

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK ss

SUPERIOR COURT
CIVIL ACTION NO.
1884CV00781

COMMONWEALTH OF MASSACHUSETTS,

Plaintiffs,

v.

ANGLEFUND, INC. a corporation; and

DTH-REO, INC, a corporation; and

DAVID BUTTROSS, an individual

Defendants.

FIRST AMENDED COMPLAINT

I. INTRODUCTION

1. The Commonwealth of Massachusetts (the “Commonwealth”), by and through its Attorney General, Maura Healey, brings this law enforcement action in the public interest pursuant to the Massachusetts Consumer Protection Act, G. L. c. 93A, § 4, against the above-captioned Defendants AngleFund, Inc. (“AngleFund”), DTH-REO, Inc. (“DTH”) and their owner-operator, David Buttross, an individual (“collectively Defendants”). The Commonwealth seeks injunctive relief, civil penalties, damages and restitution, disgorgement, costs of litigation (including investigative expenses, reasonable

attorneys' fees), and other equitable relief as the Court finds necessary to redress Defendants' violations of Massachusetts law relating to the leasing and the sale of uninhabitable properties located across the Commonwealth under unfair and deceptive "rent to own" contracts.

II. JURISDICTION AND VENUE

2. The Attorney General is authorized to bring this action under G. L. c. 93A, § 4 and G. L. c. 12, § 10.

3. This Court has jurisdiction over this subject matter under G. L. c. 93A, § 4 and under G. L. c. 214, § 1 to enter such orders as it deems proper.

4. This Court has jurisdiction over this matter pursuant to G. L. c. 223A, § 3.

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

III. THE PARTIES

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

7. Defendant AngleFund, Inc. ("AngleFund") is a Texas corporation with a principal place of business of 5115 North Lamar Boulevard, Austin, TX 78751. According to the corporate Certificate of Formation, the sole Director of AngleFund is David Buttross.

8. Defendant DTH-REO, Inc. (“DTH”) is a Texas corporation with an address registered with the Texas Secretary of State of 408 W. 18th Street, Austin, TX 78701. According to the Certificate of Formation, the sole Director of DTH is David Buttross.

9. Defendant David Buttross (“Buttross”), an individual, is a resident of Austin, Texas, and the sole owner, operator and/or managing agent of AngleFund and DTH. At all times relevant to this Complaint, Buttross was the sole owner, operator and/or managing agent of AngleFund and DTH.

10. As set forth in greater detail below, Buttross directly participated in the corporation’s violations herein by, among other acts, willfully failing to correct or respond to Massachusetts state officials regarding potential violations of the State Sanitary Code, and approving seller-financing for consumers without regard to ability to pay and without providing required disclosures under state and federal law.

IV. STATEMENT OF FACTS

A. AngleFund and DTH’s Business Operations in Massachusetts

11. Since at least 2016, AngleFund has acquired at least a dozen distressed properties across the Commonwealth. AngleFund obtained these properties from the inventory of lending institutions—institutions that previously foreclosed upon the property or otherwise received title to the property following the mortgage foreclosure process.

12. AngleFund purchases the properties at a very low purchase price indicative of the distressed condition of the property at the time of AngleFund’s purchase.

13. AngleFund has paid an average of approximately \$21,108 for properties it has purchased in Massachusetts and has paid as little as \$5,000. Ex. 1, Affidavit of Kristen Salera (“Salera Aff.”) at ¶ 13.

14. At present, AngleFund is the record owner of at least three properties in Massachusetts:

- 333–335 Walnut Street, North Adams
- 27 Hall Street, North Adams, and
- 24–26 Wesleyan Street, North Adams

See Id. at ¶ 7 and Ex. A—C.

15. Since at least 2016, AngleFund has been the record owner of at least nine additional properties located in cities and towns across Massachusetts. In recent months, AngleFund has transferred deeds to new owners. The nine properties transferred in recent months include:

- 14 North Main Street, Avon
- 176 Main Street, Charlemont
- 9 Milk Street, Fitchburg
- 12 Cherry Street, Lakeville
- 125–127 Cambridge Street, Springfield
- 18 Hunter Place, Springfield
- 46 Glenallen Street, Wichenden
- 98 Eastern Avenue, Worcester

- 31 Elizabeth Street, Worcester

See Id. at ¶ 8 and Ex. D—L.

16. In addition, AngleFund now holds mortgages on the Avon, Charlemont, Fitchburg, Lakeville, Winchendon, and Worcester properties. *Id.* at ¶ 9.

17. With the exception of the property located at 125–27 Cambridge Street in Springfield, AngleFund’s transfer of each of these properties bears the hallmark of a “rent-to-own” or “contract for deed” transaction, including, without limitation, such features as: a mortgage amount nearly the same as the sales price, a seller-financed mortgage, and, in many cases, a “vendor’s lien” on behalf of AngleFund stated in the deed.

18. AngleFund and DTH operate from the same location as Buttross Properties, a real estate brokerage firm located in Austin, Texas, under the direction and control of Buttross as its owner, operator and/or managing agent. *Id.* at ¶ 10.

19. Realtors from Buttross Properties serve as real estate agents for AngleFund’s properties located in Massachusetts. *Id.* at ¶ 11.

20. AngleFund, under the direction and control of Buttross, has offered properties for rent in Massachusetts, using websites such as: www.craigslist.com, www.movoto.com and www.zillow.com. *Id.* at ¶ 12.

21. AngleFund, under the direction and control of Buttross, has offered properties for lease in Massachusetts under “rent-to-own”, or “contract for deed” arrangements. In some instances, Anglefund, at Buttross’ direction, converted “rent to own” or “contract

for deed” arrangements to mortgages pursuant to purchase and sale agreements. *Id.* at ¶ 30; Ex. 2, Affidavit of Miranda Jaye Lowry (“Lowry Aff.”) at ¶ 4.

22. DTH, under the direction and control of Buttross, has also offered properties for sale in Massachusetts under “rent-to-own” or “contract for deed” arrangements.

B. “Rent to Own” Agreements Nationwide

23. Nationwide, in the last several years, “rent-to-own,” or “contract for deed” arrangements have seen a resurgence.¹

24. These arrangements target, among others, individuals with low income or poor credit.

25. These arrangements, in general, are often predatory and doomed to fail—they contain unfair and deceptive terms, or high and hidden fees. Often, before the deed is transferred to the consumer under the agreement, they require payments over a 20 or 30-year term.

26. In addition, the properties offered for “rent” or to “own” under these arrangements are often distressed, previously foreclosed, uninhabitable, or have title defects, making long-term occupancy difficult or even impossible. *Id.*

¹ See, e.g., Battle, Jeremiah, Jr., Mancini, Sarah, Saunders, Margot, and Williamson, Odette, *Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color*, National Consumer Law Center (July, 2016) pp. 2–4.; Alexandra Stevenson, Matthew Goldstein, “Market for Fixer-Uppers Traps Low-Income Buyers” *The New York Times*, Feb. 21, 2016, A1., available at: <https://www.nytimes.com/2016/02/21/business/dealbook/market-for-fixer-uppers-traps-low-income-buyers.html>; Alexandra Stevenson, Matthew Goldstein, “Wall Street Veterans Bet on Low-Income Homebuyers,” *The New York Times*, April 18, 2016, available at: <https://www.nytimes.com/2016/04/18/business/dealbook/wall-street-veterans-bet-on-low-income-homebuyers.html>

27. As such, the promise of home ownership represented by these agreements is frequently illusory because, in reality, the physical condition of the property (and cost of attendant repairs) and the burdensome terms of the “rent to own” agreement almost ensure that the “tenant” will never actually have the financial ability to own the property outright or even to occupy the property long-term.

C. The Massachusetts Attorney General’s Landlord Tenant Regulations

28. Pursuant to her authority under G. L. c. 93A, the Attorney General has adopted regulations that define certain unfair and deceptive acts and practices in the landlord and tenant context. See 940 CMR 3.17 et seq.

29. These regulations prohibit, among other things: (1) renting a dwelling unfit for human habitation; (2) failing to disclose to a prospective tenant the existence of any condition amounting to a violation of law within the dwelling unit, of which the owner had knowledge or upon reasonable inspection could have acquired such knowledge at the commencement of the tenancy; (3) failing to comply with the State Sanitary Code or any other law applicable to the conditions of a dwelling unit within a reasonable time after notice of a violation of such code or law from the tenant or agency; (4) including in a rental agreement terms that violate a law; (5) entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the names, address, and telephone numbers of the owner, and any other person who is responsible for the care, maintenance and repair of the property; (6) entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the name, address, and telephone number of the person

authorized to receive notices of violations of law and to accept service of process on behalf of the owner; (7) failing to hold a security deposit in a separate interest-bearing account located within the Commonwealth in violation of G. L. c. 186, §15B and 940 CMR 3.17; (8) failing to provide gas or electric service to an occupant.

30. In addition, G. L. c. 186, §15 prohibits a lessor from including in a lease a provision that seeks to preclude or exonerate the lessor or landlord from any or all liability to the lessee or tenant or to any other person, for any injury, loss, damage or liability arising from any omission, fault, negligence or other misconduct of the lessor or landlord on or about the premises.

D. AngleFund and DTH's "Rent to Own" Practices in Massachusetts

31. Following its purchase of a distressed property, AngleFund typically lists the property for lease or sale, under a "rent to own" arrangement.

32. AngleFund and DTH title their "rent to own" agreements: "Residential Lease Agreement with an Option to Purchase."

33. Under the terms of the AngleFund and DTH agreements, the tenant/lessee leases the property for a period of years, but also obtains an option to purchase the property outright later, for a specified sum. By their terms, the agreements shift the costs of repair and maintenance from the landlord to the tenant, requiring the tenant "at its sole expense" to "keep and maintain the Property and appurtenances in good and sanitary condition and repair during the term of this Lease. . ." *See* Ex. 3., Affidavit of Valerie Bird, Health Director, City of North Adams ("Bird Aff."), Ex. C at ¶¶ 25-28.

34. In practice, at the outset of the arrangement, the tenant/lessee occupies the property for a period of time, paying a monthly sum in “rent” to AngleFund or DTH. Then, at a later date, they may purchase it in accordance with the original “rent to own” agreement, or a subsequent agreement offered to them by AngleFund. In at least one instance, AngleFund has purported to “convert” a consumer’s rent to own agreement into a mortgage, transferring the deed to the consumer, but retaining the mortgage secured on the property.

35. AngleFund has offered multiple properties for rent in Massachusetts under “rent to own” agreements even though they are unfit for habitation. *See* Bird Aff. at ¶¶ 6–11 and Ex. A. (“Order of Condemnation, Dec. 23, 2016, 27 Hall Street, North Adams); *Id.* at ¶¶ 20–24 and Ex. B. (“Emergency Condemnation Order, 24–26 Wesleyan Street, North Adams) and Ex. 5 Affidavit of William Meranti, Director of Inspection Services and Building Commissioner, City of North Adams (“Meranti Aff.”) at ¶¶ 5–6.

36. Similarly, DTH has offered a property for rent in Massachusetts even though it was unfit for habitation.

37. Offering a residential property for rent or “rent to own” that is unfit for habitation is an unfair or deceptive act in violation of G. L. c. 93A, § 2(a).

1. 14 North Main Street, Avon

38. AngleFund was named the grantee for a property located at 14 North Main Street, Avon, Massachusetts (the “14 North Main Street Property”) in a quitclaim deed dated June 30, 2017. The deed states that AngleFund paid \$5,000 in consideration for the property. Salera Aff. at ¶¶ 16–24.

39. The 14 North Main Property deed lists the grantor as U.S. Bank National Association, as Trustee under Securitization Servicing Agreement Dated as of July 1, 2005 Structured Asset Securities Corporation, Structured Asset Investment Loan Trust Mortgage Pass Through Certificates, Series 2005-HE1, By Ocwen Loan Servicing LLC, Attorney-In-Fact. *Id.* at ¶ 17.

40. The Norfolk Registry of Deeds indicates that the grantor became the record owner of the property on June 20, 2008, by virtue of a foreclosure deed. *Id.* at ¶ 18.

41. Because the 14 North Main Property is registered land, AngleFund did not take title to the property until July 12, 2017, the date that the deed was registered with the Norfolk County Land Court. *Id.* at ¶ 19.

42. The property at 14 North Main Street is adjacent to a property located with an address of 14B North Main Street. The properties located at 14 and 14B North Main Street are reflected as two separate parcels on a plot plan registered in 1957 (#28421). *Id.* at ¶ 20.

43. Like the 14 North Main Property, the 14B North Main Property is registered land.

44. At present, that property remains registered to a Frank and Geraldine Chaplin. *Id.* at ¶ 23. Accordingly, AngleFund does not own the 14B North Main Property. *Id.*

45. Currently, the house built on the 14 North Main Property extends onto the 14B North Main parcel. *Id.* at ¶ 24.

46. DTH has at no time owned either the 14 North Main Property or the 14B North Main Property (collectively, the “Avon Properties”). Despite this, in October 2016, DTH

entered into a Residential Lease Agreement with Option to Purchase with Joshua N. Wagner and Serrah M. Brown (the “DTH Lease”). See Ex. 4, Affidavit of Kathleen Waldron, Health Director, Town of Avon, MA (“Waldron Aff.”)

47. The DTH Lease provided that the Avon Properties were to be used as a residential premises and clearly contemplated that the tenants would live at the Avon Property. Waldron Aff. at ¶ 6.

48. The DTH Lease required monthly payment of \$650 in rent from Wagner and Brown.

49. The DTH Lease provided that upon payment of the rent, Wagner and Brown would have peaceful and quiet enjoyment of the Avon Property. *Id.*, Ex. A at ¶ 17.

50. The DTH Lease further provided that DTH, as the Landlord, would make no repairs to the Avon Property. *Id.*, Ex. A at ¶¶ 18, 33.

51. The DTH Lease requires the tenant “at its sole expense” to “keep and maintain the Property and appurtenances in good and sanitary condition and repair during the term of this Lease. . .” *Id.*, Ex. A at ¶ 28.

52. The DTH Lease states that any costs incurred by the lender for repairs to the Avon Properties will be passed on to the tenants by an increase in the purchase price and down payment upon the tenant’s exercise of the purchase option on the property – even if the repairs are required by the Town of Avon. *Id.*, Ex. A at ¶ 26.

53. The DTH Lease requires that a security deposit be held at an account located at Chase Bank in Austin, Texas, not one located in the Commonwealth of Massachusetts, as required by regulation. *Id.* Ex. A at ¶ 13.

54. The DTH Lease fails to provide any address for notices to be given to DTH under the lease, requiring any notices sent to the landlord be sent to the address for the property itself – 14 N Main, Avon, Massachusetts 02322. *Id.* at Ex. A.

55. The DTH Lease provided an option to the tenants to purchase the Avon Properties, for which the tenants were charged an additional \$200 upon execution of the DTH Lease. *Id.* at Ex. A, ¶ 45. However, the only means for exercising the option required the notification of the tenants' intent to exercise the option be sent to 14 N Main, Avon, Massachusetts 02322—the physical address for the property, not for the landlord. *Id.*, at Ex. A, ¶ 46.

56. In mid-October 2016, Wagner and Brown moved into the house located on the Avon Properties. *Id.* at ¶ 6.

57. In November 2016, the Town of Avon received a complaint regarding the conditions at the Avon Properties. As a result, on November 28, 2016, Health Agent Waldron conducted an inspection of the Avon Properties. In doing so, she discovered numerous violations of the State Sanitary Code and issued an order to repair the property and make it compliant with the State Sanitary Code. *Id.* at ¶ 9 and Ex. B (“November 28, 2016 Inspection Report”).

58. On November 29, 2016, the Town of Avon served the order to repair on AngleFund, by first class mail. *Id.* Neither AngleFund nor DTH contacted the Town of Avon in response to that order or made any efforts to remedy the numerous violations of the Sanitary Code recited therein. *Id.* at ¶¶ 9, 10.

59. As a result, approximately two weeks later, on December 15, 2016, the Town of Avon issued an order condemning the structure on the property, and on December 19, 2016, served a copy of that order on AngleFund by first class mail. The condemnation order notified AngleFund that the property was unfit for human habitation, stating: “[t]he dwelling must be vacated, secured from entry and is not to be re-occupied unless the condemnation is lifted by the Board of Health....” *Id.* at ¶ 11 and Ex. C (“December 15, 2016 Condemnation Order”).

60. On or about May 30, 2017, the Town of Avon received a call in the evening from a neighbor reporting activity at the Avon Properties. In response and with knowledge that the property was condemned, the Town of Avon dispatched its building inspector at 10:00 p.m. to the Avon Properties to investigate. Upon arrival, the building inspector found a family of six, four children and two adults, (the “Lowry family”) attempting to access the condemned, boarded-up house. *Id.* ¶ 12 and Affidavit of Miranda Jaye Lowry (“Lowry Aff.”)

61. The Lowry family reported to the building inspector that they were moving from Florida and had just arrived at the house, which they had agreed to rent from its owner. The building inspector informed the Lowry family that the house was unfit for human habitation and the family could not stay at the property. Lowry Aff. at ¶ 10. The home did not have running water or electricity. *Id.* As a result, the Lowry family, who moved to Massachusetts from Florida in reliance upon the belief that they were renting a home that was habitable and could be immediately occupied under a “rent to own” agreement with AngleFund, had nowhere else to live. They were forced to rent a hotel room nearby for

four weeks, while they performed repairs required by the Town to occupy the property. *Id.* at ¶ 11. In addition to the unexpected cost of having to rent a hotel room, the Lowrys incurred thousands of dollars in out-of-pocket expenses to perform the repairs necessary to occupy a small portion of the property. *Id.*

62. As of May 30, 2017, neither DTH nor AngleFund was the record owner of either of the Avon Properties. Nevertheless, AngleFund entered into a Residential Lease Agreement with Option to Purchase with the Lowry family and induced them to move to Massachusetts in reliance upon AngleFund's representation that they were the owner of the Avon Properties. *Id.* at ¶ 7.

63. On or about August 3, 2017, the Board of Health lifted the December 19, 2016, condemnation order as to a portion of the house on the Avon Properties, allowing the Lowry family to reside in a small section of the house. For a period, all six members of the Lowry family resided in an "in-law" section of the house, which includes one bedroom and one bathroom. *Id.* at ¶ 11. The in-law section of the house is in the portion of the structure that sits on the 14B North Main parcel.

64. In or around June 2017, the Lowrys were asked to sign a new agreement related to their tenancy at the Avon Properties—a Real Estate Purchase Agreement for Massachusetts. *Id.* at ¶ 12. The new agreement named AngleFund as the "seller" and the Lowrys as the "buyer," but described the agreement between AngleFund and the Lowrys in the same manner as the original lease document. *Id.* and Ex. A. An AngleFund representative named Esmerelda explained to the Lowrys that the new agreement was

necessary because the original lease agreement was not allowed under Massachusetts law. *Id.* at ¶ 12.

65. AngleFund entered this new agreement with the Lowrys despite that on that date, Anglefund was, in fact, not the owner of either of the Avon Properties.

66. AngleFund conveyed the property at 14 North Main Street to the Lowrys through a quitclaim deed dated December 7, 2017. The deed was registered with the Land Court on January 3, 2018. Prior to conveying the Property, AngleFund represented to the Lowrys that they were receiving title to both 14 and 14B North Main Street. *Id.* at ¶ 12–13.

67. Until the time of the conveyance to the Lowrys, AngleFund continued to collect rent from the Lowrys even though AngleFund did not own the portion of the property in which the Lowry family was living. *Id.* at ¶ 13.

2. 24–26 Wesleyan Street, North Adams

68. On or about March 28, 2017, AngleFund became the owner of record for a property located at 24–26 Wesleyan Street in North Adams (the “Wesleyan Street Property”). AngleFund became the owner via a quitclaim deed from grantee Deutsche Bank National Trust Company, as Trustee for Securitized Asset Backed Receivables LLS Trust 2007-BR2, Mortgage Pass-Through Certificates, Series 2007-BR2, By Ocwen Loan Servicing LLC, as Attorney-in-Fact.

69. According to the quitclaim deed, AngleFund purchased this property from the grantor for \$18,865. The grantor had acquired title as a result of a foreclosure. Salera Aff., ¶¶ 25, 26.

70. In early August 2017, the City of North Adams became aware that the Wesleyan Street Property was owned by AngleFund and that tenants were living in the property, even though the property lacked a certificate of compliance as required by City Ordinance. Bird Aff. at ¶¶ 16, 20.

71. On or about August 2, 2017, Valerie Bird, Health Director for the City of North Adams, sent a letter to AngleFund notifying them of the City's ordinance and the requirement that a certificate of compliance be obtained for all rental dwelling units. *Id.* and Ex. D.

72. A little over two weeks later, on or around August 21, 2017, Director Bird conducted an inspection of the Wesleyan Street Property and found tenants of AngleFund living there, even though AngleFund had not obtained the certificate of compliance. *Id.* at ¶ 20.

73. The tenants informed Director Bird that they were living there under a rent-to-own agreement with AngleFund. *Id.*

74. AngleFund rented the Wesleyan Street Property without obtaining an inspection and certificate of compliance as required by City Ordinance.

75. At that August inspection, Director Bird found numerous violations of the State Sanitary Code—including numerous violations deemed to endanger or impair the health or safety of any occupants. Bird Aff. at ¶ 21, and Ex. F (“Inspection Report, 24–26 Wesleyan Street”).

76. As a result of the inspection and the violations discovered, the next day August 22, 2017, the City of North Adams issued an Emergency Condemnation Order to

AngleFund (“Emergency Order”). The Emergency Order contained an order that the premises be vacated within 24-hours and that the dwelling located at the Wesleyan Street Property be boarded and secured. *Id.* at ¶ 22 and Ex. G (“Emergency Condemnation Order”).

77. Around two weeks later, on September 7, 2017, despite the tenants having made some repairs, the City of North Adams discovered that structural and egress issues remained on the Property, in violation of the State Sanitary Code. Accordingly, several days later, the City of North Adams issued a second Condemnation Order to AngleFund which, shortly afterward, was affirmed by the City’s Board of Health. *Id.* at ¶ 24 and Ex. H.

78. As a result, the tenants living at the Wesleyan Street Property were forced to leave, and could not live there for several months, leaving them homeless.

3. 27 Hall Street, North Adams

79. On December 9, 2016, AngleFund became the owner of record for another property in North Adams—located at 27 Hall Street (the “Hall Street Property”). AngleFund became the owner by virtue of a quitclaim deed from grantee HSBC Bank USA, National Association, As Trustee for the Benefit of People’s Financial Realty Mortgage Securities Trust, Series 2006-1, Mortgage Pass-Through Certificates, Series 2006-1, by Ocwen Loan Servicing LLC, as Attorney-in-Fact. AngleFund obtained the property from a grantee who obtained title on about August 11, 2016, by foreclosing on its mortgage on the property. *Salera Aff.* at ¶¶ 27, 28.

80. AngleFund paid \$8,225 for the Hall Street Property. *Id.* at ¶ 29.

81. When AngleFund acquired the Hall Street Property in December of 2016, it was condemned by the City of North Adams for Sanitary Code violations. Bird Aff. at ¶ 5.

82. On about December 21, 2016, the City of North Adams conducted an exterior inspection of the Hall Street Property. *Id.* at ¶ 6 and Ex. A. The inspection revealed that the Property was vacant, unsecured, and littered with trash. *Id.* As a result, two days later, on December 23, 2016, the City of North Adams issued a second Order of Condemnation to AngleFund, requiring that the Hall Street Property remain vacant, boarded-up, and secured. *Id.*

83. Nevertheless, following its purchase of the Hall Street Property, AngleFund advertised the property for rent under a “rent to own” arrangement online, on websites such as www.apartments.com. One advertisement, for example, indicated that the Hall Street Property “needs TLC” and is a “handyman dream home.” Salera Aff. at ¶ 30 and Ex. N. The advertisement indicated that the property was available on a “rent to own” basis for a monthly rent of \$300, a deposit of \$300, and an “option fee” of \$300. *Id.* The advertisement further claimed a: “\$900 Total Move-In!” *Id.*

84. Several months later, on April 4, 2017, the City of North Adams issued another order directing AngleFund to board and secure the Hall Street Property and to remove the exterior trash. Bird Aff. at ¶¶ 7, 8. In response, AngleFund contacted the City of North Adams and assured Director Bird that that the Hall Street Property would be cleaned, boarded-up and secured according to the order. However, AngleFund never fulfilled those assurances. The Property remained strewn with trash, unsecured, and was never boarded-up as required. *Id.*

85. Later, in the summer of 2017, the City of North Adams was contacted separately by two individuals, each of whom had entered into a residential lease with AngleFund for the Hall Street Property with an option to purchase. *Id.* at ¶ 9 and Ex. C. Both rent to own agreements provided that the Hall Street Property was to be occupied as a residential property. The rent to own agreements stated that the tenants would live at the Hall Street Property and pay \$300 monthly to AngleFund in rent. *Id.*

86. In addition, the rent to own agreements for the Hall Street Property stated that AngleFund, as landlord, would make no repairs to the Property and required each tenant “at its sole expense” to “keep and maintain the Property and appurtenances in good and sanitary condition and repair during the term of this Lease. . .” Bird Aff. at ¶¶ 9, 10 and Ex. C. at ¶¶ 1, 4, 23, 25.

87. On August 15, 2017, shortly after learning that tenants were occupying the Hall Street Property, the City of North Adams conducted another inspection—this time, of the interior. In doing so, North Adams officials observed widespread violations of the State Sanitary Code, too numerous to list, and so did not alter the condemnation order. *Id.* at ¶ 13; Meranti Aff. at ¶ 5.

88. At present, the Hall Street Property is vacant and condemned. *Id.* at ¶¶ 5, 6. It cannot be occupied until the City of North Adams determines it to follow the State Sanitary Code. *Id.*

4. 333–335 Walnut Street, North Adams

89. On December 7, 2016, AngleFund became the record owner for a property located at 333–335 Walnut Street, in North Adams (the “Walnut Street Property”).

AngleFund acquired the Walnut Street Property by virtue of a quitclaim deed from Wells Fargo Bank, N.A. as Trustee for Option One Mortgage Loan Trust 2007-1 Asset-Backed Certificates, Series 2007-1 by Ocwen Loan Servicing LLC, as Attorney-In-Fact.

AngleFund purchased the property on June 30, 2016, from an entity that obtained its title to the property through foreclosure. *Salera Aff.* at ¶ 31.

90. AngleFund paid \$23,240 for the Walnut Street Property. *Id.* at ¶ 32.

91. In August 2017, the City of North Adams learned that AngleFund had acquired the Walnut Street Property and that tenants were residing there. *Bird Aff.* at ¶ 14.

92. On or about August 2, 2017, the North Adams Health Director, Valerie Bird, sent AngleFund a letter specifically informing AngleFund of their City Ordinance, which requires all rental dwelling units to have a certificate of compliance. *Id.* at ¶ 16, Ex. D.

93. Shortly afterward, the North Adams Health Director conducted an inspection and found the Walnut Street Property occupied by tenants of AngleFund. *Id.* at ¶ 17.

94. The tenants of the Walnut Street Property told the Health Director that they were living there under a rent-to-own agreement with AngleFund. *Id.*

95. At the time AngleFund rented the Walnut Street Property, AngleFund did not obtain an inspection or a certificate of compliance, as required by the City Ordinance. *Id.* at ¶ 18, Ex. D.

5. 50 Beacon Avenue, Holyoke

96. In addition to the properties described above, AngleFund, in recent months, also purchased a property located at 50 Beacon Avenue in Holyoke (the “Holyoke Property”). The Holyoke Property became subject to a receivership action in the Western Division

Housing Court for the Commonwealth of Massachusetts (“Western Division Housing Court”). Salera Aff. at ¶ 33.

97. As part of the receivership action, the Court voided the deed conveying the Holyoke Property to AngleFund. *Id.* at ¶ 34.

98. However, prior to this, during the time period that AngleFund was record owner for the Holyoke Property, AngleFund offered the Holyoke Property for lease. *Id.* at ¶ 35.

99. At the time that AngleFund offered the Holyoke Property for lease, significant violations of the Sanitary Code were present at the Property. The violations were such that the Western Division Housing Court appointed a receiver to oversee its repair. *Id.* at ¶ 36.

D. The Attorney General’s Mortgage Lender and Broker Regulations

100. The Attorney General’s regulations are not limited to the rental context. Pursuant her authority under G. L. c. 93A, the Attorney General has adopted regulations applicable to mortgage lenders and brokers who operate in Massachusetts.

101. As detailed above, Defendants, in connection with their ownership of certain properties listed herein, converted certain of their “contract for deed” arrangements to mortgages, and thereby acted as a seller-financer. By doing so, Defendants are subject to the Attorney General’s mortgage regulations, 940 CMR 8.00 *et seq.*

102. The Attorney General’s mortgage regulations state that it shall be an unfair and deceptive act or practice under G. L. c. 93A for a mortgage lender or broker to, among other acts, fail to make any disclosure required under state or federal law 940 CMR 8.05(1); accept a broker fee before providing such disclosure forms, 940 CMR 8.05(3).

103. Likewise, the regulations state that it shall also be an unfair and deceptive act or practice for a mortgage lender or broker to fail to conduct an ability to pay analysis at the time a loan is expected to be made. Specifically, the regulations prohibit a mortgage lender from making a loan unless, based on the information provided at the time the loan was made, the mortgage broker or lender reasonably believes at the time that the loan is expected to be made that the borrower will be able to repay the loan based on a consideration of the borrower's income, assets, obligations, employment status, credit history, and financial resources—not limited to the dwelling which secures the payment of the loan. 940 CMR 8.05(13).

104. Defendants Anglefund and DTH, acting as a mortgage lender in Massachusetts and under the direction and control of defendant Buttross, failed to provide legally required disclosures to consumers—including the Lowry family (indeed, they had no policies and procedures to ensure that the company complied with the Massachusetts Consumer Protection Act and federal and state lending laws).

105. Likewise, Defendants accepted broker fees prior to providing such disclosures.

106. Additionally, in numerous instances (including with the Lowry family) Defendants failed to conduct an ability to pay analysis as required by 940 CMR 8.05(13).

107. In violating the Attorney General's mortgage regulations, Defendants violated G. L. c. 93A, §2(a).

E. The Federal Truth in Lending Act (TILA) and Regulation Z

108. In addition to the Attorney General's mortgage regulations, Defendants (when Acting, as they did in numerous instances, as a seller-financer) are also subject to the federal Truth in Lending Act (TILA) and Regulation Z, promulgated thereunder.

109. TILA applies to "creditors", which includes mortgage originators, (i.e., seller financers, like Defendants) who have issued at least five loans.

110. Chief among TILA's requirements is the requirement that a creditor, prior to originating loans, affirmatively analyze each borrower's ability-to-repay (ATR) the mortgage at the time of its consummation. 15 U.S.C. §1639c(a).

111. The ATR analysis requires creditors to make a reasonable and good faith determination that the borrower has a reasonable ability to repay the loan according to its terms and all reasonably expected applicable taxes, insurance, and assessments. Reg. Z §§ 1026.43(c)(1); c(2)(iv); Official Interpretations of Reg. Z § 1026.43(c)(2)(v)-1.

112. In order to determine a borrower's ATR, a creditor must consider and verify the borrower's credit history, employment status, current and reasonably expected income, current debts and assets, based on reliable third-party information. 15 U.S.C. § 1639c(a)(3); 12 C.F.R. § 1026.43(c)(4) (eff. Jan. 10, 2014).

113. In addition to the ATR analysis, TILA also requires certain disclosures to accompany the issuance of a mortgage loan—the purpose of which is to ensure the consumer understands their rights under the statute, and to provide "meaningful disclosure" of the credit terms. 15 U.S.C. §1601(a)

114. To accomplish this goal, TILA requires creditors to disclose, clearly and

accurately, all material terms of the credit transaction, and where material disclosures are incorrect or not provided, the consumer has a right of rescission. *See, e.g.*, 15 U.S.C. 1635(f), and 12 C. F. R. § 226.23(b)(1) (listing aspects of disclosure required under Regulation Z).

115. In addition to disclosures, Regulation Z requires that creditors provide a periodic billing statement that meets certain requirements and includes, among other things, the principal balance, and a breakdown of how the consumers monthly payment will be applied (principal, interest, escrow). 12 C. F. R. §1026.41(a)(2)(b)-(d).

116. Under Massachusetts law, a violation of TILA constitutes a violation of G. L. c. 93A. See 940 CMR 3.16 (“an act or practice is a violation of Ch. 93A, §2, if ... it violates the Federal Trade Commission Act, the Federal Consumer Credit Protection Act or other Federal consumer protection statutes within the purview of G. L. c. 93A §2(a)).

117. Here, in acting as a seller-financer and issuing at least five mortgages in Massachusetts, (see, pp., supra) Defendants were a creditor under the federal Truth in Lending Act and, therefore, required to provide disclosures, required to perform an ATR analysis of consumers prior to issuing mortgages, and required to provide periodic billing statements. Yet, in numerous instances, Defendants failed to do so. For example, as illustrated in the Lowry Affidavit, Defendants merely “converted” the “contract for deed” arrangement to a mortgage. *See, e.g.*, ¶¶ (discussing Defendants representation that they were “converting” the contract for deed arrangement to a mortgage). Also, with the Lowrys and other consumers, Defendants accepted payments via an online application with a “receipt” that listed only the amount paid—this fails to meet the detailed

requirements of periodic statements under Regulation Z.

118. By violating TILA, Defendants violated G. L. c. 93A, §2(a).

F. The Massachusetts Consumer Credit Cost Disclosure Act

119. The Massachusetts Consumer Credit Cost Disclosure Act, G. L. c. 140D, § 34, is Massachusetts' counterpart to the federal Truth in Lending Act—compliance with TILA constitutes compliance with MCCCDA and, conversely, a violation of TILA may constitute a violation of the MCCCDA.

120. Defendants violated G. L. c. 140D by, among other acts, violating the Truth in Lending Act in the manner listed *supra*, in ¶¶113, 114.

G. Injury to Massachusetts Consumers and to the Public

121. Since at least 2016, the Defendants' business activities in Massachusetts, have caused and continue to cause substantial injury to both Massachusetts consumers and to the public.

122. The injuries that the Defendants have caused Massachusetts consumers to date include, without limitation, out-of-pocket costs for repair of properties, restoration of utilities, alternative housing arrangements, and relocation expenses, as well as deprivation of their statutory rights to disclosures and accurate information about their mortgage loans.

123. Likewise, the injuries that Defendants have caused Massachusetts cities and towns include, without limitation, costs to inspect and secure properties, as well as staff time and resources incurred in responding to complaints.

124. David Buttross, as the sole owner, operator, and/or managing agent of AngleFund and DTH, directly participated in and was aware of AngleFund and DTH's violations of the Massachusetts Sanitary Code, the Attorney General's landlord tenant regulations, the federal Truth in Lending Act and the Massachusetts Consumer Credit Cost Disclosure Act.

V. CAUSES OF ACTION

Count One—Violation of Massachusetts General Laws c. 93A, § 2(a)

125. The Commonwealth incorporates and re-alleges paragraphs 1–123 of this complaint.

126. AngleFund and DTH are “persons” as defined under G. L. c. 93A.

127. By owning and leasing real property located in Massachusetts, and advertising property located in Massachusetts for lease or sale under “rent to own” agreements to Massachusetts consumers, AngleFund and DTH are operating in “trade or commerce.”

128. By carrying out the above-described schemes, AngleFund and DTH engaged in unfair or deceptive acts and practices in violation of G. L. c. 93A, § 2(a) (and regulations thereunder).

129. DTH's unfair or deceptive acts or practices while under the direct and exclusive supervision and control of Buttross, include, without limitation:

- i. Misrepresenting its status as the owner of the Avon Properties;
- ii. Renting a dwelling unfit for human habitation in violation of 940 CMR 3.17.
- iii. Failing to disclose to a prospective tenant the existence of any condition amounting to a violation of law within the dwelling unit of which the owner

- had knowledge or upon reasonable inspection could have acquired such knowledge at the commencement of the tenancy as prohibited by 940 CMR 3.17;
- iv. Failing to comply with the State Sanitary Code or any other law applicable to the conditions of a dwelling unit within a reasonable time after notice of a violation of such code or law from the tenant or agency as prohibited by 940 CMR 3.17;
 - v. Including in a rental agreement terms that violate a law, in violation 940 CMR 3.17;
 - vi. Entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the names, address, and telephone numbers of the owner, and any other person who is responsible for the care, maintenance and repair of the property as prohibited by 940 CMR 3.17;
 - vii. Entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the name, address, and telephone number of the person authorized to receive notices of violations of law and to accept service of process on behalf of the owner as prohibited by 940 CMR 3.17;
 - viii. Failing to hold a security deposit in a separate interest-bearing account located within the Commonwealth in violation of G. L. c. 186, §15B and 940 CMR 3.17;

- ix. Willfully violating the provisions of G. L. c. 186, §14;
- x. Failing to provide gas or electric service to an occupant, violating 940 CMR § 3.17; and
- xi. Including in a lease a provision that seeks to preclude or exonerate the lessor or landlord from any or all liability to the lessee or tenant, or to any other person, for any injury, loss, damage or liability arising from any omission, fault, negligence or other misconduct of the lessor or landlord on or about the premises in violation of G. L. c. 186, §15
- xii. Violating the Attorney General's mortgage regulations, 940 CMR 8.00 et seq by, among other acts, failing to provide disclosures required under state and federal law, accepting brokers fees prior to providing disclosures, and failing to perform an analysis of a borrower's ability to pay.
- xiii. Violating the federal Truth in Lending Act and Regulation Z by failing to provide disclosure of a consumers' right to rescind, failing to perform an analysis of a borrower's ability to pay, and failure to provide periodic billing statements in compliance with Regulation Z.
- xiv. Violating the Massachusetts Consumer Credit Cost Disclosure Act by virtue of the failure to comply with the federal Truth in Lending Act, described in the above paragraph.

130. AngleFund's unfair or deceptive acts or practices while under the direct and exclusive supervision and control of Buttross, include, without limitation:

- i. Misrepresenting its status as the owner of the Avon Properties;

- ii. Renting a dwelling unfit for human habitation, in violation of 940 CMR 3.17.
- iii. Failing to disclose to a prospective tenant the existence of any condition amounting to a violation of law within the dwelling unit of which the owner had knowledge or upon reasonable inspection could have acquired such knowledge at the commencement of the tenancy as prohibited by 940 CMR 3.17;
- iv. Failing to comply with the State Sanitary Code or any other law applicable to the conditions of a dwelling unit within a reasonable time after notice of a violation of such code or law from the tenant or agency as prohibited by 940 CMR 3.17;
- v. Including within a rental agreement any term which violates any law as prohibited by 940 CMR 3.17;
- vi. Entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the names, address, and telephone numbers of the owner, and any other person who is responsible for the care, maintenance and repair of the property as prohibited by 940 CMR 3.17;
- vii. Entering into a written agreement which fails to state fully and conspicuously, in simple and readily understandable language, the name, address, and telephone number of the person authorized to receive notices of violations of law and to accept service of process on behalf of the owner;

- viii. Failing to hold a security deposit in a separate interest-bearing account located in the Commonwealth in violation of G. L. c. 186, §15B and 940 CMR 3.17;
- ix. Willfully violating the provisions of G. L. c. 186, §14;
- x. Failing to provide gas or electric service to an occupant, violating 940 CMR § 3.17; and
- xi. Including in a lease a provision that seeks to preclude or exonerate the lessor or landlord from any or all liability to the lessee or tenant, or to any other person, for any injury, loss, damage or liability arising from any omission, fault, negligence or other misconduct of the lessor or landlord on or about the premises in violation of G. L. c. 186, §15
- xii. Violating the Attorney General's mortgage regulations, 940 CMR 8.00 et seq by, among other acts, failing to provide disclosures required under state and federal law, accepting brokers fees prior to providing disclosures, and failing to perform an analysis of a borrower's ability to pay.
- xiii. Violating the federal Truth in Lending Act and Regulation Z by failing to provide disclosure of a consumers' right to rescind, failing to perform an analysis of a borrower's ability to pay, and failure to provide periodic billing statements in compliance with Regulation Z.
- xiv. Violating the Massachusetts Consumer Credit Cost Disclosure Act by virtue of the failure to comply with the federal Truth in Lending Act, described in the above paragraph.

131. Defendants knew or should have known they were committing unfair or deceptive actions in violation of G. L. c. 93A, § 2(a).

132. Defendants' tenants, mortgagors, as well as the public, have suffered harm as a result of the above-described unfair or deceptive acts and practices.

VI. RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court enter judgment against Defendants as follows:

133. Enter judgment, in its favor, and against Defendants for damages under G. L. c. 93A, § 4 and

134. Order Defendants to:

- a. Pay civil penalties of \$5,000 per violation pursuant to G. L. c. 93A, § 4;
- b. Pay restitution for ascertainable loss suffered by Massachusetts residents resulting from their unfair or deceptive acts and practices;
- c. Disgorge their ill-gotten gains;
- d. Pay the costs of the Commonwealth's investigation and litigation of this action, including reasonable attorneys' fees, under G. L. c. 93A, § 4; and, in addition:

135. Order Defendants to:

- a. Refrain from engaging in unfair or deceptive practices in the rental of residential property to tenants in Massachusetts;
- b. Refrain from engaging in unfair or deceptive practices in the sale of residential property to tenants in Massachusetts;

- c. Refrain from entering into rent-to-own agreements for properties located in Massachusetts;
- d. Refrain from leasing properties located in Massachusetts that do not meet the minimum requirements for human habitation;
- e. Refrain from selling properties located in Massachusetts that do not meet the minimum requirements for human habitation unless the sale is to a licensed home improvement contractor, construction supervisor, or other real estate developer with a rehabilitation plan for the property;
- f. Repair each of the properties identified in this Complaint or otherwise identified in the litigation of this matter such that the properties comply with the minimum standards of habitability as established by the Sanitary Code; and
- g. Grant such other and further relief as the Court deems equitable and proper.

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS
MAURA HEALEY
ATTORNEY GENERAL

 BY MAX WEINSTEIN

Sarah Petrie, BBO # 684213
Assistant Attorney General
Consumer Protection Division
Public Protection and Advocacy Bureau
One Ashburton Place
Boston, MA 02108
(617) 963-2525
Sarah.petrie@state.ma.us

Amber Anderson Villa, BBO # 647566
Assistant Attorneys General
Director, Abandoned Housing Initiative
One Ashburton Place
Boston, MA 02108
(617) 963-2452
amber.villa@state.ma.us