Filed in District Court
State of Minnesota
12/4/2024 11:50 AM

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF RAMSEY | SECOND JUDICIAL DISTRICT

Case Type: Civil Other
(Consumer Protection)

State of Minnesota, by its Attorney General, Keith Ellison,

Plaintiff,

vs.

MV Realty PBC, LLC,
MV Realty of Minnesota, LLC, and Amanda Zachman,

Defendants.

Court File No. _____

COMPLAINT

The State of Minnesota, by its Attorney General, Keith Ellison, for its Complaint against the Defendant, alleges as follows:

INTRODUCTION

1. MV Realty PBC, LLC ("MV FL"), MV Realty of Minnesota, LLC ("MV MN"), and founder Amanda Zachman (collectively, "MV Realty") deceptively marketed real estate agreements containing unenforceable penalties clauses to Minnesota homeowners.

2. MV FL purchases leads from websites that collect information from Minnesotans who are looking to, among other things, refinance their home. MV FL calls these homeowners and offers an alternative: a contract with MV Realty called a Homeowner Benefit Agreement ("HBA").

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3. MV Realty describes the HBA as an "advertising tool," offering homeowners the opportunity to receive a portion of their home's value up-front in exchange for using MV Realty as their exclusive real estate agent to sell their home in the future.

4. MV Realty deceptively tells homeowners that they need never sell their home, and that homeowners need never pay MV Realty back. If the homeowner agrees that they would like up-front money in exchange for using MV Realty as their realtor in the future, MV Realty sends the HBA with a third-party notary who has no knowledge of the contract they carry to the homeowner's home. Once there, homeowners are faced with high-pressure "take-it-or-leave-it" contracts, replete with legalese in fine print, with a live human waiting for their signature.

5. The HBA contains terms and conditions that few, if any, homeowners would accept if they were adequately disclosed. For example, the HBA lasts for 40 years and purports to run with the land, binding homeowners' heirs and successors to its terms should the original signor pass away.

6. Some of these undisclosed terms are illegal and unenforceable, like a liquidated damages provision that guarantees MV Realty a minimum of 3% of the homeowner's home value for a breach when MV Realty only provides an up-front payment of 0.3% or less of the home's value to get the homeowner to sign the HBA, and when MV Realty's damages are easily calculable at the time of any breach. This liquidated damages provision has been enforced by MV Realty when a homeowner sells their home using another realtor, or when the homeowner passes away and their heirs sell their home using another realtor, even when those heirs were initially unaware of the HBA's existence.

7. MV Realty has falsely represented to Minnesota homeowners that the HBA and the accompanying Memorandum it files with the County Recorder is "not a lien," but simultaneously

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informed its investors that MV Realty files liens on all properties subject to HBAs within 48 hours of signature. If a lender attempts to obtain an interest in the home, or if the homeowner breaches the HBA, MV Realty treats the HBA as though it does have a lien, going so far as to file *lis pendens* actions in district courts to forestall sales of homeowners' homes. The HBA itself contains conflicting language suggesting that the Memorandum and HBA both are and are not an active lien, adding to the confusion.

8. Despite routinely signing documents for selling MV Realty's real estate services, Amanda Zachman has no licensure to act as a real estate agent in Minnesota.

9. MV FL is facing state enforcement actions across the country, including in Massachusetts and North Carolina, where its conduct has been preliminarily enjoined, and California, Florida, Georgia, Indiana, New Jersey, Ohio, and Pennsylvania, where MV FL is facing government consumer protection enforcement actions alleging similar deceptive behavior. The Minnesota Attorney General now joins these states in seeking to enforce Minnesota law and obtain relief for Minnesota homeowners against MV Realty's misconduct.

PARTIES

10. Keith Ellison, the Attorney General of the State of Minnesota, is authorized under Minnesota Statutes Chapter 8 and has common law authority, including *parens patriae* authority, to bring this action to enforce Minnesota law, vindicate the state's sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and provide full relief for—violations of Minnesota's laws.

11. Defendant MV Realty of Minnesota LLC is a domestic limited liability company registered with the Minnesota Secretary of State with a registered office address at 1010 Dale Street N, Saint Paul, Minnesota 55117 and a principal executive office address at 401 East Atlantic

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Avenue, Delray Beach, Florida 33483. MV MN holds contracts with Minnesotans throughout the state, including with Ramsey County residents, ostensibly for the future sale of those residents' homes located inside the County.

12. Defendant MV Realty PBC, LLC is a foreign limited liability company that has not registered to do business with the Minnesota Secretary of State, but nevertheless engages Minnesota homeowners in sales pitches in order to convince them to enter into contracts with its local affiliate, MV MN. Defendant MV FL appears to have a principal place of business at 219 North Dixie Boulevard, Delray Beach, Florida 33444. MV FL has paid and continues to pay the wages and commissions due and owing to the employees and agents of MV MN, which is effectively a shell of MV FL licensed to operate in Minnesota. MV FL provided training to agents for MV FL and MV MN that MV FL knew would operate in Minnesota.

13. Defendant Amanda Zachman ("Ms. Zachman") is an individual who maintains a business address at 219 Dixie Boulevard, Delray Beach, Florida 33444 and resides at [redacted] FL, [redacted]. Ms. Zachman is not a licensed real estate salesperson or broker in Minnesota, nor has she ever held such licensure in Minnesota. Nevertheless, Ms. Zachman routinely signed HBAs with Minnesota homeowners on behalf of MV MN. Ms. Zachman is the Chief Sales Officer and founder of MV Realty. Ms. Zachman is a founder, officer, and agent of both MV FL and MV MN.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01 and 8.31, and common law, including the State's *parens patriae* authority.

15. This Court has personal jurisdiction over MV MN because it is domiciled in Minnesota, registered with the Minnesota Secretary of State, regularly transacts business in

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Minnesota, and has committed or has threatened to commit acts that would violate Minnesota law in Minnesota.

16. This Court has personal jurisdiction over MV FL because it has routinely and repeatedly availed itself of the Minnesota marketplace, reaching into the state to contact homeowners to advertise and sell or cause to be signed contracts with those MV FL knew to be Minnesota residents living in Minnesota at the time of the transactions.

17. This Court has personal jurisdiction over Amanda Zachman because she has routinely and repeatedly conducted business with Minnesota homeowners on behalf of a domestic Minnesota business, signing contracts regarding the potential future sale of homes located in Minnesota.

18. Venue in Ramsey County is proper under Minnesota Statutes section 542.09 because the causes of action arose, in part, in Ramsey County.

FACTUAL BACKGROUND

19. MV Realty holds itself out to Minnesota homeowners as a real estate brokerage, with agents who exist to help homeowners sell their homes, should those homes ever need selling.

20. MV Realty and its employees' primary purpose, however, is to sell Homeowner Benefit Agreements, or HBAs.

21. MV Realty sells vastly more HBAs than it sells homes.

22. Since 2020, MV Realty has sold over 500 HBAs to Minnesota homeowners. MV Realty sold those HBAs by telling homeowners that by signing an HBA, the homeowner would receive an up-front payment in the amount of 0.27-0.3% of their home's current value, paid in cash, in exchange for promising to use MV Realty as their realtor in the future, should they ever choose to sell their home. MV Realty calculates the value of a home using a proprietary model.

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23. MV Realty's advertisements tell homeowners that MV Realty is providing them free money:

Do you own a home and need CASH today?

Homeowners can get $500-$5K CASH TODAY with MV Realty's Homeowner Benefit Program®. You don't have to sell your home or pay us back. Submit your information and receive a call from a licensed real estate agent today. No credit check required.

24. MV Realty's advertisements, both written and oral, are replete with suggestions that a homeowner need never pay MV Realty back:



25. But most homeowners do have to pay MV Realty back, one way or another. MV Realty has crammed its HBAs full of unconscionable and unfair terms that all but guarantee MV Realty a tenfold return on its initial capital paid to the homeowner. Indeed, if a homeowner were to actually use MV Realty to sell their home, MV Realty requires an "administrative fee" of $500 at closing, which is a greater sum than many homeowners received as an upfront payment from MV Realty for signing the HBA.

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I. THE SLANTED CONTRACTUAL TERMS OF MV REALTY'S HBAS ALL BUT GUARANTEE REPAYMENT TO MV REALTY.

26. MV Realty's HBA persists for 40 years, or until the home listed in the HBA is sold by the homeowner. MV Realty's HBAs permit MV Realty to collect a 6% commission on the sale price of the home, or on the price of the home at the time of execution of the HBA, whichever is higher.

27. The HBA requires homeowners to sign an accompanying "memorandum," which MV Realty files on the homeowner's property with the local county recorder.

28. The HBA purports to run with the land, thereby binding the homeowner's heirs and successors.

29. The memorandum is a cloud on title. While MV Realty deceptively told homeowners that it was not a lien, MV Realty's management advertised MV Realty to its private equity investors by, in part, informing those investors that MV Realty filed a lien on every property subject to an HBA.

30. Upon transfer of the home to an heir or successor, the HBA requires the inheritor to explicitly agree to be bound by the HBA within 10 days, or "as soon as the circumstances reasonably warrant," or else be in breach of the contract.

31. If a homeowner wishes to sell their home, the HBA provides MV Realty six months to sell the property. If it cannot, the HBA provides the homeowner with a "Homeowner Listing Period" where the homeowner is permitted to obtain a realtor, list the home, and sell the home in an arm's-length transaction for a price equal to or greater than the price set by MV Realty within 60 days after the six-month period is up. The homeowner would breach the HBA by selling the home for less, or for selling on the 61st day.

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32. Tying all of these elements together, the HBA contains a liquidated damages clause, called an "Early Termination Fee," which entitles MV Realty to 3% of the homeowner's home value should the homeowner breach the contract. In the case of a breach, the home's value is calculated as equal to either the home's value at the time of the breach, or the home's value at the time of the signing of the HBA, whichever is higher.

33. In other words, MV Realty's return on its investment has a floor of at least ten times its initial payment to the homeowner, which can only grow larger if the home appreciates in value.

34. The homeowner subject to the HBA has to pay this sum to MV Realty in all but one scenario: the house remains unsold for forty years.

35. Finally, MV Realty hid yet another fee, a $500 Administrative Fee, for Minnesota homeowners in its model listing agreement. The HBA, which was provided to homeowners for review and signature in paper, contained the following provision:

> i. Acknowledgment of Online Listing Agreement. By executing this Agreement, Property Owner affirms that Property Owner has reviewed or has had sufficient opportunity to review the Listing Agreement referenced herein as Exhibit A, which is accessible for review and download online at https://homesatmv.com/landing/exhibits/MN-ExhibitA.DOCX.

36. No listing agreement was provided to homeowners at the time of signing the HBA except through this disclosure of a downloadable agreement at an unclickable URL. The Administrative Fee is disclosed nowhere in the HBA itself.

37. MV Realty was only able to sell the number of HBAs that it did by deceptively concealing these burdensome and shockingly unfair terms from Minnesota homeowners.

38. MV Realty's minimal representations to homeowners triggered a special duty for it to say more, and say enough to prevent what MV Realty did communicate from misleading homeowners. For example, while MV Realty told homeowners that the HBA would require "them" (i.e., the homeowner) to use MV Realty as a realtor should "they" (again, the homeowner)

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sell the home, the HBA actually requires the homeowner *and their heirs*, like their children, to comply with those terms.

39. MV Realty knew that the HBAs and memoranda it had consumers sign, and were thereafter filed with county recorders, constituted liens on consumers' homes, and that special knowledge triggered a duty to disclose that a lien would be taken out on the home.

40. Minnesota homeowners were often misled by MV Realty's scant and deceptively incomplete representations into believing that the contractual obligations would stop with their own lives, when the contract may persist far beyond.

41. In another example, MV Realty's representatives were instructed to tell, and in fact told, homeowners wondering whether the agreement was a lien that a "memorandum" would be filed, that the memorandum was "not a lien like your mortgage," and that it existed "to remind you that we have an agreement."

42. In reality, the memorandum was a lien, was explicitly referred to as a lien in the HBA, was believed to be a lien by MV Realty, and MV Realty used the memorandum to interfere with homeowners' sales of property through threatened and actual use of *lis pendens* actions.

II. MV REALTY'S SALES REPRESENTATIVES TOLD HOMEOWNERS THEY COULD GET FAST CASH WITH NO OBLIGATION TO REPAY IT, OMITTING CRITICAL DETAILS.

43. The first contact MV Realty makes with Minnesota homeowners is either through MV Realty's "transfer specialists," who are trained to make initial outbound calls to consumers, or direct calls from "agents."

A. MV Realty Trained Transfer Specialists to Deflect Questions About the HBAs and Mislead Homeowners About the Nature of the Contracts.

44. MV Realty's transfer specialists are trained to tell homeowners about the up-front money they would receive from MV Realty, and to follow MV Realty's scripts closely. Those

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scripts contain virtually no details about the HBA aside from the upfront payment to the homeowner.

45. The transfer specialists are trained to emphasize the possibility of homeowners getting fast cash from MV Realty.

46. For example, one of MV Realty's scripts directs transfer specialists to tell homeowners that "what we would ask [in return for the money] is that IF you ever decide to sell your home in the future that you give our company the first right to list your home."

47. Another MV Realty script directs transfer specialists to tell homeowners that "this is not a loan – so we don't ask that you pay us back."

48. Other scripts combined the ideas: "to be more specific, we will pay you for us to be your future realtor. To be clear, this is not a loan, so we would never ask for you to pay us back."

49. But, of course, MV Realty would ask for the homeowner to pay them back, particularly if MV Realty acts as the homeowner's realtor and sells their home.

50. MV Realty does not train its transfer specialists to provide any other disclosures about the HBAs nor their restrictive terms, nor does MV Realty train transfer specialists how to answer further questions from homeowners about the HBAs beyond what was disclosed in the scripts.

51. MV Realty's transfer specialists usually knew no other details about the HBAs or their terms, as they were not trained on the contents of the HBAs.

52. In the off chance that a transfer specialist was aware of some of the less-attractive terms of the HBAs, MV Realty affirmatively trained its transfer specialists to "**never** communicate any details about the HBA to homeowners that is not already listed in the scripts" provided by MV Realty to its transfer specialists.

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53. MV Realty's transfer specialist scripts do not contain details about the terms of the HBA outside of the terms regarding payment of an up-front sum to a homeowner in exchange for the potential future sale of the homeowner's property.

54. After convincing a homeowner that receiving an up-front payment from MV Realty was enticing and getting their consent to continue, MV Realty's transfer specialists forward the homeowner's call to an MV Realty "Agent."

B. MV Realty Required their Agents to Make Hundreds of Calls Per Week and Incentivized them to Omit Unfair and Unconscionable Aspects of HBAs from their Sales Conversations with Homeowners.

55. MV Realty Agents were required to make a minimum of 30 calls to homeowners per workday, or a minimum of 150 per week, to receive their compensation draw from MV Realty.

56. Unlike its transfer specialists, MV Realty's Agents were generally aware of the unconscionable and unfair terms in the HBA, but regularly failed to disclose those terms to homeowners.

57. The Agents' primary job was to sell HBAs.

58. Agents received a $500 commission for every HBA they sold.

59. MV Realty measured Agent performance based on the number of calls they had with homeowners and the number of HBAs they convinced homeowners to sign.

60. Perhaps unsurprisingly, given the incentive structure, MV Realty's Agents regularly failed to make homeowners aware of the unfair and one-sided portions of the HBA.

61. MV Realty's Agents regularly failed to make homeowners aware of the Early Termination Fee, how or why it would be imposed, and the amount of the fee.

62. MV Realty's Agents also regularly failed to make homeowners aware of the length of the HBA, or affirmatively misrepresented its length to homeowners.

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63. MV Realty's Agents regularly failed to make homeowners aware that a memorandum would be filed on the public record of their property. The Agents either did not disclose that the HBA and memorandum constituted a lien, or affirmatively and falsely declared that the HBA and memorandum was not a lien.

64. MV Realty's Agents regularly failed to disclose to homeowners that the HBAs run with the land and bind homeowners' heirs under all of its terms, even when homeowners told Agents that they planned on leaving their home to their children.

65. Indeed, MV Realty's transfer specialists and Agents both misled homeowners about the applicability of the HBA's terms and obligations on their heirs. Both transfer specialists and Agents were trained to tell homeowners that the contract required "you to use MV Realty." But "you" does not encapsulate the full extent of the HBA, which binds not only "you," the homeowner, but also all heirs and assigns of the homeowner.

66. MV Realty's Agents also regularly failed to make homeowners aware of the HBA's Homeowner Listing Period or the $500 Administrative Fee in the Minnesota listing agreement.

67. MV Realty's Agents also regularly failed to orally inform homeowners of their three-day right to cancel the HBA under Minnesota law.

68. Instead, MV Realty trained its Agents to overcome homeowner objections by omitting crucial information. For example, if a homeowner enunciated hesitation to signing an HBA because they did not intend to sell their home and instead, intended to leave it to their family, MV Realty trained its representatives to respond, "that's wonderful that you found your forever home! The great thing is that this program is perfect for homeowners who have no plans on selling their home. If you choose to never sell your home, then you would simply keep the money." MV

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Realty did not train its Agents confronting this objection to reveal that the contract would bind the homeowner's heirs and successors.

69. MV Realty also did not train its Agents to inform homeowners that the HBA provides MV Realty with a lien on the homeowner's property. Indeed, in the event a homeowner objected to signing an HBA because they didn't want a lien on their home, MV Realty trained its Agents to deceptively respond by telling the homeowner, "we do not file a lien, we file a memorandum."

C. MV Realty's Deceptive Sales Pitch Misled Homeowners.

70. Reflecting MV Realty's Agents' misrepresentations and failure to disclose the HBA's unfair and one-sided terms, Minnesota homeowners report widespread ignorance of the contents of the HBA. Of the survey results the Attorney General has received from homeowners who signed the HBA, approximately:

- 89% report being unaware of the 40-year length of the HBA;
- 93% report being unaware that the HBA obligated and bound their heirs;
- 86% report being unaware of the HBA's Early Termination Fee of at least 3% of the value of their home;
- 99% report being unaware that they had a lien recorded by MV Realty on their home; and
- 90% report MV Realty failing to verbally inform them of their right to cancel.

71. Minnesota homeowners overwhelmingly report that, if they had known about these terms, they would not have signed the HBAs. For example, Minnesota homeowner **A.B.** reported that they signed an HBA with MV Realty without knowing that the HBA contained an Early Termination Fee beyond the sum **A.B.** had initially received. **A.B.** further reported that they were

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unaware of any public filing by MV Realty with the county recorder on their property. **A.B.** stated that they tried asking MV Realty's notary questions about the HBA, but reported that the notary was incapable of answering any questions **A.B.** had about the HBA. **A.B.** stated that they would not have signed the HBA if they had known of above-referenced one-sided terms in the HBA.

72. In another example, Minnesota homeowner **C.S.** reported that they signed an HBA because MV Realty told them that the company was paying for the right to be their sole realtor if **C.S.** chose to sell their home. **C.S.** reported that the MV Realty representative covered no other details of the contract, so **C.S.** was unaware that the HBA purported to bind their heirs, was unaware of the Early Termination Fee, and was unaware that any lien or memorandum had been filed on their property by MV Realty. **C.S.** indicated that they would never have signed the HBA if those terms had been disclosed.

73. In addition to MV Realty's lack of supplying affirmative information to homeowners, some MV Realty Agents actively spread misinformation about the HBA. For example, some Minnesota homeowners have reported that MV Realty representatives told them that the HBA could be canceled by paying back the money they received from MV Realty, even though the HBA does not contemplate such a termination, or that they were informed that the HBA lasted only a year. For example, homeowners **B.D.** and **P.D.** report that they signed an HBA after being told by an MV Realty representative that the HBA bound them to using MV Realty only for the next year.

74. In another example, homeowner **E.D.** specifically asked his MV Realty Agent if **E.D.** could sell their home themselves by reducing the listing price of their home if MV Realty were unable to sell it, and the MV Realty Agent told **E.D.** that would be fine.

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75. Homeowners were blindsided by the $500 Administrative Fee deceptively hidden in MV Realty's listing agreement. Because the listing agreement is only disclosed to homeowners via a URL in a paper document, review is difficult of the listing agreement, and nowhere in the HBA does MV Realty reveal that it would charge $500 in addition to the commission it would get for selling a homeowner's house. The charge effectively reduces the incentive for homeowners to choose MV Realty as their realtor, but is not disclosed in a meaningful way. Homeowner **J.G.**, for instance, reports that the hidden $500 Administrative Fee "essentially means MV Realty paid me $480, not $980," and that **J.G.** would not have signed the HBA if the term had been disclosed.

76. MV Realty's websites made no disclosure of any terms—aside from the provision of up-front money in return for being a realtor—until October 2022, when the company came under government regulator scrutiny.

77. MV Realty's response to government regulators about the lack of these disclosures has, historically, been that most of the terms are presented in the contract.

78. But not all of the terms, like the Administrative Fee, were. And other terms were not even enforced like the contract described. For example, while the HBA guarantees MV Realty a whopping 6% seller's agent commission on top of any commission paid to a buyer's agent, in practice MV Realty generally split the 6% commission with the buyer's agent. So even reading the contract with a microscope—or an attorney present—would not have informed homeowners as to MV Realty's actual practices.

79. After a homeowner agreed to sign an HBA, MV Realty sent a third-party notary to the homeowner's home or workplace with a copy of the HBA for the homeowner to sign.

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D. Third-party Notaries Completed MV Realty's High-Pressure Sale and Could Not Answer Any Questions from Homeowners About the HBAs.

80. MV Realty provided no training to the third-party notaries it hired to go to homeowners' homes and secure their execution of the HBAs.

81. The notary was unable to answer any homeowner questions about the HBA or its terms.

82. The notary did not provide any oral notification of a homeowner's three-day right to cancel.

83. MV Realty designed this process to put homeowners in a high-pressure situation to deter full and careful reading the contractual terms of the HBAs. Indeed, MV Realty instructed its employees to not email or text homeowners copies of the contracts or about specific terms, effectively depriving homeowners of the ability to read through any contractual terms before they were presented with the contract in person by a notary who waited inside their home for them to sign the HBA.

84. MV Realty structured its notary-involved HBA contract execution process in order to avoid answering homeowners' questions about the HBAs, while at the same time creating urgency and pressure on homeowners to execute the HBA shortly after receiving it from a notary and without time to fully and carefully read, understand, and weigh whether or not to sign the contract.

III. THE HBAS' EARLY TERMINATION FEE IS UNENFORCEABLE.

85. HBAs generally entitle homeowners to an up-front sum of money equal to approximately 0.27-0.3% of their home's value, as calculated by MV Realty at the time of signing.

86. In return, MV Realty guarantees itself a minimum of 3% of the value of the homeowner's home, which may only appreciate over time because the HBA contains a 6%

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commission floor, and severely punishes homeowners who seek to cancel the agreement through the use of a liquidated damages clause in the form of the Early Termination Fee.

87. Minnesota law only permits liquidated damages clauses in contracts where the actual damages at the time of the breach would be incapable or very difficult of accurate estimation.

88. But the damages at the time of breach—that is, when a homeowner sells the home without using MV Realty—is simple to calculate because MV Realty's only expectation of income is premised off of the sale price of the home.

89. Indeed, MV Realty uses the final sale price of a property to determine the value of the Early Termination Fee in a breach of the HBA.

90. At least one court has already preliminarily found that the damages of HBAs were easily calculable and thus unenforceable. A North Carolina court has already issued an injunction on the further collection of HBAs' Early Termination Fees because "the calculation of damages recoverable by MV Realty in the case of a homeowner's breach of an HBA would be simple to calculate." *North Carolina v. MV Realty PBC, LLC et al.*, 2023 WL 5658892, 2023 NC 59 at *14 (Sup. Ct. N. Car., Aug. 30, 2023).

91. Minnesota law also prohibits liquidated damage clauses where such clauses function as a penalty intended to compel performance, rather than relating to the actual damage suffered by the non-breaching party.

92. For example, liquidated damages clauses that do not bear a resemblance to a party's reasonable expectation of damages are illegal and unenforceable.

93. The HBA's Early Termination Fee bears little relation to the actual harm suffered by MV Realty for a breach.

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94. The Early Termination Fee provides no estimate of mitigation of damages for MV Realty. In an example where a homeowner who signed an HBA hired another real estate firm and sold a home without MV Realty's help, MV Realty performed no individualized work for that homeowner, yet provides no discount or mitigation through the Early Termination Fee for the money MV Realty would have presumably saved by performing no services.

95. Highlighting this problem, the Early Termination Fee would be the same for a homeowner who hired a competitor without ever approaching MV Realty as it would be for the same homeowner if they had used MV Realty for six months without successfully selling their home, then violated the Homeowner Listing Period clause by selling with a competitor on the 61st day. Thus, the Early Termination Fee would assess the same liquidated damages to a homeowner regardless of whether MV Realty provided the only service for which it was contracted to perform.

96. Notably, the HBA also has no relation to money contractually expected by MV Realty. The HBA contains a 6% commission floor that MV Realty is entitled to receive upon its sale of the home, while the liquidated damages clause requires a homeowner to pay 3% of the home's value.

97. Because the HBA's liquidated damages is intended to penalize a homeowner for nonperformance, rather than accurately reflect damages to MV Realty, and because the liquidated damages clause is easily calculable at time of breach, it is unlawful and unenforceable.

98. In addition to the Early Termination Fee itself being unlawful and unenforceable, MV Realty enforces the Early Termination Fee in deceptive, unfair, and unconscionable ways.

99. For example, if a homeowner's home is foreclosed on, MV Realty considers the homeowner to be in breach of the HBA. When Minnesota homeowner **M.C.**'s home was subject

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to foreclosure, MV Realty sent **M.C.** a letter informing **M.C.** that it believed **M.C.** was in breach, and MV Realty eventually filed a *lis pendens* action against the property.

100. If a homeowner dies, passes along their home to their heirs who are unaware of the HBA, and the heirs sell the home using a different realtor, the heirs are considered to be in breach of the HBA. MV Realty has in fact, moved to collect Early Termination Fees against such heirs.

101. In just one example, Minnesota homeowner **W.G.** signed an HBA for their Minnesota home, received $1,030.00, and subsequently passed away. Their sibling **E.G.**, handled **W.G.'s** estate, including the sale of **W.G.'s** home. **E.G.** was unaware of the HBA until after the home had been listed and received an offer. During closing, MV Realty sent correspondence seeking to enforce the HBA, requesting $10,280.40, which **E.G.** was forced to provide out of the proceeds of the sale, despite MV Realty providing no services. MV Realty's communications with **E.G.** are all the more egregious because **W.G.** had filed for and received bankruptcy protections by court order after signing the HBA and before the home had passed to **E.G.**

102. Selling contracts with illegal terms, and threatening to enforce those illegal terms, constitutes deceptive, misleading, and unfair trade practices.

IV. IN ORDER TO EVADE REGULATION AND ENCUMBER HOMEOWNERS' PROPERTIES, MV REALTY CLAIMS THEIR HBAS ARE BOTH LIENS AND NOT LIENS DEPENDING ON THEIR AUDIENCE AND WHAT IS MOST BENEFICIAL TO THEIR INTERESTS.

103. Antony Mitchell, CEO of MV Realty, has testified that MV Realty did not believe the HBAs constituted liens.

104. MV Realty trained its Agents to tell homeowners that the HBA does not place a lien on the homeowner's property.

105. Simultaneously, MV Realty's management sold investment in MV Realty to private equity firms by presenting slideshows telling potential investors that "MV Realty files liens

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on all contracts within 48 hours of origination." MV Realty's management, including its CEO, exchanged emails with Monroe Capital, MV Realty's primary investor, noting that HBAs are "lien[s] in place" and attaching spreadsheets indicating that liens pursuant to HBAs had been recorded country-wide, including in Minnesota.

106. MV Realty knew that the HBAs would impact homeowners' abilities to refinance or sell. Indeed, that was the entire purpose of recording the memorandum on the land. According to MV Realty's presentations to investors, recording the memorandum means that "the homeowner is unable to convey clean title without receiving a lien release from MV Realty."

107. At the time of signing the HBA, virtually no Minnesota homeowner was aware that the HBA and accompanying memorandum would act as a lien on their home.

108. Even if homeowners had been permitted the luxury of time to read the HBAs when the contracts were placed before them, such review would have been useless because the HBA simultaneously and contradictorily claims that the HBA and memorandum both do and do not constitute an active, current lien on the property. First, the HBA states:

a. Property Owner's obligations hereunder shall constitute covenants running with the land, and until this Agreement is terminated pursuant to Section 5(c), shall bind future successors in interest to title to the Property. Should Property Owner default under this Agreement, any amounts owed by Property Owner to Company as a result of such default shall be secured by a security interest and lien in and against the Property as security for the amounts owed by Property Owner to Company.

109. The above paragraph implies that some sort of "springing" lien might occur should a homeowner breach the agreement.

110. But the HBA also explicitly states that it constitutes a lien on the homeowner's property:

c. In the event Property Owner wishes to refinance an existing mortgage on the Property or grant a new mortgage on the Property, Company will consider in good faith any request from Property Owner to facilitate such refinancing or new mortgage by subordinating the lien of this Agreement to the refinanced or new mortgage. In the event that Property Owner sells the Property in compliance with this Agreement (whether through the efforts of Company or pursuant to Section 4), or in the event Property Owner ceases to own the Property due to foreclosure, condemnation or arms-length deed in lieu of foreclosure to an unrelated third party, Company will, upon written request, deliver to the closing agent for the sale of the Property or the purchaser of the Property a Notice of Termination of the Memorandum, in recordable/registratable form.

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111. The HBA's contradictory language in a contract of such import is misleading and deceptive.

112. Homeowners report actual confusion over the contents of these paragraphs. For example, homeowner **J.G.** reports that, even after reading the HBA, the discrepancy between paragraphs 5(a) and 5(c) is "confusing" and that they are still unaware of whether MV Realty does or does not have a lien on their home. Homeowners further report that HBAs, acting as liens, cause significant delays to home sales and refinancing.

113. The HBAs and/or the accompanying memoranda are liens under Minnesota law.

114. MV Realty's statements to homeowners about how the HBA and memorandum do not constitute liens on homeowners' property were misleading and deceptive.

V. MV REALTY DOES NOT PROVIDE REQUIRED NOTICES OF RIGHTS TO CANCEL.

115. MV Realty is engaged in home solicitation sales of contracts for services and/or options contracts for services.

116. The Minnesota Home Solicitations Sales Act ("HSSA") requires sellers engaged in home solicitation sales to provide both written and oral notification of a statutory three-day right to cancellation. MINN. STAT. § 325G.08.

117. Specifically, the HSSA requires that sellers in home solicitation sales "furnish each buyer a fully completed form in duplicate, captioned 'NOTICE OF CANCELLATION'" in at least 10-point font, containing statutorily-prescribed language. MINN. STAT. § 325G.08, subd. 1(c).

118. At least some of MV Realty's HBAs provide homeowners with a written notice of a right to cancel within three days, but the notice does not comply with the form or content requirements of the HSSA.

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119. Indeed, many homeowners did not receive copies of their executed HBAs for more than three days after the HBA was executed.

120. Moreover, MV Realty does not orally inform homeowners of their right to cancel within three days of purchase.

121. MV Realty's blatant failures to comply with notification requirements violate the HSSA.

VI. MV REALTY'S TRANSFER SPECIALISTS ILLEGALLY OPERATED AS UNLICENSED REAL ESTATE BROKERS OR REAL ESTATE SALESPERSONS.

122. Any person or entity acting as a real estate broker or real estate salesperson in Minnesota must be licensed by the Minnesota Department of Commerce. MINN. STAT. § 82.81, subd. 1.

123. A "real estate broker" includes any entity that "offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities." Minn. Stat. § 82.55, subd. 19(a). A "real estate salesperson" means one who acts on behalf of a real estate broker in performing any act that would otherwise require a license to be a real estate broker. Minn. Stat. § 82.55, subd. 20.

124. Generally speaking, to commercially sell residential homes in Minnesota, one must have a license to do so. To enter into a contract to explore selling a home for another person, one must be licensed. Indeed, to negotiate the sale or purchase of an interest in real estate requires licensure. Even further removed, one must have a license to even advertise that one can perform these duties.

125. MV Realty and its representatives offered or attempted to negotiate sales, options, exchanges, purchases, or rentals of an interest or estate in real estate, or advertised or held out as engaged in these activities in Minnesota.

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126. MV Realty's transfer specialists engaged in the above activities did not hold Minnesota real estate broker or real estate salesperson licenses.

127. MV Realty violated Minnesota law when its unlicensed transfer specialists advertised that MV Realty could act as the homeowner's realtor in the future.

VII. AMANDA ZACHMAN ILLEGALLY OPERATED AS AN UNLICENSED REAL ESTATE SALESPERSON .

128. MV MN is the signatory to HBAs with Minnesota homeowners. MV MN holds a valid Minnesota real estate company license. MV MN also retained a Minnesota-licensed broker.

129. Nevertheless, many HBAs signed on behalf of MV MN are signed by Amanda Zachman, who does not hold a valid real estate broker or real estate salesperson license with the state of Minnesota.

130. The HBAs advertised or held out MV MN as being able to assist the homeowner in the potential future sale of a property.

131. Amanda Zachman violated Minnesota law by acting as an unlicensed real estate salesperson in Minnesota when she signed HBAs on behalf of MV MN, or when she authorized another unlicensed person to sign such HBAs on her behalf.

VIII. COURTS HAVE PRELIMINARILY ENJOINED MV REALTY'S CONDUCT.

132. As of February 2023, MV FL has been preliminarily enjoined in Massachusetts. *Massachusetts v. MV Realty PBC, LLC and MV of Massachusetts, LLC*, 2023 WL 2347716, 2284CV02823-BLS2 (Mass. Super. Feb. 21, 2023). Among other reasons for the injunction, the Massachusetts court found that MV FL's marketing materials erroneously and deceptively held themselves out as real estate agents when, in fact, MV FL could not legally perform real estate services in Massachusetts. *Id.* at * 8.

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133. MV FL is also preliminarily enjoined from conduct in North Carolina, where, on August 30, 2023, a North Carolina district court held that the North Carolina Attorney General had shown a likelihood of success that "MV Realty has engaged in a pattern of acts that both have the capacity to deceive, and have actually deceived, homeowners in North Carolina." *North Carolina v. MV Realty PBC, LLC et al.*, 23 CVS 6408, 2023 WL 5658892 at *21 (N.C. Super. Aug. 30, 2023). The North Carolina court entered the injunction, in part, because MV Realty's Early Termination Fee collected liquidated damages for a sum that would be "simple to calculate." *Id.* at *14. The North Carolina court also noted conflicting language in HBAs both asserting the presence and non-presence of a lien, specifically finding that "[i]t is not clear to the Court how a reasonable homeowner would be able to comprehend the interplay between these two provisions." *Id.* at *18; *see supra* at ¶¶ 106-108. The injunction in North Carolina: (1) prohibits MV FL from recording any Memoranda of Homeowner Benefit Agreement on the property of any North Carolina homeowner; (2) restricts certain representations from being made to North Carolina residents; (3) prohibits the collection of an Early Termination Fee; (4) prohibits certain *lis pendens* actions in North Carolina; and (5) forbids continuing to prosecute any arbitration or legal action to, among other things, enforce an HBA's liquidated damages clause.

134. Attorneys General in California, Florida, Georgia, Indiana, Illinois, Massachusetts, New Jersey, Ohio, and Pennsylvania, have filed similar consumer protection enforcement actions against MV FL. The precise statutes with which the company has been charged differ between states, but the common denominator is the same: MV FL's national and local conduct is unfair, deceptive, and misleading.

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COUNT I (All Defendants)
VIOLATIONS OF THE PREVENTION OF CONSUMER FRAUD ACT

135. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

136. The Prevention of Consumer Fraud Act is included in Minn. Stat. §§ 325F.68 to 325F.70.

137. Minn. Stat. § 325F.69, subd. 1 provides, in part:

> The act, use, or employment by any person of any fraud, unfair or unconscionable practice,[1] false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoinable as provided in section 325F.70.

138. The term "merchandise" within the meaning of Minn. Stat. § 325F.69, subd. 1 includes services and intangibles. MV Realty's HBAs and promised services and goods fall within the CFA's definition of "merchandise."

139. The term "person" includes "any natural person or a legal representative, partnership, corporation, company, trust, business entity, or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee, or cestui que trust thereof." Minn. Stat. § 325F.68, subd. 3. MV FL, MV MN, and Amanda Zachman are "persons" within the meaning of the statute.

[1] Pursuant to 2023 Minnesota Laws chapter 57, article 4, section 16, the prohibited conduct of "unfair or unconscionable" practices was added to Minnesota Statutes section 325F.69, subdivision 1 and took effect August 1, 2023. The relevant time for the State's claim under Count I for unfair or unconscionable practices pursuant to Minnesota Statutes section 325F.69, subdivision 1 began on August 1, 2023, and continues through the present. The relevant time for the State's claim under Count I for all other provisions of 325F.69 run from 2020 through the present.

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140. MV Realty has repeatedly violated Minn. Stat. § 325F.69, subd. 1 by engaging in fraud, engaging homeowners under false pretenses, making false promises and misrepresentations, making misleading statements, and engaging in deceptive practices, as described in this complaint, with the intent that others rely thereon to execute HBAs. Such practices include, but are not limited to:

a. By failing to disclose and omitting material facts which MV Realty had a duty to disclose in connection with the sale of its HBAs, MV Realty has engaged in deceptive, misleading, and fraudulent practices in violation of Minn. Stat. § 325F.69, subd. 1. Those failures to disclose and omissions included, but are not limited to:
   i. The existence and amount of the Early Termination Fee, and only telling homeowners that they were obligated to use MV Realty;
   ii. That the HBA bound not only the homeowner to its 40-year term and the Early Termination Fee, but also the homeowner's heirs, upon the homeowner's death;
   iii. That the HBA restricts the homeowner's ability to sell their own home without incurring a penalty, even after providing MV Realty a reasonable period to perform;
   iv. That the HBA provides MV Realty with a lien or the HBA operates in such a manner that it is indistinguishable from a lien for all practical purposes, even when MV Realty was aware that the HBA and memorandum operate as, or actually are, a lien;
   v. The existence of a $500 Administrative Fee in a listing agreement, undisclosed in the HBA as an additional fee for using MV Realty's services, even though MV Realty told homeowners that MV Realty would be entitled to a commission for selling the home.

b. Affirmatively misrepresenting terms of the HBA to homeowners, including, but not limited to, telling homeowners that the HBA and accompanying memorandum did not afford MV Realty a lien on a homeowner's home;

c. Including and enforcing unlawful, unconscionable, or unenforceable liquidated damages clauses;

d. Selling unconscionable contracts;

e. Misleading homeowners by telling them that they would never need to pay MV Realty back when, in fact, the HBA was crafted to force homeowners to pay MV Realty far more than what the homeowner received from the company;

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f. Telling homeowners a different HBA term length than 40 years;

g. Including language in the HBA that paradoxically indicated that the HBA both did and did not operate as a lien upon the homeowner's property.

141. Ms. Zachman knew about and acquiesced to MV Realty's violative practices by, in relevant part, executing HBAs on behalf of MV MN or having others at MV FL execute HBAs on her behalf. Ms. Zachman, as an officer of both MV MN and MV FL, both knew about and encouraged the deceptive and misleading sale and enforcement of HBAs described in this Complaint.

142. Defendants' conduct, practices, actions, and omissions, described in this Complaint constitute multiple separate violations of Minn. Stat. § 325F.69, subd. 1.

COUNT II (All Defendants)
VIOLATIONS OF THE UNIFORM DECEPTIVE TRADE PRACTICES ACT

143. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

144. The uniform Deceptive Trade Practices Act is found at Minn. Stat. §§ 325D.43 to 325D.48.

145. Minn. Stat. § 325D.44, subd. 1 provides in pertinent part:

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

5) Represents goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;
…
9) Advertises goods or services with intent not to sell them as advertised;
…

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13) Engages in (i) unfair methods of competition, or (ii) unfair or unconscionable acts or practices; [2] or
14) Engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding. [3]

121. MV Realty has repeatedly violated Minn. Stat. § 325D.44, subd. 1(5, 9, 13, and 14) by engaging in the deceptive and fraudulent conduct described in this Complaint. Such deceptive acts and practices include, but are not limited to:

a. By failing to disclose and omitting material facts which MV Realty had a duty to disclose in connection with the sale of its HBAs, MV Realty has engaged in deceptive, misleading, and fraudulent practices in violation of Minn. Stat. § 325D.44, subd. 1. Those failures to disclose and omissions included, but are not limited to:
    i. The existence and amount of the Early Termination Fee, and only telling homeowners that they were obligated to use MV Realty;
    ii. That the HBA bound not only the homeowner to its 40-year term and the Early Termination Fee, but also the homeowner's heirs, upon the homeowner's death;
    iii. That the HBA restricts the homeowner's ability to sell their own home without incurring a penalty, even after providing MV Realty a reasonable period to perform;
    iv. That the HBA provides MV Realty with a lien or the HBA operates in such a manner that it is indistinguishable from a lien for all practical purposes, even when MV Realty was aware that the HBA and memorandum operate as, or actually are, a lien;
    v. The existence of a $500 Administrative Fee in a listing agreement, undisclosed in the HBA as an additional fee for using MV Realty's services, even though MV Realty told homeowners that MV Realty would be entitled to a commission for selling the home.

[2] Pursuant to 2023 Minnesota Laws, chapter 57, article 4, section 6 (codified at Minn. Stat. § 325D.44, subd. 1(13)), took effect on August 1, 2023. The relevant time for the State's claim under Count II for unfair or unconscionable acts or practices pursuant to Minnesota Statutes section 325D.44, subdivision 1(13) began on August 1, 2023, and continues through the present. The relevant time for the State's claim under Count II for all other provisions of 325F.69 run from 2020 through the present.

[3] Pursuant to 2023 Minnesota Laws chapter 57, article 4, section 6, Minnesota Statutes section 325D.44, subdivision 1(13) has been re-codified as Minnesota Statutes section 325D.44, subdivision 1(14). For simplicity, the State refers to this provision as Minnesota Statutes section 325D.44, subdivision 1(14), though this provision has been in effect for the full relevant time period and continues through the present.

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b. Affirmatively misrepresenting terms of the HBA to homeowners, including, but not limited to, telling homeowners that the HBA and accompanying memorandum did not afford MV Realty a lien on a homeowner's home;

c. Including and enforcing unlawful, unconscionable, or unenforceable liquidated damages clauses;

d. Selling unconscionable contracts;

e. Misleading homeowners by telling them that they would never need to pay MV Realty back when, in fact, the HBA was crafted to force homeowners to pay MV Realty far more than what the homeowner received from the company;

f. Telling homeowners a different HBA term length than 40 years;

g. Including language in the HBA that paradoxically indicated that the HBA both did and did not operate as a lien upon the homeowner's property.

122. Ms. Zachman knew about and acquiesced to MV Realty's violative practices by, in relevant part, executing HBAs on behalf of MV MN or having others at MV FL execute HBAs on her behalf. Ms. Zachman, as an officer of both MV MN and MV FL, both knew about and encouraged the deceptive and misleading sale and enforcement of HBAs described in this Complaint.

123. Defendants' conduct, practices, actions, and omissions described in this Complaint constitute multiple separate violations of Minn. Stat. § 325D.44, subd. 1(5, 9, 13, and 14).

COUNT III (MV MN and MV FL)
VIOLATIONS OF FALSE STATEMENTS IN ADVERTISEMENT

124. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

125. Minnesota Statutes section 325F.67 states that:

> Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public, for sale or

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> distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

126. MV FL and MV MN have repeatedly violated 325F.67 by, among other things:

- promulgating advertisements that told homeowners that they need never pay MV MN back or return the up-front payment when, in fact, MV MN's HBA often required substantially more than mere repayment of the up-front sums it provided homeowners; and

- Advertising that the companies' HBAs and memoranda did not constitute liens when they did operate as liens and were, in fact, liens.

127. MV Realty's conduct, practices and actions, described in this Complaint constitute multiple separate violations of Minn. Stat. § 325F.67.

COUNT IV (MV MN and MV FL)
UNLAWFUL PENALTIES

128. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

129. Minnesota common law prohibits penalties disguised as liquidated damages. *Gorco Construction Co. v. Stein*, 99 N.W.2d 69, 74-75 (Minn. 1959); *Maslowski v. Prospect Funding Partners LLC*, 978 N.W.2d 447, 455-56 (Minn. App. 2022).

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130. When liquidated damages clauses seek to enumerate damages that are capable of accurate estimation, those liquidated damages clauses are unenforceable. *Lagoon Partners LLC v. Silver Cinemas Acquisition Co.*, 999 N.W.2d 113, 120-121 (Minn. App. 2023).

131. When liquidated damages clauses seek to enumerate damages that are *not* capable of accurate estimation, but nevertheless seek an unreasonable amount of just compensation caused by the breach, those liquidated damages clauses are also unenforceable. *Maslowski*, 978 N.W.2d at 455 (citing *Gorco*, 99 N.W.2d at 74).)

132. The sale of contracts containing unenforceable liquidated damages clauses, and use of the existence of those clauses to sway or compel consumer behavior, constitutes an unlawful practice in business, commerce, or trade.

133. MV MN's HBAs contain unenforceable and unlawful clauses for liquidated damages.

134. MV MN's HBAs' Early Termination Fee is a liquidated damages clause that seeks to recover an amount that is easily calculable because MV MN uses the sale price of the home to determine the value set by the Early Termination Fee.

135. Even if the Early Termination Fee sought an amount that was not easily calculable—though it does—the Early Termination Fee still unreasonably seeks an amount untethered from and greatly exceeding MV MN's actual damages.

136. MV FL controlled, oversaw, and acquiesced in MV MN's activities in Minnesota.

137. Each HBA including an Early Termination Fee, and each enforcement of that clause, constitutes a violation of the common law prohibition of imposing penalties disguised as liquidated damages. Accordingly, each such Early Termination Fee in each Minnesota homeowner's HBA is unconscionable and unenforceable, and any amount collected from

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enforcement of Early Termination Fees must be returned to Minnesota homeowners from whom Early Termination Fees were collected.

COUNT V (All Defendants)
VIOLATIONS OF THE MINNESOTA HOME SOLICITATION SALES ACT

138. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

139. Minnesota Statutes section 325G.06, subdivision 2, in relevant part, provides that a "home solicitation sale" means:

> a sale of goods, services, or improvements to real property by a seller who regularly engages in transactions of the same kind, purchased primarily for personal, family or household purposes, and not for agricultural purposes, with a purchase price of more than $25, in which the seller or a person acting for the seller personally solicits the sale, and when the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller [. . .].

140. Minnesota Statutes section 325G.07, in relevant part, provides that buyers have "the right to cancel a home solicitation sale until midnight of the third business day after the day on which the home solicitation sale occurs."

141. Minnesota Statutes section 325G.08 subdivision 1(a) requires sellers in home solicitation sales, at the time of the sale, "inform the buyer orally of the right to cancel."

142. Minnesota Statutes section 325G.08 subdivision 1(c) requires sellers in home solicitation sales to

> furnish each buyer a fully completed form in duplicate, captioned, 'NOTICE OF CANCELLATION,' which shall be attached to the contract or receipt and easily detachable, and which shall contain in boldface type of a minimum size of ten points the following information and statements: [. . .]
>
> If you do not want the goods or services described above, you may cancel your purchase by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (Name of seller), at (Address of Seller's Place of Business) not later than midnight of (Date). If you cancel, any payments made by you under the contract or sale, any property traded in, and any instrument executed by you will be returned within ten business days

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following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the written instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If the seller does not pick up the goods within 20 days of the date of your notice of cancellation, you may retain or dispose of them without any further obligation.

143. MV Realty engaged in home solicitations sales in selling HBAs to Minnesota homeowners.

144. MV Realty did not train its representatives to orally inform Minnesota homeowners of their right to cancel HBAs.

145. MV Realty, in fact, did not orally inform Minnesota homeowners of their right to cancel HBAs.

146. MV Realty did not provide the written notice required by section 325G.08 subdivision 1(c).

147. Ms. Zachman was aware of and acquiesced in this omission in both training and in operation. Ms. Zachman failed to provide homeowners with appropriate verbal or written notice required by law, and signed or caused to be signed multiple violative HBAs.

148. Each failure inform Minnesota homeowners of their right to cancel HBAs constitutes a separate statutory violation.

COUNT VI (All Defendants)
VIOLATIONS OF REQUIRED REAL ESTATE LICENSURE

149. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

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150. Minnesota Statutes section 82.81, subdivision 1 holds that "[n]o person shall act as a real estate broker or real estate salesperson unless licensed as provided in this section."

151. A "real estate broker" includes any entity that "offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities." Minn. Stat. § 82.55, subd. 19(a). A "real estate salesperson" means one who acts on behalf of a real estate broker in performing any act that would otherwise require a license to be a real estate broker. Minn. Stat. § 82.55, subd. 20.

152. The Minnesota Attorney General is empowered to investigate and enforce the laws of the Minnesota respecting unlawful practices in business, commerce, or trade, which includes Minnesota Statutes Chapter 82. Minn. Stat. § 8.31, subds. 1, 3, 3a.

153. MV Realty regularly used unlicensed transfer specialists to advertise or hold out MV Realty as an entity that was capable of purchasing, selling, or negotiating interests in real estate. Each holding out of MV Realty as an entity capable of buying, selling, or negotiating an option or actual interest in real estate constitutes a separate violation of Minnesota Statutes section 82.81, subdivision 1.

154. On behalf of MV MN, Amanda Zachman routinely signed HBAs with Minnesota homeowners which, in relevant part, negotiated an option in, or actual interest in Minnesota homeowners' real estate. Amanda Zachman lacked any Minnesota real estate broker or real estate salesperson licensure. Accordingly, Amanda Zachman violated Minnesota Statutes section 82.81, subdivision 1 with the execution of each HBA she signed or had signed on her behalf.

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PRAYER FOR RELIEF

WHEREFORE, the State of Minnesota, by its Attorney General, Keith Ellison, respectfully asks this Court to award judgment against Defendant as follows:

1. Declaring that Defendants' actions, as set forth above, constitute multiple separate violations of Minn. Stat. sections 325F.69, subd. 1; 325D.44, subds. 1(5, 9, 13, and 14); 325F.67; the common law prohibition on unlawful penalties; 302G.08, subds. 1(a) and 1(c); and 82.81, subd. 1;

2. Enjoining Defendant from engaging in conduct in violation of Minn. Stat. sections 325F.69, subd. 1; 325D.44, subds. 1(5, 9, 13, and 14); 325F.67; 302G.08, subds. 1(a) and 1(c); and 82.81, subd. 1;

3. Awarding judgment against Defendants for restitution and/or disgorgement under the *parens patriae* doctrine, the general equitable powers of this court, Minnesota Statutes section 8.31, and any other authority, for all persons injured by the Defendants' actions described in this Complaint;

4. Awarding judgment against the Defendants for civil penalties pursuant to Minnesota Statutes section 8.31, subdivision 3, for each separate violation of Minnesota law;

5. Awarding declaratory and injunctive relief, holding that the HBAs sold by Defendants to Minnesota consumers were procured from deception and fraud and are voidable;

6. Awarding declaratory and injunctive relief, holding that the liquidated damages clauses within the HBAs sold by Defendants to Minnesota consumers are void and unenforceable;

7. Awarding Plaintiff its costs, including costs of investigation and attorney fees, as authorized by Minnesota Statutes section 8.31, subdivison 3a; and

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8. Granting such further relief as provided by law and/or as the Court deems appropriate and just.

Dated: December 4, 2024

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Noah Lewellen
NOAH LEWELLEN
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Atty. Reg. No. 0397556

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ATTORNEYS FOR STATE OF MINNESOTA

MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/ Noah Lewellen
NOAH LEWELLEN