know who decides how much the fee will be but, after it is determined, she calls clients to collect  
8 it. She has been trained by CURTIS to tell clients that they will not finish the loan modifications  
9 until the entire fee is paid. CURTIS has taught her to tell clients that they "must pay the entire fee  
10 before we finish your file." Ward said "finish" means to complete the loan modification. She has  
11 also heard CURTIS tell their Spanish-speaking employee to tell clients in Spanish that they will  
12 not "finish" until they pay the entire fee. Ward never tells a client they will not work for them  
13 until the fee is paid, and that is not true. They will set up a client file and collect documents prior  
14 to receiving payment in full, but will not do a loan modification until the fee is paid. After  
15 CURTIS sets the payment plan, Ward follows up to with clients to collect the money.

16 Ward said she hears CURTIS on the phone with lenders and believes CURTIS is helping  
17 people save their homes. She has also heard from clients that Foreclosure Freedom saved their  
18 homes from auction. In particular, Ward recalled that Pamela Hardy said her home had been  
19 saved. Ward said she had no experience in the foreclosure business and that CURTIS showed her  
20 how to evaluate the financial situation of the homeowners. She said they would not collect a fee  
21 unless they thought they could help the homeowner. Ward said CURTIS speaks daily with  
22 YRACEBURU, and she believes they are co-owners of the business.

## 23 **E. Victim Interviews**

### 24 **1. Elizabeth Bustamantez**

25 Birch interviewed Elizabeth Bustamantez on February 8, 2008. Bustamantez said she  
26 contacted Foreclosure Freedom in approximately November 2007 after receiving a Notice of  
27 Default on her home in Santa Cruz County. The first woman she spoke with told her that  
28 Foreclosure Freedom was in business to help people keep their homes. One of the documents

1 Bustamantez provided to Foreclosure Freedom was a form authorizing them to contact her  
2 mortgage loan companies, Saxon and Countrywide Home Loans, about her loans. She received  
3 notification her lenders had been given the authorization form and was relieved that they had been  
4 contacted. Bustamantez said Foreclosure Freedom told her the fee for renegotiating her loan was  
5 \$1,800. She sent three payments to Foreclosure Freedom as follows: \$300 on December 14, 2007;  
6 \$240, on January 3, 2008; and \$300 on January 10, 2008. All three payments were mailed to  
7 2973 Harbor Boulevard, Costa Mesa, California.

8 Bustamantez said she had been told by both "Marianne" and "Sheila" that they could not  
9 complete her loan renegotiation until the full payment of the fee was received. She had been told  
10 by "Sheila" that the file was in order and the mortgage specialist had completed the renegotiation  
11 and had received final approval from her lenders. She asked why she had not received any  
12 documents and was told that it was not their practice to complete the deal until they had received  
13 payment in full.

14 Birch reviewed the client file for Bustamantez.<sup>1</sup> Other than fax confirmations of the  
15 authorization forms sent to Saxon and Countrywide, it contains no record of contact with these  
16 lenders. Birch reviewed the bank records for Foreclosure Freedom and determined that  
17 Bustamantez's payments were deposited as follows: \$300 on December 21, 2007; \$540 on  
18 January 18, 2008.<sup>2</sup>

19 Birch reviewed Santa Cruz County Recorder records and determined that a Notice of  
20 Default was recorded against Bustamantez's property on October 18, 2007.

## 21 **2. Dolores Chacon**

22 On November 6, 2008, Birch interviewed Dolores Chacon. Chacon said she received a  
23 flyer in the mail that looked very official. She called the number on the flyer and was told that  
24 Foreclosure Freedom could renegotiate her home loan, lower her monthly payment, and move her  
25 delinquency to the back of the loan. She was told that the fee would be \$3,000 and that she could

26 <sup>1</sup> All client files referred to herein were seized from the suspects' residences pursuant to  
27 search warrants executed on February 6, 2008.

28 <sup>2</sup> Unless stated otherwise, the bank records reviewed were for Washington Mutual account  
number \*\*\*\* held by YRACEBURU d.b.a. Foreclosure Freedom.

1 make payments on the amount. She was advised not to pay her lender while Foreclosure  
2 Freedom was working on the loan modification, as it would not help the negotiations. Chacon  
3 said she had been making payments towards to the fee amount and had sent three money orders  
4 for \$500 each to Foreclosure Freedom. The third payment was seized in the search warrant and  
5 returned to her by the Department of Justice. Subsequently, Chacon called Marianne to ask for  
6 the rest of her money back. Marianne told Chacon she would return her money but did not have  
7 access to her file. She reassured Chacon that she was not going to lose her home and told her to  
8 call a woman at World Savings, her lender. Chacon contacted World Savings and was told that  
9 they had no knowledge of Marianne nor had they been in contact with Foreclosure Freedom.  
10 Chacon said she had to pay \$12,000 in back payments and was upset about losing \$1,000 to  
11 Foreclosure Freedom.

12 Birch reviewed the client file for Chacon and found notes reflecting telephone calls with  
13 Chacon and confirmation that a client authorization had been sent to World Savings. The file  
14 does not contain any loan modification papers or notes of contact with the lender, other than the  
15 client authorization form.

16 Birch reviewed the bank records for Foreclosure Freedom and determined that Chacon's  
17 payments were deposited as follows: \$500 on December 7, 2007; \$500 on January 18, 2008.

18 Birch reviewed Monterey County Recorder records and determined that a Notice of Default  
19 was filed against Chacon's property on November 3, 2006.

### 20 **3. Elva Gil and Fernando Araiza**

21 On February 9, 2008, Birch interviewed Elva Gil by telephone. Gil was interviewed in  
22 English but is not fluent in the language. Gil said she was delinquent on her mortgage and  
23 received a flyer in the mail. She called the number on the flyer and spoke with "Mary." She also  
24 recalled speaking to "Marianne" and "Sheila." Gil was told that Foreclosure Freedom could save  
25 her home and change her payment so she would not be delinquent anymore. They told her the fee  
26 for the service was \$1,600 but that she could make payments for that amount.

27 Gil said Foreclosure Freedom told that she should not make any more payments to her  
28 lender or communicate with them. Gil responded that she wanted to keep making payments so

1 her lender would know she was trying. She was reassured that it was better to pay Foreclosure  
2 Freedom because they could get her payments lowered. She does not know if Foreclosure  
3 Freedom made any contact with her lender.

4 Birch reviewed the client file for Gil. It contains notes indicating that a client authorization  
5 form was sent to Gil's lender on September 20, 2007 but there is no evidence of any further  
6 contact with the lender or of loan modification documents.

7 Birch reviewed the bank records for Foreclosure Freedom and determined that Gil's  
8 payments were deposited as follows: \$500 on November 5, 2007; \$700 on December 21, 2007.

9 Birch also reviewed Fresno County Recorders records and determined that the Notice of  
10 Default was recorded against Gil's property on September 4, 2007. It was recorded in the name  
11 of Gil's husband, Fernando Araiza.

#### 12 **4. Pamela Hardy**

13 On February 12, 2008, Birch interviewed Pamela Hardy. Hardy said she was in default on  
14 her residential mortgage and telephoned the number on a flyer she received in the mail. She  
15 spoke with several women there but she usually spoke with "Sheila." They told her they could  
16 save her home from an auction sale and renegotiate her loan. Hardy completed several forms and  
17 was told it would cost \$1,500 for loan modification services. Hardy said "Sheila" told her they  
18 could not start the negotiations with her lender until she paid the \$1,500 fee and advised Hardy  
19 not to talk to her lender or send them any payments. Hardy said she sent Foreclosure Freedom a  
20 payment of \$500 and called to make sure they had received the payment and had begun working  
21 on her loan. "Sheila" told her that her supervisor had spoken with Countrywide Home Loans and  
22 that there was a workout plan in progress. Sheila later told Hardy that Foreclosure Freedom had  
23 saved her home from being sold at auction and renegotiated her loan but she could not give Hardy  
24 the details of the loan plan until she had paid the \$1,500 fee in full. Hardy then sent a money  
25 order and personal check totaling \$500 to Foreclosure Freedom. Hardy's money order and  
26 personal check were seized during the search of CURTIS's residence and returned to Hardy.

27 Birch reviewed the client file for Hardy. It contains a fax sent to Countrywide Mortgage  
28 requesting a postponement of the foreclosure. Included with the fax were the client authorization,

1 a typewritten hardship letter, and financial documents for Hardy. The file also contained a  
2 photocopy of a \$500 money order paid by Hardy to Foreclosure Freedom. Birch told me the  
3 search warrant only produced bank records through January 2008 and additional records are being  
4 sought to verify deposit of Hardy's payment.

5 Birch reviewed San Joaquin County Recorder records and determined that a Notice of  
6 Default was recorded against Hardy's property on July 26, 2007. Birch told me that during her  
7 interview, CURTIS claimed she saved Hardy's home from foreclosure.

#### 8 **5. Santiago Villaseca**

9 On February 1, 2008, Birch interviewed Villaseca. He told her he received a Notice of  
10 Default when he became delinquent on his home loan. He telephoned Foreclosure Freedom after  
11 receiving a flyer from them in the mail. Villaseca said he spoke with "Marianne" who was  
12 familiar with his mortgage loan situation. She told him that they were specialists and could save  
13 his home. "Marianne" told him the fee for the service was \$1,500 and had to be paid with a  
14 money order or cashier's check. She told him that she could start working on his loan  
15 modification as soon as she received his payment. Villaseca said he purchased two money orders  
16 and sent them to an address in Costa Mesa as directed. After sending his payment, Villaseca  
17 called Foreclosure Freedom at all hours of the day and night to find out what was happening on  
18 his mortgage, but Foreclosure Freedom did not return his calls. Villaseca believes that  
19 Foreclosure Freedom did not assist him and reported them to the Better Business Bureau. He  
20 eventually lost his home to foreclosure.

21 Birch reviewed the client file for Villaseca. The file includes a letter from Foreclosure  
22 Freedom to Villaseck (sic). The letter is dated June 12, 2007 and includes a reminder to forward  
23 his payment immediately so that they can begin negotiations with his lender. The letter also  
24 instructs him not to contact his mortgage lender and explains that [Foreclosure Freedom] know[s]  
25 how to present your package to the lenders to get your best and lowest cost solution." There is  
26 another letter to Villaseck (sic) dated June 20, 2007, which instructs him to send his payment of  
27 \$1,500 to 2973 Harbor Boulevard, Costa Mesa. The letter also states we have already worked  
28 with the mortgage company and are in good communication with them. We will get you the best

1 situation to stop this foreclosure. The letter is signed by CURTIS. The file indicates that the  
2 client authorization was sent to his mortgage company. There is also a note dated July 25, which  
3 states:

4 Spoke with several people at GRP Financial - they absolutely refused to  
5 work any kind of foreclosure agreement - they said he had lied to them  
6 many times and had broken every agreement with them. Will only take  
full reimbursement of \$15,189.38 plus attorney fees.

7 The note id dated after Villaseca filed his complaint with the Better Business Bureau on  
8 July 19, 2007. The file contains no other notes about contact with any lenders.

9 Birch spoke with CURTIS about Villaseca during her interview. CURTIS told Birch that  
10 the file was not complete and that she had spoken with several people about Villaseca's loan. She  
11 said she believed that they had earned the \$1,500 he paid because they tried to get his loan  
12 renegotiated. She intended to refund his money because he had filed a complaint with the Better  
13 Business Bureau but had not yet gotten around to processing it.

14 Birch reviewed the bank records for Foreclosure Freedom and determined that Villaseca's  
15 money orders totaling \$1,500 were deposited on June 27, 2007.

16 Birch reviewed Sacramento County Recorder records and determined that a Notice of  
17 Default had been filed against Villaseca's property on May 1, 2007.

#### 18 **F. Victim Questionnaires**

19 The Tulare County District Attorney's Office prepared a list of victim names and addresses  
20 contained in client files seized from CURTIS's residence. The California Attorney General's  
21 Office sent a questionnaire to each of the victims on the list. Most of the questionnaires were  
22 returned as undeliverable. Birch reviewed the questionnaires that were returned. She also  
23 reviewed Foreclosure Freedom client and bank records pertaining to these victims. Her review of  
24 these records determined the following:

##### 25 **1. Timothy and Beverly Chavez**

26 Timothy Chavez stated in his questionnaire responses that he received a flyer from  
27 Foreclosure Freedom. He was told they could stop the foreclosure and negotiate the restructure  
28 of his loan. In addition to his questionnaire, Chavez provided documents indicating that he was



1 charged a fee of \$1,500 by Foreclosure Freedom and paid two \$500 payments toward the fee.  
2 One of his payments was returned to him by the California Attorney General's Office before it  
3 had been deposited. Chavez said he trusted this company in a time of need and was lied to from  
4 the get go." Investigator Johnson spoke with Chavez on February 13, 2008. Chavez told him that  
5 Foreclosure Freedom required the payment of \$1,500 before they would negotiate with his lender,  
6 Countrywide. His client file only has notes of the client authorization being faxed to the lender.  
7 There are no other notes of contact with the lender but there are numerous notes about calls made  
8 to Chavez to collect his fee. Bank records for Foreclosure Freedom show that a \$500 cashier's  
9 check purchased by Chavez was deposited on December 21, 2007. King County Recorder  
10 records show a Notice of Default was filed against Chavez's property on October 18, 2007.

## 11 **2. Charles Cole**

12 Charles Cole stated in his questionnaire responses that Foreclosure Freedom told him they  
13 would stop his default and modify his loan. Cole said he paid \$1,800 to Foreclosure Freedom.  
14 His client file contained copies of loan forbearance and loan modification documents. The  
15 documents were dated prior to the signing of the Foreclosure Freedom contract and contain a fax  
16 number that indicates Cole sent the documents to Foreclosure Freedom. The file does not  
17 indicate there was any contact with the lender by Foreclosure Freedom. Notes indicate that the  
18 authorization was not sent to the lender because the fax lines were busy. There were notes of  
19 numerous calls to Cole regarding collection of his fee. Bank records show a personal check from  
20 Cole for \$400 was deposited on January 10, 2008. Another check for \$400 dated February 6,  
21 2008 was returned to Cole by the California Attorney General's Office. Alameda County  
22 Recorder records show a Notice of Default was filed against Cole's property on December 13,  
23 2007.

24 ///

## 26 **3. Carmelita Llorera**

27 Carmelita Llorera stated in her questionnaire responses that she paid Foreclosure Freedom  
28 \$1,500 but did not receive any services from them. Her client file seized indicates that the first

1 contact with Llorera was on August 13, 2007. The file includes copies of faxes sent to  
2 Washington Mutual on November 21, 2007 and November 24, 2007 and both are urgent pleas to  
3 stop the sale of the residence. The documents state the sale was scheduled for November 26,  
4 2007 and one states November 28, 2007. The faxed letters include copies of money orders paid  
5 to the lender for \$3,000 and notes that the client wants a loan modification.

6 Bank records show the following payments from Llorera: \$500 deposited on September 4,  
7 2007; and \$1,000 deposited on November 13, 2007. Solana County Recorder records show that a  
8 Notice of Default was filed against Llorera's property on July 25, 2007.

9 On November 6, 2008, Birch interviewed Llorera by telephone. Llorera said she is  
10 unaware of any work that Foreclosure Freedom did to help her save her home. She received no  
11 communications from them regarding her loan. Her home was scheduled for auction sale but at  
12 the last minute, she filed for bankruptcy and stopped the foreclosure.

#### 13 **4. Reyna Gomez and Salvador Argueta**

14 Reyna Gomez stated in her questionnaire response that she spoke with "Marianne" and was  
15 told "that the foreclosure on the house was going to be stopped." She said that Foreclosure  
16 Freedom had not done anything to save her home and did not answer or return her phone calls.

17 On November 6, 2008, Birch interviewed Reyna Gomez. Gomez said Foreclosure Freedom  
18 told her they could stop her foreclosure and the fee would be \$1,800. She sent two payments to  
19 an address in Costa Mesa. The first payment was a money order for \$1,000. The second payment  
20 was a money order for \$800. Gomez said Foreclosure Freedom did not help her with her loan,  
21 and she lost her home to foreclosure. Birch verified that the payments were deposited to the  
22 account of Foreclosure Freedom on October 31, 2007 and December 21, 2007.

23 Gomez's client file contained a notation indicating the receipt of \$1,800 as payment in full  
24 for services. The file also contained documentation that a client authorization form had been sent  
25 to Gomez's lender. Fresno County Recorder records show that the Notice of Default was recorded  
26 against Gomez's property on October 25, 2007.

#### 27 **5. Additional Victims**

28

1 Birch reviewed the questionnaires, bank records, and county recorder records for the  
2 following additional victims. Each of the victims had received a Notice of Default prior to their  
3 contact with Foreclosure Freedom, had no loan modification documents or notations in their  
4 client file, and had paid money to Foreclosure Freedom. Below are the names of additional  
5 victims, the amounts of their payments to Foreclosure Freedom and the date on which their  
6 payments were deposited into a bank account held by Foreclosure Freedom.

7 Michael and Geri Bryant (\$1,500 on 11/5/07) Mario Drumondy (\$1,600 on 9/20/07),  
8 Chong Kim (\$500 on 1/8/08), Juan Gonzalez (\$750 on 12/21/07 and \$750 on 1/18/07), Manuela  
9 Navarro (\$1,200 on 9/13/07), Maria Neff (\$1,200 on 11/16/07), Sempha Phathvilay (\$1,500 on  
10 9/20/07), Terry Pumphrey and Arlene Fontenot (\$1,000 on 11/5/07), Anthony Quecut (\$1,200 on  
11 11/5/07), Mike Robidoux (\$200 on 12/21/07, \$100 on 12/31/07, and \$600 on 1/18/08), Charlotte  
12 Robinson (\$750 on 12/21/07), Adrienne and Chuck Styles (\$900 on 1/18/08), and Lizette  
13 Woolfolk, (\$750 on 12/5/07).

#### 14 **G. Document Review**

##### 15 **1. Flyer Sent to Homeowners**

16 Printed flyers contained the names and addresses of homeowners were seized from the  
17 residence of CURTIS. As well, copies of flyers were obtained from victims. The flyers are  
18 official looking and printed on goldenrod colored paper. Each flyer contains the Notice of  
19 Default filing number, and amount of the delinquency. Entitled "Final Notice," the flyers include  
20 false and misleading statements such as "[w]e have many sources including private lenders  
21 designed to save your property!!!!," and "[w]e are experts if you need to short sell your home  
22 quickly !!!" A copy of the flyer is attached and incorporated into this affidavit as Attachment 1.

##### 23 **2. Scripts for Telephone Contacts**

24 Typewritten scripts for telephone contacts with clients were seized from the floor of  
25 CURTIS's residence. The scripts bear titles that appear to indicate the purpose of the call, for  
26 example - initial call, welcome courtesy call, message if no response to courtesy call, and monies  
27 to collect. The scripts include false statements about the experience and success of Foreclosure  
28 Freedom in saving homes from foreclosure and repeated warnings cautioning homeowners not to

1 pay their mortgage or talk to their lender. A representative sample of the scripts is attached and  
2 incorporated into this affidavit as Attachment 2.

### 3 **3. Client Agreements Signed by Homeowners**

4 Birch reviewed signed client agreements/contracts that were either seized from the search  
5 of CURTIS's residence or provided by victims. The agreements state "Foreclosure Freedom has  
6 many options to resolve the above default mortgage. The default specialist has access to many  
7 options to save your home and your credit unlike most foreclosure type companies with just a  
8 single service to provide." It also states that Foreclosure Freedom "will commence negotiation  
9 immediately following payment" and the receipt of all necessary documents. Each contract lists  
10 the up-front fee due to Foreclosure Freedom. A sample of the client agreement is attached and  
11 incorporated into this affidavit as Attachment 3.

### 12 **4. Fictitious Business Name Permit**

13 Fresno County recorder records indicate that on February 16, 2007 Fictitious Business  
14 Name Permit #200710001196 was issued to YRACEBURU d.b.a. Foreclosure Freedom located  
15 at 21558 South Hayes Avenue, Riverdale, California (YRACEBURU's residence address).

### 16 **5. Private Mail Box Application**

17 On January 17, 2008, Investigator Birch went to the UPS Store located at 2973 Harbor  
18 Boulevard, Costa Mesa, California. She requested a copy of the box application for box number  
19 267. The application was completed by YRACEBURU and dated March 16, 2007. It contained a  
20 copy of her driver's license and vehicle registration as identification. The application also  
21 includes the name of Marianne CURTIS, and has a copy of her driver's license and home loan  
22 statement as identification. The business name listed on the application is "Foreclosure Freedom"  
23 and the business type is listed as "Finance." The application and Mail Service Agreement are  
24 signed by YRACEBURU. A search warrant was served on February 6, 2008 for the box  
25 application and box contents. The box was empty at the time of the service of the warrant.

### 26 **6. Bank Records**

27 Bank records for the following accounts were obtained by search warrant and reviewed by  
28 Investigator Birch.

1                   **a. Bank of America, account number 0000000, Mary**  
2                   **YRACEBURU d.b.a. Foreclosure Freedom**

3                   This account was opened on April 16, 2007. A signature card was not recovered but the  
4                   account is held in the name of YRACEBURU d.b.a. Foreclosure Freedom. The deposit items for  
5                   the account total \$8,800. Birch reviewed deposit items and determined they appeared to be  
6                   payments issued to Foreclosure Freedom by victims of the loan modification scheme based on the  
7                   deposit amounts and payor names.

8                   Checks drawn on the account and payable to YRACEBURU total \$5,400. Checks made  
9                   payable to CURTIS total \$4,400. A check for \$2,100 made payable to CURTIS was returned  
10                  unpaid. The account was closed by the bank on June 13, 2007 due to excessive returned items.

11                   **b. Washington Mutual, account number 0000000, Mary**  
12                   **YRACEBURU d.b.a. Foreclosure Freedom**

13                  A search warrant was served on this account on February 6, 2008. The account was frozen  
14                  and has a balance of \$7,183.73. Bank records were produced pursuant to the search warrant for  
15                  the period June 15, 2007, when the account was opened, to January 31, 2008. The signature card  
16                  contains the name and identification of YRACEBURU and lists Foreclosure Freedom as her  
17                  employer. The deposit items for the account total \$149,147. Birch reviewed deposit items and  
18                  determined they appeared to be payments issued to Foreclosure Freedom by victims of the loan  
19                  modification scheme based on the deposit amounts and payor names.

20                   **c. Washington Mutual, account number 0000000, Marianne**  
21                   **CURTIS**

22                  The account is a personal account of CURTIS. Victim money deposited into Washington  
23                  Mutual account number 00000005 was transferred to this account by checks made payable to  
24                  CURTIS. Withdrawal items for the account include payments for Foreclosure Freedom operation  
25                  expenses such as postage.

26                  ///

27                  **7. Search of Database of California Department of Real Estate**  
28

1 On September 11, 2008, Investigator Birch searched the online database of the California  
2 Department of Real Estate and determined that CURTIS and YRACEBURU are not licensed real  
3 estate agents or brokers in the State of California.

4 **8. Search of Database of California Bar Association**

5 On September 11, 2008, Investigator Birch searched the online database of the California  
6 Bar Association and determined that CURTIS and YRACEBURU are not licensed as attorneys in  
7 the State of California.

8 **CONCLUSION AND REQUEST**

9 Based on the contents of the affidavit, my training and experience and the training and  
10 experience of Investigator Birch and Investigator Johnson, I conclude that between March 2007  
11 and February 2008, MARY ALICE YRACEBURU and MARIANNE CURTIS engaged in a  
12 fraudulent loan modification scheme. As an integral part of the scheme, CURTIS and  
13 YRACEBURU demanded up-front fees allegedly for loan modification services in violation of  
14 California Civil Code 2945.4 (Prohibited acts by foreclosure consultants), a felony. As a result of  
15 the scheme, suspects took over \$400 from each victim in violation of Penal Code section 487,  
16 subdivision (a) (Grand Theft), a felony. I also conclude that the total aggregate amount taken  
17 from victims was in excess of \$65,000 within the meaning of Penal Code 12022.6, subdivision (a),  
18 subsection (1).

19 I therefore request that based upon this Declaration warrants be issued for the arrest of  
20 MARY ALICE YRACEBURU and MARIANNE CURTIS who may be dealt with according to  
21 law.