

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
ORANGE COUNTY, FLORIDA  
CIVIL ACTION**

STATE OF FLORIDA  
OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

CASE NO:

v.

FMA SERVICING, INC.,  
a/k/a FINANCIAL MANAGEMENT ADVISORS;  
a Florida Corporation;

and

EDWARD BILLINGS, an Individual;  
JOSEPH ESPOSITO, an Individual;  
And SALVATORE ESPOSITO, an Individual;  
Defendants.

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**COMPLAINT FOR INJUNCTIVE RELIEF, DAMAGES, AND OTHER STATUTORY**

**RELIEF**

Plaintiff, STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS sues Defendants, FMA SERVICING, INC., a/k/a FINANCIAL MANAGEMENT ADVISORS, a Florida Corporation, and EDWARD BILLINGS, JOSEPH ESPOSITO, and SALVATORE ESPOSITO, as individuals, collectively referred to herein as “Defendants” and alleges:

**JURISDICTION AND VENUE**

1. This is an action for injunctive and other statutory relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla. Statutes (2008).
2. This action is also brought pursuant to the following statutes and codes:

- (a) §§501.1377(3)-(4), Florida Statutes, (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings;
- (b) §817.06(1), Florida Statutes, (2008), False Advertising;
- (c) §817.41(1)-(2), Florida Statutes, (2008), Misleading Advertising; and
- (d) §865.09(3), Florida Statutes (2008), Fictitious Name Act.

3. This court has subject matter jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes (2008).

4. All actions material to the complaint have occurred within four (4) years of the filing of this Action.

5. The statutory violations alleged herein occur in or affect more than one judicial circuit in the State of Florida, including Orange County, and the Ninth Judicial Circuit.

6. Venue is proper in Orange County, Florida.

**PLAINTIFF**

7. The Plaintiff is an “enforcing authority” of Chapter 501, Part II, Florida Statutes (2008), and is authorized to bring this action and seek injunctive relief and other statutory relief pursuant to that chapter.

8. Plaintiff has conducted an investigation of the matters alleged herein and Attorney General Bill McCollum has determined that this enforcement action serves the public interest, as required by §501.207(2), Florida Statutes (2008).

## DEFENDANTS

### *FMA Servicing, Inc., a/k/a Financial Management Advisors*

9. Defendant FMA Servicing, Inc., a/k/a Financial Management Advisors, (hereafter “FMA Servicing”) is an active Florida for-profit corporation with its principal address at 37 North Orange Ave Suite 1010, Orlando, Florida, 32801.

10. At all times relevant to this action Defendant FMA Servicing marketed loan modification and foreclosure-related rescue services to homeowners and engaged in trade or commerce as defined in §501.203(8), Florida Statutes (2008).

11. At all times relevant to this action Defendant FMA Servicing offered services to consumers under the trade name “Financial Management Advisors.”

12. Defendants have not registered the trade name “Financial Management Advisors” with the Florida Division of Corporations.

13. Defendants have represented to Plaintiff that FMA Servicing employs no person other than the individuals named in this complaint.

### *Edward Billings*

14. Defendant Edward Billings (hereafter “Mr. Billings”) is a natural person and serves as the Treasurer and a Director for FMA Servicing. As Treasurer and Director, Mr. Billings, presently and at all times material to the allegations of this Complaint, participates in, controls, or possesses the authority to control FMA Servicing’s acts and practices, and possesses actual or constructive knowledge of all material acts and practices complained of herein. Mr. Billings resides at 101 S. Eola Drive Unit 1201, Orlando, Florida, 32801.

15. Mr. Billings is registered with the Florida Department of the State, Division of Corporations as both the Registered Agent and President for FMA Servicing.

16. Mr. Billings is a one-third shareholder FMA Servicing.

***Joseph Esposito***

17. Defendant Joseph Esposito is a natural person and serves as the Secretary and a Director for FMA Servicing. As Secretary and Director, Joseph Esposito, presently and at all times material to the allegations of this Complaint, participates in, controls, or possesses the authority to control FMA Servicing's acts and practices, and possesses actual or constructive knowledge of all material acts and practices complained of herein. Joseph Esposito resides at Joseph Esposito resides at 101 S. Eola Drive Unit 801, Orlando, Florida 32801.

18. Joseph Esposito is a one-third shareholder FMA Servicing.

***Salvatore Esposito***

19. Defendant Salvatore Esposito is a natural person and serves as the President and a Director for FMA Servicing. As President and Director, Salvatore Esposito, presently and at all times material to the allegations of this Complaint, participates in, controls, or possesses the authority to control FMA Servicing's acts and practices, and possesses actual or constructive knowledge of all material acts and practices complained of herein. Salvatore Esposito resides at 322 E. Central Boulevard Apartment 1214, Orlando, Florida 32801.

20. Salvatore Esposito is a one-third shareholder FMA Servicing.

**COMMERCE**

21. At all pertinent times Defendants engaged in trade or commerce, as defined by §501.203(8), Florida Statutes (2008), within the State of Florida and within Orange County.

**STATEMENT OF FACTS AND**  
**DEFENDANTS' COURSE OF CONDUCT**

*Defendants' Loan Modification and Foreclosure-Related Rescue Services*

22. At all pertinent times, Defendants marketed and continue to market loan modification and foreclosure-related rescue services to homeowners in Florida and throughout the United States.

23. Defendants advertise and promote the loan modification and foreclosure-related rescue services to homeowners through FMA Services's website, [www.fmafinancial.com](http://www.fmafinancial.com).

24. According to FMA Services's website, Defendants negotiate with a homeowner's mortgage lender, such as a bank, to:

(a) "Modify your adjustable rate mortgage to a lower interest fixed rate mortgage;"

(b) "Modify your high fixed rate mortgage to a lower fixed interest rate."

(c) "Reduce the principal on your first or second mortgage if the value of your home has substantially declined;" and

(d) "**Prevent foreclosure, even if you are 1, 2, 3, or more months late on your mortgage payments.**" (emphasis added)

(See copy of Defendants' website attached hereto as Exhibit "A")

25. Defendants' website prompts homeowners to call Defendants and inquire about Defendants' services.

26. In order to utilize Defendants' loan modification and foreclosure-related rescue services, homeowners must sign and return to Defendants a "Financial Consulting Agreement." (See "Financial Consulting Agreement attached hereto as Exhibit "B").)

27. Pursuant to paragraph 1 of Defendants' Financial Consulting Agreement, Defendants require homeowners to pay an up-front fee before the Defendants will render any loan modification and foreclosure-related rescue services.
28. Upon Plaintiff's information and belief, the up-front fee charged by Defendants can be as high as \$2,500 (Two Thousand, Five Hundred Dollars).
29. Section 501.1377(3)(b), Florida Statutes (2008), prohibits a foreclosure-related rescue services company from imposing an up-front fee.
30. Defendants' Financial Consulting Agreement does not inform the homeowner of any of the following:
- (a) That FMA Servicing is prohibited by law from accepting any up-front fee;
  - (b) That FMA Servicing must return any up-front fee within 10 days from the date that fee was collected;
  - (c) The date and time by which a signed notice of cancellation must be sent by the homeowner to effectively cancel the agreement; and
  - (d) Any notification that the a homeowner should contact his/her lender or mortgage servicer prior to signing the agreement.
31. Upon Plaintiff's information and belief, Defendants are not providing homeowners with the contracted-for services.

***Defendants' False and Misleading Advertising***

32. Upon Plaintiff's information and belief, Defendants' website contains information that is false and/or misleading. The primary purpose of this false and/or misleading information is to entice consumers to purchase Defendants' loan modification and foreclosure-related rescue services.

33. Defendants' website contains a link to four consumer testimonials allegedly received by Defendants' from homeowners purporting to have been helped by Defendants.

34. Defendants could not provide Plaintiff with any documentation to support the legitimacy of these or any testimonials utilized by Defendants in their advertisements.

35. Defendants also claim to be affiliated with numerous mortgage lenders including:

- (a) FannieMae
- (b) Freddie Mac
- (c) Lending Tree
- (d) Ditech
- (e) Countrywide Financial
- (f) National Mortgage
- (g) Capital One
- (h) E-Loan

36. Defendants could not provide Plaintiff with any documentation to support any affiliation with any of the above-named lenders listed on Defendants' website.

37. Defendants' false claim of affiliation with the above-named mortgage lenders is designed to entice consumers to purchase Defendants' loan modification and foreclosure-related rescue services.

38. Defendants advertise that they have, "a staff of attorneys, accountants, and expert negotiators who are dedicated to achieve the results you need to keep your home."

39. Defendants have represented to Plaintiff that Defendants do not have any employees, beyond the parties named in the Complaint.

40. Defendants have also represented to Plaintiff that none of the officers or shareholder of FMA Servicing, including the parties named in this complaint, holds bar membership or certified accounting licensure.

41. The purpose of Defendants false claim to have “a staff of attorneys (and) accountants,” is to entice consumers to purchase Defendants’ loan modification and foreclosure-related rescue services.

**COUNT ONE**  
**VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

42. Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as it fully set forth above.

43. The Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, provides that “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

44. Defendants have violated and will continue to violate the Florida Deceptive and Unfair Trade Practices Act, §501.201, Florida Statutes (2008), by using deceptive an unfair practices in the in-home marketing of loan modification and foreclosure-related rescue services.

45. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

46. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.



**COUNT TWO**  
**VIOLATIONS OF §501.1377(3)(b), FLORIDA STATUTES**  
**VIOLATIONS INVOLVING HOMEOWNERS DURING THE COURSE OF**  
**RESIDENTIAL FORECLOSURE PROCEEDINGS**  
**VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

47. The Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as it fully set forth above.

48. Section 501.1377(3)(b), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings, provides that:

“In the course of offering or providing foreclosure-related rescue services, a foreclosure-rescue consultant may not:

(b) Solicit, charge, receive, or attempt to collect or secure payment, directly or indirectly, for foreclosure-related rescue services before completing or performing all services contained in the agreement for foreclosure-related rescue services.”

49. Pursuant to §501.1377(7), Florida Statutes (2008), “A person who violates any provision of this section commits an unfair and deceptive trade practice as defined in part II (Chapter 501 Part II, Florida Statutes) of this chapter. Violators are subject to the penalties and remedies provided in part II of this chapter, including a monetary penalty not to exceed \$15,000 per violation.”

50. As set forth in paragraphs 22 through 31 above, by charging an up-front fee to homeowners seeking foreclosure-related rescue services, Defendants have violated and will continue to violate §501.1377(3)(b) and thus have committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes, (2008).

51. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

52. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

**COUNT THREE**  
**VIOLATIONS OF §501.1377(4)(c), FLORIDA STATUTES**  
**VIOLATIONS INVOLVING HOMEOWNERS DURING THE COURSE OF**  
**RESIDENTIAL FORECLOSURE PROCEEDINGS**  
**VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

53. The Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as it fully set forth above.

54. Section 501.1377(4)(c), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings, provides that:

“An agreement for foreclosure-related rescue services must contain, immediately above the signature line, a statement in at least 12-point uppercase type that substantially complies with the following:

HOMEOWNER'S RIGHT OF CANCELLATION

YOU MAY CANCEL THIS AGREEMENT FOR FORECLOSURE-RELATED  
RESCUE SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN  
3 BUSINESS DAYS FOLLOWING THE DATE THIS AGREEMENT IS  
SIGNED BY YOU.

THE FORECLOSURE-RESCUE CONSULTANT IS PROHIBITED BY LAW  
FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER FORM OF

PAYMENT FROM YOU UNTIL ALL PROMISED SERVICES ARE COMPLETE. IF FOR ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE CANCELLATION, YOUR PAYMENT MUST BE RETURNED TO YOU NO LATER THAN 10 BUSINESS DAYS AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION NOTICE.

TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED (POSTMARKED) OR DELIVERED TO (NAME) AT (ADDRESS) NO LATER THAN MIDNIGHT OF (DATE).

IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR LENDER OR MORTGAGE SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR A RESTRUCTURING WITH YOU FREE OF CHARGE. ”

55. Pursuant to §501.1377(7), Florida Statutes (2008), “A person who violates any provision of this section commits an unfair and deceptive trade practice as defined in part II (Chapter 501 Part II, Florida Statutes) of this chapter. Violators are subject to the penalties and remedies provided in part II of this chapter, including a monetary penalty not to exceed \$15,000 per violation.”

56. As set forth in paragraphs 22 through 31 above, by failing to comply with the disclosure requirements in §501.1377(4)(c), Defendants have committed acts or practices in trade or

commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes, (2008).

57. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

58. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

**COUNT FOUR**  
**VIOLATIONS OF §817.06(1), FLORIDA STATUTES**  
**FALSE ADVERTISING**  
**VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

59. The Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as it fully set forth above.

60. Section 817.06(1), Florida Statutes (2008), prohibiting fraudulent or misleading advertising, proscribes unfair, deceptive, and unconscionable acts and practices, provides:

“No person... shall, with intent to offer or sell or in anywise dispose of merchandise, . . . service or anything offered by such person... directly or indirectly, to the public, for sale or distribution or issuance, or with intent to increase the consumption or use thereof, or with intent to induce the public in any manner to enter into any obligation relating thereto, . . . knowingly or intentionally make, publish, disseminate, circulate or place before public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state in a newspaper or other publication or in the form of a book, notice handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding such . . . service or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive, or misleading.”

61. Pursuant to §501.203(3)(c), Florida Statutes (2008), a violation of Chapter 501, Part II, may be based upon “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

62. As set forth in paragraphs 32 through 41 above, by advertising misleading and false information regarding consumer testimonials, business affiliations, and professional credentials on their website, Defendants have violated §817.06(1) and have thus committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes, (2008).

63. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

64. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

**COUNT FIVE**  
**VIOLATIONS OF §817.41(1), FLORIDA STATUTES,**  
**MISLEADING ADVERTISING**  
**VIOLATIONS OF FLORIDA STATUTES, CHAPTER 501, PART II,**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

65. The Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as if fully set forth below:

66. Section 817.41(1), Florida Statutes (2008), prohibiting misleading advertising, proscribes unfair, deceptive, and unconscionable acts and practices, provides:

“(1) It shall be unlawful It shall be unlawful for any person to make or disseminate or cause to be made or disseminated before the general public of the state, or any portion thereof, any misleading advertisement. Such making or dissemination of misleading advertising shall constitute and is

hereby declared to be fraudulent and unlawful, designed and intended for obtaining money or property under false pretenses.”

67. Pursuant to §501.203(3)(c), Florida Statutes (2008), a violation of Florida Statutes, Chapter 501, Part II,(2008) may be based upon “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

68. As set forth in paragraphs 32 through 41 above, by advertising misleading and false information regarding consumer testimonials, business affiliations, and professional credentials on their website, Defendants have violated §817.06(1) and have thus committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes, (2008).

69. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

70. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

71. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

**COUNT SIX**  
**VIOLATIONS OF §865.09(3), FLORIDA STATUTES**  
**FICTITIOUS NAME ACT**  
**VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**

72. The Plaintiff repeats and realleges Paragraphs 1 through 41 with the same force and effect, as if fully set forth below:

73. Section 865.09(3), Florida Statutes (2008), Fictitious Name Act, provides:

“A person may not engage in business under a fictitious name unless the person first registers the name with the division [Division of Corporations]”

74. Pursuant to §501.203(3)(c), Florida Statutes (2008), a violation of Florida Statutes, Chapter 501, Part II,(2008) may be based upon “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

75. As set forth in paragraph 12 above, Defendants are conducting business under the trade name Financial Management Advisors when that fictitious name is not registered with the Florida Division of Corporations and have thus committed acts or practices in trade or commerce which offend established public policy and are unethical, unscrupulous or injurious to consumers in violation of §501.204(1), Florida Statutes (2008).

76. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

77. Unless the Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of the Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, State of Florida, Office of the Attorney General, Department of Legal Affairs, respectfully requests that this Court grant:

A. Permanent injunctive relief against the Defendants for violations of Chapter 501, Part II, Florida Statutes (2008);

B. Permanent injunctive relief against the Defendants for violations of §§501.1377(3-4), Florida Statutes (2008), Violations Involving Homeowners during the Course of Residential Foreclosure Proceedings;

C. Permanent injunctive relief against the Defendants for violations of §817.06(1), Florida Statutes, (2008), False Advertising;

D. Permanent injunctive relief against the Defendants for violations of §817.41(1)-(2), Florida Statutes (2008), related to misleading advertising;

E. Permanent injunctive relief against the Defendants for violations of §865.09(3), Florida Statutes (2008), Fictitious Name Act;

F. Assess civil penalties against Defendants, in the amount of \$10,000 for each violation of Chapter 501, Part II, Florida Statutes, pursuant to § 501.2075, Florida Statutes (2008);

G. Award the Plaintiff attorneys fees and costs pursuant to the provisions of Chapter 501, Part II, Florida Statutes, and as otherwise may be allowable by applicable statutes;

H. Require disgorgement of profits and award restitution and refunds to Florida consumers for each violation of Florida law; and



I. Award such other relief as the interests of justice shall require and that this Honorable Court may deem just and proper.

Respectfully Submitted,

BILL MCCOLLUM  
ATTORNEY GENERAL

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