

2. This suit is brought by the ATTORNEY GENERAL through the Consumer Protection Division in the name of the STATE OF TEXAS and in the public interest under the authority granted to him by Section 17.47 of the Deceptive Trade Practices-Consumer Protection Act ("DTPA"). The DTPA permits the Attorney General's office to bring an action to restrain, by temporary restraining order, temporary injunction, or permanent injunction the use of any method, act or practice declared to be unlawful by Section 17.46 of the DTPA.

III. PARTY DEFENDANTS

- 3.1 Defendant ENHANCE MORTGAGE CORPORATION, INC., is a domestic corporation organized and existing under the laws of the State of Texas that engages in business in the State of Texas. The registered agent for ENHANCE MORTGAGE CORPORATION, INC. is Mark Templeton Brown. Defendant ENHANCE MORTGAGE CORPORATION, INC. may be served with process by serving its Registered Agent, Mark Templeton Brown at his places of business, 8303 Avenue F., Lubbock, TX 79404, 8305 Avenue F., Lubbock, TX 79404 or at his residence at 4510 82nd Lane, Lubbock, TX, 79424.
- 3.2 Defendant TEMPLETON MORTGAGE COMPANY, INC., is a domestic corporation organized and existing under the laws of the State of Texas that engages in business in the State of Texas. The registered agent for TEMPLETON MORTGAGE COMPANY, INC., is Mark Templeton Brown. Defendant TEMPLETON MORTGAGE COMPANY, INC., may be served with process by serving its Registered Agent, Mark Templeton Brown at his places of business 8303 Avenue F., Lubbock, TX 79404, 8305 Avenue F., Lubbock, TX 79404 or at his residence at 4510 82nd Lane, Lubbock, TX 79424.
- 3.3 Defendant MARK TEMPLETON BROWN is an individual who does business in the State

of Texas. Defendant MARK TEMPLETON BROWN is the President and Director of ENHANCE MORTGAGE CORPORATION, INC., and TEMPLETON MORTGAGE COMPANY, INC., and may be served with process at his places of business, 8303 Avenue F., Lubbock, TX 79404, 8305 Avenue F., Lubbock, TX 79404 or at his residence at 4510 82nd Lane, Lubbock, TX 79424, or at any of his places of business or wherever he may found.

- 3.4 Defendant AMYDAWN BROWN, is an individual who does business in the State of Texas. Defendant AMYDAWN BROWN is Secretary and Director of TEMPLETON MORTGAGE COMPANY, INC., and may be served with process at her places of business at 8303 Avenue F., Lubbock, TX 79404, 8305 Avenue F., Lubbock, TX 79404 or at her residence at 4510 82nd Lane, Lubbock, TX 79424.

IV. AUTHORITY

4. This action is brought by the Attorney General through his Consumer Protection Division under the authority granted by Section 17.47 of the Texas Deceptive Practices-Consumer Protection Act (DTPA).

V. VENUE

- 5.1 Venue of this action lies in Lubbock County on the basis of Sections 15.002(a)(1) and (3) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this cause of action occurred in Lubbock County.
- 5.2 Venue of this action also lies in Lubbock County pursuant to Section 17.47(b) of the DTPA because transactions and events giving rise to this action occurred in Lubbock County and/or because Defendants have done or are doing business in Lubbock County and/or Defendants are residents of Lubbock County, Texas.

VI. ACTS OF AGENTS

- 6.1 Whenever in this Petition it is alleged that Defendants did any act or thing, it is meant that Defendants performed or participated in such acts or thing or that such acts were performed by the officers, agents or employees of said Defendants, and in each instance, the officers, agents or employees of said Defendants were then authorized to and did in fact act on behalf of Defendants or otherwise acted under the guidance and direction of the Defendants.

VII. PUBLIC INTEREST

- 7.1 By reason of the institution and operation of the unlawful practices set forth herein, Defendants have and will cause immediate and irreparable injury, loss and damage to the State of Texas and its citizens, and will also cause adverse effects to legitimate business enterprise which conducts its trade and commerce in a lawful manner in this State. Therefore, the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

VIII. TRADE AND COMMERCE

- 8.1 Defendants are engaged in "trade" and "commerce" as defined by Section 17.45(6) of the DTPA, as that Defendants are engaged in the purchase, sell and collection of owner-financed mortgages.

IX. SPECIFIC FACTUAL ALLEGATIONS

- 9.1 ENHANCE MORTGAGE CORPORATION, INC., TEMPLETON MORTGAGE COMPANY, INC., MARK TEMPLETON BROWN, Individually and AMY DAWN BROWN, Individually, (hereinafter Defendants) market and advertise throughout the United States by mail and the World Wide Web that they purchase land contracts, deeds of trust,

contracts for deed, private mortgages and/or real estate notes in the owner-financed mortgage market all over the southern United States, and that they purchase ALL loans, even if the payer/borrower is behind on payments or in bankruptcy.

- 9.2 In the course and conduct of their business, Defendants' created an "Earnest Money Contract" and/or "Partial Purchase Earnest Money Contract" form, which stated that the Defendants had the option to pursue either specific performance or actual damages, together with any another statutory and/or punitive damages, legal fees, costs and other expenses caused by the consumer's default, and allowed the consumer to receive only \$10 earnest money should Defendants default, which Defendants paid into an account held by their attorney.
- 9.3 In the course and conduct of their business, Defendants' created an "Earnest Money Contract" and/or "Partial Purchase Earnest Money Contract" form, which contained no mechanism to adjust the amount of the offer to purchase the owner-financed mortgage upon any contingency.
- 9.4 In the course and conduct of their business, Defendants' created an "Earnest Money Contract" and/or "Partial Purchase Earnest Money Contract" form, which did not require the Defendants to perform due diligence prior to the offer to purchase the owner-financed mortgage.
- 9.5 In the course and conduct of their business, Defendants created an "Earnest Money Contract" and/or "Partial Purchase Earnest Money Contract" form, which contained no definite time in which Defendants had to complete performance of the purchase of the owner-financed mortgage, but Defendant alleged that it bound the consumer indefinitely to sell the owner-

financed mortgage to the Defendants.

- 9.6 In the course and conduct of their business, Defendants made representations to consumers that they would offer to purchase the owner-financed mortgage note for a certain amount, either orally and/or in writing, as outlined in their "Earnest Money Contract" and/or "Partial Earnest Money Contract" form, to induce the consumer to sign.
- 9.7 In the course and conduct of their business, subsequent to the consumer's signature of the "Earnest Money Contract" and/or "Partial Money Contract" form which contained Defendants' first offer to purchase said owner-financed mortgage, Defendants would perform due diligence, and reduced the amount of the offer to purchase the owner-financed mortgage in the "Earnest Money Contract" and/or "Partial Earnest Money Contract" form.
- 9.8 In the course and conduct of their businesses, should the consumer refuse to accept the lower offer to purchase, Defendants would threaten and/or file a lawsuit against the consumer in Lubbock County and seek damages for breach of contract, specific performance, loss of business opportunity, attorneys' fees and court costs.
- 9.9 In the course and conduct of their business, Defendants created an "Earnest Money Contract" and/or "Partial Purchase Earnest Money Contract" form, which stated that if the "Seller gives erroneous information or data, then Seller shall accept a prorated reduced offer to complete this contract." Defendants completed the "Earnest Money Contract or "Partial Earnest Money Contract" form, from information Defendants collected over the telephone from their initial contact with the consumer, prior to completion of due diligence, and in an attempt to bind the consumer to a lower offer to purchase.
- 9.10 In the course and conduct of their business, Defendants created an "Earnest Money Contract"

and/or "Partial Purchase Earnest Money Contract" form, which required that any disputes arising out of the "Earnest Money Contract" or "Partial Purchase Earnest Money Contract" must be brought in Lubbock County, Texas, regardless of where the property was located, or the residence of the consumer.

X. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES

10.1 Defendants, as set out in Paragraphs 1 through 9, in the course and conduct of trade and commerce, have directly and indirectly engaged in and will continue to engage in false, misleading, deceptive or unconscionable acts and practices declared unlawful by Sections 17.46(a) and (b) of the Texas Deceptive Trade Practices Act, including but not limited to:

A. Representing, marketing and/or advertising throughout the United States, by mail, the World Wide Web, and/or any other form of communication, that Defendants purchase land contracts, deeds of trust, contracts for deed, private mortgages or real estate notes in the owner-financed mortgage market all over the southern United States directly or by implication, regardless of the payer/borrower's delinquent payment history or bankruptcy, when Defendants do not, in violation DTPA §17.46(b)24.

B. Representing, directly or by implication, through marketing and/or advertising throughout the United States, by mail, the World Wide Web, and/or any other form of communication, that the amount in the "Earnest Money Contract" and/or "Partial Earnest Money Contract" is the amount which Defendants offer to purchase land contracts, deeds of trust, contracts for deed, private mortgages or real estate notes in the owner-financed mortgages when it is not, in violation of DTPA §17.46(b)(5);

DTPA §17.46(b)(9); DTPA §17.46(b)(11); DTPA §17.46(b)(12); and DTPA §17.46(b)(24).

- C. Failing to disclose, directly or by implication, the purpose, content, conclusion or existence of any investigation and/or verification of the details of the owner-financed mortgage contract, including but not limited to the original mortgage note, terms of the original mortgage, payment history of the payer/borrower, credit worthiness of the payer/borrower, income of the payer/borrower, property inspection, independent property appraisal, tax delinquencies, liens, title issues, Board of Director's review, Committee review and any other actions, documents or information which Defendants deemed necessary to make an offer to purchase, in violation of DTPA §17.46(b)(11) and DTPA §17.46(b)(24).
- D. Filing suit founded upon a written contractual obligation of and signed by the consumer to pay money arising out of or based on a consumer transaction for goods, services, loans, or extension of credit intended primarily for personal, family, household or agriculture use in any county other than in the county in which the consumer resides at the time of the commencement of the action or in the county in which the defendant in fact signed the contract, in violation of DTPA §17.46(b)(23).
- E. Filing a "Lis Pendens" on real property prior to Defendants' filing an action and/or when Defendants have no valid interest in the real property on which the Lis Pendens is filed, in violation of DTPA §17.46(b)(2); DTPA §17.46(b)(3); DTPA §17.46(b)(5) and DTPA §17.46(b)(12).
- F. Misrepresenting the authority of B.D. Adkins as "Vice President," "Executive Vice

President" and/or an officer of Enhance Mortgage Corporation, Inc., in violation of DTPA §17.46(b)(14).

- G. Misrepresenting that consumers are bound to accept a pro-rata and/or reduced amount of the original offer to purchase, in violation of DTPA §17.46(b)(2); DTPA §17.46(b)(3); DTPA §17.46(b)(5); DTPA §17.46(b)(11); DTPA §17.46(b)(12); and DTPA §17.46(b)(24).

XI. INJURY TO CONSUMERS

- 11.1 By means of the foregoing unlawful acts and practices, Defendants have acquired money or other property from identifiable persons to whom such money should be restored, or who in the alternative are entitled to an award of damages.

XII. DISGORGEMENT

- 12.1 All of the Defendants' assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains and benefits or profits that result from Defendants putting fraudulently converted property to a profitable use. Defendants should be ordered to disgorge all monies fraudulently taken from individuals and businesses together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

XIV. NOTICE BEFORE SUIT

- 14.1 The Consumer Protection and Public Health Division contacted Defendants in writing to inform them in general of the alleged unlawful conduct at least seven days before this suit was filed, as may be required by Section 17.47(a) of the DTPA.

XV. PRAYER

15.1 Wherefore, premises considered, Plaintiff prays that upon final hearing a PERMANENT INJUNCTION be issued restraining and enjoining, ENHANCE MORTGAGE CORPORATION, INC., TEMPLETON MORTGAGE COMPANY, INC., and MARK TEMPLETON BROWN, Individually; AMY DAWN BROWN, Individually, and their successors, assigns, officers, agents, servants, employees, and attorneys and any other person in active concert or participation with these Defendants from engaging in the following acts or practices:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, or other written or computer generated materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause.
- B. Representing, marketing and/or advertising throughout the United States, by mail, the World Wide Web, and/or any other form of communication, that Defendants purchase land contracts, deeds of trust, contracts for deed, private mortgages or real estate notes in the owner-financed mortgage market all over the southern United States directly or by implication, regardless of the payer/borrower's delinquent payment history or bankruptcy, when Defendants do not.
- C. Representing, directly or by implication, through marketing and/or advertising throughout the United States, by mail, the World Wide Web, and/or any other form of communication, that the amount in the "Earnest Money Contract" and/or "Partial

Earnest Money Contract” is the amount which Defendants offer to purchase land contracts, deeds of trust, contracts for deed, private mortgages or real estate notes in the owner-financed mortgages, when it is not.

- D. Failing to disclose, directly or by implication, the purpose, content, conclusion or existence of any investigation and/or verification of the details of the owner-financed mortgage contract, including but not limited to the original mortgage note, terms of the original mortgage, payment history of the payer/borrower, credit worthiness of the payer/borrower, income of the payer/borrower, property inspection, independent property appraisal, tax delinquencies, liens, title issues, Board of Director’s review, Committee review and any other actions, documents or information which would be necessary for Defendants to make an offer to purchase.
- E. Filing suit founded upon a written contractual obligation of and signed by the consumer to pay money arising out of or based on a consumer transaction for goods, services, loans, or extension of credit intend primarily for personal, family, household or agriculture use in any county other than in the county in which the consumer resides at the time of the commencement of the action or in the county in which the defendant in fact signed the contract.
- E. Filing a Lis Pendens on real property prior to Defendants’ filing an action and/or when Defendants have no valid interest in the real property on which the Lis Pendens is filed.
- F. Misrepresenting the authority of B.D. Adkins as “Vice President,” “Executive Vice President” and/or an officer of Enhance Mortgage Corporation, Inc.
- G. Misrepresenting that consumers are bound to accept a pro-rata and/or reduced amount

of the original offer to purchase.

- 15.2 Plaintiff further prays that upon final hearing, this Court grants a judgment against Defendants jointly and severally for payment of civil penalties of \$20,000.00 per violation of the DPA to the State of Texas. DTPA § 17.47(c)(1).
- 15.3 Plaintiff further prays that upon final hearing this Court grants a judgment against Defendants jointly and severally for payment of civil penalties of \$250,000.00 per violation of the DTPA if the consumer was 65 years of age or older. DTPA § 17.47(c)(2).
- 15.4 Plaintiff further prays that, upon final hearing, this Court orders Defendants to jointly and severally restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or in the alternative, award judgment for damages to compensate for such losses. DTPA § 17.47(d).
- 15.5 Plaintiff further prays that, upon final hearing, this Court orders each and every Defendant to disgorge all monies taken from consumers through deceptive practices, including gains and benefits or profits resulting from violations of the DTPA § 17.47(e).
- 15.6 Plaintiff further prays for costs of Court, reasonable attorneys' fees as provided in Texas Government Code Ann. Section 402.006(c), that any and all relief be denied Defendants and for such other and further relief to which The State of Texas may be justly entitled.

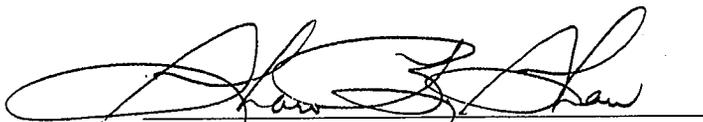
Respectfully submitted this 25th day of October, 2010.

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VERIFICATION

STATE OF TEXAS

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COUNTY OF LUBBOCK

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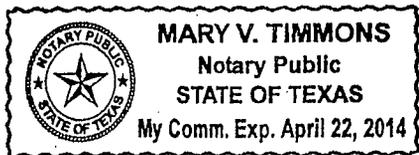
Before me, the undersigned Notary Public, on this day personally appeared Barbara Dykes, who, after being duly sworn, stated under oath that she is an Investigator, for the Office of The Attorney General, Consumer Protection and Public Health Division, that she has read the above Application, and that every statement contained in State of Texas' Original Petition for Civil Penalties and Injunctive Relief is true and correct and within the personal knowledge of the affiant.



Barbara Dykes, Investigator

SUBSCRIBED AND SWORN TO before me, on the 25th day of October, 2010 to certify which witness my hand and official seal.

Mary V. Timmons
Notary Public, State of Texas



Notary without Bond