

1 WILLARD K. TOM
General Counsel

2 CHARLES A. HARWOOD
3 Regional Director

4 NADINE SAMTER, WA State Bar No. 23188
MIRY KIM, WA State Bar No. 31456
5 Federal Trade Commission
915 Second Avenue, Suite 2896
6 Seattle, WA 98174
Phone: (206) 220-6350
7 Facsimile: (206) 220-6366
email: nsamter@ftc.gov
8 mkim@ftc.gov

9 ATTORNEYS FOR PLAINTIFF

10
11 **UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF IDAHO**

13
14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 APPLY2SAVE, INC., a corporation;
18 SLEEPING GIANT MEDIA WORKS, INC.,
a corporation; and DEREK R.
19 OBERHOLTZER, individually and as an
officer of Apply2Save, Inc., and Sleeping
20 Giant Media Works, Inc.,

21 Defendants.

Civil Action No.

22
23 **COMPLAINT FOR PERMANENT**
24 **INJUNCTION AND OTHER**
25 **EQUITABLE RELIEF**

26 Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

- 27 1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act
28 ("FTC Act"), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent
injunctive relief, rescission or reformation of contracts, restitution, the refund of monies
paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or
practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

DEFENDANTS' BUSINESS PRACTICES

- 1
2 13. Since at least May 2008, Defendants have engaged in a course of conduct to advertise,
3 market, offer to sell, and sell to consumers purported mortgage loan modification and
4 foreclosure relief services. Defendants marketed their services to homeowners who are
5 in financial distress, delinquent on their mortgage loans, or in danger of losing their
6 homes to foreclosure. Defendants have charged consumers from \$595 to \$995 in up-
7 front fees for their services.
- 8 14. Defendants marketed their services through the website www.apply2save.com. The
9 website www.apply2save.com urged consumers to call a toll-free number. The website
10 also requested that consumers complete a short form and submit the completed form to
11 Defendants, after which a representative would contact the consumer.
- 12 15. Defendants' www.apply2save.com website contained various statements to induce
13 consumers to purchase Defendants' mortgage loan modification and foreclosure relief
14 services, including the following:
- 15 a. Initially we are focused on helping the millions of
16 consumers that are faced with a mortgage problem.
17 Whether you have an ARM that has recently skyrocketed, a
18 severe loss in property value, have suffered a loss in
19 income, or you simply are finding that your current
20 mortgage payment is more than you can handle . . . our loss
21 mitigation specialists can help you.
 - 22 b. We follow a proven, step-by-step process that will correct
23 your existing mortgage problem by negotiating a solution
24 with your lender that best fits your unique financial
25 situation.
 - 26 c. Our #1 goal is to work with you and your lender to ensure
27 that you and your family can keep your home now and in
28 the future, stopping the foreclosure process immediately

1 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2 **CONSUMER INJURY**

3 33. Consumers have suffered and will continue to suffer substantial injury as a result of
4 Defendants' violations of the FTC Act. In addition, Defendants have been unjustly
5 enriched as a result of their unlawful acts or practices. Absent injunctive relief by this
6 Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and
7 harm the public interest.

8 **THIS COURT'S POWER TO GRANT RELIEF**

9 34. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive
10 and such other relief as the Court may deem appropriate to halt and redress violations of
11 the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award ancillary
12 relief, including rescission or reformation of contracts, restitution, the refund of monies
13 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of
14 any provision of law enforced by the FTC.

15 **PRAYER FOR RELIEF**

16 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
17 and the Court's own equitable powers, requests that the Court:

- 18 A. Award Plaintiff such preliminary injunctive and ancillary relief as may be
19 necessary to avert the likelihood of consumer injury during the pendency of this
20 action and to preserve the possibility of effective final relief, including but not
21 limited to, temporary and preliminary injunctions, an order freezing assets, and
22 limited expedited discovery;
- 23 B. Enter a permanent injunction to prevent future violations of the FTC Act by
24 Defendants;
- 25 C. Award such relief as the Court finds necessary to redress injury to consumers
26 resulting from Defendants' violations of the FTC Act, including but not limited
27 to, rescission or reformation of contracts, restitution, the refund of monies paid,
28 and the disgorgement of ill-gotten monies; and

1 D. Award Plaintiff the costs of bringing this action, as well as such other and
2 additional relief as the Court may determine to be just and proper.
3

4 Dated: July 14, 2009

Respectfully submitted,

5 WILLARD K. TOM
6 General Counsel

7
8 /s/Nadine Samter
9 NADINE SAMTER
10 MIRY KIM
11 Federal Trade Commission
12 915 Second Avenue, Suite 2896
13 Seattle, WA 98174
14 (206) 220-6350

15
16 Attorneys for Plaintiff
17 FEDERAL TRADE COMMISSION
18
19
20
21
22
23
24
25
26
27
28