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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. SUPERIOR COURT
CIVIL ACTION NO.

08-2474-BLS

COMMONWEALTH OF MASSACHUSETTS, Plaintiff, v. H&R BLOCK, INC. and BLOCK FINANCIAL CORP. and OPTION ONE MORTGAGE CORP. and H&R BLOCK MORTGAGE CORP., and AH MORTGAGE ACQUISITION CO. d/b/a AMERICAN HOME MORTGAGE SERVICING, INC. Defendants.	**COMPLAINT**

I. INTRODUCTION

1. The Commonwealth of Massachusetts, by and through its Attorney General, Martha Coakley, brings this enforcement action pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4, and the Massachusetts Antidiscrimination Act, G.L. c. 151B, § 9, and G.L. c. 12, § 10, to require H&R Block Inc., Block Financial Corp., Option One Mortgage Corp., and H&R Block Mortgage Corp., (collectively "the HRB Entities") to pay civil penalties, restitution, and other damages arising from their unfair, deceptive, and discriminatory origination and servicing of mortgage loans in Massachusetts, and to disgorge their ill-gotten gains and profits from such conduct. The Commonwealth also seeks such injunctive relief against the HRB Entities and AH

Mortgage Acquisition Co., d/b/a American Home Mortgage Servicing, Inc. ("American Home Mortgage") as may be determined to be appropriate and equitable in order to remedy, address, and prevent additional harm arising from HRB Entities' unlawful conduct.

2. Option One Mortgage Corp. ("Option One") and H&R Block Mortgage Corp. ("HRBMC") were national mortgage lenders. The HRB Entities' residential lending business model consisted of making subprime residential loans, or loans ostensibly intended for borrowers with limited or impaired credit. As described herein, the HRB Entities, in fact, steered even prime borrowers into more costly subprime loans. From 2003 to the present, the HRB Entities were among the top five originators and servicers of subprime loans in the United States.

3. Traditionally, banks and mortgage companies originated mortgages designed for long-term performance, under conditions where the loan was likely to be repaid, and where there was an adequate secured equitable interest in the subject property, because they held the loans over the long term.

4. In contrast, the HRB Entities increasingly disregarded underwriting standards, created incentives for loan officers and brokers to disregard the interests of the borrowers and steer them into high-cost loans, and originated thousands of loans that they knew or should have known the borrowers would be unable to pay, all in an effort to increase loan origination volume so as to profit from the practice of packaging and selling the vast majority of the HRB Entities' residential subprime loans to the secondary market. In doing so, the HRB Entities did not have the same interest in ensuring that

loans would be repaid or that foreclosures could be avoided if real estate values stopped rising.

5. Beginning in approximately 2004, the HRB Entities began to abandon traditional underwriting standards and instead originate loans featuring multiple layers of risk without regard to whether their borrowers could afford the loan obligations. These unduly risky loans, which were often 100% financed, typically featured what are commonly referred to as "exploding ARMs," i.e., variable interest rates that adjusted upward, usually after two years, causing a significant increase in the borrowers' monthly payment, and also featured prepayment penalty provisions, which required borrowers to pay large penalties if they refinanced with other lenders during the introductory period. The combined impact of these risk features was that the HRB Entities routinely closed loans that they knew or should have known borrowers could not repay, especially after the "teaser rate" adjusted, and which were doomed to foreclosure.

6. These loans were designed not for long term viability, but for short-term refinancing, and brokers and agents routinely promised that borrowers could refinance before the loan became unaffordable when the introductory rate expired. But this business model, promoting serial refinancing, relied on a perpetual increase in home valuations because many loans were at or near 100% loan-to-value. As soon as the housing market flattened, the HRB Entities' already misleading promises of future refinancing became wholly illusory.

7. Predictably, many HRB Entities borrowers found themselves unable to refinance before their interest rate "exploded," because they have little or no home equity to draw upon to finance the prepayment penalty required of them to refinance. With no

way to afford the rising mortgage payments, many HRB Entities borrowers face foreclosure or the prospect of foreclosure. For hundreds of HRB Entities customers in Massachusetts already, and perhaps thousands more to come, the American dream of owning a home, due to defendants' unfair mortgage products and deceptive sales tactics, has turned quickly into the nightmare of payment delinquency, foreclosure, and the potential loss of home and valuable home equity.

8. On top of designing and marketing structurally unfair loans to subprime borrowers, the HRB Entities' loan origination policies encouraged loan officers and mortgage brokers to steer people into costly loan products, and to originate more loans, to maximize their own compensation. As a result, HRB Entities' agents and brokers steered borrowers with good credit scores and income into loans with high subprime interest rates, and encouraged borrowers with lower credit scores and income to accept risky loans. To support applications for the unduly risky loans, agents and brokers frequently overstated an applicant's income and/or ability to pay, and inflated the appraised value of the applicant's home. The HRB Entities, intentionally or recklessly, failed to verify or audit that information, and avoided implementing reasonable measures that would have prevented or limited these fraudulent practices.

9. The HRB Entities induced homeowners to accept their risky loan products by: (i) failing to clearly and conspicuously disclose how much and how soon the interest rate (and, therefore, the monthly payment) would increase after the teaser rate expired; (ii) failing to clearly and conspicuously disclose whether stated monthly payments included amounts due for insurance and taxes, which they generally did not; (iii) failing to clearly and conspicuously disclose closing costs and fees; (iv) making false promises

that the HRB Entities would refinance the loan prior to a rate increase; and (v) failing to disclose the true costs and risks associated with the false promise that refinancings would be available as an exit strategy when the HRB Entities' loan became unaffordable after the interest rate adjusted.

10. The HRB Entities knew or should have known that substantial numbers of their subprime loans would result in foreclosure, particularly in light of their qualification of borrowers based only on their ability to pay a two-year "teaser rate," and their reliance on serial refinancing, which in turn relied on a false assumption of perpetual home price appreciation. In fact, the origination policies that the HRB Entities employed from 2004 through 2007 have resulted in an explosion of foreclosures. These foreclosures will continue to have a devastating impact on Massachusetts communities. The number of foreclosures on Massachusetts properties with HRB Entities mortgages rose from 62 in 2005, to 382 in 2006, to 570 in just the first three quarters of 2007.

11. The Commonwealth and its cities and towns are incurring and likely will continue to incur enormous costs due to the HRB Entities' unfair, deceptive and predatory loan products. These costs include, but are not limited to, the costs of providing counseling and other assistance to consumers on the verge of foreclosure; the costs of providing additional services to consumers who have lost their homes due to foreclosure; the costs of providing increased law enforcement and emergency services in connection with incidents occurring in and around properties abandoned due to foreclosure; and costs associated with property value declines caused by foreclosure.

12. Absent intervention, the escalation in foreclosures on HRB Entities loans is expected to continue. The HRB Entities' unlawful lending practices were unfair and

deceptive under the Consumer Protection Act, Mass. Gen. Laws Ch. 93A. As further described herein, these practices also violated the Massachusetts Antidiscrimination Act, G.L. c. 151B, § 4(3B), which is intended to prevent discrimination against borrowers based on race and/or color.

13. The HRB Entities' unfair and deceptive lending practices had an adverse impact on all borrowers and communities in which the loans were made. The HRB Entities' unfair lending practices, however, had a disproportionate adverse impact on Black and Latino borrowers.

14. The HRB Entities steered borrowers with good credit scores and income to loans with high subprime interest rates, used marketing targeted to black and Latino borrowers, and used a discretionary pricing policy so that the HRB Entities charged black and Latino borrowers higher points and fees than similarly situated white HRB Entities' borrowers, even though the economic circumstances of the borrowers and the loans were substantially similar.

15. In addition to their unfair, deceptive, and discriminatory loan origination practices, the HRB Entities have also engaged in unfair or deceptive practices in servicing the loans they made, including: (i) failing to accurately credit homeowners' payments to their accounts; (ii) assessing and demanding substantial, unwarranted costs and fees under threat of foreclosure; (iii) pressuring homeowners facing imminent foreclosure to enter into reinstatement or other contracts with oppressive terms, without an adequate opportunity to consult legal counsel; and (iv) demanding exorbitant reinstatement amounts, including fees and costs that are neither bona fide nor reasonable.

16. Due to the HRB Entities' unlawful predatory conduct as the originator and, at times, servicer of mortgage loans in recent years, hundreds of people in Massachusetts who dealt with the HRB Entities have lost their homes and valuable home equity. Thousands more HRB Entities customers may face foreclosure in the near future. Ultimately, the HRB Entities' illegal conduct has contributed to the high number of foreclosures in Massachusetts and caused significant harm to Massachusetts borrowers and homeowners.

17. On or about April 30, 2008, AH Mortgage Acquisition Co. d/b/a/ American Home Mortgage Servicing, Inc. ("American Home Mortgage") purchased Option One's servicing portfolio, which contains substantially all of the loans Option One currently services. At the time of that transaction, American Home Mortgage had notice of the Attorney General's claims with respect to loans originated by the HRB Entities.

18. Any of Option One's interests in the Massachusetts loans that were unlawfully originated or serviced by Option One and that were acquired by American Home Mortgage were acquired subject to all of the claims set forth herein.

19. This action is brought against American Home Mortgage in order to effectuate the relief which the Attorney General seeks for Massachusetts residents in this action, including injunctive relief, determined to be necessary by this Court.

II. <u>JURISDICTION AND VENUE</u>

20. The Attorney General is authorized to bring this action pursuant to G.L. c. 93A, § 4, G.L. c. 151B, § 9, and G.L. c. 12, § 10. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4, G.L. c. 12, § 10, G.L. c. 151B, § 9, G.L. c. 214, § 1, and G.L. c. 223A, § 3.

21. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 5, G. L. c. 93A, § 4, and G.L. c. 151B, § 9.

III. THE PARTIES

22. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, who brings this action in the public interest.

23. Defendant H&R Block, Inc. ("H&R Block") is a Missouri corporation, with a principal place of business at 1 H&R Block Way, Kansas City, Missouri 64105. H&R Block was organized as a corporation in 1955 under the laws of the State of Missouri, and is a holding company with operating subsidiaries providing financial services and products to the general public. H&R Block is the parent corporation of Defendants Block Financial, Option One and HRBMC.

24. Defendant Option One Mortgage Corp. ("Option One") is a California corporation, with a principal place of business at 3 Ada, Irvine, California 92618. At all times relevant hereto, Option One was subject to the authority, direction, and control of the Board of Directors and Chief Executive Office of H&R Block. Option One is the subprime mortgage origination and servicing arm of H&R Block. According to H&R Block's 2007 Form 10-K, Option One operated in 48 states by serving 42,000 mortgage broker locations and through its network of 36 wholesale loan production branches and six national accounts branches.

25. Defendant H&R Block Mortgage Corporation ("HRBMC") is a California corporation with a principal place of business at 6561 Irvine Center Drive, Irvine, California 92616. HRBMC is Option One's retail lending channel. According to H&R Block's 2007 Form10-K, HRBMC was licensed to conduct business in all 50 states.

According to a Form 10-Q H&R Block filed with the Securities and Exchange Commission ("SEC") on December 13, 2007, Option One and HRBMC stopped accepting mortgage loan applications as of December 4, 2007. According to a Form 10-Q H&R Block filed on March 6, 2008, Option One funded its last loan in January 2008.

26. Defendant Block Financial Corporation ("Block Financial") is a Missouri corporation with a principal place of business at 1 H&R Block Way, Kansas City, Missouri 64015. Block Financial guaranteed the debt issued by Option One.

27. Because they have acted and continue to act in concert and cooperatively in carrying out the conduct alleged in this Complaint, Defendants H&R Block, Block Financial, Option One, and HRBMC are collectively referred to as "the HRB Entities" and each is responsible for the unlawful conduct alleged herein.

28. The policies and practices described in this Complaint were common to each of the HRB Entities, and were carried out through the participation of each of the HRB Entities.

29. AH Mortgage Acquisition Co. d/b/a American Home Mortgage Servicing, Inc. ("American Home Mortgage") is a corporation with a principal place of business at 4600 Regent Boulevard, Ste. 200, Irving, TX, 75063. American Home Mortgage is a mortgage loan servicer. It collects payments and maintains escrow accounts for home mortgage loans. American Home Mortgage is an affiliate of WL Ross & Co. LLC, a private equity firm based in New York.

30. On March 17, 2008, H&R Block entered into an agreement ("Purchase Agreement") to sell the mortgage loan servicing business of Option One to American Home Mortgage.

IV. STATEMENT OF FACTS

A. THE HRB ENTITIES' BUSINESS MODEL RESULTED IN PREDATORY SUBPRIME LOANS, INCREASES IN FORECLOSURE, AND HARM TO MASSACHUSETTS BORROWERS

1. The Interconnection Among and Unified Control of the HRB Entities

31. H&R Block is a public company offering financial services, particularly tax and accounting services, to millions of customers nationwide.

32. H&R Block used its tax customer base to generate customers for its subprime lending operations, the profit of which flowed back to H&R Block, as overseen by officers and directors who served in simultaneous capacities among the different defendant companies within the H&R Block operation.

33. Option One is the subprime mortgage origination and servicing arm of H&R Block.

34. The HRB Entities originated subprime loans through several channels, including Option One's wholesale origination channel (i.e. through its nationwide network of loan brokers) and a retail origination channel (i.e., through HRBMC loan production offices and regional offices). During the time period relevant to this Complaint, Option One originated the substantial majority of its subprime loans through its wholesale channel.

35. In addition to originating subprime loans, Option One retained the right to service the subprime loans it sold or securitized (which comprised the bulk of its servicing portfolio) and also purchased the rights to service subprime loans originated by other lenders.

36. In 1998, to take advantage of H&R Block's existing tax customer base, HRBMC was formed to act as Option One's retail lending channel. Unlike Option One's wholesale channel, which relied on mortgage brokers, HRMBC employed loan officers who originated loans directly. Option One controlled and profited from the operation of HRBMC and, at all times relevant hereto, Option One acted in concert with HRBMC and Block Financial to arrange and profit from the securitization and/or sale of loans HRBMC originated.

37. Through its wholesale and retail mortgage lending channels, the defendants leveraged H&R Block's reputation and customer relationships to solicit sales of Option One subprime loan products. H&R Block provided customer leads to HRBMC loan officers. H&R Block generated these leads by conducting direct marketing to H&R Block tax customers, referring responses to HRBMC, and through direct referrals from H&R Block tax professionals. When following up on leads developed through one of these channels, HRBMC employees were instructed to emphasize the direct relationship between HRBMC and H&R Block to gain potential mortgage customers' confidence. For example, HRMBC training materials instructed telemarketers to "introduce H&R Block Mortgage Corporation and our relationship to H&R Block Tax," and loan officers to "identify yourself and reconfirm that you are with H&R Block Mortgage Corporation, a subsidiary of H&R Block Financial Corporation."

38. H&R Block's tax professionals and financial advisors distributed Option One marketing materials, including national promotions and print collateral, to existing H&R Block customers. In fiscal year 2007, 24% of HRBMC's loans were made to

existing H&R Block customers. During the time period relevant to this Complaint, HRBMC operated a retail office in Burlington, Massachusetts.

39. At all times relevant hereto, H&R Block was involved in creating and implementing Option One and HRBMC's loan origination and servicing policies and procedures and controlled and profited from the operation of Block Financial, Option One and HRBMC.

40. According to records filed with the Massachusetts Secretary of the Commonwealth, during the relevant time period, the HRB Entities had several executive officers in common. In particular, (now former) H&R Block CEO Mark A. Ernst acted as one of Option One's Directors; H&R Block Vice President Bret Wilson acted as Block Financial's Secretary; H&R Block's CFO Becky Shulman acted as Block Financial's Treasurer; and Option One's CEO Robert Dubrish acted as HRBMC's President and Treasurer.

41. According to Moody's Investors Service, during the relevant time period, Option One's internal audits were conducted by H&R Block's corporate audit team, which reported directly to H&R Block's audit committee.

2. The HRB Entities Willfully and Knowingly Employed Unduly Relaxed Underwriting Standards and Issued a High Volume of Risky and Unaffordable Loans, Knowing That a Majority of the Loans Would Be Sold and the Risk Would Be Borne By Others.

42. Option One has been one of the largest subprime residential lenders and servicers in Massachusetts and in the country in recent years. Option One is one of the principal lenders that made loans that have ultimately ended in Massachusetts foreclosures.

43. The HRB Entities sold the vast majority of their residential subprime loans to trusts on the day that the loans were funded. The trusts then either sold the loans directly to third-party investors or back to H&R Block to pool the loans for securitization.

44. Third-party purchasers of the loans typically conducted quality care reviews, or due diligence, on only a portion of the loans or securities they bought.

45. Since the HRB Entities quickly resold the majority of mortgage loans and transferred the loans' risk to third parties, the HRB Entities' business model increasingly focused on originating a huge volume of loans for quick resale.

46. Traditionally, in addition to verifying that there was sufficient equity in property to secure a mortgage loan before extending it, banks and mortgage companies also considered a borrower's ability to repay that loan over the long term. Such an approach made sense in light of the lender's and borrower's shared goals of realizing and maintaining homeownership and ensuring the steady stream of mortgage payments that would flow therefrom. Indeed, making a loan secured by a significant asset of the borrower without properly considering the borrower's ability to repay the loan over time has long been considered a hallmark of "predatory" lending.

47. Because the HRB Entities' intention was to sell or securitize residential subprime loans to the secondary market in the short term, however, they knowingly and willfully failed to consider borrowers' ability to repay the loans over the long term.

48. The HRB Entities' indifference to a borrower's ability to pay is reflected in their unfair and exceedingly risky loan products, their relaxed and unfair underwriting practices, and their deceptive loan sales practices through their own conduct and the conduct of mortgage brokers and loan officers.

49. The impact of the HRB Entities' unfair and deceptive loan origination and servicing conduct will be experienced for years to come. That conduct has already resulted in hundreds of actual and threatened foreclosures, and many more are likely in the future.

3. HRB Entities' Loans are Structurally Unfair Because They Contain Multiple Layers of Risk That Fail To Account For Borrowers' Ability to Repay.

50. The HRB Entities' business model generated a variety of aggressive, exceedingly risky, and unfair loan products.

51. The HRB Entities, through their loan officers and affiliated mortgage brokers, induced borrowers to purchase subprime residential loan products that the HRB Entities knew or should have known the borrower could not afford, leading to potential foreclosure.

52. The HRB Entities marketed and originated a variety of loans to Massachusetts borrowers that are structurally unfair due to the multiple layers of risk in each loan product. These loans were often issued despite the fact that responsible and accurate debt-to-income and loan-to-value analyses would have indicated that the borrower likely would be unable to repay the loan.

53. As described below, HRB Entities' subprime loans typically featured adjustable interest rates, prepayment penalties, and often 100% financing. Such loans were often "stated income," "low doc," or "no doc" loans, meaning that the HRB Entities relied on the representation of a broker or an HRB Entities loan officer as to the borrowers' income, rather than requiring the traditional documentation in support thereof.

These loans were often supported by inflated reports of borrowers' income or the value of the property.

a. The HRB Entities Approved Borrowers for 2/28 ARM Loans Based Only on the Ability to Pay at the Initial "Teaser Rate"

54. An adjustable rate mortgage loan ("ARM") is a mortgage with a lower fixed interest rate for a short-term period, followed by interest rate increases every six months up to a maximum interest rate considerably higher than (often double) the initial rate. The initial rate is sometimes referred to as a "teaser rate."

55. HRB Entities ARM loans were generally two-year fixed rate/28-year adjustable loans that were referred to as "2/28 loans," or three-year fixed rate/27-year adjustable loans that were referred to as "3/27 loans." Although the term "adjustable rate" suggests that the rate will decrease if interest rates go down, in fact, under the terms of HRB Entities adjustable rate notes, interest rates typically cannot decrease beyond the initial rate, because that rate constitutes a floor.

56. ARMs made up the majority of the HRB Entities' business nationwide, and in Massachusetts. Nationwide, in 2007, 78.4% of HRB Entities loans were ARMs, and 34.8% of all HRB Entities loans were "2/28" ARMs. The percentages are similar for loans issued in Massachusetts.

57. The effect of the HRB Entities' adjustable rate products is best highlighted by an example of a typical Option One loan. In May 10, 2004, Option One originated a $485,000 loan to an individual to purchase a multi-family home in Hyde Park, Massachusetts. The purchase price for the property was $485,000, which brought the LTV ratio for this property to 100%. The $485,000 loan amount was comprised of two loans: a 2/28 ARM for $388,000 with an initial 2-year teaser rate of 5.9%, and a second

loan in the amount of $97,000, with a fixed rate of 9.625%. With respect to the 2/28 loan, the interest rate adjustments were calculated as follows: after two years, by adding 4.2% to the 6 month London Interbank Offered Rate ("LIBOR"), up to a maximum of 8.99%; and every six months thereafter by adding 4.2% to the 6 month LIBOR, except that the rate would never increase or decrease from the rate paid in the prior six months by more than 1.0%, up to a maximum of 11.99% or a minimum of 5.99%. This translated into the following interest rate adjustments and monthly payments for the Hyde Park borrower:

Period	Rate	Applies to	Monthly Payment	Second Lien Monthly Payment	Total Monthly Payment
Initial Rate	5.9%	Months 1 through 24	$2,301.37	$824.49	$3,125.86
Reset 1	8.99%[1]	Months 25 through 30	$3,119.14	$824.29	$3,943.63
Reset 2	9.59%[2]	Months 31 through 36	$3,228.02	$824.49	$4,052.51

This borrower was also charged closing costs for the Option One loan which totaled $23,953.92, 6.1% of the principal.

58. This borrower's monthly payment increased 26% after the first reset, and another 3% after the second reset, yielding a 29% increase from month 1 to month 31. This borrower defaulted three months after his first rate adjustment on July 1, 2006 and the property was foreclosed in September 2007.

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[1] Applicable LIBOR at the first change date was 5.64%; this added to 4.2% (the "Margin") totals 9.84%; however, this loan's first change was capped at 8.99%
[2] Applicable LIBOR at the second change date was 5.39%; this added to 4.2% totals 9.59%. This figure did not breach any "caps", as it is less than a 1% increase from the prior rate of 8.99%.

59. These interest rate adjustments usually caused the homeowner's monthly payment to increase significantly within two or three years of the loan's origination, causing what has been referred to as "payment shock."

60. Though the HRB Entities knew "payment shock" to be an expected result of their ARM loans and a borrower's ability to repay is a stated underwriting consideration, the HRB Entities disregarded the rate adjustments when calculating a borrower's debt ratio in the underwriting of 2- or 3-year ARM loans. Instead, it was the HRB Entities' policy to include only the initial, pre-adjustment interest and principal payments when evaluating borrowers' ability to repay a loan.

61. The HRB Entities and their brokers and agents thus knew or should have known that many borrowers would have to refinance the loan before it adjusted in order to avoid foreclosure and continue living in their homes. Indeed, a central feature of the HRB Entities' sales pitch was the broker or agent's representation that Option One would refinance the borrower's loan before their ARM rate adjusted. The HRB Entities, however, knew or should have known that their borrowers might not qualify to refinance before payment shock set in. This is especially true with ARM loans at or near 100% loan-to-value, because any refinancing would require continued appreciation of the home's value. Nonetheless, it was the HRB Entities' policy to originate these loans without disclosing these material facts, and known risks, to their borrowers.

b. Issuing 100% Financing Through "80/20" Loans

62. The HRB Entities typically structured 100% financed transactions, also referred to as "80/20 loans," as two loans: one loan for 80% of the loan amount, and another "backpack loan" for what essentially constituted the 20% down payment. The

80% loan often featured prepayment penalties which extended beyond the first interest rate adjustment date. The 20% loans routinely featured adjustable interest rates even higher than those on the larger loan, along with provisions requiring a balloon payment at the end of the loan, which equaled the principal of the original loan amount.

63. The HRB Entities exacerbated the predictable harm inherent in multiple-risk layered ARM products by imposing these terms in 100% financed or 80/20 loans. 100% financing, especially with respect to high interest loans like those the HRB Entities originate, presents an additional risk for borrowers and the market, because the relevant housing market must appreciate in order for borrowers to gain equity, or to allow them to refinance their loans as is necessary in light of the predictable "payment shock" that occurs in HRB Entities 2/28 loans.

64. The HRB Entities and their brokers and agents failed to disclose that borrowers' ability to refinance their loans prior to its ARM adjustment was entirely dependent on the continued appreciation of their homes, in light of their 100% or near 100% financing.

65. In some cases, the HRB Entities intentionally or recklessly originated loans based on inflated appraisals. In those cases, HRB Entities borrowers who have 80/20 loans were "underwater" from the day the loans were originated, because their mortgage loans exceed the home's true value.

66. To make matters worse, in their 80/20 loans, the HRB Entities frequently transferred the first 80% loan to one entity, and the second 20% loan to a different entity, making it more difficult for borrowers who encountered hardship repaying these risky loans to negotiate meaningful loan modifications or similar relief.

c. Relaxed underwriting standards led to additional risk layers: "no doc" loans, inflated incomes and appraisals, and failure to heed debt-to-income and loan-to-value analyses

67. Exacerbating the unsoundness of 2/28 and 100% LTV loans, the HRB Entities added additional layers of risk to their loan products by abandoning traditional underwriting methods and standards. The HRB Entities routinely qualified borrowers for risky loans without properly considering or verifying the documentation relating to their credit qualifications and income. From 2003 through 2007, the HRB Entities issued an increasing number of "stated income" or "no doc" loans, which do not require the traditional supporting documentation to demonstrate employment and income.

68. In the HRB Entities' wholesale loan operations, underwriters routinely accepted loan applications from brokers containing false, inflated reports of borrowers' income, and false, inflated real estate appraisals. In some cases, the false information was solicited by agents of the HRB Entities. In HRB Entities retail loan operations, HRB Entities loan officers routinely submitted and HRB Entities underwriters routinely accepted loan applications containing false information. In both situations, the HRB Entities failed to implement adequate procedures or policies to guard against submitting or accepting such false information, and the HRB Entities routinely issued loans.

69. By issuing loans based upon false reports of income or property value, the HRB Entities precluded their ability to properly conduct sound analyses of the borrowers' income compared to their monthly indebtedness ("debt-to-income"), and the amount of the loan compared to the value of the property ("loan-to-value"). However, even accepting the reports of income and property value as true, the HRB Entities routinely issued loans in cases where underwriting standards of debt-to-income and/or loan-to-

value analysis indicated that the loan was too risky, that is, the borrower could not afford the loan.

4. The HRB Entities Misrepresented That They Would Provide Borrowers the Best Terms Available and Advocate for Borrowers When That Was Not the Case, and They Failed Even To Meaningfully Inform Borrowers of the Terms and Conditions of Their Loan Products

70. The HRB Entities routinely represented that they would help borrowers evaluate the types of mortgages and "choose the one that's best for you." The HRB Entities routinely represented to borrowers that they would act as their advocate in the mortgage loan application and home-buying processes, and that they would help borrowers choose the best loan product.

71. In practice, the agents and brokers used by the HRB Entities to sell loans did not act as borrowers' advocates and did not help borrowers choose the best product for them.

72. In the HRB Entities' retail loan operations, loan officers routinely contacted consumers, by mail and telephone, to encourage them to refinance their home or obtain a mortgage for a new home, and promised to advocate for the consumer to find a good rate and improve the borrower's financial status. HRB Entities advertisements disseminated through other media promised similar service.

73. In the context of their Smart Homebuyer Program, for example, the HRB Entities represented that they would help potential homeowners "discover how much is too much" to borrow. However, in the advertisements the HRB Entities directed to first time homebuyers, they routinely described hypothetical home purchase scenarios without accounting for major additional costs and terms including, without limitation: (a) monthly

insurance payments; (b) monthly tax payments; (c) private mortgage insurance payments, which are often due in cases where the homeowners puts down less than 20% at closing; and, (d) critically, the increase of monthly payments once the ARM interest rate adjusts upward. HRB Entities loan officers and affiliated brokers routinely made similar misrepresentations.

74. The HRB Entities and their brokers and loan officers routinely failed to provide borrowers with any meaningful choice among loan types and terms. On the contrary, the HRB Entities and their brokers and officers steered borrowers—even borrowers who qualified for prime and/or low risk products—toward costly and/or subprime loan products, because the HRB Entities' compensation policy clearly incentivized them to do so and because the loans were underwritten with a view toward resale in the secondary market, not long-term sustainability.

75. Being placed in loans with higher rates than they qualify for costs individual consumers thousands and often tens of thousands of dollars.

76. That the HRB Entities routinely closed loans with high interest rates for consumers who were eligible for substantially lower rates is demonstrated by the following: between 2004 and 2007, the HRB Entities closed more than 3,000 loans with relatively high, subprime interest rates for Massachusetts consumers whose credit scores were between 700 and 850, who had stable debt-to-income ratios, and who were borrowing 75% or less of the appraised value of their property.

77. In many cases, the HRB Entities offered borrowers a lower interest rate purportedly in exchange for charging higher points at closing, and informed the borrower that this was to the borrower's advantage, when in fact the arrangement would cost the

borrower substantially more, particularly if they intended to refinance the loan within two years.

78. HRB Entities' brokers and agents routinely misled borrowers by falsely representing, during the application and review process that the borrower would likely qualify for a fixed rate mortgage, and/or an interest rate that was lower than the rate which the HRB Entities planned to give the borrower. The HRB Entities often failed to inform the borrower of the actual rate, or the fact that the borrower would be given an adjustable rate, until the eve of closing or at the closing, after the borrower had acted to their detriment in expecting the loan to be closed.

79. When borrowers complained that they would not accept a loan with an upward adjusting rate, HRB Entities' loan officers and affiliated brokers routinely assuaged borrowers' concerns by assuring them that the HRB Entities would refinance the loan prior to the rate adjustment. These promises were often made with knowledge, undisclosed or inadequately disclosed, that such refinance loans were costly even if they could be obtained, which was far from certain in the best of times and, in many cases, impossible when the real estate market stagnated. These misleading assurances of refinancing were made to induce borrowers to accept the adjustable rate loans. Borrowers relied on these promises when agreeing to enter into the adjustable rate loans. For those borrowers at or approaching 100% loan-to-value, HRB Entities' loan officers and affiliated brokers failed to disclose that their ability to refinance would depend entirely on continuing appreciation of the home's value.

80. Most borrowers who were promised a new loan prior to the ARM adjustment have applied for or inquired about options for such a loan. The majority find

it difficult or impossible to obtain a new loan. Many borrowers learn that they are not eligible for a new loan because the value of their outstanding loan exceeds the value of the property, as a result of the unfair and deceptive practices described above, including issuing loans for close to or more than 100% of the value of the property, and accepting inflated income and appraisal reports.

B. THE HRB ENTITIES ENCOURAGED UNFAIR AND DECEPTIVE CONDUCT BY REWARDING LOAN OFFICERS AND MORTGAGE BROKERS WHO SOLD PRODUCTS WITH HIGHER INTEREST RATES AND WHO SOLD MORE PRODUCTS, REGARDLESS OF RISK TO BORROWERS

81. The HRB Entities originated loans through their loan officers, in their retail operations, and through mortgage brokers, in their wholesale operations.

82. The unfair and deceptive conduct described in the preceding sections was encouraged by the HRB Entities' loan officer and mortgage broker compensation policies, which created clear incentives for loan officers and brokers to disregard prudent underwriting guidelines and honest marketing practices and to originate loans without regard for their sustainability. These compensation policies included, without limitation: (a) payment of excessive yield spread premiums or "YSPs;" (b) payment of higher commission rates based on higher sales volumes; and (c) reducing commission rates on "non-core products" with lower interest rates, and on loans where "pricing exceptions" were made to give the borrower a lower interest rate.

1. HRB Entities' Retail Sales Through Loan Officers

83. The HRB Entities paid loan officers a modest base salary. In order for loan officers to increase their income, they were required to meet certain sales goals relating to the type, number, and amount of loans funded. These sales goals were designed to

encourage loan officers to steer borrowers to apply for HRB Entities subprime loan products, which are both costlier and riskier than the HRB Entities prime loan products. Specifically, the HRB Entities paid loan officers enhanced commissions for the sale of a "non-prime" product (HRB Entities' name for subprime loans) to a consumer. For example, under one recent scale, loan officers received a $750 commission for each successfully sold and funded Non-Prime 1st Trust Deed loan that he or she generated, but only a $375 commission for each Prime 1st Trust Deed loan that he or she generated. Further, a loan officer received $190 for each successfully sold and funded Non-Prime 2nd Trust Deed loan that he or she generated, but received only $95 for each successfully sold and funded Prime 2nd Trust Deed loan.

84. The HRB Entities knew or should have known that these incentives would cause the HRB Entities' originators, in large numbers, to steer large numbers of prime customers into subprime loans. That was the predictable result.

85. While there is no precise line, one common standard provides that borrowers with credit scores above 660 are "prime" borrowers. But in the same period, fiscal years 2005 and 2006, about 20% of the subprime loans the HRB Entities originated were for consumers with credit scores of 660 or higher. On average, those borrowers received introductory rates of 7.49%, and fully-adjusted APRs of 8.35%, on 2/28 and 3/27 loans—still well above prime rates.

86. The HRB Entities describe borrowers with credit scores above 620 as "prime" borrowers. Yet, in fiscal years 2005 and 2006, over 50% of the subprime loans the HRB Entities originated were for consumers with credit scores of 620 or higher. On

average, those borrowers received introductory rates of 7.51%, and fully-adjusted APRs of 9.39%, on 2/28 and 3/27 loans—well above prime rates.

87. In addition to offering incentives to loan officers that encouraged them to steer borrowers to mortgage products that were excessively risky and costly, the HRB Entities also offered incentives that encouraged loan officers to generate as many loans as possible, for as much money as possible, without regard for whether the loans were affordable or in the interest of the borrowers. The HRB Entities offered loan officers the opportunity to earn money in addition to commissions if the loan officer's number of funded loans, in a calendar month, reached or exceeded an established monthly funded unit threshold and the total volume of these loans reached or exceeded an established monthly volume threshold. If the broker reached both thresholds, meaning he or she generated more than a certain number of funded loans in a month and the total amount of these loans exceeded a fixed threshold, the HRB Entities paid the loan officer a bonus, also known as a Volume Override Incentive. By way of example, if a broker funded six loans in a month, totaling $1,750,000, and the HRB Entities established the monthly funded unit threshold at 4 loans per month in the region in which the loan officer works and the monthly total volume threshold at $550,000, the broker was entitled to a bonus in the amount of .75% of the total loan amount of $1,750,000, or $13,125, for the month.

88. Neither the HRB Entities nor their loan officers disclosed or explained to borrowers in a meaningful way how the HRB Entities compensated loan officers. Nor did they disclose or explain how the compensation system created a conflict between the loan officer's interest and that of the borrower.

89. As a direct and proximate result of the HRB Entities' loan officer compensation policies, loan officers were discouraged from providing borrowers with the best rates available, and, in fact, were encouraged to originate loans that were riskier and more costly than those for which borrowers actually qualified, all in contradiction to the HRB Entities' marketing and promotions.

2. HRB Entities' Wholesale Operations Through Mortgage Brokers

90. Wholesale loan originations involved a third-party broker who assisted the borrower in arranging, financing, and completing the loan application process.

91. The HRB Entities' compensation structure for its mortgage brokers, though different in form from its loan officer compensation policy, likewise encouraged mortgage brokers to sell high-cost subprime loan products, without regard for a borrower's interest.

92. The HRB Entities paid mortgage brokers lucrative "yield spread premiums" which encouraged them to steer borrowers to loans with higher interest rates than those for which consumers were otherwise qualified. A yield spread premium ("YSP"), generally speaking, is compensation paid by a lender to a mortgage broker or loan officer for selling a loan with an interest rate above the rate for which the borrower qualifies. For example, if a broker or loan officer offers a borrower a loan of $100,000 at an interest rate of 6.25%, and the rate the borrower actually qualifies for is 6%, the broker or loan officer may earn a YSP equal to 1.0% of the loan amount. This $1,000 fee is paid by the lender directly to the broker or loan officer. Although the borrower is not charged the fee directly, the borrower pays the fee indirectly by paying a higher interest rate, purportedly

in exchange for lower fees. YSPs are paid to brokers or loan officers above and beyond fees and other commissions paid from the loan proceeds upon closing.

93. According to an HRB Entities rate sheet, if a broker was able to sell a borrower an interest rate that was 1.25% above the HRB Entities' par interest rate—the rate the borrower would have otherwise qualified for—the HRB Entities would pay the broker or loan officer two points or 2% of the loan amount.

94. In addition to encouraging brokers to act against the interests of the borrowers for whom they were working and instead to sell high interest loans by offering YSPs, the HRB Entities also encouraged brokers to sell products with higher interest rates by reducing broker commissions on "non-core products" with lower interest rates and on loans where "pricing exceptions" were made to give a borrower a lower interest rate. This compensation scheme was specifically designed to dissuade brokers from providing borrowers with low-rate loan products and from providing borrowers the best rates for which they qualify.

95. The HRB Entities also paid brokers a higher rate of commission based on a higher volume of sales. As a result, brokers were incented to encourage borrowers to enter into HRB Entities loans, regardless of the risk to the borrower, and, in some instances, brokers sold loans to borrowers without disclosing material terms and conditions of the loan that might have undermined the borrower's willingness to enter into the loan, or through false promises to refinance the loan prior to an ARM adjustment.

96. The HRB Entities' payment of a YSP and offer of other commission incentives for selling subprime loans created a conflict between the broker's interest in

generating fees and the broker's client's interest in obtaining the best loan for which he or she qualified.

97. Neither the HRB Entities nor the brokers upon whom they relied for sales disclosed or explained to borrowers in any meaningful way how the HRB Entities compensated brokers. Nor did they disclose that the compensation system created a conflict between the broker's interest and that of their clients.

98. As a direct and proximate result of the HRB Entities' broker compensation policies, brokers failed to provide borrowers with the best rates available, and, in fact, were encouraged to originate loans that were riskier and more costly than those for which borrowers actually qualified.

99. Despite creating a compensation structure that promoted unfair and deceptive loan officer and mortgage broker conduct, the HRB Entities failed to implement adequate procedures or policies to guard against the predictable steering of borrowers into risky, high interest rate loans. Moreover, the HRB Entities failed to control the disproportionate and discriminatory impact on Black and Latino borrowers that was likely to, and did, result from such policies and steering.

100. The HRB Entities knew or should have known that their loan origination and loan officer and broker compensation policies encouraged their agents to originate unduly risky, inappropriate, and, in some cases, fraudulent loans.

101. Given the HRB Entities' critical reliance upon loan officers and mortgage brokers, the HRB Entities should have developed, adopted, and implemented strong control systems to monitor whether the practices of loan officers and mortgage brokers are consistent with the HRB Entities' underwriting policies and procedures. Instead, the

HRB Entities consistently failed to monitor or supervise loan officers and mortgage broker practices or to independently verify the information loan officers and mortgage brokers provided to the HRB Entities.

102. The HRB Entities failed to effectively employ procedures for identifying, reporting, and addressing problematic or fraudulent loan officer and/or mortgage broker conduct.

103. As a result of the HRB Entities' conduct, lack of effective oversight, reckless inaction, and lax underwriting standards, the HRB Entities routinely underwrote loans based on false information provided by mortgage brokers and loan officers, such as falsified borrower income or assets information and inflated real estate appraisals. Further, due to the HRB Entities' unfair and irresponsible business practices, the HRB Entities sold thousands of loans that were excessively risky and unsound in relation to a borrower's ability to repay the loan and/or the value of the borrower's property, and which were therefore likely to end in foreclosure.

C. BY ORIGINATING LOANS THAT BORROWERS WOULD NOT BE ABLE TO REPAY OVER THE LOAN TERM, THE HRB ENTITIES UNLAWFULLY STRUCTURED SHORT-TERM HIGH-COST LOANS TO EVADE, AND IN VIOLATION OF, THE PREDATORY HOME LOAN PRACTICES ACT

104. The HRB Entities are obligated to comply with the Predatory Home Loan Practices Act, G.L. c. 183C, the Massachusetts statute controlling high-cost loans. This Act defines a high cost mortgage home loan ("high-cost loan") as a loan where the borrower has an interest rate 8 percent above the statutory benchmark rate for the first mortgage or an interest rate 9 percent above the statutory benchmark rate for the second mortgage; or financed more than 5 percent of the loan amount in points, fees or charges.

105. When extending high-cost loans under the Predatory Home Loan Practices Act, lenders are prohibited from including balloon payments or prepayment penalties in such loans. Lenders must also reasonably believe that based on the borrower's financial and employment information the borrower can repay the high-cost loan. Before receiving a high-cost loan, a borrower must also receive counseling from an approved counselor regarding the advisability of obtaining the loan. G.L. c. 183C, §§ 3-5, 8.

106. The Predatory Home Loan Practices Act expressly prohibits lenders from dividing any loan transaction into separate parts in order to avoid the terms of the Act. G.L. c. 183C, § 17(a).

107. While the HRB Entities ostensibly made ARM loans that were to be paid over a long term (30 to 50 years), in fact, HRB Entities loans effectively were two to three-year loans that the HRB Entities designed to be refinanced at or before the expiration of the introductory-rate period. Borrowers, therefore, effectively faced a large balloon payment, i.e., the remainder of their mortgage after two or three years.

108. Where HRB Entities ARM loans were, in fact, designed and marketed as short-term loans with massive balloon payments, HRB Entities points and fees should have been amortized over the actual short-term, introductory-rate period to correctly calculate the annual percentage rate (APR). When correctly calculated over the short-term loan period, these APRs immediately become exorbitant, far exceeding the statutory benchmark rate, and trigger the Predatory Home Loan Practices Act protections for such loans.

109. The HRB Entities knew that if they extended short-term loans with massive balloon payments and exorbitant annual percentage rates, they would have been in

violation of the Predatory Home Loan Practices Act. Thus, the HRB Entities disguised their short-term high-cost loans by separating them into two parts: a short-term introductory period with a teaser rate, and a longer-term adjustable rate period. As a result, the HRB Entities typically made ARM loans to Massachusetts borrowers that were high-cost loans, but were structured to avoid the statute, in violation of the Predatory Home Loan Practices Act.

110. The HRB Entities originated the vast majority of their adjustable rate loans without providing any of the high-cost loan disclosures and protections required by the statute, including, without limitation, the requirement that lenders originating high cost loans take account of a borrower's ability to repay those loans.

111. A substantial number of these de facto high cost loans included terms prohibited by the Predatory Home Loan Practices Act, including balloon payment provisions and prepayment penalties.

112. Predictably, a large number of HRB Entities' loans were in fact refinanced in a short term. Of approximately 31,000 loans the HRB Entities made in Massachusetts from January 2004 through 2007, approximately 20,000 loans have been paid off, discharged, or closed. Upon information and belief, the majority of these 20,000 loans were refinanced, almost always with another costly loan and almost always including another round of transaction fees and costs. Other loans ended in foreclosure.

113. Upon information and belief, the HRB Entities typically warranted and represented to their secondary market purchasers that their ARM loans were not high-cost loans, because many, if not all, purchasers would not buy high-cost Massachusetts loans. If the HRB Entities had properly characterized their ARM loans as high-cost, then their

business model of making such loans for quick resale or securitization would have failed.

D. THE HRB ENTITIES ENGAGED IN UNLAWFUL DISCRIMINATORY LENDING

114. The Massachusetts Antidiscrimination Act, G.L. c. 151B, § 4(3B), prohibits discrimination on the basis of race or color in mortgage lending and residential real-estate related transactions. The Massachusetts Antidiscrimination Act is intended to create a level playing field so that minority borrowers may access the same mortgage products on the same terms as similarly situated non-minority borrowers.

115. As described in the foregoing paragraphs, the HRB Entities unlawfully marketed and made unfair subprime loan products to many thousands of Massachusetts residents. In addition, the HRB Entities engaged in unlawful discriminatory lending by: (i) designing and marketing unfair subprime loans; (ii) knowingly targeting the marketing of those unfair subprime loan products to minority borrowers who, the HRB Entities had reason to believe, had fewer lending choices; and (iii) designing and using a discretionary pricing policy that caused black and Latino borrowers to pay significantly more in costs for points and fees on their loans than similarly situated non-minority borrowers.

1. The HRB Entities Sold Unfair Subprime Loans in Massachusetts

116. As alleged in paragraphs 4 through 113, beginning in approximately 2004 and continuing through 2007, the HRB Entities disregarded prudent underwriting standards; designed loans with multiple layers of risk without regard to whether their borrowers could afford the loan obligations; and induced borrowers to accept risky loan products by failing to clearly and conspicuously disclose borrowers' risks and obligations.

117. The HRB Entities' design, marketing, making, and servicing of such loans was unfair and deceptive.

2. The HRB Entities Knew or Should Have Known that Many Black and Latino Borrowers Lacked Equal Access to Home Financing, and Exploited That Knowledge With Targeted Marketing of Unfair Subprime Loans to Black and Latino Borrowers

118. The HRB Entities knew or should have known that Black and Latino borrowers historically did not have equal access to fair home mortgage loans:

a. Under the federal Home Mortgage Disclosure Act ("HMDA"), 12 U.S.C. 2801 et seq., the HRB Entities and other mortgage lenders making high-APR loans must collect and annually report data about those who apply for such loans, including the loan applicant's ethnicity, race, sex and income.

b. In 1996, the Boston Federal Reserve Bank reported that based on this data, discrimination on the basis of race appeared to impact minorities' access to credit and opportunities for homeownership in the Boston metropolitan area. Alicia H. Munnell, Geoffrey M. B. Tootell, Lynn E. Brown, and James McEneaney, "Mortgage Lending in Boston: Interpreting HMDA Data," 86 American Economic Review 25 (1996).

c. According to the 2003 HMDA data, black and Latino borrowers received high-APR loans at rates four times greater than white borrowers, with the disparities being greatest across the highest income levels. See James Campen, Borrowing Trouble V: Subprime Mortgage Lending in Greater Boston, 2000-2003, at 8 (2005).

d. According to the 2005 HMDA data, high-APR loans made up more than half of all home purchase loans to black and Latino borrowers in Massachusetts. In Greater Boston, the high-APR share for Black borrowers was nearly four times greater than the share for white borrowers with respect to home purchase loans, and three times greater for refinance loans. Among Latino borrowers, the share of high-APR home purchase loans was almost four times higher than for white borrowers, and the share of high-APR refinance loans was almost three times higher. These differences were even more extreme when comparing the highest income white borrowers to black or Latino borrowers in the same income category.[1] See James Campen, Borrowing Trouble VII: Higher-Cost Mortgage Lending in Boston, Greater Boston, and Massachusetts, 2005, at 6-8 (2007).

e. The HRB entities knew or should have known that according to the 2006 HMDA data, black homebuyers in the Boston area received only 3.5% of all prime loans in 2006, while their share of more expensive subprime loans was 17.8%. Latino homebuyers in the Boston area received only 4.4% of all prime loans in the Boston area, but their share of subprime loans was 21.7%. In addition, prime lenders in Massachusetts denied home-purchase loan applications from black and Latino borrowers approximately two and a half times as often as they denied applications from white borrowers. Jim Campen, Changing

[1] "Highest income" is the same for all borrowers, and is defined as having an income that is more than double the median family income (MFI) in the relevant geographic area.

Patterns XIV: Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Boston, Greater Boston, and Massachusetts, 2006, at ii, 7, 12 (2008).

f. The HRB Entities knew or should have known that the Federal Reserve's analysis of the 2006 HMDA data "revealed substantial differences across racial and ethnic lines in the incidence of higher-priced lending and in denial rates," and concluded that "such differences could not be fully explained by factors in the HMDA data." Robert B. Avery, Kenneth P. Brevoort, and Glenn B. Canner, "The 2006 HMDA Data," Federal Reserve Bulletin at A94-A95, A98 (December 2007).

119. The HRB Entities sought to take advantage of the fact that many black and Latino borrowers did not have equal access to mortgage products by employing a targeted marketing strategy that sought to create a sense of trust among minority borrowers.

120. For example, the HRB Entities produced and distributed to its employees, loan officers, and brokers written marketing and educational materials explaining that the limited choices available to black and Latino borrowers made them good candidates for the HRB Entities' subprime loan products and that loan originators should focus on the "emerging markets" of black and Latino homebuyers.

121. The HRB Entities described this "emerging market" as potential borrowers who may have credit concerns, a lack of familiarity with the credit system, and difficulty demonstrating conventional credit history.

122. The HRB Entities advised loan officers and brokers to partner with real estate brokers and agents who shared the same race or ethnicity as the minority borrowers, and to work with "trusted groups in the community," including community centers and churches, to gain the confidence of potential black and Latino borrowers.

3. The HRB Entities' Pricing Policy Caused Black and Latino Borrowers To Pay Significantly More in Costs for Their Loans

123. From approximately 2004 until 2007, the HRB Entities established and used specific pricing policies, which were set forth in part in rate sheets and other guidelines published by the HRB Entities and regularly communicated to HRB Entities' employees, loan officers and brokers. These policies contained both objective elements and subjective elements, collectively referred to herein as the "Pricing Policy."

124. The objective element of the Pricing Policy, referred to as the "Par Rate," set forth rates, points, and fees for mortgage loans based on risk-related characteristics of the borrower and the loan, such as FICO score, loan-to-value ratio, and debt-to-income ratio.

125. The HRB Entities added a subjective element to the Pricing Policy, and gave discretion and incentives to HRB Entity employees, loan officers and brokers to charge additional interest, points and fees above the Par Rate.

126. Under the Pricing Policy implemented by the HRB Entities, black and Latino borrowers repeatedly paid higher points and fees than similarly situated non-minority borrowers for HRB Entities' loans in Massachusetts, even where the terms and other objective elements of the loans were equal.

127. The substantial disparity between what the HRB Entities charged blacks and Latinos for points and fees and what the HRB Entities charged non-minority borrowers

for points and fees is not accounted for by the amount of the loan, the overall cost of the loan, or variation in other components of the price of the loan, such as the note rate. Nor is this disparity in points and fees explained by other objective elements, such as FICO score, debt-to-income ratio, the type of loan program or the loan-to-value ratio.

128. Across thousands of HRB Entities loans in Massachusetts, black and Latino borrowers were charged an average of several hundred dollars more in points and fees for their loans than similarly situated white borrowers. The following examples are illustrative:

a. On October 27, 2004, a white borrower in Brockton obtained a loan of $230,000 from Option One and was charged $1,225 in costs for points and fees. On February 8, 2005, a black borrower in Brockton with equal or better objective criteria (higher FICO score, lower debt-to-income ratio, and identical loan-to-value ratio) obtained a $200,000 home purchase loan from Option One, but was charged $4,750 in costs for points and fees. The loans described in this paragraph are summarized in Table 1.

Table 1:

	Loan Borrower A	Loan Borrower B
Race	White	Black
City	Brockton	Brockton
Loan Amount	$230,000	$200,000
APR	7.29%	8.34%
Loan to Value	80%	80%
Debt to Income	31%	27%
FICO Score	605	608
Loan Purpose	Home_Purchase	Home_Purchase
Loan Type	2/28 Fixed/ARM	2/28 Fixed/ARM
Points and Fees	**$1,225.00**	**$4,750.00**

b. On January 20, 2005, a white borrower in Boston obtained a refinance loan of $200,000 from Option One, and was charged $2,275 in costs for points and fees. On May 11, 2004, a black borrower in Boston with equal or better objective criteria (higher FICO score, lower debt-to-income ratio, and lower loan-to-value ratio) obtained a $167,000 refinance loan from Option One, and was charged $10,635 in costs for points and fees. The loans described in this paragraph are summarized in Table 2:

Table 2:

	Loan Borrower A	Loan Borrower B
Race	White	Black
City	Boston	Boston
Loan Amount	$200,000	$167,000
APR	9.05%	9.39%
Loan to Value	50%	44%
Debt to Income	32%	27%
FICO Score	520	523
Loan Purpose	Refinance	Refinance
Loan Type	2/28 Fixed/ARM	2/28 Fixed/ARM
Points and Fees	**$2,275.00**	**$10,635.00**

c. On November 30, 2004, a white borrower in Boston obtained a refinance loan of $186,000 from Option One and was charged $4,769 in points and fees. On June 24, 2004, a Latino borrower in Boston with equal or better objective criteria (higher FICO score, lower debt-to-income ratio, and lower loan-to-value ratio) obtained a $182,000 refinance loan from Option One but was charged $8,597 in costs for points and fees. The loans described in this paragraph are summarized in Table 3:

Table 3:

	Loan Borrower A	Loan Borrower B
Race	White	Latino
City	Boston	Boston
Loan Amount	$186,000	$182,000
APR	6.59%	6.69%
Loan to Value	64%	52%
Debt to Income	46%	37%
FICO Score	571	605
Loan Purpose	Refinance	Refinance
Loan Type	2/28 Fixed/ARM	2/28 Fixed/ARM
Points and Fees	**$4,769.00**	**$8,597.40**

d. On November 23, 2005 a white borrower in Worcester obtained a home purchase loan in the amount of $176,000 from Option One and was charged $2,823 in costs for points and fees. On August 10, 2006, a Latino borrower in Worcester with substantially equal objective criteria (a higher FICO score, slightly lower debt-to-income ratio, and identical loan-to-value ratio) obtained a home purchase loan from Option One in the amount of $166,000. The Latino borrower was charged $4,816 in costs for points and fees. The loans described in this paragraph are summarized in Table 4.

Table 4:

	Loan Borrower A	Loan Borrower B
Race	White	Latino
City	Worcester	Worcester
Loan Amount	$176,000	$166,000
APR	10.79%	11.03%
Loan to Value	80%	80%
Debt to Income	45%	43%
FICO Score	592	596
Loan Purpose	Home_Purchase	Home_Purchase
Loan Type	2/28 Fixed/ARM	2/28 Fixed/ARM
Points and Fees	**$2,823.50**	**$4,816.76**

129. Beyond these specific examples, there is a significant overall statistical disparity between the points and fees that the HRB Entities charged to black and Latino borrowers as compared to non-minority borrowers.

130. The HRB Entities' use of the Pricing Policy, its marketing practices, and its unfair loans had a disparate and discriminatory impact on black and Latino borrowers.

131. The HRB Entities have no legitimate business reasons justifying this disparate impact that could not be achieved by lending policies having no disparate impact or a more limited disparate impact.

E. OPTION ONE HAS ENGAGED IN UNFAIR AND DECEPTIVE SERVICING CONDUCT THAT HAS HARMED HOMEOWNERS AND HASTENED THE RATE AT WHICH HOMES HAVE GONE TO FORECLOSURE

132. Option One has continued to service many of the loans that they originated but then sold. In its role as a servicer, Option One has engaged in a pattern of unfair and deceptive conduct that has exacerbated the harm of their origination conduct, caused undue hardship to homeowners, and caused many unnecessary foreclosures.

133. Option One, whose mortgage servicing obligations are now owned by American Home Mortgage, services thousands of Massachusetts mortgage loans, the majority of which it originated. Although the HRB Entities sold or securitized most of the loans they originated, they retained the rights to service the vast majority of the subprime loans they originated. In addition, Option One services sub-prime loans originated by other lenders. In fiscal year 2005, the HRB Entities' sub-prime servicing portfolio included loans totaling almost $70 billion, which included approximately $47 billion of loans they originated. Upon information and belief, Option One, prior to the American Home Mortgage transaction of April 30, 2008, serviced approximately 11,000 Massachusetts mortgage loans.

134. Upon information and belief, pursuant to the acquisition of Option One's servicing portfolio by American Home Mortgage, Option One will maintain the same responsibilities and discretion regarding servicing the loans that it had under the pooling and servicing agreements. Under said agreements, the HRB Entities typically maintained the responsibility and discretion to: (a) collect loan payments; (b) maintain escrow accounts, taxes, and insurance obligations; (c) enter into payment or forbearance

agreements with borrowers; (d) modify loans with borrowers; (e) negotiate and execute short sales or deed-in-lieu conveyances; (f) commence foreclosure proceedings; and (g) delay or avoid the need for foreclosure proceedings.

135. Instead of using their role as a servicer to cure or ameliorate the harm that flows from its unfair and deceptive loan origination conduct, however, Option One has engaged and continues to engage in additional unfair and deceptive acts and practices as the servicer of these same loans.

136. In the context of their negotiations with distressed borrowers, for example, Option One often demands reinstatement fees, and proposes forbearance agreements and loan modifications that are as unfair and unsustainable as the original loans.

137. Option One also fails to communicate clearly to borrowers. Option One's communication failures include, without limitation: (a) failing to send borrowers accurate monthly statements; (b) failing to provide clear notice of monthly payment increases due to rate changes; (c) providing customer service telephone numbers which do not provide access to a live operator or other reasonable assistance; (d) failing to accurately credit the monthly payments it receives; (e) providing inaccurate and/or confusing information about monthly payments, arrearages, and reinstatement amounts; and (f) failing to itemize arrearages and reinstatement amounts.

138. Option One, as a servicer, purports to have a "Home Preservation Office" for borrowers who are in danger of foreclosure, but the unit actually operates principally as a collection office, demanding immediate payment of arrearage and substantial fees, and failing to offer homeowners any meaningful strategies for avoiding foreclosures, such as sustainable loan modifications.

139. Agents identifying themselves as representatives of the "Home Preservation Office," and other Option One agents, routinely make improper threats to distressed homeowners facing foreclosure that their home will be immediately foreclosed if they do not pay large, unsubstantiated sums of money in order to reinstate their mortgages. In particular, Option One, on some occasions through agents of the "Home Preservation Office," routinely discourages homeowners from making deliberate, informed decisions about how to cure their defaults by: demanding that the homeowner send a substantial "good faith" payment as a condition to reaching an accommodation regarding an arrearage, without any written documentation; sending letters or "forbearance agreements" proposing a settlement regarding payment of an arrearage and insisting that the homeowner indicate their assent in writing in 48 hours or less; and refusing to communicate with attorneys contacting Option One on behalf of homeowners.

140. The forbearance agreements that Option One offers are, in essence, adhesion contracts which contain oppressive terms. Under the terms of said agreements, the borrower waives rights which they would otherwise have under law, and the borrower remains in danger of foreclosure for a substantial period of time and in some cases for the life of the loan, at any time that they are in arrears for a payment for even one day. Option One discourages borrowers from seeking legal counsel regarding whether to execute such an agreement, by requiring the borrower to execute the agreement almost immediately, often within 48 hours, or else suffer greater penalties.

141. Option One routinely rejects payments tendered by borrowers if they are less than the total amount which Option One asserts is owed for arrears and fees, and then

commences foreclosure based upon the full arrearage, without acknowledging the payments which were tendered.

142. Option One's servicing conduct does not even advance the financial interests of the new loan holders, who may often lose more through foreclosure sales than through meaningful loan modification programs.

143. Option One's purported attempts to improve their forbearance program have failed. In particular, Option One asserts that it has implemented a "Streamlined Modification Program," through which they consider adjusting the monthly mortgage payment to a lower interest rate, typically the introductory, or "teaser," interest rate, if the borrower qualifies for the program. However, Option One will only qualify those borrowers already in default if their monthly debt, including the new, modified monthly loan payment, amounts to 85% of the borrowers' net income. Moreover, Option One does not offer this program to borrowers who have not completed loan modification applications and/or who are not already in default.

144. Further, as a result of the HRB Entities' lack of meaningful underwriting standards, their lack of broker oversight and the broker compensation policies discussed above, many borrowers will never qualify for Option One's loan modification program, because they could never even afford payments during the introductory, fixed rate period. Option One's servicing conduct, including its loan modification program, fails to meaningfully take into account the HRB Entities' widespread loan origination misconduct.

145. The HRB Entities knew or should have known that their servicing actions were unfair and deceptive acts and practices.

F. THE HRB ENTITIES' UNFAIR AND DECEPTIVE LOAN ORIGINATION PRACTICES HAVE DAMAGED MASSACHUSETTS BORROWERS AND COMMUNITIES

146. Given the exceedingly risky features of the HRB Entities' loans, the HRB Entities' lack of meaningful underwriting and reliance on mortgage brokers, the HRB Entities' encouragement of unfair and deceptive conduct by its brokers and agents, and the high-cost nature of HRB Entities loans that lacked the required borrower protections, hundreds of HRB Entities loans have resulted in default and foreclosure, and thousands more are in danger of foreclosure. The impact of the HRB Entities' unfair and deceptive lending and servicing practices in Massachusetts is concrete and is escalating. The HRB Entities are among the principal lenders that made Massachusetts mortgage loans that have ultimately ended in foreclosure.

147. Across Massachusetts, foreclosures have increased dramatically in the past two years. Foreclosure filings increased by 76% in the first quarter of 2007, as compared to the first quarter of 2006. In August of 2007, foreclosure filings increased by 115%, as compared to August of 2006. There were more than 2,800 foreclosure filings in the first quarter of 2008 in Massachusetts, which was a 140% increase over the first quarter of 2007.

148. The origination policies which the HRB Entities began to employ in approximately 2004 have resulted in an explosion of foreclosures. The number of foreclosures on Massachusetts properties with HRB Entities mortgages rose from 62 in 2005, to 382 in 2006, and 570 in just the first three quarters of 2007.

149. In the City of Boston alone, there were no HRB Entities foreclosure deeds issued in 2004, three in 2005, 17 in 2006, and 30 in 2007. A disproportionately high

percentage of foreclosures in the City of Boston during that period have been on HRB Entities mortgages:

	% of residential sales	% of foreclosure deeds
2004	0.96%	0%
2005	1.51%	5.00%
2006	0.99%	6.51%
2007	0.50%	4.27%

150. The number of foreclosures on HRB Entities mortgages will continue to rise in Massachusetts, absent intervention to restrict foreclosures.

151. Foreclosures have a devastating impact on individual homeowners who lose their homes and their equity and in many cases suffer permanent damage to their financial well-being.

152. The Commonwealth and its cities and towns are incurring enormous costs due to the HRB Entities' unfair, deceptive and predatory loan origination and servicing practices. These costs include the costs of providing counseling and other assistance to consumers on the verge of foreclosure; the costs of providing additional services to consumers who have lost their homes due to foreclosure; and the costs of providing increased law enforcement and emergency services in connection with incidents occurring in and around abandoned properties. The Commonwealth and its cities and towns have lost and continue to lose tax revenue as a result of declining property values caused by the HRB Entities' loans entering foreclosure.

153. To make matters worse, when a borrower is facing a foreclosure, due to the HRB Entities' business model, the agreement between the HRB Entities and their

assignee creates procedural hurdles for the borrower to raise claims and defenses the borrower may have arising out of the HRB Entities' initial sale of the loan in the context of foreclosure. The HRB Entities thus attempt to avoid responsibility for their unfair or deceptive business conduct, while engaging in unfair and deceptive servicing practices that recklessly facilitate foreclosures across Massachusetts.

154. The HRB Entities' unfair and deceptive conduct has contributed to the record number of foreclosures in Massachusetts, and caused significant harm to the public and Massachusetts borrowers. The HRB Entities' misconduct has also injured the market generally, as those responsible lenders who refrained from selling mortgage loans using unfair and deceptive practices suffered a distinct competitive disadvantage.

G. AMERICAN HOME MORTGAGE HAS ACQUIRED OPTION ONE'S SERVICING PORTFOLIO, WITH KNOWLEDGE OF THE HRB ENTITIES' UNFAIR AND DECEPTIVE PRACTICES

155. On March 17, 2008, H&R Block, Inc. entered into an agreement ("Purchase Agreement") to sell the mortgage loan servicing business of Option One to American Home Mortgage.

156. On April 30, 2008, while in settlement negotiations with the Attorney General regarding the allegations set forth in this complaint, H&R Block closed the sale of Option One's mortgage loan servicing portfolio, including all of the loans Option One serviced as of that date, whether originated by Option One or a third party, to American Home Mortgage. American Home Mortgage had notice of the Attorney General's claims about the HRB Entities' origination and servicing conduct.

157. The proceeds of the transaction were approximately $1.3 billion. At closing, H&R Block utilized part of the proceeds to repay more than $980 million on its

servicing advance facility. After repayment of servicing advances, H&R Block realized net cash proceeds of slightly more than $230 million, and also retained a receivable relating to certain servicing assets of approximately $100 million. H&R Block has indicated publicly that it anticipates that it will realize roughly $57 million of this receivable by June 30, 2008.

158. Prior to closing on the purchase of Option One's servicing portfolio, American Home Mortgage had knowledge that the Attorney General had conducted an investigation into the practices of the HRB Entities in the origination and servicing of mortgage loans in Massachusetts, had concluded that the HRB Entities had engaged in unfair and deceptive acts or practices in violation of the Massachusetts Consumer Protection Act, G.L. c. 93A, § 2(a), and was prepared to file suit on these grounds.

159. On May 1, 2008, by letter, the Attorney General gave further notice to American Home Mortgage of its belief that Option One had engaged in unfair and deceptive practices in originating and servicing mortgage loans and provided notice under G.L. c. 93A, section 4 of the Attorney General's intention to commence suit on these grounds against American Home Mortgage absent a pre-litigation settlement.

160. As the purchaser, assignee, and/or successor in interest of the loan servicing portfolio at issue in this complaint, American Home Mortgage is subject to all claims applicable to the HRB Entities, and American Home Mortgage's servicing of Option One-originated loans should account for the HRB Entities' unlawful origination conduct.

161. The terms of the sale of Option One's servicing portfolio to American Home Mortgage provide that Option One shall retain full liability for loan-related activities that occurred prior to the date of sale. Further, prior to the date of sale, Option One and

America Home Mortgage entered into a Cooperation Agreement that provides that, with limited exceptions, after the date of sale, Option One shall retain authority to direct American Home Mortgage to modify loans in order to resolve claims relating to the origination or servicing of any loans serviced by Option One as of the date of the sale. Under the terms of the Cooperation Agreement, Option One has also agreed to indemnify American Home Mortgage from any liabilities that arise as a result of loan modifications directed by Option One.

162. As a result of H&R Block's sale of the Option One's servicing portfolio to American Home Mortgage, and the attendant contractual obligations between Option One and American Home Mortgage relating to the modification of loans that are the subject of this lawsuit, the Commonwealth of Massachusetts now stands as a third party beneficiary to the Purchase Agreement, Cooperation Agreement, and any other agreements relating to the sale by H&R Block of Option One's servicing portfolio to American Home Mortgage.

163. In order to effectuate the relief that the Attorney General seeks for Massachusetts residents in this action, American Home Mortgage must be subject to injunctive and other relief determined to be necessary by this Court, and, accordingly, is named as a defendant in the Complaint.

V. CAUSES OF ACTION

COUNT ONE

(Unfair or Deceptive Acts or Practices in Violation of G.L. c. 93A, § 2)

164. The allegations contained in paragraphs 1 – 163 of the Complaint are re-alleged and incorporated herein by reference.

165. By engaging in the origination and servicing practices described above, the HRB Entities engaged in unfair or deceptive acts or practices, in violation of G.L. c. 93A, § 2(a), and regulations promulgated thereunder pursuant to G.L. c. 93A, § 2(c). The HRB Entities' unfair and deceptive conduct includes, without limitation:

a. steering borrowers into and originating excessively risky and unsustainable loans that are unfair and/or unconscionable;

b. failing to meaningfully account for borrowers' ability to repay the loans made by the HRB Entities, including, but not limited to, failing to account for borrowers' abilities to pay beyond the introductory-rate periods in adjustable rate loans;

c. failing to meaningfully disclose material terms to borrowers, including, without limitation:

> (i.) in the instance where the HRB Entities arranged 100% financing and knew or should have known that the borrower would have to refinance promptly because the borrower could not afford monthly payments following the interest rate increase, that the borrowers' ability to refinance was entirely contingent on the continued appreciation of the value of their home, and that any decrease in valuation would foreclose the borrower's ability to refinance and afford to stay in their home;
>
> (ii.) in the instance of adjustable rate loans, that the HRB Entities did not qualify its borrowers to pay the HRB Entities' monthly loan payments after the introductory interest rate expired and that the borrowers were not qualified to pay the monthly loan payments at the adjusted interest rates;
>
> (iii.) in the instance where the HRB Entities paid their mortgage brokers yield spread premiums, that those YSPs increased a borrower's interest rate and loan costs, or the amount that the borrower's interest rate increased due to the yield spread premium or the borrower's alternative options to reduce this interest rate increase; and

(iv.) the HRB Entities' intention to sell or assign borrowers' loans, and the impact of that assignment on borrowers' ability to raise claims and defenses against the loans' new owners.

d. encouraging unfair and deceptive market conduct by mortgage brokers and loan officers selling HRB Entities loans by paying incentives that rewarded brokers for selling risky and expensive loans too likely to end in default or foreclosure;

e. steering borrowers with good credit scores and income into and originating loans with high subprime interest rates;

f. failing to supervise, monitor, or otherwise take reasonable measures to oversee mortgage brokers upon whom the HRB Entities relied to sells their loans, including by failing to verify information provided by mortgage brokers and loan officers such as borrowers' income, assets or home valuations;

g. making loans based on information that the HRB Entities knew or should have known was inaccurate or false, including, but not limited to, borrowers' income, and property appraisals;

h. making and selling loans that contain product features that the HRB Entities knew or should have known required prompt refinancing to maintain an affordable monthly payment and/or avoid defaults or foreclosure, resulting in excessive, repeated costs to borrowers;

i. including substantial prepayment penalties in borrowers' adjustable rate loans that, at times, last beyond the introductory-rate period;

j. disguising short-term, high-cost loans with exorbitant annual percentage rates and enormous balloon payments as adjustable rate loans that the

HRB Entities knew or should have known required refinancing after the introductory-rate period expired, in violation of Massachusetts laws designed to protect borrowers in loan transactions, including:

i. G.L. c. 183C (the Massachusetts Predatory Home Loan Practices Act which prohibits, *inter alia,* dividing loans into separate parts to avoid compliance with G.L. c. 183C, making high-cost loans with prepayment penalties or balloon payments, and making high-cost loans without regard for the borrowers' repayment abilities);

ii. 209 C.M.R. §§ 32.32 & 32.34 (the Division of Bank regulations which prohibits, *inter alia*, failing to provide required disclosures in connection with high-cost loans and making a loan with unconscionable rates or terms);

iii. G.L. c. 271, § 49 (the Massachusetts usury statute, which prohibits creditors from charging interest or expenses exceeding 20% per annum, unless the creditor is registered with the Attorney General); and

k. charging black and Latino borrowers higher points and fees than similarly situated white borrowers.

166. By servicing loans as described above, the HRB Entities engaged in unfair or deceptive acts or practices, in violation of G.L. c. 93A, § 2(a), and regulations promulgated thereunder pursuant to G.L. c. 93A, § 2(c). The HRB Entities' unfair and deceptive conduct includes, but is not limited to the following, independently and collectively:

a. inducing borrowers to pay the HRB Entities monies through misrepresentations, including, but not limited to, misrepresentations such as that the borrower would qualify for the HRB Entities' loan modification program and the borrower's payment of monies would enable the borrower to avoid foreclosure;

b. recklessly facilitating the foreclosure of borrowers' homes by misleading borrowers;

c. failing to act in good faith and conduct due diligence when foreclosing on borrowers' property, particularly where the HRB Entities made loans in 100% financed loan arrangements; and

d. engaging in violations of 209 C.M.R. 18.16, 18.17, and 18.21, including but not limited to, knowingly or recklessly facilitating the illegal foreclosure of real property chattel in violation of 209 C.M.R. 18.21(9).

167. The HRB Entities knew or should have known that their conduct was unfair or deceptive in violation of G.L. c. 93A, § 2(a), and 940 C.M.R. § 3.16.

168. The HRB Entities knew or should have known that the ultimate harm of foreclosure and loan defaults, including the devastating impact on a borrowers' credit, to a borrower far outweighed the illusory short-term benefit of acquiring a loan that a borrower could not afford.

169. By letter dated March 3, 2008, the Attorney General gave the defendant HRB Entities the required notice pursuant to G.L. c. 93A, § 4 of its intention to bring an action under the Consumer Protection Act.

170. By letter dated May 1, 2008, the Attorney General gave the defendant American Home Mortgage the required notice pursuant to G.L. c. 93A, § 4 of its intention to bring an action under the Consumer Protection Act.

COUNT TWO

(Violations of the Massachusetts Antidiscrimination Act, G.L. c. 151B, § 4(3B))

171. The Commonwealth repeats and incorporates by reference all allegations contained in Paragraphs 1 through 170 as if fully set forth herein.

172. The Commonwealth is a person aggrieved by the HRB Entities' acts, policies, and practices, pursuant to G.L. c. 151B, §1.

173. The HRB Entities are persons as that term is defined in G.L. c. 151B, §1.

174. The HRB Entities' business includes granting mortgage loans or engaging in residential real estate-related transactions as defined by G.L. c. 151B, § 4(3B).

175. The HRB Entities' acts, policies and practices discriminate in residential real estate-related transactions, in the granting of mortgage loans, in making available such a transaction, or in the terms or conditions of such a transaction, on the basis of race and/or color, in violation of G.L. c. 151B, § 4(3B).

COUNT THREE

(Equitable Relief)

176. The Commonwealth repeats and incorporates by reference all allegations contained in Paragraphs 1 through 175 as if fully set forth herein.

177. Any and all of Option One's interests in the Massachusetts loans that were unlawfully originated or serviced, and that were acquired by American Home Mortgage, were acquired subject to all of the Commonwealth's claims set forth herein.

178. As American Home Mortgage presently services all or nearly all of the subprime mortgage loans originated by the HRB Entities, an equitable order against American Home Mortgage is appropriate to achieve the relief due under G.L. c. 93A, namely, the relief necessary to remedy the harm suffered by borrowers and the public as a

result of the unfair or deceptive acts or practices of the HRB Entities, and to ensure that American Home Mortgage is not permitted to service or foreclose upon the HRB Entities' loans without due consideration of Option One's unlawful origination conduct, alleged in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth requests that this Court grant the following relief:

1. Issue a short order of notice requiring the defendants to show cause why a preliminary injunction should not issue against them and, after hearing, issue a preliminary injunction, enjoining all defendants, and their officers, agents, servants, employees, attorneys, mortgage brokers, real estate brokers, successors and assigns, and all other persons and entities, whether acting individually or in active participation or concert with them, directly or indirectly, or through any corporation, trust or other device, who receive actual notice of the order, from:

    a) initiating or advancing a foreclosure, as an owner, servicer, or other agent, on any property secured by a Massachusetts loan issued by Defendants, without first providing the Commonwealth a 90-day period to review each such loan so that upon the expiration of the 90 days the Commonwealth may object to a foreclosure based on unfair or deceptive origination or servicing conduct by HRB Entities in order to provide the borrower with a meaningful opportunity to avoid foreclosure, and in the event of the Commonwealth's objection, no foreclosure sale shall go forward absent court approval;

    b) further selling, transferring or assigning mortgage loans made by the defendants that are secured by residential properties in Massachusetts ("Massachusetts loans"); and

c) further selling, transferring or assigning the defendants' legal rights and/or obligations to service Massachusetts loans;

2. Require the defendants to further show cause why a preliminary order should not also require them, pursuant to the equitable powers conferred upon this Court under G.L. c. 93A, § 4, to deposit a payment in a Massachusetts bank account monitored by this Court, in an amount appropriate to reflect the portion of proceeds of H&R Block's sale of its servicing portfolio to American Home Mortgage transaction which is attributable to Massachusetts loans.

3. After trial on the merits, enter judgment in favor of the Commonwealth including restitution to consumers injured by defendants' unfair or deceptive acts or practices, civil penalties of $5,000 for each violation of chapter 93A, attorneys' fees, costs and other remedial relief under chapter 93A and other applicable statutes.

4. After trial on the merits, enter judgment in favor of the Commonwealth that the defendants violated the Antidiscrimination Act, G.L. c. 151B, § 4(3B), by discriminating in granting mortgage loans or residential real estate-related transactions because of race or color, and order the defendants to pay actual and punitive damages.

5. After a trial on the merits, enter a judgment in favor of the Commonwealth including permanent injunctive and equitable relief, including, but not limited to:

a) enjoining the defendants from further selling, transferring or assigning loans made by the HRB Entities;

b) requiring the HRB Entities to remain accountable for their loans to

Massachusetts borrowers and their misconduct in connection with those loans, by issuing one or more of the following orders: (i) requiring the HRB Entities to repurchase those Massachusetts loans derived from the HRB Entities' unfair or deceptive acts or practices; (ii) permitting borrowers to rescind any unlawful loan agreement with the HRB Entities; (iii) modifying any terms of the HRB Entities' unlawful loan agreements as may be necessary to conform such loan agreements to Massachusetts legal standards of fair dealing and fair lending; and/or (iv) entering equitable orders requiring that all claims and defenses borrowers have against the HRB Entities related to the loans shall be available against any assignee or purchaser of HRB Entities loans;

c) otherwise restoring borrowers to the position they would have been in but for the HRB Entities' unlawful conduct;

d) enjoining the HRB Entities and American Home Mortgage from engaging in discrimination through the use of the Discretionary Pricing Policy or any other practice or policy;

e) ordering the HRB Entities and American Home Mortgage to provide antidiscrimination and fair lending training to their employees on an annual basis or within thirty (30) days of hire; and

f) ordering the HRB Entities and American Home Mortgage to monitor and test for racial disparities in their business practices related to mortgage loan or real estate-related transactions, including the origination and servicing of mortgage loans, and to report the results of such monitoring and testing efforts to the Massachusetts Office of the Attorney General on an annual basis; and

6. Enter such other relief as the Court deems just.

PLAINTIFF DEMANDS A TRIAL BY JURY
OF ANY ISSUE TRIABLE OF RIGHT BY JURY

Respectfully Submitted,

COMMONWEALTH OF
MASSACHUSETTS

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June 3 2008

Short order of notice to issue returnable Monday, June 16 2008 2:00pm Room 1309

Re: prayers One and Two

(Gants, J.)

Attest: Helen Daly-Dougan Asst Clerk

DATE: June 3, 2008