

FOR IMMEDIATE RELEASE:

February 21, 2018

Contact: James Hallinan

(505) 660-2216

Attorney General Balderas Issues Cease & Desist Notice to Company for Illegal Mortgage Practices

Albuquerque, NM - Today, Attorney General Hector Balderas announced that the Office of the Attorney General's Consumer and Environmental Protection Division issued a Notice to Cease and Desist to Capital Home Advocacy Center and National Advocacy Group. Based on a complaint received from a New Mexico consumer, Capital Home Advocacy, formerly known as National Advocacy Group, charges advance fees for home mortgage modification services. New Mexico has banned advance fees for mortgage modification services through the Mortgage Foreclosure Consultant Fraud Prevention Act, passed in 2010. The Mortgage Foreclosure Consultant Fraud Prevention Act prohibits demand or payment of fees until the services have been completed.

“Preying on New Mexico families struggling to keep their homes is disgusting and it’s against the law,” said Attorney General Hector Balderas. “Companies who harm our families will be held accountable to the fullest extent of the law by the Office of the Attorney General.”

Homeowners should not pay for mortgage modification help. Attorney General Balderas advises consumers to seek mortgage modification services only from HUD-approved housing counseling agencies which provide such help free of charge. Call HUD at [1-800-569-4287](tel:1-800-569-4287) for assistance and referral. If you have questions, contact the Attorney General's Homeownership Preservation Program, Keep Your Home New Mexico, at [1-800-220-0350](tel:1-800-220-0350).

Please see attached for a copy of the Cease and Desist Order.

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

February 20, 2018

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Sergio Rodriguez aka Ramirez aka Lawrence
Elizabeth Powers aka Christina Rodriguez aka Ramirez
National Advocacy Group
Capital Home Advocacy Center
1809 E. Dyer Rd., Suite 301
Santa Ana CA 92705

**VIA REGULAR MAIL AND USPS
CERTIFIED RETURN RECEIPT REQUEST**

CEASE AND DESIST

Dear Mr. Rodriguez and Ms. Powers:

It has been brought to the attention of the Office of the New Mexico Attorney General that **Capital Home Advocacy Center** and **National Advocacy Group** have charged advance fees for mortgage modification services to New Mexico residents and engaged in unlawful mailing of false and deceptive materials, including informing homeowners that their homes are at risk of imminent foreclosure auction.

Based on a review of materials associated with your businesses, Capital Home Advocacy Center and National Advocacy Group (hereinafter "CHAC/NAG"), this office is advising you that it appears that you are engaging in unlawful and deceptive business practices in violation of the New Mexico Unfair Practices Act, the New Mexico Mortgage Foreclosure Consultant Fraud Prevention Act and the federal MARS Rule.

The Office of the New Mexico Attorney General has reviewed your client engagement materials after receiving consumer complaints about your business. CHAC/NAG's materials include false and deceptive statements such as:

"The past due balance will be placed at the end of your loan as a deferred payment. We will negotiate some of the past due to be forgiven, such as late fees, inspection fees, junk fees etc... the balance will be deferred with no interest. Once we are done you will be able to resume your payments and get that fresh start you deserve."

Our review focused on identifying potentially deceptive claims targeted at financially distressed consumers, including but not limited to:

- The New Mexico Unfair Practices Act, 1978 NMSA, Section 57-12-2
 - o Making false or misleading statements of fact for the purpose of obtaining appointments for the demonstration, exhibition or other sales presentation of goods or services;
 - o Using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if doing so deceives or tends to deceive;
 - o Stating that a transaction involves rights, remedies or obligations that it does not involve.
 - o Unconscionable trade practices, 1978 NMSA, Section 57-12-2
 - Taking advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree;
 - A gross disparity between the value received by a person and the price paid.
 - o Violations of the Unfair Practices Act may result in **civil penalties of \$5,000.00 per incident** as well as injunctive relief, restitution, fees and costs.

- The New Mexico Mortgage Foreclosure Consultant Fraud Protection Act, 1978 NMSA, Section 47-15-1 *et seq.*
 - o Claim, demand, charge, collect or receive any compensation until after the foreclosure consultant has fully performed every service the foreclosure consultant contract to perform or represented the consultant would perform;
 - o Induce or attempt to induce an owner to enter a contract that does not comply in all respects with the Mortgage Foreclosure Consultant Fraud Prevention Act.
 - A foreclosure consulting contract must be in 14 point type, separately itemize all costs, fees or expenses, contain a NOTICE REQUIRED BY NEW MEXICO LAW and NOTICE OF RESCISSION RIGHTS

 - o Violations of the Mortgage Foreclosure Fraud Act may result in **civil penalties of \$5,000.00 per incident** as well as injunctive relief, restitution, fees and costs.

- Charging advance fees, misrepresentations and failure to provide required disclosures for mortgage assistance services are prohibited by the MARS Rule, Regulation O, 12

Code of Federal Regulations Section 1015.1, 12 United States Code Section 5565, which is enforceable by the Office of the Attorney General.

- Violations of the MARS Rule may result in **civil penalties of \$1,000,000 per day**, restitution, disgorgement for unjust enrichment, injunctive relief and public notification.

NOTICE TO CEASE AND DESIST

This serves as notice that you are to immediately cease and desist from all activities related to debt settlement services for New Mexico residents including, but not limited to:

- Refrain from contracting with any New Mexico consumer to provide these services;
- Refrain from the collection of payment for these services;
- Refrain from any further solicitation by any means to include by telephone solicitation, mail or advertising in New Mexico; and,
- Immediately refund any moneys received from New Mexico consumers for debt settlement services.

This letter is sent without prejudice to any separate actions that may be necessary to resolve individual consumer complaints, and the OAG reserves all rights to seek penalties and injunctive relief as necessary to protect the public. The violations identified above are only selected violations that are apparent and this letter is not an exhaustive recitation of all possible violations of the UPA or any other law. Capital Home Advocacy Center and National Advocacy Group are also on notice that as of this date, it could reasonably anticipate litigation by the OAG and therefore it should implement a *litigation hold on any and all documents or books and records of any kind in connection with his business*. If CHAC/NAG, its directors, managers, agents, owners or employees dispose of or destroy any such books and records or documents, the OAG reserves the right to bring a claim for spoliation of evidence.

The Cease and Desist will remain effective until such time as you are able to provide acceptable assurances of compliance with the law.

Sincerely,



Angelica Anaya Allen
Brian McMath
Assistant Attorneys General

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